

A JOINT REPORT BY:



STAND
UP
IDEAS

THE REPUBLIC AT RISK: American Democracy One Year into the Trump Administration



About

THE REPUBLIC AT RISK is a joint report issued by Protect Democracy and Stand Up Ideas. It marks one year into the Trump presidency and asks a simple yet critical question: how are America's democratic institutions holding up?



Protect Democracy is a nonpartisan, nonprofit organization with an urgent mission: to prevent our democracy from declining into a more authoritarian form of government. Protect Democracy works to hold the president and the executive branch accountable to the laws and longstanding practices that have protected our democracy through both Democratic and Republican administrations out of a belief that the only limits to prevent a slide away from our democratic traditions will be those that are imposed by the courts, Congress, and the American people. For more information about the organization, go to www.protectdemocracy.org.



Stand Up Ideas (SUI) was founded on the belief that love for democracy transcends party, and works to strengthen Americans' commitment to democratic ideals and norms across the partisan spectrum. At its core, SUI is a leadership and education organization. SUI engages people across the political spectrum who all share a commitment to the principles of individual rights, constitutional checks and balances, rule of law, informed dialogue and demand honest and wise leadership. SUI was founded in 2017 by Evan McMullin and Mindy Finn to address the growing acceptance of autocratic rule in America. For more information about the organization, go to www.standupideas.com.

Protect Democracy and Stand Up Ideas would like to thank the many Americans who, over the past year and for decades prior, gave of themselves in order to create and constantly strengthen and improve our country. The organizations would also like to thank the vast range of advisers and members whose ideas and expertise helped inform this report. Those include Professors Ruth Ben-Ghiat (NYU), Aziz Huq (University of Chicago), Steven Levitsky (Harvard), Yascha Mounk (Harvard), Kim Lane Scheppele (Princeton), Timothy Snyder (Yale), and Daniel Ziblatt (Harvard), as well as Prof. Michael Miller (George Washington University) and the developers of the Authoritarian Warning Survey. Protect Democracy and Stand Up Ideas would also like to thank the incredible team at RALLY as well as Nikita Lalwani for their excellent contributions to this report. Any errors, however, are our own.

© 2018 The Protect Democracy Project / Stand Up Ideas

Contents

5	Executive Summary
10	Introduction
15	1. The Decline of American Democracy Before Trump
17	1.1 Global Economic and Demographic Trends
17	1.2 Splintering Media Means Less Shared Culture
19	1.3 Geographic Sorting
20	1.4 More Partisanship, Less Accountability
20	1.5 Decline of Party Identification
21	1.6 Perception That Politics and Government Are Not Responsive to the Public
21	1.7 Money in Politics
22	1.8 The Rising Influence of Special Interests
23	1.9 Congressional Dysfunction
25	1.10 Executive Dysfunction
27	1.11 Judicial Dysfunction
27	1.12 Loss of Public Faith in Our Democracy
29	2. The Decline of American Democracy in the Trump Era
32	2.1 Politicizing Independent Institutions
38	2.2 Spreading Disinformation
41	2.3 Amassing Executive Power
48	2.4 Quashing Dissent
51	2.5 Delegitimizing Communities
55	2.6 Corrupting Elections
58	3. The Impact of Foreign Interference on our Democracy
59	3.1 Why Does Russia Undermine Western Democracies?
59	3.2 What Did Russia Do?
60	3.3 Russia's Message Is Still Powerful

61	3.4 Follow the Money
62	3.5 Information War
63	3.6 The End?
65	4. Standing Up for Our Democracy—A Roadmap for the Future
65	4.1 Our Institutions Must Put Protecting Democracy Front and Center
68	4.2 The Days after Trump: Solving Our Democracy’s Broader Problems
68	4.2.1 Restoring the Integrity of Our Electoral System
69	4.2.2 Hardening Limits on Executive Power by Strengthening Checks and Balances
70	4.2.3 Ensuring That Government Serves the People, Not the President and His Cronies
70	4.2.4 Protecting Open, Inclusive, and Fact-Based Democratic Debate and Participation
71	4.2.5 Larger Reforms to Rebuild Public Confidence in Democratic Government
73	Conclusion
74	Endnotes

Executive Summary

AMERICA IS NOW one year into the presidency of Donald J. Trump.

While many have followed his presidency as a seemingly unending series of unrelated scandals, a more coherent narrative shows that all of his unorthodox actions are part of a singular story of a president with disturbingly autocratic tendencies presiding over a democracy at risk.

And yet, the United States remains one of the strongest democracies in the world. There is every reason to believe, if we the people rise to the challenge, we can sustain our democracy for generations to come. This is a call to all of us to, in the words of Barack Obama, “further perfect our union” in our continuing quest to be “the shining city upon a hill” invoked by Ronald Reagan.

While many have followed his presidency as a seemingly unending series of unrelated scandals, a more coherent narrative shows that all of his unorthodox actions are part of a singular story of a president with disturbingly autocratic tendencies presiding over a democracy at risk.

This moment provides an opportunity to look back at the year, and then beyond, to see what we have learned about America’s democratic institutions and how this president’s illiberal instincts have impacted and imperiled them, so we can successfully chart the course ahead.

The Decline Of American Democracy Before Trump

IN HINDSIGHT, it has become clear that democracy has been gradually weakening throughout the post-Cold War era. This is not unique to the United States. Similar forces have been at play across the world. Economic and demographic changes have put pressure on the social contracts and status quo of many nations. Technology has reshaped how we communicate and how the media represents our societies.

In many cases, American governing institutions have not responded well to these challenges. Congress has largely recoiled, becoming insular and inwardly focused through increased partisanship and polarization. The growing influence of special interest groups and the flood of money into politics have enticed Congress away from its constitutional responsibilities. Both the executive and judicial branches have filled the gap left by this congressional abdication. This has strengthened the power of the executive and set up a conflict with the judiciary as the remaining functional check, a role for which it is poorly suited institutionally and democratically. Even before Trump’s presidency, the Economist Intelligence Unit downgraded the United States to a “flawed democracy.”

The Decline of American Democracy in the Trump Era

DONALD TRUMP WAS elected president in this context. Americans had lost faith in our democracy. Many institutions of government were perceived by Americans as dysfunctional. This report poses the question: how are America's democratic institutions holding up? And while the challenges we face go beyond one man, it devotes particular attention to how the Trump presidency has impacted these institutions.

This report assesses the current state of American democracy, evaluating Mr. Trump's actions against six basic markers of democratic decline. These markers—politicizing independent institutions, spreading disinformation, amassing executive power, quashing dissent, delegitimizing communities, and corrupting elections—mirror those that scholars have observed in declining democracies around the world, in countries such as Hungary, Russia, Turkey, Venezuela, and others. If Donald Trump were to follow these models of emerging authoritarianism, he would first erode the norms and ideals integral to a democratic society, then move into actual institutional changes once the public is sufficiently distracted, exhausted, and cynical.

ON EACH OF these markers, we see signs of a democracy clearly at risk, evident in the following attacks:

POLITICIZING INDEPENDENT INSTITUTIONS

Healthy democracies have strong independent institutions, such as law enforcement and the civil service, that operate with a degree of insulation from the whims of political leaders, thereby constraining a power-hungry ruler. They exist to execute and enforce properly promulgated laws and regulations based on facts and evidence. In the United States, the Department of Justice (DOJ) and many administrative and enforcement functions of federal agencies are meant to stand above and beyond partisan politics. Millions of federal civil servants pledge their loyalty not to any given president, but to the American public and Constitution, with many remaining in their positions from one administration to the next. But Mr. Trump has shown little respect for these traditions. He has tried to undermine the independence of the DOJ and the FBI and may have obstructed justice in an attempt to stop an inquiry into whether he and his aides colluded with the Russian government to influence the outcome of the 2016 election. He has also weakened the federal bureaucracy—threatening perceived enemies, pushing to gut agency budgets, leaving an astonishing number of government positions empty, and seeking to further undermine trust in public servants by accusing them of disloyalty or bias.



SPREADING DISINFORMATION

Truth is indispensable to constitutional democracy. Shared acceptance of facts allows people to hold their government accountable—to point out when its policies are having adverse effects, or when its words do

not match its deeds. This is a norm of democratic society that enables functional governance. In democratic societies, a free press plays a crucial role in informing the public and speaking truth to power, a role America's founders enshrined in the First Amendment. But Mr. Trump has carried out a consistent assault on truth, and Americans' ability to discern it, about current events and public policy. He has attempted to discredit the press, harassed reporters, threatened to change libel laws and subpoena journalists, and dismissed any source of information—however nonpartisan—that he perceives as unfavorable to him personally. He has also spread lies indiscriminately and disputed objectively provable facts.



AMASSING EXECUTIVE POWER

A strong democracy benefits from the separation of powers within government. When the system works properly, the legislature and courts prevent the executive branch from amassing too much power. In federalist systems, states or regional governments play a similar role. In the United States, the separation of powers is designed to ensure that Congress or the courts can stop an overreach of presidential power. Mr. Trump has done his best to enfeeble this system, undermining checks and balances by viciously attacking the judiciary, treating Congress as a subordinate branch of government by withholding information and demanding it act according to his will, and punishing states that have opposed his policies.



QUASHING DISSENT

Strong democracies have strong oppositions, who offer policy alternatives and alert the public when those in power are abusing their positions. The United States has a long tradition of vibrant dissent, a robust civil society sector, and healthy opposition politics. The existence of these dissenting voices are a norm that we can no longer take for granted, as they are often the first to be attacked by authoritarian leaders. Reflecting his autocratic tendencies, Mr. Trump has demonstrated virtually no tolerance for those who disagree with him. He has threatened political opponents with imprisonment, fired or threatened to fire government officials who criticize him or his policies, pressured private employers to restrict the speech of their employees, and cultivated an atmosphere of fear that prevents many from speaking out against him.

DELEGITIMIZING COMMUNITIES

Democracy in diverse societies depends on protecting the rights of minorities. These can be political minorities who have lost at the ballot box, and especially include groups who identify as different from

President Trump has exhibited the habits and actions of a budding authoritarian in each area of potential democratic decline in just his first twelve months.

traditionally dominant majoritarian groups along the lines of race, ethnicity, religion, sexual orientation or gender identity. The United States has an ugly, tragic, and far from perfect history of living up to its founding principles in protecting the rights of all Americans. And yet, most modern American leaders have expressed an inclusive vision of the United States, acknowledging our imperfect past while holding out hope for a better future. In contrast, Mr. Trump has shown a willingness to attack minorities, to scapegoat specific groups of Americans, and to appeal to divisive and hateful strains in our society. His reluctance to condemn violence against racial and religious minorities has emboldened perpetrators of that violence, reinforced barriers against the full participation of

minorities in our democracy, and deepened the sense among some citizens that their government doesn't count them as true Americans. Mr. Trump's attacks on Americans on the grounds that they are different poses a danger of allowing him to define who "the people" are and what qualifies as American.

CORRUPTING ELECTIONS

Free, fair, informed, and regular elections form the cornerstone of the American experiment, allowing citizens to exercise their most basic political right: the right to choose who governs them. In a democracy, the people are the best constraint on the abuse of power; if they are unhappy with a leader, they can vote him or her out of office. Yet even before he became president, Mr. Trump showed little respect for U.S. elections, threatening, for example, to reject any outcome that resulted in his loss. Since taking office, he has continued to undermine the legitimacy of elections, exaggerating the prevalence of voter fraud, refusing to condemn Russian interference in the 2016 election, and neglecting adequate measures to prevent its recurrence.

ON EACH OF these markers, President Trump has taken actions to substantially deteriorate the quality and integrity of our institutions. Beyond his actions, his anti-democratic rhetoric has itself undermined long-standing norms, which are entirely dependent on the respect they are accorded by the presidency for any force they have to constrain others.

Moreover, in each of these areas, his attacks on democratic norms and institutions echo similar behavior by autocrats who have undermined democracies around the world in recent years, from Hungary to Turkey, Poland to Venezuela. This report highlights some of those parallels.

In a comparison that is especially striking, recall that in both Recep Erdoğan's and Vladimir Putin's first



years of national leadership in Turkey and Russia, respectively, they were seen as democratic reformers. Erdoğan was to lead Turkey into the European Union as a model of Islamic democracy and Putin presented himself as the torchbearer of Russia's shift towards democracy. It took several years into each of their reigns before their authoritarian tendencies were fully exposed. In contrast, President Trump has exhibited the habits and actions of a budding authoritarian in each area of potential democratic decline in just his first twelve months.

That he has done this is not necessarily a sign of deliberate planning. Quite the contrary. Mr. Trump seems to rely on autocratic instincts out of either a lack of understanding of, or lack of respect for, the norms and structures that have undergirded America's constitutional democracy.

The Impact of Foreign Interference on our Democracy

AS MR. TRUMP and longer-term trends threaten our democracy internally, we are also increasingly vulnerable to foreign interference. Russia is in the midst of a sustained campaign to undermine Western democracy, and American intelligence officials have now concluded that Russian President Vladimir Putin personally “ordered an influence campaign in 2016 aimed at the U.S. presidential election.”

In short, we can no longer take America's democracy for granted. In countries around the world, authoritarian leaders have dismantled democracies that once seemed stable. The turn away from democracy need not be premeditated; an incompetent leader with authoritarian tendencies can pose as much of a threat as one with a systematic plan to dismantle checks and balances. The worst-case scenario is that Mr. Trump uses a crisis—a terrorist attack, for example—to consolidate power. But even absent a crisis, he can still do lasting damage to America's democratic norms and traditions.

Standing Up for Our Democracy—A Roadmap for the Future

STILL, THERE REMAINS cause for hope. Even under threat, the United States has strong and durable democratic institutions and a civil society that has proven itself ready and able to defend democratic ideals. We can prevent further backsliding during the Trump administration if each of our institutions—Congress, the courts, the civil service, the free press, law enforcement, and the private sector—makes protecting our democracy central to its work.

We also can lay the groundwork for a series of broader and more systemic reforms that address the longer-term challenges threatening our democracy. In this report, we lay out an initial roadmap for the kinds of reforms we might consider as a starting point for what we hope will be a broader discussion aimed at fleshing out the specifics. We now know that America is susceptible to a shift towards more authoritarian leadership. Now that the stakes have become clear, we must be prepared to enact reforms to reinforce and strengthen our commitment to the rule of law and, ultimately, our democracy as a whole.

Introduction

“ There are, however, essential principles common to every successful society, in every culture. Successful societies limit the power of the state and the power of the military—so that governments respond to the will of the people, and not the will of an elite. Successful societies protect freedom with the consistent and impartial rule of law, instead of selectively applying the law to punish political opponents. Successful societies allow room for healthy civic institutions—for political parties and labor unions and independent newspapers and broadcast media. Successful societies guarantee religious liberty—the right to serve and honor God without fear of persecution. Successful societies privatize their economies, and secure the rights of property. They prohibit and punish official corruption, and invest in the health and education of their people. They recognize the rights of women. And instead of directing hatred and resentment against others, successful societies appeal to the hopes of their own people.”

GEORGE W. BUSH, 2003

“ Our Constitution is a remarkable, beautiful gift. But it’s really just a piece of parchment. It has no power on its own. We, the people, give it power—with our participation, and the choices we make. Whether or not we stand up for our freedoms. Whether or not we respect and enforce the rule of law. America is no fragile thing. But the gains of our long journey to freedom are not assured. . . . It falls to each of us to be those anxious, jealous guardians of our democracy; to embrace the joyous task we’ve been given to continually try to improve this great nation of ours. Because for all our outward differences, we all share the same proud title: Citizen. Ultimately, that’s what our democracy demands. It needs you. Not just when there’s an election, not just when your own narrow interest is at stake, but over the full span of a lifetime.”

BARACK OBAMA, 2017

DEMOCRACY IN AMERICA is an ambitious project. It is, and has always been, an unfinished product, an ongoing experiment in the ability of the people to rule themselves. We have the oldest continuously functioning constitutional democracy in the world. Our institutions are strong, the rule of law is respected, and the norms and values that provide the foundation for a democratic society remain largely intact.

However, Americans are losing faith in democracy and the institutions of government. According to recent surveys, only 52 percent of respondents answered that they “have faith in American democracy.” American confidence in government institutions is also close to its lowest level in nearly forty years.¹ As a result, a significant portion of Americans have been drawn to authoritarian alternatives to a democratic system, culminating in the election of Donald Trump in 2016.

The erosion of American democracy, however, goes beyond the elevation of one unsuitable man to the presidency. It has been a long process with multiple and complex causes. Increased political polarization, globalization, the development of a postindustrial economy, demographic changes, technological advancements, new media landscapes, the entrenchment of power among special interests, and many other factors have changed our society in unprecedented ways, and have presented unforeseen challenges to our established democratic institutions. Our focus in this report is not necessarily on these root causes themselves, but on their impact on our political system, and how they have changed the functions of government, politics, and the public. Our focus, in other words, is on the institutions of the state, and their developing—and deteriorating—relationships with the norms and ideals of a democratic society.

These relationships are the defining element of our democracy. The vitality of our system of government depends on its citizens. Their faith in a shared governing system, confidence in that system’s ability to function, and shared sense of civic responsibility are what differentiates the American people from subjects of authoritarian regimes. Alexis de Tocqueville noted the importance of citizenship and civic participation in democracy, contrasting our system with the monarchies of the Old World:

There are some nations . . . whose inhabitants think of themselves in a sense as colonists, indifferent to the fate of the place they live in. The greatest changes occur in their country without their cooperation. . . . More than that, they are unconcerned with the fortunes of their village, the safety of their streets, the fate of their church and its vestry. They think that such things have nothing to do with them, that they belong to a powerful stranger called ‘the government.’ They enjoy these goods as tenants, without a sense of ownership, and never give a thought to how they might be improved. . . . When a nation has reached this point, it must either change its laws and mores or perish, for the well of public virtue has run dry: in such a place one no longer finds citizens but only subjects.²

For many in America today, the notion of citizenship has become foreign. The government is indeed seen as a “powerful stranger,” whose role is to dole out rewards to whatever groups control it at any given time. The decline of civic engagement has accompanied the previously noted trend of declining confidence in the US government, and in democracy more generally, suggesting that these phenomena are related.³

This is a relatively new trend. Notions of citizenship and public service survived de Tocqueville’s era, lasting through the Civil War, the Great Depression, and into the Cold War. Indeed, the election of President Kennedy has been noted as a high-water mark for faith in democracy and government institutions. As President Obama stated, “the Kennedys symbolized a set of values and attitudes about civic life that made it such an attractive calling. The idea that politics in fact could be a noble and worthwhile pursuit.

The notion that our problems, while significant, are never insurmountable.” President Kennedy famously called for Americans to “ask what [they] could do for [their] country,” reinforcing the notion that participation in a democracy carries with it a set of unique responsibilities. These idealistic words echoed the best traditions of American dedication to citizenship, of pride in their system of government, and of their leaders’ awareness of their own responsibilities as curators of a democratic republic. Yet today, this tradition has diminished.

America is not the only country grappling with these institutional and cultural challenges. Many have compared President Trump’s election to Brexit in the United Kingdom or the rise of so-called “far-right” or “anti-system” political movements across Europe. However, these dynamics are themselves part of a broader global story about democracy and democratic institutions. On a macro level, scholars like Larry Diamond have written about this as “democratic recession” in which the number of democracies diminishes.⁴ On the micro level, scholars like Roberto Stefan Foa and Yascha Mounk have written about the process of “democratic deconsolidation” in which democratic institutions backslide, adopting more authoritarian characteristics.⁵ It is helpful to look at what is happening to the United States in this comparative perspective to separate what is policy that one disagrees with from actions that undermine or “deconsolidate” our core democratic institutions.

Until recently, democracy appeared to be on an upward trajectory.⁶ Every year from 1975 to 2007, the number of democracies in the world either increased or stayed the same. Although some of these new democracies had much to learn, the overall trend seemed positive. In 1974, as measured by Freedom House on a scale from 1 (most free) to 7 (most repressive), the average level of freedom in the world was 4.38. By 1990, it had improved to 3.85, and in 2005, it hit a record 3.22. According to Diamond, “Nothing like this continuous growth in democracy had ever been seen before in the history of the world.”⁷

Today, however, some political scientists warn that the world has entered a period of democratic decline.⁸ Between 2000 and 2014, by one count, democracies overseas measurably deteriorated 25 times, including in Kenya, Russia, Thailand, and Turkey. Eighteen of these breakdowns occurred after 2005. Authoritarianism is on the rise, often coupled with surges in populism and nationalism. Strongmen with little respect for the rule of law have gained power in countries such as Hungary, Poland, Turkey, and Venezuela. Perhaps most troubling, for many people around the world, democracy no longer holds its traditional appeal. Over the past 22 years or so, the proportion of people worldwide who say they support “having a strong leader, who does not have to bother with parliament or elections” has grown.⁹

According to Foa and Mounk, a key test of the health of a democracy is how highly its citizens rate the importance of democracy and how open they are to undemocratic forms of government, such as military rule. Historically, countries in which more than 20 percent of people express cynicism about democracy have been “highly susceptible” to the rise of authoritarianism.¹⁰ In the 1990s, for example, Venezuelans were more cynical about democratic institutions than citizens of most neighboring countries; in 1999, Chávez took office.¹¹ In Poland, in 2005, nearly 16 percent of people said they thought democracy was a bad or fairly bad way to run the country, and by 2012, support for army rule had increased to 22 percent of those

polled; since then, Poland’s Law and Justice (PiS) party has come to power, proposed legislation to reduce media access, curbed citizens’ rights to demonstrate, and engineered a takeover of the constitutional court.¹²

Could something similar happen in the United States? If Foa and Mounk are any guide, there is reason to worry. In 2011, 24 percent of Americans in their late teens and early twenties considered democracy to be a bad way to run the country, up from 16 percent in 1995.¹³ Over the past two decades, meanwhile, the share of Americans who believe it would be good or very good for the army to rule has soared from one in 16 to one in six. Last year, fully 46 percent of Americans reported that they either “never had” or “had lost faith in U.S. democracy.”¹⁴

The dysfunction of the modern American government has provoked dissatisfaction from across the ideological spectrum and opened the door to a spiteful populism, which has no plans for constructive policy and promises only grievance-fueled destruction of our ideals, norms, and institutions. To understand how we reached this point, we must understand the changes in both our government and in our society, and how they have led to institutional decay in our democracy.

The purpose of this report is to explore the state of American democracy today. We address several questions. How did we get here? What has Trump done? What did the Russians do, and why? And how can we fix it?

How Did We Get Here?

In hindsight, it has become clear that American democracy has been gradually weakened in the post-Cold War era. In Section 1, we detail a number of ways by which this has happened. Economic and demographic changes have put pressure on the social contracts and status quo of the United States and other developed countries. Technology has reshaped how we communicate and how the media represents our societies, and has helped us filter ourselves into separate ideological and demographic bubbles.

American governing institutions have not responded well to these new challenges. Congress has largely recoiled, becoming inwardly focused through growing partisanship and polarization. The rise of interest groups and a flood of money into politics have directed Congress away from its constitutional responsibilities. Both the executive and judicial branches have been forced to fill the gap left by this congressional abdication. This has strengthened the power of the executive and set up a conflict with the judiciary as the only check, a role for which it is poorly suited institutionally and democratically. Even before Trump’s presidency, the Economist Intelligence Unit downgraded the United States to a “flawed democracy.”

What Has Trump Done?

In Section 2, we assess the current state of American democracy, evaluating Mr. Trump’s actions against six basic markers of democratic decline. These markers—politicizing independent institutions, spreading disinformation, amassing executive power, quashing dissent, delegitimizing communities, and corrupting elections—mirror those that scholars have observed in declining democracies around the world, in countries such as Hungary, Poland, Turkey, and Venezuela.

Our answer is that on each of these markers, President Trump has taken actions to deteriorate the quality and integrity of our institutions, and has displayed through rhetoric and character the potential, and willingness, to further undermine them, if not properly checked.

What Did the Russians Do?

As Mr. Trump and longer-term trends threaten our democracy internally, it is also increasingly vulnerable to foreign interference. Russia is in the midst of a sustained campaign to undermine Western democracy, and American intelligence officials have now concluded that Russian President Vladimir Putin personally “ordered an influence campaign in 2016 aimed at the U.S. presidential election.”¹⁵

In Section 3, we review what we know about this attack. We do not know if these efforts were enough on their own to swing the election, but their intent was clear, as was the willingness of the Trump campaign to take advantage of it. In addition, it is apparent that Russia is still attacking the United States,¹⁶ and we have taken few actions to respond to it. We are still vulnerable to attacks that strategically take advantage of our free society to exacerbate divisions and encourage cynicism toward democratic government.

How Can We Fix It?

Still, there remains cause for hope. The United States has strong and durable democratic institutions and a civil society that has proven itself ready and able to fight back. We can prevent further backsliding during the Trump administration if each of our institutions—Congress, the courts, the civil service, the free press, law enforcement, the private sector, and the public—makes protecting our democracy central to its work.

In Section 4, we begin looking beyond the current administration to outline broad systemic reforms that could address the longer-term challenges to our democracy. We now know that America is susceptible to a shift toward more authoritarian leadership and a betrayal of the foundational ideas enshrined in our Constitution. With our democracy at stake, with the struggle between a closed and open society thrown into such sharp relief, we must be prepared to enact reforms to rebuild and strengthen our democracy and commitment to the rule of law.

As scholar Ruth Ben-Ghiat has noted, “Trump is testing American decency and the strength of U.S. democracy.”¹⁷ We believe that American decency and democracy can and will pass this test, but only if we make it so.

1. The Decline of American Democracy Before Trump

“ [O]ur people have turned to the Federal Government and found it isolated from the mainstream of our nation’s life. Washington, D.C., has become an island. The gap between our citizens and our government has never been so wide. The people are looking for honest answers, not easy answers; clear leadership, not false claims and evasiveness and politics as usual. What you see too often in Washington and elsewhere around the country is a system of government that seems incapable of action.”

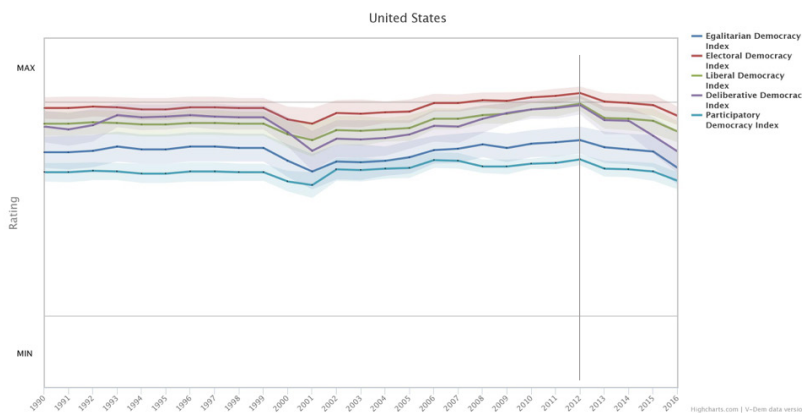
JIMMY CARTER, 1979

OUR DEMOCRATIC INSTITUTIONS are under significant pressure. To many casual observers, threats to our institutions began with Donald Trump. However, the 2016 election is only the latest symptom of the underlying maladies. The risk to our democracy did not begin with Mr. Trump; it has been fueled by decades of rising political polarization, widening inequalities, and falling public trust in government.

Public surveys show decades of decreasing faith in American government and institutions. The lack of trust in our institutions was at an all-time low in the post-World War II period, with the only comparable period being 1994-1995, and the numbers are even worse today.¹⁸

The concerns of the American public have been confirmed by comparative scholars of democracy. For example, the Institute for Democracy and Electoral Assistance’s Global State of Democracy report identified a steady decline in many democratic attributes from 2012 until 2015 (the last year of their data).¹⁹ Similarly,

the 2017 Varieties of Democracy survey noted a decline “starting gradually in 2012 with a more robust drop in 2016 reflecting government attacks on the judiciary and impediments to the freedom and fairness of elections.”²⁰ This chart (left) shows the U.S. Democracy Score across all of the Varieties of Democracy indicators from 1990 onward, with the decline starting in 2012.²¹



In 2016, the Economist Intelligence Unit (EIU), which publishes an annual Democracy Index, downgraded the United States to a “flawed democracy,” citing “further erosion of trust in government and elected officials there.”²² EIU’s dataset goes back to 2006, when they gave the U.S. an 8.22/10. It fell to 7.98 by 2016, dropping slowly but steadily throughout the intermediate period.²³ According to the report, Donald Trump is not the root cause. The downgrade stems from “the same factors that led Mr. Trump to the White House: a continued erosion of trust in government and elected officials.”²⁴

The democratic downgrade in the U.S. is part of a global decline in democracy. The problems we are facing at home can be seen across the developed world, evident both in public polling and academic assessment. The worldwide “democratic recession,” according to EIU, “worsened in 2016, when no region experienced an improvement in its average score and almost twice as many countries (72) recorded a decline in their total score as recorded an improvement (38). Eastern Europe experienced the most severe regression.”

The EIU attributed these global declines to similar underlying forces. It said that “[t]here has been a long-term secular trend of declining trust throughout the Western world since the 1970s. . . . Trust in a wide array of institutions has now fallen to such low levels in the US, the UK, France, Greece and other European countries that it is becoming difficult to sustain representative democracy in its present form.”²⁵

The 2017 Edelman Trust Barometer found that “trust is in crisis around the world” and “the majority of respondents now lack full belief that the overall system is working for them.”²⁶ It is in this context that illiberal, anti-democratic and ethno-nationalist political figures have risen in prominence across Europe, Asia, and now the United States. While it is often tempting to provide purely national accounts of the changes within a political system, a comparative lens helps identify issues that are impacting all of these countries.

We do not offer a complete account of the origins of the loss of faith in government and weakening of democratic structures in the U.S. and elsewhere. However, a number of factors have been identified at both global and national levels. The global factors include economic and demographic changes and changes to media and communications technology. The United States has also experienced a rise in partisanship, as well as geographic and cultural sorting. These factors lay the groundwork for a perception that, for a large number of Americans, our government is not responsive to the electorate. Two mechanisms have become particularly salient in our political dialogue: money in politics and the rise of special interests. At the same time, Congress has been substantially weakened, which has had pernicious impacts on the other two branches of government, the executive and the judiciary.

We also do not seek to allocate blame between political parties for what has happened. This position does not reflect a view that all are equally at fault, but rather that it is more productive to bring America together with an eye toward the future than to continue sowing division with an eye toward the past.

Altogether, these factors have resulted in a striking weakening of faith in American democracy and a weakening of democracy itself.

1.1 Global Economic and Demographic Trends

A RECENT REPORT by the Organisation for Economic Co-operation and Development (OECD), an inter-governmental economic organization, found that “income inequality in OECD countries is at its highest level for the past half century. . . . Uncertainty and fears of social decline and exclusion have reached the middle classes in many societies.”²⁷ A different OECD report found that the labor share of income has fallen across the G20 and OECD countries.²⁸ In 2014, *The Economist* described wages as “stuck” throughout the OECD countries.²⁹ Additionally, many countries have particularly high rates of unemployment among youth.

In the United States, we have primarily discussed these phenomena in terms of wage stagnation for the middle class,³⁰ and a rising inequality, which has reached levels not seen since the Gilded Age.³¹

However, not all of the political challenges faced by these countries can be attributed to economics. Many countries are also facing sharp demographic changes. In many places, populations are aging quickly, while fertility rates are collapsing. Immigration and refugee flows are often changing the racial, religious, and ethnic makeup of countries. Many wealthy societies are experiencing growing social division, with one part of the population being richer, older, and more homogeneous, and another part being poorer, younger, and more heterogeneous. This is increasing the stresses on these societies.

In the United States, the speed of these changes has been striking. A rise in Latino and Asian-American populations is creating a much more diverse America.³² This is, in large part, a consequence of the rise of both the percentage³³ and absolute numbers³⁴ of foreign-born Americans. In addition, women’s role in society has changed. Women now enroll in college at a higher rate than men,³⁵ and while male wages have stagnated during this time, female wages have increased consistently.³⁶

The religious composition of America is also changing.³⁷ Immigration has resulted in more residents with non-Christian backgrounds, while there has been a substantial fall in the religious participation of Catholics and mainline Protestants. Complimenting this is a rise of the “Nones,” people unaffiliated with any faith.³⁸

Together, these economic and demographic changes raise fundamental questions about the social contract. What does the contract do, who is it with, and who is it for? Many older Americans see an America quite different from the one in which they grew up.

1.2 Splintering Media Means Less Shared Culture

AT THE SAME time that society is being changed by global economic and demographic trends, the way in which people interact with and exchange information is being radically transformed by technology and the evolving structure of the media industry.

Fifty years ago, mass media provided shared national and local context. A small number of national television networks and robust local newspapers meant that communities were operating off substantially similar sets of facts. American confidence in mass media hit an all-time high of 72 percent in 1976 following the superb journalism of the Watergate scandal and Vietnam.³⁹ Around that same time, *CBS Evening News* anchor Walter Cronkite was the most trusted public figure in America.

That confidence has declined steadily to today, when only 32 percent of Americans state a “great deal” or “fair amount” of trust in the media. Those figures are even more startling when broken down by political affiliation. In the run-up to the 2016 presidential election, only 14 percent of Republicans indicated that they had trust in the media, compared with 51 percent of Democrats and 30 percent of independents.⁴⁰

Cable television broke the news monopoly of the broadcast networks. The internet drained newspapers of their revenue. Social media, email, and messaging apps allowed people who share certain perspectives to communicate much more effectively. According to the *Columbia Journalism Review*:

*Cable news is not literally a broadcast business, but a narrowcast. At any given moment, there are a relative handful of people (in peak hours less than five million and in non-prime hours half that, out of the U.S. population of 320 million) watching all of these networks combined... Although cable news is a comparatively small market, it is a small market with a much larger mindshare, mainly because the media are self-reflective, creating a kind of virtual echo chamber. It is also lucrative. Advertisers want exactly the sort of educated, higher-disposable-income audience news programming tends to attract.*⁴¹

Over time, these news channels became less concerned with reporting news and more concerned with driving up profits, reflected in the shift toward more partisan and opinionated programming. A 2012 survey conducted by Fairleigh Dickinson University found that ideologically driven cable news providers (especially Fox News and MSNBC) have a “negative impact on people’s current events knowledge.”⁴²

During this period, we went from a time of substantially top-down communication of current events through broadcast and cable, to a horizontal or even bottom-up approach of organizing like-minded communities through technology and social media. There have been many advantages to this. In civic life, many more people are able to participate in the debate. However, there have also been dangerous side effects that we are only beginning to understand.

Social media sites help facilitate these news and information echo chambers by employing algorithms that filter for interests and preferences.⁴³ Information that users like or spend more time reading are then used by these algorithms to find similar or related topics, thereby resulting in more time spent on the platform. The result is that consumers end up seeing more of what they like and less of what they don’t, including news that fits their preferences.

In addition, social media allows consumers to become news generators. This has lowered the standards for what constitutes news while also reducing fact-checking and corroboration prior to publication. Data released by the Oxford Internet Institute found that voters using Twitter in the run up to the 2016 presi-

dential election received as much fake or other junk news as they did real news,⁴⁴ while additional studies confirm that the consumption of fake news was widespread.⁴⁵

Social media has also driven the process of how people find information about current events. According to research conducted by Pew, roughly 64 percent of American adults use Facebook and half of those users get their news from the site—approximately 30 percent of the general population.⁴⁶ Similarly, 10 percent of Americans get their news from YouTube, 8 percent from Twitter. Through social media, people are able to access vast quantities of information that previously would have been difficult and time consuming to find. Much of this information is shared peer to peer, creating echo chambers consisting of friends and ideologically similar groupings who share information that reinforces their biases and preconceived ideas.

The growth of social media has also facilitated the death of more traditional media outlets, especially print journalism, which has been endangered since the rise of cable news and the introduction of the internet. Many local news providers have been reduced to aggregating news from wire services and other major papers; some have ceased to exist entirely. The newsroom of *The Los Angeles Times* has shrunk from 1,200 people in 2001 to approximately 430 today.⁴⁷ The collapse of local and regional news outlets has made populations entirely dependent upon national news providers and internet/social media. Local television has followed a similar path in which local stations have lost their audience to national cable stations and the internet.⁴⁸

1.3 Geographic Sorting

THE SPLITTING OF the country’s information bubbles has been matched by geographic splintering.

The sharpest divide may be the urban-rural split. Republicans and Democrats live in different places and have different preferences about where to live.⁴⁹ Republicans increasingly live in suburban and rural areas, while Democrats predominantly live in suburban and urban locations. This has both cultural and economic ramifications that spill over into our politics.⁵⁰

Urban and rural areas experience substantially different economic structures. Rural areas have had lower rates of job creation and higher rates of poverty since the Great Recession.⁵¹ In addition, when a company leaves a rural area or a small town, it tends to have a much larger impact on the community. These companies typically represent a larger portion of local employment than in a city, and the next employer of a similar sort may be farther away. In a city, the next employer can be just down the street, while in a rural area, it may mean a 50-mile drive, if a job even exists.

Cities are also more inherently cosmopolitan, bringing in a wide range of people. This does not mean that rural areas are homogeneous, but inward migration in rural areas tends to be tied to particular industries or companies. Sometimes, it is part of a campaign to attract rural “tech geeks,”⁵² and sometimes migration may bring ethnic and racial diversity, as has happened in the meat-packing industry across the Midwest.⁵³ This new diversity often creates tension in communities and a sense that the communities are changing.⁵⁴

Researchers have found that people’s housing preferences tend to correlate with their political preferences and that “voters who move to neighborhoods that are different from their previous residence on politically salient dimensions are much more likely to change their party affiliation to match that of their new neighbors.”⁵⁵ This has resulted in increasingly politically homogeneous legislative districts, even before the impact of gerrymandering is considered.⁵⁶

The consequence of this sorting is that rural and urban voters increasingly live different lives, and their politicians are subject to very different pressures.

1.4 More Partisanship, Less Accountability

THE COMBINATION OF media splintering and geographic sorting is accelerating a move toward more partisanship in the United States. According to an October 2017 Pew Research study, partisanship has been increasing steadily since the 1990s.⁵⁷

Partisanship is nothing new in America, nor is the urban-rural divide. Hamilton and the Federalists were pro-urban and pro-manufacturing, while Jefferson and the early Republican-Democrats were pro-rural and pro-agriculture. The Civil War was fought between an industrializing and urbanizing North and a largely rural South.

However, more politically homogeneous geographic areas has meant that political contests are increasingly within the parties rather than between them. This has several pernicious impacts on our politics. Politicians are not required to do as much to appeal to voters outside their party.

The rise of party primaries as the main candidate selection process has created a new form of partisanship. A 2017 Brookings study found that the role of interest groups is often at its height within the candidate selection process.⁵⁸ As fewer and fewer voters participate in candidate selection, it is easier for interest groups to play an outsized role in the process.⁵⁹

1.5 Decline of Party Identification

THERE IS A paradox in American politics. On the one hand, our politics is more partisan than at any time since the Civil War. On the other, fewer Americans are identifying with political parties.⁶⁰ Note that this is not unique to the United States. In Europe, party memberships have also declined.⁶¹

While some have argued that many “independent” voters display partisan behaviors such as regular voting for a party,⁶² party identification is a key factor in primary elections. In states with closed primaries, if you are not registered with a party, you cannot participate in the primary election. And even in states with open primaries, it is much harder for campaigns to reach unaffiliated voters.

Through this process, many Americans have disenfranchised themselves from the candidate selection process. Note that by some reports, this holds especially true for Democrats, for whom primary turnout has been falling precipitously.⁶³

1.6 Perception That Politics and Government Are Not Responsive to the Public

THERE IS A widely held belief that politicians and government are not responsive to the public, although the reasons for this belief are not generally shared. Pew has found that over 70 percent of Americans believe that politicians and elected officials “don’t care what people like me think,” “lose touch with people quickly,” or “put their own interests first.”⁶⁴

Research by Princeton professor Martin Gillens has confirmed a form of this intuition. Enacted policy tracks the policy preferences of two groups: the economic elite and the politically engaged.⁶⁵ Pew also found that people with college and graduate degrees, and people who are politically engaged are more likely to believe that they can have an impact on government and policy than the rest of the population.⁶⁶

Note that rising inequality could increase these gaps over time if the political views of the elites and the public diverge.⁶⁷ This has already happened with issues like globalization and immigration, which have been the primary foci of the global wave of populism.

In addition, since the 1990s, there has been a sharp increase in the distrust that the two parties have toward each other.⁶⁸ Consequently, negative attitudes about government and politicians have gone up over time with the alternation of power.

In American political discourse, two mechanisms for this disconnect are regularly proposed: money in politics and the rise of interest groups.

1.7 Money in Politics

THROUGHOUT AMERICAN HISTORY, the role of moneyed interests has been a politically powerful issue. The salience of this issue has grown with the increase in spending by campaigns and political parties in the past few decades.⁶⁹ Comparatively it is certainly true that the United States spends a large amount of money on politics relative to other rich countries, both in absolute terms and on a per-capita basis.⁷⁰

American political leaders will openly admit that the influence of money in politics is a problem and that outside groups wield too much influence in the political system,⁷¹ but either they make no attempt to enact reforms or they have stated that reforms would have no impact. Polls have consistently found that the American general public believes there is “too much money in politics.”⁷² Nevertheless, political lead-

ers and the political parties they comprise have a vested interest in maintaining the status quo, a system where special interests and their money remain readily available.

The current campaign finance system was created largely by the Federal Election Campaign Act of 1971 and shaped by subsequent amendments and court decisions. The first substantial court decision was *Buckley v Valeo*, which limited the scope of the 1971 Act. In 1978, the Federal Election Commission expanded campaign finance rules to permit donors to give unlimited levels of funding to political parties (not to candidates) for activities deemed “party building activities” (not direct support to candidates), a practice that became known as “soft money.” Senate Democrats in 1992 put forward and passed the Congressional Campaign Spending Limit and Election Reform Act, which would have capped the amount of soft money that could be raised and would have provided public money to partially finance congressional candidates. That bill was vetoed by President George H.W. Bush, who claimed that the legislation did not go far enough to eliminate PACs.

By 2002, the power of soft money had become a campaign issue and Congress passed the Bipartisan Campaign Reform Act (also known as the McCain-Feingold Act), which amended the 1971 Act to limit soft money contributions.⁷³ However, loopholes for so-called “527 groups” (which claim tax-exemption as “political organizations” under section 527 of the Internal Revenue Code, but fail to register as “political committees” under the Federal Election Campaign Act) allowed soft money to play a prominent role in the 2004 presidential election through groups like America Coming Together and Swift Boat Veterans for Truth. These organizations were primarily engaged in voter registration, turnout, or so-called “issue advocacy,” rather than “express advocacy.”

Congressional attempts to reign in the influence of money and special interests were sporadic and half-hearted at best. When attempts were made, courts often struck down key portions of legislation as undermining free speech. The most recent decisions from 2010, *Citizens United vs. Federal Election Commission* and *SpeechNow.org v FEC*, further undermined congressional efforts. *Citizens United* opened the door for corporations to spend money from their general treasury funds on political advertising; the *SpeechNow* case paved the way for “Super PACs,” groups that can accept unlimited sums to run independent advertisements that are not technically coordinated with a candidate’s campaign, but that function as if they are. There has not been a substantial bipartisan attempt to reform campaign finance laws since then in spite of rising public concern about the issue.

1.8 The Rising Influence of Special Interests

INTEREST GROUPS ARE a natural and normal occurrence in a democracy. Indeed, they are a primary way by which citizens can organize themselves to petition their government for a redress of grievances.

However, like spending on political campaigns, the rise of the influence industry has attracted significant concern from the public. In 1971, there were 175 registered lobbying firms, 2,500 by 1981, and 13,700

registered lobbyists by 2009 spending over \$3.5 billion dollars on an annual basis.⁷⁴

This rise in the influence industry has tended to favor the interests of the well-organized and/or the wealthy.⁷⁵ There is some evidence that this has led to rent-seeking⁷⁶ and has become a key factor in public perception. This has undermined faith in the proposition that government is “of the people, by the people, and for the people.”

At the same time, Congress has lowered its own budget and weakened its own analytic capacity.⁷⁷ Consequently, Congress has come to rely more on special interests to help it understand an increasingly complex economy and society. A Sunlight Foundation study found that the number of staffers in the House focused on policy decreased by one-third in the period 1976 to 2005, while pay was unchanged, adjusted for inflation.⁷⁸ Congress has not been able to increase pay and retain talent with specialized knowledge. Some executive branch agencies such as the Securities and Exchange Commission, Consumer Financial Protection Bureau, and the Federal Reserve have a different compensation schedule than the rest of the federal government to allow them to compete for expert talent.

These dynamics have also had a destructive effect on Congress, which the Founders intended to be our most democratically representative institution. As congressional power has receded, substantially of its own accord, it has had profound impact on the other branches of government. It is important to recognize that the primary underlying cause of this imbalance is Congress being unwilling or unable to assert its own authority.

1.9 Congressional Dysfunction

PUBLIC APPROVAL RATINGS for Congress are near an all-time low. Latest polls show that only 13 percent of Americans today approve of the way Congress is handling its job, less than half the approval rating that the institution received at the same time in 1974.⁷⁹ When Americans were asked how much confidence they have in Congress, 64 percent said “not very much” or “none at all,” a dramatic increase from 1974 when only 28 percent answered that way. More than half (52 percent) of all Americans today believe that most members of Congress are corrupt and 69 percent of Americans think that most members are focused on the needs of special interest groups, not constituents. Given the dismal approval ratings, it’s not surprising that nearly 80 percent of Americans today believe most members of Congress are “out of touch” with the average American. The decline in congressional approval can be directly attributed to the corresponding decline in the ability of the institution to perform its role and address the needs of constituents.

There are many criticisms of Congress from many quarters. Congress has faced criticism from the left for not addressing issues such as money in politics, gun violence, and failing to protect voting rights, among many others. From the right, Congress has been criticized for delegating authority to the administrative state and failing to address long-term fiscal imbalances, among many other issues. Rather than focus on

each of these potential policies individually, we will discuss the failure of the congressional budget process and the rise of the filibuster as emblematic of congressional dysfunction. This should help illustrate some of the changes that have contributed to existing gridlock, as well as some of the processes by which Congress has handicapped itself.

Between 1976 and 1999, Congress consistently passed a budget every year. Yet nine times in the past 18 years, Congress failed to do so. Only once in the past six years have they successfully passed a budget.⁸⁰ The annual spending process has been completed on time only four times in the past 40 years. As a result, Congress has resorted to a series of brinkmanship moments where the threat of a government shutdown has been used to try to extract concessions from the other side. At the same time, the failure of the general legislative process has led interest groups and their proxies in Congress to try to use the budget hammer to pass unrelated policy riders and restrictions that raise the stakes in what should be a standard congressional function.

There are a number of theories as to why this has happened. Some trace the dysfunction back to the Congressional Budget and Impoundment Act of 1974, which established the Congressional Budget Office and budget resolution process, allowing Congress to better check executive branch spending. However, this also set in motion a new set of incentives for political elites, who began to see the budget process as an opportunity to stymie political opponents. By preventing the other party from passing budgets and therefore enacting legislation, voters could be persuaded to change control of Congress from one party to the other in an effort to reduce gridlock. This fundamentally changed the congressional system from one in which members traded policies in order to pass legislation, to one where undermining legislation forced an electoral change in power. In recent years, control of Congress has changed party control with the highest frequency in the post-Civil War era.

While the budget process is emblematic of the challenges facing Congress and its ability to regularly address matters of public concern, the atrophy of congressional processes for deal making and moderation is also part of the story. The growth in partisanship within Congress has been well documented, but how it manifests itself is worth noting.

One example is the rise of the use of filibuster to block legislation and nominees in the Senate. The filibuster has gone from being an exceptional tool⁸¹ to one used on a regular basis for all forms of legislation and nominations.⁸²

In the 1960s and 1970s, the filibuster was used primarily as a vehicle to stop civil rights legislation by southern Democratic senators. Ultimately, after the 1974 wave election that increased the number of northern liberals in the Senate, Senate rules were changed in 1975 to lower the “supermajority” definition from 67 votes to 60.

There was a slow but steady growth in the use of the filibuster until 2007. After the 2006 wave election in which Democrats captured the House and the Senate, Senate Republicans used the filibuster to prevent legislation that President George W. Bush would have vetoed. The use of the filibuster then continued by

both parties during the Obama administration.

In response to what they perceived to be an apogee in the use of the filibuster to block President Obama's nominees,⁸³ in 2013, Senate Democrats voted to change the rules regarding the consideration of nominees, allowing a simple majority to confirm non-Supreme Court nominees. The change effectively removed the long-standing rule requiring the support of 60 votes in chamber, thereby giving the governing minority strong influence in the political process. Republicans then turned around and did the same thing in 2017, eliminating the filibuster for Supreme Court nominees in order to confirm Justice Neil Gorsuch.

The overuse and then weakening of the filibuster is striking. In both cases, it has strengthened the hand of the other two branches of government. As filibusters on legislation have become the norm, Congress' inability to pass significant bills has shifted primary attention for policymaking to the executive. And then, by weakening the filibuster for nominations, Congress successfully limited its own power to stop presidents from making potentially unwise appointments to the executive and judicial branches.

1.10 Executive Dysfunction

RICHARD NEUSTADT ARGUED in 1960 that presidential power is fundamentally tied to one's ability to persuade other political elites.⁸⁴ Yet there is a myth in American culture, reinforced by popular television programs like *The West Wing*, that presidents have the ability to fix big problems. Presidential candidates certainly campaign on promises to fix problems. However, an all-powerful president is not what the Constitution's drafters wanted. Terrified of recreating a monarchy, the Founding Fathers favored a strong legislative branch that would take primacy over the executive.

Congress was given the authority to write and pass laws, overturn a presidential veto, and retains the so-called "power of the purse." The president has limited authority when it comes to the deployment of the U.S. military—only Congress can make declarations of war (at least according to the Founders' original design) and it can effectively kill any deployment of U.S. forces by refusing to appropriate funding. Presidents themselves recognize the limitations of their power, often blaming a recalcitrant Congress for stalled initiatives and failed policies. Nevertheless, growing dissatisfaction with the dysfunction in Congress, and government in general, has prompted some to call for increased action and decisiveness on the part of the president. This has opened the door to increased executive power, at times contrary to the intent of the Constitution. Executive overreach can be seen most clearly in the use of governing by executive order. But growing executive power can also be seen in legal doctrines that have evolved in recent years, like "*Chevron* deference," which gives executive agencies broad powers to interpret and apply congressional statutes as each agency sees fit.

The shift of power from Congress to the executive can especially be seen in the conduct of war-making. The Constitution grants power over war-making to both the executive and legislative branches. It grants Congress the power to declare war and raise armies and navies, and grants the president the power of

Commander-in-Chief. In the 20th Century, the balance of this division of responsibilities has shifted to the executive at the expense of Congress. In response, in 1973, after America had been engaged in two lengthy wars—Korea and Vietnam—without a congressional declaration of war, Congress passed the War Powers Resolution (WPR), requiring presidents to seek congressional assent either before or, if necessary, soon after committing U.S. armed forces to conflict.

While the WPR sought to repair the drift away from the Founders' original intent, American presidents have a long history of engaging in foreign interventions without the explicit consent of the Congress. And while presidents may pay a price at the ballot box for such engagements, there have been no real legislative repercussions. In 1975, President Ford sent U.S. commandos to liberate American seamen seized from the cargo ship *Mayaguez* by Cambodia's communist government. 41 U.S. servicemen lost their lives rescuing 39 sailors. In 1980, President Carter sent U.S. special operations forces into Iran to free American hostages held at the U.S. embassy in Tehran. The mission failed when a helicopter carrying U.S. troops crashed in a sandstorm in the desert. President Reagan informed Congress of his decisions to commit U.S. troops to actions into Lebanon and Grenada, and then suffered from the Iran-Contra scandal in which members of his administration plotted to raise funds for anti-communists in Nicaragua—a form of aid that Congress had explicitly outlawed. President George W. Bush expanded U.S. military engagements overseas in the wake of the 9/11 terrorist attacks and President Obama intervened militarily in both Libya and Syria without seeking additional authorities from Congress. In the case of Libya and Syria, it is not clear that Congress wanted to restrain presidential action and may have abdicated its proper oversight responsibility for the sake of political expediency.⁸⁵

The Constitution's separation of powers does not forbid the president from making proclamations or issuing directives to executive branch offices and agencies. However, presidents of both parties have used executive orders, at times, as a means of achieving policy objectives that have been stalled by Congress or forbidden by law. In 1993, President Clinton urged Congress to enact a statute that would prohibit employers from hiring permanent replacements for workers who are on strike. The right to hire such permanent replacement workers was firmly established in the National Labor Relations Act (NLRA) and in decisions of the U.S. Supreme Court. Congress refused to authorize the change in law prompting President Clinton to issue Executive Order 12954 in an attempt to achieve through executive fiat what he could not achieve through legislation. The United States Court of Appeals for the District of Columbia Circuit unanimously overturned the executive order and the implementing regulations that had been issued by the Secretary of Labor.⁸⁶

The popular perception is that presidents are increasingly using executive orders to circumvent the (at least, as it was intended to be) more democratically-responsive legislative process. For Republicans, that feeling was confirmed when President Obama declared in his 2014 State of the Union address that “what I offer tonight is a set of concrete, practical, proposals . . . some require congressional action, and I am eager to work with all of you. But America does not stand still—and neither will I. So wherever and whenever I can take steps without legislation . . . that's what I'm going to do.”⁸⁷ While Democrats argued President

Obama’s executive orders were within the proper scope of the executive’s constitutional authority, Republicans interpreted these remarks as a sign of executive “tyranny,” “unlawfulness,” and “overstepping of authority.” These roles had been almost precisely reversed when Democrats objected to the use of executive orders and signing statements (i.e., documents that presidents sometimes issue accompanying the signing of legislation in which presidents indicate how or even whether they plan to implement aspects of that legislation) by President George W. Bush.

1.11 Judicial Dysfunction

CONGRESSIONAL DYSFUNCTION HAS had ripple effects across the other two branches of government.

The void that has been created by Congress’ inability to consistently legislate has caused people to look to courts to step in, leaving courts in the unenviable position of weighing in on issues that might be better solved elsewhere.

That has raised the stakes for who serves on the judiciary, shifting it from an institution of legal experts trying to even-handedly apply the law to just another partisan battleground. As a result, the confirmation process has become a battlefield in which the future of policy is fought in a politicized manner. This reduces the legitimacy of the judiciary in the eyes of many Americans and also decreases its effectiveness. Now, Americans just look to who appointed a judge to predict the decisions on national issues.

1.12 Loss of Public Faith in Our Democracy

NOT SURPRISINGLY, GIVEN the political decay outlined above, Americans, and people in Western democracies more broadly, have lost faith in democratic institutions and in democracy itself.

As previously discussed, public approval ratings for Congress are near an all-time low. Latest polls show that only 17 percent of Americans today approve of “the way Congress is handling its job,” half the approval rating that the institution received in 1974.⁸⁸

The percentage of Americans that currently disapprove of the work of the Supreme Court is 40 percent, and 31 percent of Americans answered that their level of confidence in the Court is “not very much” or “none at all.”⁸⁹

In 2016, Gallup found “Americans’ confidence in the nation’s major institutions continues to lag below historical averages.”⁹⁰ According to Bill Bishop, co-author of *The Big Sort* and a leading scholar of the splintering of American society, the only institution that has been protected from this has been the military, a disturbing trend given the importance of maintaining civilian primacy in democratic government.⁹¹

This new faith in the military alone is but one of several extremely disturbing results that have been

compiled by Roberto Stefan Foa and Yascha Mounk to show just how far the commitment to American democracy has fallen:

- “When asked to rate on a scale of 1 to 10 how ‘essential’ it is for them ‘to live in a democracy,’ 72 percent of those born before World War II check ‘10,’ the highest value....[T]he millennial generation (those born since 1980) has grown much more indifferent. Only one in three Dutch millennials accords maximal importance to living in a democracy; in the United States, that number is slightly lower, around 30 percent.”
- “[W]hile 43 percent of older Americans, including those born between the world wars and their baby-boomer children, do not believe that it is legitimate in a democracy for the military to take over when the government is incompetent or failing to do its job, the figure among millennials is much lower at 19 percent.”
- “In the United States, for example, only 5 percent of upper-income citizens thought that army rule was a ‘good’ or ‘very good’ idea in the mid-1990s. That figure has since risen to 16 percent.”
- “In the United States, among all age cohorts, the share of citizens who believe that it would be better to have a ‘strong leader’ who does not have to ‘bother with parliament and elections’ has also risen over time: In 1995, 24 percent of respondents held this view; by 2011, that figure had increased to 32 percent.”
- “Meanwhile, the proportion of citizens who approve of ‘having experts, not government, make decisions according to what they think is best for the country’ has grown from 36 to 49 percent.”⁹²

This weakening and loss of faith in our institutions provided an opening for a political leader who would not be committed to democracy as a form of government, who would be willing to exploit systemic dysfunction for personal gain. The 2016 election of Donald Trump confirmed the worst aspects of our democratic decline, and his year in office has only made the situation worse.

2. The Decline of American Democracy in the Trump Era

“ A republic, if you can keep it.”

BENJAMIN FRANKLIN, 1787

AMERICA'S FOUNDERS DESIGNED our democracy to be strong and durable, creating a system of checks and balances to prevent any one branch of government or individual official from growing too powerful. As James Madison warned in *Federalist No. 47*, “The accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny.” A year into Donald Trump’s presidency, this system of checks and balances is under threat. As the prior section explained, even before Mr. Trump took office, democracy in America has been in decline.

Mr. Trump has taken a series of actions that have exacerbated the issues we have already noted, and added new threats besides. This section assesses Mr. Trump’s actions against six basic markers of democratic decline, identified by scholars who have studied democratic deconsolidation and modern authoritarianism.⁹³ Together, these markers—politicizing independent institutions, spreading disinformation, amassing executive power, quashing dissent, and corrupting elections—form a sort of authoritarian playbook, mirroring what scholars have observed in declining democracies around the world, in countries such as Hungary, Poland, Turkey, and Venezuela.

POLITICIZING INDEPENDENT INSTITUTIONS

Healthy democracies have strong independent institutions, such as law enforcement and the civil service, that operate with a degree of insulation from the whims of political leaders and can constrain a power-hungry ruler. These institutions exist to execute and enforce properly promulgated laws and regulations based on the facts before them. In the United States, the Department of Justice (DOJ) and many administrative and enforcement functions of federal agencies are meant to stand above partisan politics. Millions of federal civil servants pledge their loyalty not to any given president, but to the American public and Constitution, with many remaining in their positions from one administration to the next. But Mr. Trump has shown little respect for these traditions. He has tried to undermine the independence of the DOJ and the FBI, and may have obstructed justice in an attempt to stop an inquiry into whether his aides colluded with the Russian government to influence the outcome of the 2016 election. He has also weakened the federal bureaucracy—threatening perceived enemies, pushing to gut agency budgets, leaving an aston-

ishing number of government positions empty, and seeking to further undermine public trust in public servants by accusing them of disloyalty or bias.

SPREADING DISINFORMATION

Truth is indispensable to constitutional democracy. Shared agreement about facts allows people to hold their government accountable—to point out when its policies are having adverse effects, or when its words do not match its deeds. In democratic societies, a free press plays a particularly important role in speaking truth to power, a role America’s founders enshrined in the First Amendment. But Mr. Trump has carried out a consistent assault on truth, and Americans’ ability to discern it, particularly about current events and public policy. He has attempted to discredit the press, harassed reporters, threatened to change libel laws and subpoena journalists, and dismissed any source of information—however nonpartisan—that he perceives as unfavorable to him personally. He has also spread lies indiscriminately and disputes objectively provable facts.

AMASSING EXECUTIVE POWER

A strong democracy benefits from the separation of powers within government. When the system works properly, the legislature and courts prevent the executive branch from amassing too much power. In federalist systems, states or regional governments play a similar role. In the United States, the separation of powers is designed to ensure that Congress or the courts can stop an overreach of presidential power. Mr. Trump has done his best to enfeeble this system, undermining checks and balances by viciously attacking the judiciary, treating Congress as a subordinate branch of government by withholding information and demanding it act according to his will, and punishing states that have opposed his policies.

QUASHING DISSENT

Strong democracies have strong oppositions, who offer policy alternatives and alert the public when those in power are abusing their positions. The United States has a long tradition of vibrant dissent, a robust civil society sector, and healthy opposition politics. These dissenting voices are often the first ones to be attacked by authoritarian leaders, as they leverage political power to oppose government authority. Like authoritarian leaders the world over, Mr. Trump has demonstrated virtually no tolerance for those who disagree with him. He has threatened political opponents with imprisonment, fired or threatened to fire government officials who criticize him or his policies, pressured private employers to restrict the speech of their employees, and cultivated an atmosphere of fear that prevents many from speaking out against him.

DELEGITIMIZING COMMUNITIES

Democracy in diverse societies depends on protecting the rights of minorities. These can be political minorities who have lost at the ballot box, and especially include groups who identify as different from traditionally dominant majoritarian groups along the lines of race, ethnicity, religion, sexual orientation or gender identity. The United States has an ugly, tragic, and far from perfect history of living up to its founding principles of equally protecting the rights of all Americans. And yet, most modern American

leaders have expressed an inclusive vision of the United States, acknowledging our imperfect past while holding out hope for a better future. In contrast, Mr. Trump has shown a willingness to attack minorities, to scapegoat specific groups of Americans, and to appeal to divisive and hateful strains in our society. His reluctance to condemn violence against racial and religious minorities has emboldened perpetrators of that violence, enabled barriers against the full participation of minorities in our democracy, and deepened the sense among some citizens that their government does not count them as true Americans. Mr. Trump’s attacks on Americans precisely on the grounds that they are different (from him) allow him to define who “the people” are and what qualifies as American.

CORRUPTING ELECTIONS

Free, fair, informed, and regular elections form the cornerstone of the American experiment in self-rule, allowing citizens to exercise their most basic political right: the right to choose who governs them. In a democracy, the people are the best constraint on the abuse of power: if they are unhappy with a leader, they can vote him or her out. Yet even before he became president, Mr. Trump showed little respect for U.S. elections, threatening, for example, to reject any outcome that resulted in his loss. Since taking office, he has continued to undermine the legitimacy of elections, exaggerating the prevalence of voter fraud, and refusing to condemn Russian interference in the 2016 contest or take adequate measures to prevent its recurrence.

On each of these markers, President Trump has taken *actions* to substantially deteriorate the quality and integrity of our ideals, norms, and institutions. Beyond his direct actions, his anti-democratic rhetoric has itself undermined long-standing norms, in which entirely depend on the respect they are accorded by the presidency to carry any force to constrain others.

Some have tried to comfort themselves with the idea that many of the president’s most egregious assaults on democracy have been rhetorical. In this view, we need not be alarmed until his rhetoric turns to action. There are two problems with this stance. The first is that he has already taken a number of actions that, as discussed below, have degraded our institutions. The second is that anti-democratic rhetoric by a president *per se* degrades the norms on which democracy relies. As the Yale historian Timothy Snyder explains:

Most of what any president does is talk. What the president says sets the bounds of what others think is acceptable or possible.... Another way to think about it is this: the constitution is just words. The words themselves don’t compel us to do anything. They only matter insofar as we respect their spirit and speak in ways that are not totally inconsistent with it. It is entirely possible to have a beautiful constitution that ceases to matter because it no longer describes how people actually speak, and therefore actually behave.⁹⁴

Taken together, Mr. Trump’s actions (hereafter meant to include his statements, for the reasons just noted) mark the most serious threat to American democracy in our lifetimes. In just a year, the country has moved away from resembling other stable democracies, such as Canada or the United Kingdom, and started down a road that bears a frightening resemblance to the early paths taken by autocrats who have then systematically dismantled their own countries’ democracies, such as in Poland, Hungary, and Turkey.

In a comparison that is especially striking, recall that in Erdoğan’s and Putin’s first years of national leadership in Turkey and Russia, respectively, both were seen as democratic reformers. Erdoğan was to lead Turkey into the European Union as a model of Islamic democracy, and Putin presented himself as the torchbearer of Russia’s shift towards democracy. It took several years into each of their reigns before their authoritarian tendencies were fully exposed. In contrast, and as outlined in the six areas below, President Trump has exhibited the habits and actions of an autocrat in just his first twelve months in power.

That he has done this is not necessarily a sign of deliberate planning. Quite the contrary. Mr. Trump seems to rely on autocratic instincts out of either a lack of understanding of, or lack of respect, for the norms and structures that have undergirded America’s constitutional democracy.

As Zach Beauchamp summarized in *Vox* after interviewing numerous scholars on autocrats, “modern authoritarians generally don’t have that kind of sinister blueprint.”⁹⁵ Or, as Erica Chenoweth, a professor at the University of Denver, put it, “They’re winging it.”⁹⁶ Beauchamp continued: “What happens, instead, is a series of lower-level conflicts between the executive and other elements of the state. The president wants to do something; a court or a legislature blocks him. The president, frustrated with his opponents’ behavior, decides to circumvent them using whatever legal tools are available.”⁹⁷ This is the story of those conflicts so far, some of which are disturbingly more than “low level.”

2.1 Politicizing Independent Institutions

HEALTHY DEMOCRACIES HAVE strong independent institutions, such as law enforcement and the civil service. By honoring the law and their commitment to the nation, these institutions can be left at odds with a lawless chief executive. The civil service, for example, brings professional, nonpartisan expertise to the administration of government and can act as a bulwark against abuses of state power. But authoritarian leaders subvert such institutions to remove the administrative barrier they present to political or personal gain. Attacking or purging civil servants allows such leaders to empower their own loyalists, and themselves, at the expense of the rule of law. In part for those reasons, the Civil Service Reform Act of 1978, and its accompanying laws, protect the rights of civil servants by prohibiting them from being fired because of their personal political beliefs.⁹⁸ Millions of federal civil servants pledge their loyalty not to any given president, but to the Constitution,⁹⁹ with many remaining in their positions from one administration to the next.

Politicizing law enforcement similarly undermines public confidence in the equal application of the laws by allowing rulers to reward friends and punish opponents.¹⁰⁰ In the United States, the DOJ is meant to be above partisan politics and federal agencies are expected to administer and apply the law without favoritism towards specific parties or individuals.¹⁰¹ The Constitution codifies the principle that all Americans deserve due process and equal treatment under the law, and policies have been in place since Watergate to prevent improper White House interference in law enforcement.¹⁰²

But Mr. Trump has shown little respect for these traditions. He has tried to undermine the independence of the FBI, and may have obstructed justice in an attempt to stop an inquiry into whether his aides colluded with the Russian government to influence the outcome of the 2016 election. He has also weakened the federal bureaucracy, threatening perceived enemies within the civil service.

What follows is an accounting of just those events thus far that are publicly known:

INTERFERING WITH INDEPENDENT LAW ENFORCEMENT

- In May, President Trump fired the director of the FBI, James B. Comey, Jr., who had been leading the Russia probe. Mr. Trump initially claimed to be firing Mr. Comey for bungling the investigation into Hillary Clinton’s use of a private email server (despite having praised the FBI director’s “guts” for pursuing Mrs. Clinton during the campaign), but in a subsequent interview, he explicitly tied the firing to “this Russia thing.”¹⁰³
- Mr. Comey’s firing sparked an ongoing investigation into whether the president had obstructed justice by attempting to influence the investigation into his aides. In written testimony, Mr. Comey recounted a private dinner conversation in January in which the president told him “I need loyalty, I expect loyalty.” Mr. Comey said he felt that “the dinner was, at least in part, an effort to have me ask for my job and create some sort of patronage relationship. That concerned me greatly,” he wrote, “given the FBI’s traditional independent status in the executive branch.”¹⁰⁴ Mr. Trump appears not to understand this “traditional independence.” In an extended interview with *The New York Times* in July, he claimed, falsely, that the FBI director reports directly to the president.¹⁰⁵
- President Trump and his administration have also repeatedly called for the investigation or prosecution of individuals, including political opponents. Mr. Trump advocated for his electoral opponent, Hillary Clinton, to be jailed; “lock her up” was a favorite chant of his supporters. “If I win,” he said to her during the October 9 debate, “I am going to instruct my attorney general to get a special prosecutor to look into your situation.”¹⁰⁶ At an October 12 rally in Florida, Mr. Trump declared that “corruption and collusion is just one more reason why I will ask my attorney general to appoint a special prosecutor,” and later added that “[s]he has to go to jail.”¹⁰⁷ After taking office, Mr. Trump revived his calls to investigate or prosecute Mrs. Clinton, criticizing the attorney general for his failure to do so.¹⁰⁸ He has since repeated this call on multiple occasions, including during a November 2 radio interview;¹⁰⁹ a November 28 tweet (“Why aren’t our deep State authorities looking at this? Rigged & corrupt?”¹¹⁰); and a December 3 tweet (“Many people in our Country are asking what the ‘Justice’ Department is going to do about the fact that totally Crooked Hillary, AFTER receiving a subpoena from the United States Congress, deleted and ‘acid washed’ 33,000 Emails? No justice!”¹¹¹). On January 2, 2018, Mr. Trump suggested jail time for the vice chair of Mrs. Clinton’s presidential campaign, Huma Abedin. “Crooked Hillary Clinton’s top aid [sic], Huma Abedin, has been accused of disregarding basic security protocols. She put Classified Passwords into the hands of foreign agents. Remember sailors [sic] pictures on submarine? Jail! Deep State Justice Dept must finally act? Also on Comey & other.”¹¹²

- Mr. Trump has also accused former President Obama and former National Security Advisor Susan Rice of criminal activity, alleging, in a series of early-morning tweets on March 4, 2017, that the former president had wiretapped Mr. Trump during the 2016 election. After the DOJ, the National Security Agency, and the British intelligence agency, GCHQ, publicly refuted these claims, the Trump administration backtracked with shifting explanations and without apology.¹¹³
- President Trump has backed up these calls for the prosecution of his political opponents by pressuring Attorney General Jeff Sessions and DOJ to follow through. At one point, Mr. Trump launched an extraordinary campaign against Attorney General Sessions on Twitter and in the press, calling him “beleaguered”¹¹⁴ and “VERY weak” for not investigating “Hillary Clinton crimes.”¹¹⁵
- The pressure appears to be working. For example, Mr. Trump tweeted a series of messages to “DO SOMETHING!” about the “lack of investigation on Clinton... Uranium to Russia deal, ...”^{116 117} a reference to a Committee on Foreign Investment in the United States (CFIUS) transaction involving the sale of Uranium One during Secretary Clinton’s tenure. The DOJ then stated that senior prosecutors were considering a recommendation of a special counsel on “the sale of Uranium One”¹¹⁸ and by December 2017, they had started questioning FBI agents.¹¹⁹ In addition, reports indicate that in response to White House pressure, the DOJ has now reopened the Clinton email server investigation in one case¹²⁰ and ramped up an investigation into the Clinton Foundation in another.¹²¹
- Mr. Trump’s actions have emboldened others to follow suit. For example, White House Press Secretary Sarah Huckabee Sanders insisted from the press secretary podium that “the Department of Justice has to look into any allegations of—whether something’s illegal or not,” suggesting that DOJ criminally prosecute James Comey.¹²² President Trump’s nominee for Director of Immigration and Customs Enforcement—currently serving as acting director—said recently that politicians should be held “personally accountable” for crimes committed by people in the United States without documentation. “We’ve got to start charging some of these politicians with crimes.”¹²³
- President Trump has also publicly attacked Attorney General Sessions for abiding by long-standing principles of legal ethics. In a *New York Times* interview in July 2017, Mr. Trump said that he would not have nominated him had he known that Mr. Sessions would recuse himself from the Russia investigation.¹²⁴ The *Times* has also reported that Mr. Trump engaged in a campaign to get various staff, including the White House Counsel, to convince Mr. Sessions not to recuse from the Russia investigation when a conflict of interest existed.¹²⁵

IMPROPER WHITE HOUSE COMMUNICATIONS WITH DOJ ON SPECIFIC MATTERS

- In addition to the aforementioned public calls for the DOJ to pursue specific matters, the Trump White House has engaged in violations of long-standing rules against direct contacts with the DOJ regarding specific matters. In January 2017, the White House released its contacts policy to restrict communications between White House staff and the DOJ on any specific case or investigation in order to avoid improper political influence on DOJ’s impartial investigatory and prosecutorial functions.¹²⁶ Unlike prior

administrations, which applied their contacts policies across the federal government, this administration’s narrowed policy only applies to White House communications with the DOJ.¹²⁷ Even with a narrowed policy, White House staff have repeatedly violated it. To cite just a few examples, Reince Priebus, formerly the White House Chief of Staff, reportedly called then-FBI Director James Comey and FBI Deputy Director, Andrew McCabe, to demand they publicly refute a report about contacts between Russian intelligence and Trump associates.¹²⁸ White House senior advisor Stephen Miller called the U.S. Attorney for the Eastern District of New York at his home to direct the argument for defending the travel ban.¹²⁹

- While President Trump is treated differently under the policy than most White House staff, that does not mean he is absolved from his “take care” responsibility under the Constitution, or his own White House policy, to avoid politicizing DOJ’s impartial judgment on investigations and enforcement matters. And yet, Mr. Trump himself made an unorthodox call to then-U.S. attorney for the Southern District of New York, a call so unorthodox that the DOJ reportedly agreed with the attorney’s decision not to call back, in order to avoid violation of these principles.¹³⁰ Mr. Trump also has taken an irregular approach to law enforcement appointments. In July, Jessie Liu, President Trump’s nominee to be U.S. Attorney for the District of Columbia, disclosed to the Senate Judiciary Committee that she had met personally with Mr. Trump as part of her interview process. Mr. Trump subsequently met with two candidates for U.S. Attorney in New York,¹³¹ who have been subsequently appointed to temporary roles.¹³² According to multiple former U.S. attorneys, it’s virtually unprecedented for a president to meet with a U.S. attorney prior to his or her nomination. And while it might not be problematic if a president was merely attempting to personally ensure the fitness of those people he or she might choose to nominate, when coupled with this president’s outspoken disregard for the independence of law enforcement, it has raised concerns. “[I]t serves to undermine the rule of law,” said Joyce Vance, former U.S. Attorney for the Northern District of Alabama. “This goes to the independence of the Justice Department.”¹³³ In contrast, as Vance herself recently remarked, when President Obama first met with the United States Attorneys he had appointed, he told them “I appointed you but you don’t serve me. You serve the American people. And I expect you to act with independence and integrity.”¹³⁴

URGING LAW ENFORCEMENT MISCONDUCT

- In addition to urging the attorney general to breach ethics protocols, the president has appeared to encourage police violence. In a speech to law enforcement officers in Brentwood, Long Island, in July, he urged the officers not to be “too nice” and to abandon practices such as protecting the heads of suspects being loaded into police vehicles. In response, the acting head of the Drug Enforcement Administration said that Mr. Trump had “condoned police misconduct.”¹³⁵

ATTACKING CIVIL SERVANTS

- Mr. Trump and his administration have waged a campaign to discredit, sideline and remove nonpartisan civil servants and bureaucratic experts since before he took office. During the presidential transition, for example, the Trump team sought to apply ideological litmus tests on federal employees, requesting the

names of all employees who had worked on climate change at the Department of Energy, a request the Department rejected.¹³⁶

- After assuming office, when State Department employees followed established protocols to register their dissent with the president’s travel ban by filing a “dissent channel” cable, Press Secretary Sean Spicer warned they could “either get with the program, or they can go.”¹³⁷
- In May, EPA Administrator Scott Pruitt, declined to renew half the scientists serving on a scientific review board that provides guidance to the agency.¹³⁸ In October 2017, Pruitt issued a directive barring scientists who have received grants from the EPA from serving on the EPA’s scientific advisory committees.¹³⁹ Critics have argued that this removes scientific expertise from the EPA advisory process, and will weaken evidence-based policy-making.¹⁴⁰
- In September, at a speech to the National Petroleum Council, Interior Secretary Ryan Zinke said that “30% of the crew” of the Department of the Interior is “not loyal to the flag.”¹⁴¹ Following through on that view, he shut down the work of dozens of advisory bodies designed to provide the Department with expert scientific input.¹⁴²
- And President Trump has personally attacked multiple career law enforcement officials, including the FBI’s deputy director, general counsel, and others.¹⁴³ The attacks on the FBI have been a recurring theme, as have attacks by the president on the career staff of the intelligence community.¹⁴⁴ As some have observed, the targets of Mr. Trump’s attacks on the FBI are the likely witnesses in the existing obstruction investigation based on his interference with former Director Comey.¹⁴⁵ The attacks have also resulted in the departure of three of the top officials at the FBI (the director, deputy director and general counsel—the latter of whom had served for more than twenty years), allowing Mr. Trump to handpick their replacements. And the attacks have encouraged and emboldened allies of President Trump to call for a “purge” of the FBI¹⁴⁶ and even suggest that it had been turned into a “KGB-type operation” that might need to be dismantled.¹⁴⁷
- This campaign has been echoed by the president’s media allies. In February, *Breitbart News* (which at the time was widely believed to still be in touch with its former chairman, then-White House Senior Adviser Steve Bannon) published a top-10 list of “holdover Obama loyalist bureaucrats” for Mr. Trump to fire (several of whom were not actually Obama appointees), causing veteran civil servants to worry that Mr. Trump would purge federal agencies of perceived enemies.¹⁴⁸ In some cases, these attacks caused the named civil servants to receive death threats and, in some cases, resign their positions as a result.¹⁴⁹

Where Have We Seen That Before?

After each of these subsections, we provide a few examples of where the Trump administration’s actions echo those of autocrats around the world. In most cases, the overseas examples have reached

a more advanced stage of democratic decline. Our point is not to say the Mr. Trump actions are on par, at least not yet, but rather to illuminate the similarities in the hopes that we can recognize them early enough to prevent the United States from drifting any further down these roads.

Politicizing Law Enforcement and Threatening the Civil Service Has Been a Hallmark of Authoritarian Regimes Elsewhere

Politicizing independent institutions is a favorite tactic of strongmen around the globe. In Hungary, for example, the ruling party, Fidesz, has reorganized the Media Council, the Budget Counsel, the National Bank, the Elections Commission, and the Ombudsmen’s Offices, frequently removing incumbent officials before the end of their terms and extending the terms of their Fidesz-backed replacements.¹⁵⁰ Such moves have entrenched a patronage system so strong that only those with connections to the ruling party can obtain state contracts or support.¹⁵¹

In Turkey, likewise, President Recep Tayyip Erdoğan has accused thousands of civil servants of disloyalty and engaged in a massive purge. After a coup attempt in July 2016, the president’s administration fired, detained, or suspended almost 9,000 police officers, 21,000 private school teachers, 10,012 soldiers, 21,700 Ministry of Education officials, and more than 1,500 Ministry of Finance officials.¹⁵² According to *The New York Times*, “Only rarely in modern history has a leader detained and fired as many perceived adversaries” as Erdoğan.¹⁵³

Similarly in Poland, the ruling Law and Justice (PiS) party passed a new civil service law shortly after coming into power that “eliminated open competitions for senior posts, along with the requirement that candidates must not have belonged to a political party in the previous five years.”¹⁵⁴ The PiS party also replaced numerous senior military and security officials with political appointees.¹⁵⁵

Venezuela President Nicolas Maduro has threatened to purge disloyal public servants. For example, in the wake of a widespread petition to recall President Maduro and initiate a new presidential election, Maduro “ordered that any manager in five key ministries who signed the petition should be sacked.”¹⁵⁶

In Russia, the powers to investigate and prosecute are routinely wielded against Putin’s political opponents and, in some cases, are directed personally by the president. For example, in 2012, rising Putin critic Alexey Navalny was charged with embezzlement in a what was widely seen to be a manufactured prosecution.¹⁵⁷ Critics have also charged that the prosecution of Putin critic Mikhail Khodorovsky was politically motivated.¹⁵⁸

2.2 Spreading Disinformation

TRUTH IS INDISPENSABLE to constitutional democracy. Shared agreement about facts allows people to hold their government accountable—to point out when its policies are having adverse effects, or when its words do not match its deeds. In democratic societies, a free press plays a particularly important role in speaking truth to power, a sentiment America’s founders enshrined in the First Amendment. In non-democracies, however, truth takes a backseat to propaganda. Authoritarian rulers spread misinformation to confuse and distract the public, disparaging the independent press to establish themselves as the sole source of truth.

The historian Timothy Snyder has explained how this usually happens: “The way it works is that you first just lie a lot. You fill up the public space with things that aren’t true. . . . Next you say, ‘It’s not me who lies; it’s the crooked journalists. They’re the ones who spread the fake news.’ Then the third step, if this works, is that everybody shrugs their shoulders and says, ‘Well, we don’t really know who to trust; therefore, we’ll trust whoever we feel like trusting.’ In that situation, you can’t control political action and authoritarianism wins.”¹⁵⁹

Following this playbook, Mr. Trump has all but declared war on truth and on basic facts about public policy. In the United States, the premise that the government will share truthful information with the public and act based on accurate data is entrenched in federal laws. Various statutes, including the Freedom of Information Act, Federal Advisory Committee Act, and other transparency laws, are based on the notion that the public has a right to timely access to information that the government uses and collects.¹⁶⁰ A little known federal law, the Data Quality Act, requires federal agencies to follow guidelines to ensure the integrity of information that they share.¹⁶¹ And the Administrative Procedure Act prohibits capricious government actions.¹⁶² The First Amendment, meanwhile, protects the freedom of the press, which helps ensure an informed citizenry. But Mr. Trump has attempted to discredit the press, harassed reporters, and dismissed any source of information—however nonpartisan—with which he disagrees. He has also spread lies indiscriminately and disputed objectively provable facts.

Again, this accounting is just some of the actions taken to date that are publicly known:

SPREADING FALSE INFORMATION

- If a lie is defined as a demonstrably false statement, Mr. Trump told a public lie on at least 20 of his first 40 days as president. If the scope of a lie includes *misleading* statements, Mr. Trump told a lie every single day of the first 40 days of his presidency—and he has continued to tell many more since.¹⁶³ By one count, by January 2, 2018, he had made 1,950 “false and misleading claims.”¹⁶⁴ Here, for example, are all the lies he told on a single day in January, chronicled (and refuted) by *The New York Times*:

“Now, the audience was the biggest ever. But this crowd was massive. Look how far back it goes.

This crowd was massive.’ (Official aerial photos show Obama’s 2009 inauguration was much more heavily attended.)”

“*Take a look at the Pew reports (which show voter fraud.)*’ (The report never mentioned voter fraud.)”

“*You had millions of people that now aren’t insured anymore.*’ (The real number is less than 1 million, according to the Urban Institute.)”

“*So, look, when President Obama was there two weeks ago making a speech, very nice speech. Two people were shot and killed during his speech. You can’t have that.*’ (There were no gun homicide victims in Chicago that day.)”¹⁶⁵

- One particularly dangerous lie Mr. Trump has spread involves the validity of the 2016 election. During the campaign, he repeatedly claimed that the election would be “rigged,” and since then, he has asserted—with no evidence—that 3-5 million illegal voters prevented him from winning the popular vote.¹⁶⁶

UNDERMINING NEUTRAL SOURCES OF DATA AND EXPERTISE

- Mr. Trump and his administration routinely undercut expert sources of data and analysis. For example, after the nonpartisan Congressional Budget Office (CBO) issued a report in March projecting that a Republican healthcare bill would leave an additional 24 million Americans without health insurance over the next decade, senior White House officials dismissed its estimates as “little more than fake news.”¹⁶⁷ Expressing his concern over such attacks, William Hoagland, former Republican staff director of the Senate Budget Committee, told *The Washington Post* that “these attacks undermine this institution that’s been there for 40 years and served Republicans and Democrats and independents all this time.”¹⁶⁸ Challenging the CBO’s analysis with alternative assessments or updated factors is completely acceptable and can be a valuable part of policy debate; politicizing a nonpartisan institution and labeling its assessments as “fake” undermines free and democratic evaluations of legislation and its potential “real” impact. In addition, there have been discussions of defunding particular CBO staffers.¹⁶⁹
- The CBO is not the only independent source of reliable information that has come under budgetary attack: the Trump administration’s budget significantly underfunds the Census Bureau at a time critical to preparing for an accurate decennial census.¹⁷⁰ The Bureau has been directorless since July 2017, when John Thompson unexpectedly resigned. As a result of continued underfunding and the administration’s failure to fill key leadership posts, the Government Accountability Office (GAO) has reported that the 2020 census has a high risk of failure.¹⁷¹
- Mr. Trump has also tried to withhold scientific information from the public and the press. In January, for example, officials at the EPA and the U.S. Department of Agriculture (USDA) told staff that they were no longer allowed to “discuss agency research or departmental restrictions with anyone outside the agency.”¹⁷² (The USDA’s guidance was rescinded after public backlash in response.) In April 2017, under the direct leadership of Mr. Trump and Mr. Pruitt, the EPA removed climate change data and other scientific information from its website.¹⁷³ In October, EPA officials were directed to cancel speaking engagements at conferences at which they were going to speak about the effects of climate change on particular ecosystems.¹⁷⁴

- The Federal Emergency Management Agency (FEMA) removed information from their website about recovery efforts in Puerto Rico, specifically regarding the number of people without water or electricity.¹⁷⁵ Mr. Trump continued to praise his self-credited relief efforts, although the public had little information to evaluate these statements. He boasted about what he claimed was a relatively low death toll (16, he claimed at the time of his visit in September), when in fact the actual death toll was in the hundreds.¹⁷⁶

ATTACKING THE FREE PRESS

- Hardly a day goes by without Mr. Trump excoriating the press. Shortly after taking office, Mr. Trump declared himself in “a running war with the media” and decried news organizations as “the enemy of the American people.”¹⁷⁷ At a press conference in May, he said, “The press should be ashamed of themselves.”¹⁷⁸ He regularly dismisses outlets such as *The New York Times* and CNN as “failing” or “fake news,” and he often insults reporters by name. (For example, he has called MSNBC’s Mika Brzezinski and Joe Scarborough “low I.Q. Crazy Mika” and “Psycho Joe,”¹⁷⁹ as well as “crazy and very dumb” and “a mess,” respectively,¹⁸⁰ and referred to *Washington Post* reporter David Fahrenthold as a “nasty guy.”¹⁸¹) Scarborough has also claimed that Jared Kushner offered to stop a negative story in *The National Enquirer* if Scarborough’s MSNBC show, *Morning Joe*, would change its coverage of Mr. Trump.¹⁸² In July, Mr. Trump tweeted “#FraudNewsCNN #FNN” with a video of himself wrestling and punching a figure whose head had been replaced by the CNN logo, an escalation of his attacks on the network.¹⁸³ In August of 2017, President Trump’s campaign released a video calling a variety of press figures “the president’s enemies.”¹⁸⁴ President Trump and his administration have also called for a number of reporters to be fired for disagreeing with or criticizing, him or for making errors in reporting. These have included ESPN’s Jemele Hill,¹⁸⁵ *The Washington Post*’s David Weigel,¹⁸⁶ and ABC’s Brian Ross.¹⁸⁷
- Mr. Trump’s tactic of accusing news he doesn’t like as “fake news” has since been picked up by authoritarian leaders around the world to discredit reporting of events in their own countries.¹⁸⁸ These events have: reported massacres of Rohingya in Burma, human trafficking in Libya, prison deaths in Syria, and any criticism at all of the government in Russia.

LIMITING PRESS ACCESS

- In February 2017, the White House prevented reporters from select news organizations, including CNN, *The New York Times*, *Politico*, *The Los Angeles Times*, and *BuzzFeed*, from attending an off-camera press briefing.¹⁸⁹ In May, Mr. Trump threatened to end White House press briefings altogether because it was “not possible” for his staff to speak with “perfect accuracy.”¹⁹⁰ In a subsequent interview with Fox News’s Jeanine Pirro, he said, “Unless I have them every two weeks and I do them myself, we don’t have them.”¹⁹¹ Instead of publicly broadcasting press briefings, the White House often holds them off camera while imposing restrictions on reporters’ use of audio and video feeds.¹⁹² In June, television reporters were told that they could no longer record interviews in Senate hallways, a decision that was reversed after public outcry; many journalists saw the move as part of a wider effort to roll back press freedom by barring reporters from certain events or from interviewing particular officials.¹⁹³

Assaults on the Truth Are a Common Feature of Slides Towards Authoritarianism

In 2010, the Chávez government in Venezuela enacted a law allowing it to suspend or revoke broadcasting licenses whenever “convenient for the interests of the nation.” The government expanded the number of state-run TV channels from one to six, and drove many private stations off the air. It also sanctioned media outlets for publishing reporting critical of the government.¹⁹⁴

When the PiS party came into power in Poland, it asserted broader control over public media by replacing the heads of the public television and radio stations with party loyalists and establishing a National Media Council, made up primarily of “PiS lawmakers, [which] will give the governing party continued control over the public broadcasters’ management.”¹⁹⁵

In Turkey, according to Freedom House, Mr. Erdoğan has “overseen a substantial decline in press freedom over the past decade, aggressively using the penal code, criminal defamation laws, and antiterrorism legislation to jail large numbers of journalists and punish critical reporting.” After the coup attempt in July 2016, the government shut down and seized the assets of more than 150 media outlets; more than 2,700 people in media reportedly lost their jobs. As of December 2016, Turkey was the world’s leading jailer of journalists, with at least 81 journalists behind bars.¹⁹⁶

In Hungary, meanwhile, the government has stacked the country’s Media Authority—an agency that has the power to regulate broadcast licenses, competition, and media content—with allies of the Orbán regime. “The restrictions on media freedom have had an enormous political impact,” Philip Howard, a professor at Central European University, wrote in *The New York Times*. “By the last general election, in April [2014], the government had effectively reined in all of the country’s broadcast media outlets. The major newspapers favorably covered Prime Minister Orbán’s ruling party, Fidesz. Talk radio and television news stations gave disproportionate time to government representatives, and their coverage of opposition parties focused chiefly on corruption and infighting.”¹⁹⁷

And in Russia, the government reintroduced criminal liability for libel in 2012, imposing large fines and sentences of up to 12 weeks’ forced labor.¹⁹⁸ The Kremlin has also limited the foreign ownership of media; banned advertising on cable and satellite television channels, leaving the country almost entirely dependent on state television; and fired journalists for publishing material of an “extremist nature.”¹⁹⁹ Since 2000, at least 34 journalists in Russia have been murdered.²⁰⁰

2.3 Amassing Executive Power

A STRONG DEMOCRACY benefits from the separation of powers within government. When the system works properly, the legislature and courts prevent the executive branch from amassing too much power. In federalist systems, states or regional governments play a similar role. Authoritarian leaders, seeking to eliminate barriers to their power, undermine the separation of powers by weakening the other branches

(treating Congress as beholden to the president rather than the people, for example) or politicizing them (packing the courts with party loyalists). Without effective checks on the executive, there is little stopping undemocratic leaders' abuses.

In the United States, the Constitution creates three equal branches of government. It gives different powers to each of them; for example, it gives Congress the sole power to legislate, declare war, and raise and support the armed forces. It appoints the president commander-in-chief of the military. The separation of powers is designed to prevent abuses of power by any single branch of government, or by a president who seeks to exceed his constitutional authority. Over many decades, court decisions have reinforced Congress's authority to oversee the executive branch, such as allowing it to subpoena documents and witness testimony.²⁰¹ The Constitution also creates a further check on the president by dividing power between the federal government and the states. Mr. Trump has done his best to enfeeble this system, undermining checks and balances by attacking the judiciary, claiming broad authority over independent government institutions, seizing congressional prerogatives for the executive, withholding information from Congress, and punishing states that have opposed his policies.

CLAIMING TO BE ABOVE THE LAW

- President Trump's lawyers have argued in several forums that, as president, he is above the law.²⁰² In response to the ongoing Russia probe, attorney John Dowd told *Axios* that the "President cannot obstruct justice because he is the chief law enforcement officer."²⁰³ Additionally, in a state court proceeding, Mr. Trump's lawyers have argued that he is immune from suit even for actions taken before becoming president.²⁰⁴ Mr. Trump's bald assertions that the president cannot be held to account for violating the law contravene the bedrock constitutional principle that in this country, no person, including the president, is above the law. His claims that the law does not apply to him stand in stark contrast to one of this country's most fundamental and defining principles: "We are a nation of laws, not of men."

ATTACKING THE JUDICIARY

- Mr. Trump has been attacking the judiciary since before he became president. (Protect Democracy has issued a comprehensive report on this, accessible at <https://protectdemocracy.org/preserving-courts/>.) On the campaign trail, he criticized U.S. District Judge Gonzalo Curiel for presiding over lawsuits against the now-defunct Trump University, calling him a "hater" and claiming that his Mexican heritage qualified as an "absolute conflict" of interest.²⁰⁵ Since becoming president, Mr. Trump has lashed out at any judge who rules against him. In February, after U.S. District Judge James L. Robart temporarily blocked enforcement of the president's travel ban, Mr. Trump tweeted, "The opinion of this so-called judge, which essentially takes law enforcement away from our country, is ridiculous and will be overturned."²⁰⁶ Mr. Trump also threatened to break up the Ninth Circuit Court of Appeals after it ruled against the ban.²⁰⁷
- The Trump administration's critiques of the courts' authority to judge the constitutionality of the administration's immigration policies are all the more worrisome in light of recent revelations that the Trump administration appears to be trying to cover up evidence that it violated court orders related to the travel

ban.²⁰⁸ At the request of Congress, the Department of Homeland Security’s Office of Inspector General initiated a review of the administration’s implementation of the travel ban and drafted a lengthy report which found, among other things, that U.S. Customs and Border Protection took actions that violated two separate court orders.²⁰⁹ The Trump administration is refusing to disclose the report to Congress and the American people, thereby preventing any meaningful review of the extent to which the administration may have violated court orders, and quashing its own internal checks and balances.²¹⁰

- Mr. Trump’s behavior has had a licensing effect across government, spurring other members of his administration to follow his lead. In April, for example, Mr. Sessions criticized U.S. District of Hawaii judge Derrick Watson, who had issued a temporary injunction against President Trump’s travel ban. “I really am amazed that a judge sitting on an island in the Pacific can issue an order that stops the president of the United States from what appears to be clearly his statutory and constitutional power,” Sessions told a conservative radio host.²¹¹

ABUSING THE PARDON POWER TO UNDERMINE THE COURTS

- In August, President Trump pardoned former Maricopa County (AZ) Sheriff Joe Arpaio.²¹² Arpaio been convicted of criminal contempt for violating a court order to stop detaining immigrants.²¹³ By pardoning Arpaio for violating a court order, President Trump undermined a court’s ability to complete a legal proceeding. If taken to its logical conclusion, Mr. Trump’s view of the pardon power as exercised in this instance would allow him to prevent any federal court from effectively enjoining government agents from violating Americans’ constitutional rights. It would, in effect, place him above the courts. For this reason, Protect Democracy has asked the courts to rule the Arpaio Pardon unconstitutional.²¹⁴

TAKING WAR POWERS FROM CONGRESS

- The Constitution divides war-making powers between Congress and the president, to prevent one person from deciding when to take the country to war. And while, for decades, presidents have taken more of this power while Congress has abdicated it, Mr. Trump’s position has been the most extreme yet. In April, when he ordered military strikes against the Assad regime in Syria, there had been no congressional authorization, no United Nations authorization, no coalition of nations or public debate, nor any attack on the United States. Despite his administration having acknowledged the existence of a secret administration legal memo, Mr. Trump has still not released what legal rationale gave him the power to launch these attacks, stifling appropriate congressional oversight or public accountability.²¹⁵ As Senator Tim Kaine and Congressman Adam Schiff wrote in a letter to the president, the administration’s assertion of authority for the strikes did “not provide Congress with the information it needs to exercise [its] constitutional responsibilities.”²¹⁶ In litigation brought by Protect Democracy to disclose the legal rationale, the federal district court for the District of Columbia ruled that “[b]eing closed off from such a debate is itself a harm in an open democracy.”²¹⁷ Protect Democracy continues its legal efforts in court to Trump administration to relinquish its withholdings, reasoning that “[i]f the government gets its way here and the Executive Branch’s legal theories are maintained as a secret body of law, then there is no ability for the Congress or the public to provide the democratic check that the Founders envisioned.”²¹⁸

LIMITING CONGRESSIONAL OVERSIGHT

- In an effort to prevent the release of potentially damaging information, White House aides have reportedly directed federal agencies not to cooperate with oversight requests from Democrats in Congress.²¹⁹ In May, the DOJ's Office of Legal Counsel issued an opinion formally rejecting the authority of most lawmakers to request information from the executive branch, downgrading those lawmakers' oversight requests to the status of public Freedom of Information Act inquiries.²²⁰ Senator Charles E. Grassley of Iowa, the Republican chairman of the Senate Judiciary Committee, called on Mr. Trump to retract the policy, writing in a letter to the president that “without access to information held by the Executive Branch, Congress cannot legislate effectively or help assure the American people that their hard-earned tax dollars are being spent wisely.”²²¹ In response to Mr. Grassley's letter, the White House's legislative affairs director claimed that the opinion did “not set forth Administration policy.”²²² And yet, the Trump administration has continued to stonewall Congress. Numerous administration officials have deployed a non-executive privilege response to avoid answering questions without actually invoking the privilege.²²³

TAKING POWER FROM THE STATES

- In January, Mr. Trump signed an executive order denying federal funding to sanctuary cities, cities that choose not to cooperate with federal efforts to deport undocumented immigrants. Many legal scholars have described Mr. Trump's move as unconstitutional. As Ilya Somin, Professor of Law at George Mason University, argued in *The Washington Post*, “Unless interpreted very narrowly, it [the order] is both unconstitutional and a very dangerous precedent. President Trump and future presidents could use it to seriously undermine constitutional federalism by forcing dissenting cities and states to obey presidential dictates, even without authorization from Congress.”²²⁴ Separately, Mr. Trump has criticized states for refusing to hand over troves of voter data, including names, birth dates, voting histories, felony convictions, and the last four digits of social security numbers, as part of his administration's purported investigation of alleged voter fraud.²²⁵ For example, in July, Mr. Trump tweeted, “Numerous states are refusing to give information to the very distinguished VOTER FRAUD PANEL. What are they trying to hide?”²²⁶

PROFITING FROM THE OFFICE OF THE PRESIDENCY

- In one of the most extreme deviations from long-standing norms and the law, Mr. Trump has retained ownership of a vast business empire while serving as president and has repeatedly harnessed the power of his office to enrich his own and his family's interests. While prior presidents have voluntarily abided by the 1978 Ethics in Government Act and its conflict of interest statute, President Trump has literally bragged about the fact that, according to him, government conflict of interest laws don't apply to him.²²⁷ As a result, Mr. Trump is the first president in the modern era not to divest himself from business interests and operations that might create conflicts.
- Based on the financial disclosure report filed for the 2016 campaign, Mr. Trump “appear[ed] to own or control more than 500 businesses in some two-dozen countries around the world” at the time of his inauguration.²²⁸ Ethics experts at the time urged Mr. Trump to divest of his assets and/or put them in a blind trust, but instead, Mr. Trump placed his holdings in a flexible and accessible trust, publicly handed

his adult children full control of all aspects of the business, and promised they would strike “no new deals” during his presidency. The Trump Organization echoed this plan, declaring itself disinterested in “any new foreign deals or transactions with a foreign entity—country, agency, official, sovereign wealth fund or member of a royal family—other than ‘normal and customary arrangements’ made before inauguration.”²²⁹ Mr. Trump and the Trump Organization have failed to abide by these assurances. The Trump Organization is reported to be pursuing foreign deals in countries such as Scotland and the Dominican Republic.²³⁰ And arrangements that may have begun prior to inauguration in some cases have taken on a new speed and breadth since then. For example, soon after Mr. Trump’s inauguration, the Chinese government approved 40 new trademarks for President Trump and his companies that had previously been stalled.²³¹

- In addition, Mr. Trump has received untold profits from foreign governments at properties around the globe.²³² For example, the Saudi government paid for its lobbying firm to stay, on multiple occasions, at Trump International Hotel in D.C.; Abu Dhabi Tourism and Culture Authority, an entity owned by the United Arab Emirates, bought space in Trump Tower;²³³ Bali’s government plans to build, and pay for, a toll road extension to reduce travel time between the airport and the six-star Trump International Hotel and Tower; and Panama’s government covered the costs to finish installing the sewer system and water pipes for Trump Ocean Club International Hotel and Tower, after the company that received the contract went bankrupt before completing the project.²³⁴ The conflicts this creates are immense. In the words of Jeffrey Toobin, “[f]oreign countries, which want to ingratiate themselves with the new President, have flocked to Trump’s businesses...creating a modern version of the problem that the Framers tried to address.”²³⁵
- The situation Mr. Trump has created is also likely unconstitutional. As Norman Eisen, Richard Painter, and Lawrence Tribe wrote in a comprehensive analysis of the Constitution’s Emoluments Clause, “Donald Trump’s diverse dealings violate both the spirit and the letter of this critical piece of the U.S. Constitution.”²³⁶ Numerous lawsuits are currently pending that challenge this violation.
- Mr. Trump and his family have used the levers of the federal government to advertise Trump businesses. Mr. Trump spent 116 of the first 365 days of his presidency at Trump-owned properties, generating enormous publicity for them each time at tax-payer expense.²³⁷ In April 2017, the State Department posted to its website a page highlighting President Trump’s Mar-a-Lago resort (only to remove it following concern from ethics watchdog groups).²³⁸ In February, President Trump criticized Nordstrom for dropping Ivanka Trump’s products from its stores (“My daughter Ivanka has been treated so unfairly by @Nordstrom. She is a great person—always pushing me to do the right thing! Terrible!”)²³⁹ and this message was retweeted by the official presidential account.²⁴⁰ The next day, then-senior advisor Kellyanne Conway doubled down during a television interview with Fox News’ *Fox & Friends*, saying “You can certainly buy her stuff online... Go buy Ivanka’s stuff, is what I would tell you. I’m going—I hate shopping, but I’m gonna get some myself today... It’s a wonderful line. I own some of it. I fully—I’m going to just give, I’m going to give a free commercial here: Go buy it today, everybody. You can find it online.”²⁴¹ Conway was rebuked by the federal ethics watchdog, the Office of Government Ethics, for her use of public office to hawk the president’s family’s products.²⁴²

- And while the Office of Government Ethics would normally play a critical role in trying to restrain this type of behavior, The White House has reportedly sought to undermine it. After several clashes with the president, Walter Shaub, the agency’s director, resigned in July; Mr. Trump has yet to name a permanent replacement. In an interview, Mr. Shaub said that White House staffers were “pushing back on literally everything” the agency recommended for reducing conflicts of interest and challenged “even some of the basic assumptions of the ethical norms.”²⁴³

Executive Power Grabs are a Feature of Autocrats Around the World:

Authoritarian leaders around the world have done all they can to eliminate checks on their power. In Hungary, for example, under Prime Minister Orbán, the Fidesz “parliamentary supermajority” passed sweeping and controversial amendments to Hungary’s Constitution that function to weaken, among other things, judicial constraint on Fidesz’s authority.²⁴⁴ The new “Fidesz Constitution” annulled all decisions made by the Constitutional Court prior to January 1, 2012, the day the new Constitution took effect.²⁴⁵ When the court did try to exercise its authority, finding several of the new laws unconstitutional, parliament passed an amendment that “specifically overturned nearly all of the decisions that the Constitutional Court made in the previous year striking down controversial new laws the Fidesz government had passed.”²⁴⁶ The new provisions made it nearly impossible for the court to review certain laws, such as those concerning tax and the budget.²⁴⁷ The Fidesz Constitution also changed how constitutional judges were elected and expanded the number of judges on the court, changes that allowed Fidesz to appoint the majority of judges and to limit the influence of the parliamentary minority.²⁴⁸ “The result?” Kim Lane Scheppele, Professor of Sociology and International Affairs at Princeton University, explained in *The Financial Times* in 2014: “Since Fidesz acquired its secure majority, the Constitutional Court has issued no decisions seriously challenging the government.”²⁴⁹

In Poland, meanwhile, the government has taken steps to cripple the Constitutional Tribunal. The government selectively publishes and implements the court’s rulings, and since October 2015, the president has refused to swear in lawfully appointed Tribunal judges. “In a society based on the rule of law, the head of state cannot pick and choose whether to respect that law,” said Philippe Dam, Human Rights Watch’s Europe and Central Asia advocacy director.²⁵⁰ The government also passed several pieces of legislation diminishing the Constitutional Tribunal’s ability to review cases, including requiring a quorum of 13 of the court’s 15 judges to hear cases, mandating a two-thirds majority to reach a verdict, and requiring the court to hear cases in chronological order instead of in order of significance.²⁵¹ In July 2017, Poland’s parliament went a step further, passing a series of laws that would force the entire Supreme Court into retirement and give the country’s justice minister political power over the appointment of judges.²⁵² Though President Andrzej Duda vetoed two of these laws, he soon penned and signed into law replacement proposals that similarly shifted to the

executive branch increased political and procedural control of the Supreme Court and judge-appointing council.²⁵³ The newly enacted laws also established a disciplinary chamber within the Supreme Court able to sanction judges for suspected corruption, and granted the justice minister the discretion to reopen and have the court reconsider final judgments.²⁵⁴ The European Union has argued that the adopted reforms “put at serious risk the independence of Poland’s judiciary and the separation of powers,” and have spurred the EU’s administrative body to recommend a formal warning and possible sanctions against Poland.²⁵⁵

In Turkey, President Erdoğan and his ruling AKP party passed laws giving the justice minister greater authority over judicial operations that limit the courts’ ability to review executive actions and investigate executive corruption. In the wake of a 2103 corruption scandal, AKP enhanced the justice minister’s ability to appoint, promote, transfer, discipline, and dismiss judges.²⁵⁶ Subsequently, 45,000 police officers and 2,500 judges and prosecutors were reassigned to new jobs.²⁵⁷ Although the court annulled these laws, the government had already removed or reassigned a significant number of judges, and installed over 100 AKP-affiliated judges.²⁵⁸ Following a failed 2016 coup, large numbers of judges and prosecutors were suspended, and even placed in pretrial detention, on suspicion that they were involved in the unsuccessful coup.²⁵⁹ A 2017 referendum significantly limited government checks and balances and further consolidated Mr. Erdoğan’s power. The referendum abolished the prime minister position and transferred those executive powers to Mr. Erdoğan. It also provided Mr. Erdoğan with even greater power to appoint judges.²⁶⁰

In Venezuela, President Maduro and his government have been attempting to dismantle the authority of Venezuela’s legislature, the last remaining opposition-led government branch. In 2015, amidst chronic food shortages and oppressive economic policies, Maduro’s political opponents gained a majority in the National Assembly and for over a year they pursued a referendum to recall President Maduro. Despite massive demonstrations in support of Maduro’s removal, the referendum efforts were ultimately thwarted by government-sponsored claims of voter fraud.²⁶¹ In early 2017, the pro-Maduro supreme court issued a ruling effectively transferring legislative power to the court, and though the decision was reversed, the perceived “coup” by Maduro’s court ignited demonstrations of civil disobedience throughout the country.²⁶² Citing the civil unrest, President Maduro called for elections of a national constituent assembly, which he tasked with rewriting the country’s 18-year old constitution and to which he granted virtually unchecked executive powers “to reform or dissolve other state institutions, including the opposition controlled parliament.”²⁶³ Maduro claimed that convening the assembly would help bring peace to a divided country, but in truth, “Maduro and his closest allies . . . vowed to use the assembly to jail key opposition leaders, remove the country’s outspoken chief prosecutor from her post and strip opposition legislators of their constitutional immunity.”²⁶⁴ Two weeks before the drafting committee was elected, opposition activists held an unofficial referendum in which 98 percent of voters rejected the constitutional rewrite; Maduro willfully ignored the will of the people and proceeded with the vote. The international community cried foul—U.S. Ambassador to the United Nations called this a “sham election” by an “illegal

govt [sic],”²⁶⁵ and multiple nations (Canada, Brazil, Argentina, Mexico, Peru) refused to recognize the election altogether.²⁶⁶ And although the opposition-controlled National Assembly has remained intact, it “has become essentially powerless. The government-stacked Supreme Court routinely declares its laws unconstitutional and an all-powerful, pro-Maduro assembly installed last year has taken over its legislative authority.”²⁶⁷

And in Russia, in 2012, the government altered the rules for gubernatorial elections, allowing federal and regional officials to screen candidates for governorships. Since then, candidates from Mr. Putin’s party, United Russia, have prevailed in almost every subsequent election.²⁶⁸

2.4 Quashing Dissent

STRONG DEMOCRACIES HAVE strong oppositions. They voice dissent and alert the public when those in power are abusing their positions. No surprise, then, that would-be authoritarians have difficulty tolerating them. Strongmen bully dissenters, threaten members of the opposition, and allow paramilitary or militia groups to operate and intimidate opponents.

In the United States, the First Amendment protects the right to free speech as well as the right of people to associate and to petition the government for relief. But like undemocratic leaders the world over, Mr. Trump has demonstrated little tolerance for dissent. The president has threatened political opponents with imprisonment, fired or threatened to fire government officials who disagree with him or his policies, and lashed out at those who criticize him.

BULLYING DISSENTERS.

- Mr. Trump has repeatedly taken literally the term “presidential bully pulpit” literally, attacking private citizens for perceived slights against him or his policies. Because of the overwhelming power of his platform, and the attention and anger he can summon against a target, his attacks have real consequences for those on the receiving end. To cite just a few examples:
 - In December 2016, then President-elect Trump trained his sights on Chuck Jones, then-president of the United Steelworkers Local 1999, which represented workers at the Indianapolis-based Carrier plant where President Trump had promised to save jobs from being outsourced to Mexico. In an op-ed for *The Washington Post*, Mr. Jones accused the president of lying about the terms of a deal to keep jobs in the United States.²⁶⁹ In an apparent retort to the op-ed, Mr. Trump tweeted, “Chuck Jones, who is President of United Steelworkers 1999, has done a terrible job representing workers. No wonder companies flee country!”²⁷⁰ Demonstrating the power and danger of the President’s words on Twitter, Jones immediately began receiving threats of physical harm.²⁷¹ Thankfully, none of the threat-makers followed through. (Jones’s accusation turned out to be prescient: six months into Trump’s presidency,

Carrier cut 338 manufacturing jobs. In January 2018, another round of cuts brings Carrier’s total layoffs to 553 since Mr. Trump took office.²⁷²)

- Earlier in the campaign, Mr. Trump responded to an eighteen-year-old Jeb Bush supporter, who asked him a question about his not being a friend to women, by calling her an “arrogant young woman” who had questioned in him in “such a nasty fashion.” The woman reported receiving threats of rape and other violence acts.²⁷³
- Even President Trump’s attacks against other elected officials go well beyond norms of American political discourse. On December 12, 2017, President Trump attacked Senator Kirsten Gillibrand with language the *USA Today* Editorial Board described as “all but call[ing] a senator a whore.”²⁷⁴ The outburst was prompted by Senator Gillibrand calling on him to resign due to the many sexual assault allegations against him. And after San Juan Mayor Carmen Yulín Cruz criticized the Trump administration’s refusal to provide Puerto Rico with sufficient aid in the wake of Hurricane Maria, President Trump attacked the mayor on Twitter, saying that she and “others in Puerto Rico” had “such poor leadership ability” that they were “not able to get their workers to help” and “want everything to be done for them.”²⁷⁵
- It is normal in a democracy for elected officials to fear the political backlash of voters, whose support an opponent can cause to be withdrawn. Indeed, that’s a core aspect of how democracy works. What’s not normal, and can become dangerous, is when a leader can drive his followers to threaten or, worse, commit physical violence against an opponent. Mr. Trump has done that. During campaign rallies, he repeatedly either incited or praised violence against non-violent protesters.²⁷⁶
- Mr. Trump’s attacks, and his ability to stir up a mob-like response from his supporters have already chilled some critics from speaking out, including some lawmakers. After writing a *New York Times* op-ed in August 2016 calling on Mr. Trump to release his tax returns,²⁷⁷ South Carolina Representative Mark Sanford was the target of threatening phone calls, letters, and tweets.²⁷⁸ Three months later, he told *Politico*: “People are naturally reticent to be the first out of the block for fear of Sean Hannity, for fear of Breitbart, for fear of local folks.”²⁷⁹

PRESSURING PRIVATE EMPLOYERS TO SILENCE THEIR EMPLOYEES

- When President Trump doesn’t like the opinions of private citizens, he has taken to pressuring their employers to punish them as a way to silence their dissent. The most prominent examples include his campaign to get NFL owners to punish players who kneel during the national anthem.²⁸⁰ But he has deployed the tactic against media personalities as well, launching a crusade to get ESPN to fire on-air personality Jemele Hill (who called the president a white supremacist), and to get *The Washington Post*²⁸¹ and ABC News²⁸² to fire reporters who had issued retractions of mistakes made in their reporting.
- Raising the stakes, Mr. Trump has shown a willingness to back up these demands by deploying various coercive measures, including the use of government power. In the case of the NFL, he threatened to change tax law to pressure owners to stop players from kneeling.²⁸³ And a non-governmental organization

run by Mr. Trump’s former campaign staff launched a boycott campaign against the NFL in order to support the president’s demands.²⁸⁴

- The power Mr. Trump can wield against private companies with politically dissenting employees has not gone unnoticed by employers. In Tennessee, a kickboxing instructor was fired for not standing for the national anthem during a work outing to a local circus.²⁸⁵ And a woman who gave the middle finger to President Trump’s motorcade was subsequently fired from her job with a government contractor.²⁸⁶

THREATENING MEDIA OUTLETS AND THEIR OWNERS

- In addition to the generalized attacks on the press described above, and attempts to delegitimize truth as “fake news,” the president has directed specific ire at media companies, owners, and executives whose coverage he doesn’t like. In some cases here too, he’s sought to use or threatened to use the power of the government in coercive ways. *The Washington Post* and its owner, Jeff Bezos, have been frequent targets, as has CNN. In an angry tweet directed at Bezos, who is also founder and chief executive of Amazon, Mr. Trump implied that “#AmazonWashingtonPost” was breaking the law by not paying “internet taxes.”²⁸⁷ The president has also threatened Jeff Zucker, the head of CNN, and his CNN colleagues, saying during a June fundraising speech, “These are really dishonest people. Should I sue them? I mean, they’re phonies. Jeff Zucker, I hear he’s going to resign at some point pretty soon. I mean, these are horrible human beings.”²⁸⁸ Mr. Trump’s animus toward CNN may have led his administration to seek to block a merger between CNN’s owner, Time Warner, and AT&T.²⁸⁹ More than once, Mr. Trump has floated his vision of changing libel laws—effectively, a change to the U.S. Constitution—to make it easier to sue news outlets that write “purposely negative and horrible and false articles.”²⁹⁰ And in perhaps the most direct affronts to the First Amendment, President Trump threatened to strip NBC of its broadcast license in response to disapproval of their coverage,²⁹¹ and sought to block the publication of a book critical of his administration.²⁹²

Quashing Dissent Has Been a Feature of Countries Becoming More Authoritarian:

In the Middle East, a common practice of autocrats has been either to prohibit dissent directly or to squeeze activists by pressuring their employers, customers or business partners to stop doing business with them, making them pariahs to their families and communities. For example, in Egypt, President Abdel Fattah al-Sisi has had activists arrested based on criticism they’ve posted to social media, and he recently enacted a draconian law requiring non-governmental organizations to get government permission before accepting or spending almost any amount of money.²⁹³ The law was apparently designed to cripple the organizing abilities of any person or group who might try to challenge Sisi in an election.

In Hungary, Prime Minister Orbán has pushed for legislation to close the Central European University, a school founded after the fall of the Soviet Union to promote democratization.²⁹⁴ Mr.

Orbán is also lobbying for stricter legislative controls on civil society groups that would “force civil-society groups receiving money from abroad to label themselves ‘foreign-funded,’ which many groups say will stigmatize them.”²⁹⁵ These measures have led to protests at home and criticism abroad stemming from concern that these measures aim to quash dissent from universities and civil society.

In Turkey, President Erdoğan has taken several steps to quash political dissent that were greatly accelerated after what appeared to be a failed 2016 coup. Significantly, Mr. Erdoğan has purged civil servants, declared a state of emergency, suspended a European human rights convention, censored or outright closed media outlets, limited internet access, rejected parade permits, closed schools, charities, and unions, and detained protesters, journalists, advocates, and lawyers.²⁹⁶ At least 38 members of the political opposition were arrested in April 2017 as part of a crackdown on those questioning the legitimacy of a referendum to expand Mr. Erdoğan’s powers. “For the past five years they have been trying to turn Turkey into an empire of fear,” a 27-year-old protester told *The New York Times*, referring to Mr. Erdoğan’s regime.²⁹⁷

In 2014, Russian President Vladimir Putin signed a law criminalizing repeated street protests, a move “expected to increase the Russian government’s ability to control public discourse and the free exchange of information,” according to *The Washington Post*.²⁹⁸ Protesters found guilty of “holding meetings, rallies, demonstrations, marches and pickets” multiple times during a six-month period could be fined up to 1 million rubles (\$28,540) or face up to five years of forced labor or prison.²⁹⁹ In March 2017, Russian opposition leader Alexei Navalny was fined and sentenced to 15 days in prison after he was arrested at a large anti-government rally.³⁰⁰ In December, the central election commission unanimously barred Navalny from running for president due to his prior conviction in a fraud case, which itself may have been inflicted as political retribution.³⁰¹

2.5 Delegitimizing Communities

DEMOCRACY IN DIVERSE societies depends on protecting the rights of minorities. These can be ideological minorities who dissent, or they can be segments of the polity who identify as different from groups that have traditionally constituted dominant majorities, especially with respect to race, ethnicity, religion, sexual orientation or gender identity. Modern populists and authoritarians have often targeted these communities within the broader polity, seeking to portray them as outside of “the people” that constitute “the nation.” This provides the authoritarian a group to scapegoat for any ills facing the society and otherwise demonize as “the other.” It also provides the authoritarian with a political logic for consolidating “the people” into a single political group made up of only regime supporters. Finally, in the act of consolidating that support, the authoritarian becomes the spokesperson for that group, further reinforcing divisions in society. Often authoritarians also condone, or at least stand by silently during, everyday political violence—hate crimes, for example—to create a climate of fear and acquiescence within the other-ized

communities. They seek to consolidate their support by dividing and inflaming the public against racial, ethnic or religious minorities as a way of distracting from other problems and preventing unified opposition to their rule.³⁰²

The United States has had a tragic, ugly, and imperfect history of protecting the rights of all Americans. However, most American leaders of recent history have striven to cultivate an inclusive United States, one that allowed anyone to be an American with full rights and responsibilities, regardless of race, religion, national origin, sexual orientation, or other characteristic. For example, after September 11, President George W. Bush gave a speech to the Islamic Center of Washington during which he said that “Islam is Peace.”³⁰³ President Barack Obama often identified our nation’s task as an ongoing effort to perfect our union for all Americans.

By contrast, and in line with undemocratic leaders the world over, Mr. Trump has shown an eagerness to deliberately attack differences between Americans in order to define who “the people” are. In a May 2016 campaign rally, Mr. Trump said, “The only important thing is the unification of *the people*, because *the other people* don’t mean anything” (emphasis added).³⁰⁴ Populism expert Jan-Werner Müller identifies the functional purpose of this divisive language: “Every populist will try to unite his people—the only authentic people—by keeping up confrontations with those who are seen as not being part of the ‘real America’, the ‘real Turkey’ and so on. Polarization is not a problem for populists; it is a means of securing power.”³⁰⁵ In his time running for and occupying the Presidency, here is just a sample of the actions (that he’s taken to divide our population and delegitimize minority communities:

ATTACKS ON IMMIGRANTS AND THOSE OF MEXICAN DESCENT

- In his campaign launch speech, Mr. Trump referred to Mexican immigrants as “rapists” who were “bringing drugs” and “bringing crime.”³⁰⁶ Such vilification continued throughout the campaign.³⁰⁷ In a May 2, 2016 tweet, he explicitly posed protesters waving Mexican flags as anathemic to America. “Everybody is talking about the protesters burning the American flags and proudly waving Mexican flags. I want America First—so do voters!”³⁰⁸
- During the campaign, Mr. Trump attacked a judge presiding over a case involving Trump University, saying that he had an “inherent conflict of interest” because of his “Mexican heritage.”³⁰⁹ The judge was born in Indiana, but Mr. Trump insisted that because of his parents’ Mexican origin, he could not fairly judge a case involving Mr. Trump. In opposition to the president’s troubling actions, Speaker of the House Paul Ryan “disavow[ed]” Mr. Trump’s comments as a “textbook definition of a racist comment.”³¹⁰

ATTACKS ON MUSLIMS AND THE ENACTMENT OF THE “MUSLIM BAN”

- During the campaign, Mr. Trump said that he thinks “Islam hates us”³¹¹ and he issued a formal statement calling for a “total and complete shutdown of Muslims entering the United States.”³¹² This statement stayed on the campaign website until the White House press secretary was asked about it during a press conference in the context of the “travel ban,” “Muslim ban,” and “travel pause.” The immigration orders

issued by President Trump have been widely interpreted by courts as unconstitutionally discriminating against Muslims on the basis of these campaign statements.³¹³

ATTACKS ON AFRICAN AMERICANS AND PEOPLE OF COLOR IN GENERAL

- While difficult to prove either intent or an indisputable pattern, Mr. Trump has seemed to single out black voices for more frequent or voluble attack, especially those protesting inequality or criticizing Trump’s presidency.³¹⁴ Mr. Trump has seemed to particularly relish attacking black athletes.³¹⁵ Most prominently, he has waged a bitter campaign against American football player Colin Kaepernick, who knelt during the national anthem before games to protest police violence and racial inequality. Mr. Trump criticized Mr. Kaepernick’s protest, saying that he “should find a country that works better for him.”³¹⁶ Since then, he has taken credit for the failure of the NFL owners to sign Mr. Kaepernick, approvingly citing a report that the owners “don’t want to get a nasty tweet from Donald Trump.”³¹⁷ Mr. Trump also uninvited the Golden State Warriors to the White House to celebrate their NBA Championship after famed player Steph Curry stated he would vote against the team attending because of his disagreement with President Trump’s policies. Recently, Mr. Trump publicly denounced LaVar Ball, the father of a well-known UCLA basketball player who was detained in China for shoplifting. Mr. Trump claimed that Ball failed to acknowledge adequately Mr. Trump’s role in securing his son’s release from custody and called Ball an “ungrateful fool.”³¹⁸
- Mr. Trump has also attacked several African American reporters. He blamed ESPN reporter Jemele Hill for purportedly reducing ESPN’s ratings and called for her to be fired in response to Hill accusing President Trump of being a white supremacist.³¹⁹ And his campaign released a video of his perceived enemies that prominently featured National Association of Black Journalists’ Reporter of the Year, April Ryan.³²⁰ (In a notable exchange earlier in the year, when Ms. Ryan asked the president if he intended to consult with the Congressional Black Caucus as part of his urban planning agenda, he countered, “Tell you what, do you want to set up the meeting? Do you want to set up the meeting? Are they friends of yours? Set up a meeting.”³²¹).
- In some cases, Mr. Trump appeared to single out African Americans for his ridicule when they were similarly situated to white people, whom he would treat differently. For example, when numerous CEOs resigned from the President’s American Manufacturing Council in response to President Trump’s handling of the violence in Charlottesville, Mr. Trump attacked prominent CEO Ken Frazier, saying “Now that Ken Frazier of Merck Pharma has resigned from President’s Manufacturing Council, he will have more time to LOWER RIPOFF DRUG PRICES!”³²² Mr. Frazier is African American. And Mr. Trump, as Commander-in-Chief, has engaged in prominent and outrageous attacks on two Gold Star families, both families of color. During the campaign, Mr. Trump famously attacked Khizr and Ghazala Khan, whose son, Army Captain Humayun Khan, gave his life in Iraq to save his fellow service members. Once in office, Mr. Trump assailed Army widow Myeshia Johnson after she critiqued Mr. Trump for being insensitive when attempting to offer his condolences to Mrs. Johnson for the loss of her husband. Mr. Trump disputed her version of the conversation and harshly attacked both Johnson and Congresswoman Fred-

erica Wilson, who was on the call with Mrs. Johnson and backed up her version of events and when the President disputed them; both women are African American.³²³

FAILING TO CONDEMN RACIALLY- OR RELIGIOUSLY-MOTIVATED VIOLENCE

- On multiple occasions, President Trump has refused to condemn violence directed at racial and religious communities. Mr. Trump faced widespread criticism for refusing to condemn white supremacist attacks that left three dead and dozens injured in Charlottesville, Virginia.³²⁴ In the wake of these events, President Trump condemned violence on “many sides.” After pressure led him to issue a statement that “racism is evil,” the next day he even backtracked from that, proposing instead that there were “some very fine people on both sides.”³²⁵

ATTACKING SEXUAL MINORITIES

- Mr. Trump has also attacked transgender citizens in a series of tweets,³²⁶ declaring them prohibited from military service. This effectively denied them the full rights and responsibilities as citizens. Again, a judge found that President Trump’s declarations were based in “animus.”³²⁷

Delegitimizing Minority Communities Has Been a Feature of Countries Becoming More Authoritarian:

In Hungary, Prime Minister Orbán has stayed silent while close allies have openly engaged in attacks against Roma³²⁸ and Jews.³²⁹ He has also praised a historical figure who was implicated in the Holocaust.³³⁰ More recently, attacks on migrants have increased pressure on Hungary’s Muslim and Roma communities.³³¹

In Poland, PiS party leaders have opposed accepting Muslim migrants, claiming that these immigrants pose a public health risk because they carry “various types of parasites, protozoa, which aren’t dangerous in the organisms of these people but which could be dangerous here.”³³² PiS has also branded incoming Muslim refugees as a security risk, a risk to Polish culture, and a risk to the safety of Polish women.³³³

In Turkey, Erdoğan attacked the leading opposition party, HDP, for its Kurdish roots, claiming that a vote for that party is a vote for terrorists.³³⁴ He has also condemned this party of opponents as “terrorists, marginals, gays and atheists,” casting them as “people who have nothing to do with Islam.”³³⁵

In Russia, Vladimir Putin has used legislation to attack gay civil rights activists and turned a blind eye to attacks on gay individuals by groups with Kremlin links.³³⁶ This has been part of an image-building campaign in which Putin is the protector of Orthodox religion from “western decadence.”³³⁷

2.6 Corrupting Elections

FREE, FAIR, AND regular elections form the cornerstone of government of, by, and for the people, allowing citizens to exercise their most basic political right: the right to choose who governs. In a democracy, the people are the best constraint on the abuse of power: if they are unhappy with a leader, they can vote him or her out. Realizing this, authoritarians-in-the-making seek to manipulate elections to stay in power for as long as possible. Rarely do they suspend elections outright, not wanting to provoke domestic opposition and international condemnation in response to sudden undemocratic power grabs. Instead, they take smaller steps to erode the legitimacy of the democratic process over time, making it harder for effective opposition.

Fair elections are the backbone of the American experiment; some of the nation’s most important movements for civil rights and equality were fought to expand suffrage. The Constitution, in particular the Fourteenth, Fifteenth, and Nineteenth Amendments, protect the right of American citizens to vote and participate in elections. Civil rights statutes dating back to Reconstruction, as well as the Voting Rights Act of 1965, attempt to protect and preserve voting rights, along with campaign finance and other election-related laws, which prohibit foreign contributions to American campaigns.³³⁸ Recent laws, such as the Help America Vote Act and the National Voter Registration Act, further seek to ensure that elections are administered efficiently and in ways that enable wide participation.³³⁹ The DOJ maintains broad authority to enforce fair and equal access to the machinery of democracy.

Yet, well before voters were heading to the polls in 2016, Mr. Trump showed little respect for U.S. elections. For example, Mr. Trump promised to accept the election results only if he won. He made good on half of this promise. Since winning the election and taking office, he has aggressively challenged the legitimacy of the 2016 election, including by making profoundly fantastical estimates of the prevalence of voter fraud, and by refusing to condemn—or even confirm—Russian interference in the 2016 contest.

QUESTIONING THE LEGITIMACY OF ELECTIONS

- During the final presidential debate, Mr. Trump said that he might not accept the results of the election if he felt the outcome was “rigged” against him.³⁴⁰ Later the same week, he underscored his position in no uncertain terms: “I would like to promise and pledge to all of my voters and supporters and to all of the people of the United States that I will totally accept the results of this great and historic presidential election—if I win.”³⁴¹

LAYING THE GROUNDWORK FOR VOTER SUPPRESSION

- Even prior to his presidential campaign and continuing through to this very day, Mr. Trump has made wholly unsubstantiated claims about widespread voter fraud in American elections. He decried his own electoral victory with complaints that the popular vote had been denied to him by the millions of people voting illegally. Philip Bump of *The Washington Post* investigated this claim, but found just *four* examples—not nearly millions—of confirmed, observed voter fraud for the 2016 general election. “That’s 0.000002 percent of the ballots cast in the race for the White House—if they counted, which they

won't.”³⁴² Even despite assurances by Republican leaders³⁴³ and Mr. Trump's own lawyers that the election was “not tainted,”³⁴⁴ the president vowed on Twitter to launch a major investigation of voter fraud.³⁴⁵ In May, Mr. Trump signed an executive order establishing a commission on “election integrity,”³⁴⁶ which raised concerns that his administration intended to launch a nationwide campaign to suppress participation in the democratic process.³⁴⁷ Rather than focusing on real, demonstrated threats to the integrity of elections—cyber attacks, for example, or state policies that impede voter access—the commission zeroed in on voter fraud, a phenomenon that study after study has shown to be exceedingly rare, but is nonetheless often invoked to justify barriers disproportionately excluding to communities of color, immigrants, and young voters. Several of the commission's members are zealous proponents of policies associated with voter suppression, including the commission's vice chair, Kansas Secretary of State Kris Kobach.

- As one of the commission's first actions, it sought to collect from state election officials a massive amount of sensitive voter registration information about every voter in America.³⁴⁸ The commission never offered a plausible justification for collecting this data, though Kobach has previously called for checking voter registration records against government immigration databases—a deeply unreliable methodology for detecting voter fraud that is almost certain to lead to spurious and exaggerated calls to “clean” voter rolls. The commission also failed to observe basic safeguards against a range of predictable threats—including hacking by foreign adversaries who could use the data to disrupt elections.³⁴⁹
- Thankfully, in response to numerous legal challenges to the commission's work, including some brought by Protect Democracy, the president disbanded it. In doing so, however, he indicated that its work would be shifted to the Department of Homeland Security, a potentially even more troubling place for such an effort as it suggests the administration may seek to clothe voter suppression efforts in a guise of national security.

NO PLAN TO PROTECT ELECTIONS

- In hearings held by the Senate Judiciary Committee, Nebraska Republican Ben Sasse asked Attorney General Sessions, “Do you think we're doing enough to prepare for future interference by Russia and other foreign adversaries in the information space?”³⁵⁰ Mr. Sessions responded, “Probably not. We're not. And the matter is so complex that for most of us, we are not able to fully grasp the technical dangers that are out there.”³⁵¹ As of yet, the Trump administration has not announced a plan to protect our elections from the vulnerabilities exposed in the 2016 election.

Where Corrupting Elections Has Occurred in Countries That Have Become More Authoritarian:

In the 20th Century, strongmen ruled not as autocrats, but as totalitarians. They often abolished parties and elections altogether, leaving only themselves as the sole source of power or legitimacy. In the 21st Century, strongmen have modified their approach and, as Professor Michael Miller has put it, engaged in a “marriage of autocracy and contested elections.” Miller points out that “[a]ll

but five autocracies have held a national election since 2000, with about three in four allowing multiparty competition. What makes these regimes autocratic is that the elections fail to meet democratic standards, typically with state power being used to favor the ruling party. Prominent examples include Singapore, Russia, Jordan and Venezuela.”³⁵²

In Venezuela, former President Hugo Chávez won a referendum in 2009 abolishing presidential term limits, allowing him to run for reelection as often as he liked and dealing a blow to the Venezuelan opposition. He then set about engineering ways to protect his incumbency, even while outwardly holding elections. For example, Chávez’s party launched a campaign to strip power from Mayor Antonio Ledezma, an opposition politician who had been elected mayor of Caracas in 2008. In April 2009, lawmakers in the National Assembly voted to create a new Caracas district to be run by a pro-Chávez candidate who would take on many of the mayor’s responsibilities.³⁵³

In Turkey, a 2017 referendum vote to consolidate Mr. Erdoğan’s power was marred by allegations of fraud, with opposition parties claiming that some 2.5 million votes may have been manipulated.³⁵⁴ The Republican People’s Party, the main opposition party, said that “almost all” of Turkey’s 165,000 ballot boxes had been stuffed. (During the vote itself, the electoral commission raised the burden of proof for allegations of ballot-box stuffing.) Officials barred more than 170 members of the opposition from participating in election observation, and some international election observers were temporarily detained to prevent them from fully observing election counts.³⁵⁵ “[W]hile the referendum was staged to give the impression of a strong regime with solid backing—a democratic vote for dictatorship as some had called it—it revealed the exact opposite.”³⁵⁶

And in Russia, a widespread belief that elections are fraudulent keeps many from voting at all. In the legislative election on September 18, 2016, for example, voter turnout dropped to 47.8 percent—the lowest in the history of modern Russia—largely because many felt there was no point in trying to change the status quo when the elections themselves are fraudulent.³⁵⁷ The belief is well-founded. This year, the Russian government ruled that leading opposition figure Alexey Navalny would not be permitted to contest Vladimir Putin in the next presidential election.

3. The Impact of Foreign Interference on our Democracy

“ These most deadly adversaries of republican government might naturally have been expected to make their approaches from more than one quarter, but chiefly from the desire in foreign powers to gain an improper ascendant in our councils. How could they better gratify this, than by raising a creature of their own to the chief magistracy of the Union?”

FEDERALIST 68

WE HAVE DISCUSSED the ways in which American democratic institutions have been destabilized by internal and external forces. However, there have also been external adversaries who have tried to exploit and empower those destabilizing forces. The potential for foreign interference in our democracy is perhaps best exemplified by the subversive actions taken by the Russian Federation over the past few years.³⁵⁸

The intelligence community determined after the 2016 election that Russia ran a coordinated and sustained operation to influence the election, to favor Donald Trump while causing discord and chaos throughout the electorate.³⁵⁹ It found:

*We assess Russian President Vladimir Putin ordered an influence campaign in 2016 aimed at the US presidential election. Russia’s goals were to undermine public faith in the US democratic process, denigrate Secretary Clinton, and harm her electability and potential presidency.*³⁶⁰

President Trump’s Secretary of State Rex Tillerson,³⁶¹ CIA Director Mike Pompeo,³⁶² and Director of National Intelligence Dan Coates³⁶³ have all confirmed this understanding. Subsequent reporting has shown that European and NATO allies had briefed President Barack Obama about the dangers of Russian attacks on democracy as early as March 2014.³⁶⁴ The Atlantic Council has documented how Russia supported a number of leading political figures and parties across Europe in 2016³⁶⁵ and 2017³⁶⁶ in reports on “The Kremlin’s Trojan Horses.”

The Atlantic Council reports demonstrate the full suite of tools available to the Russians. They range from cyber attacks, like the infamous hacked emails, to the construction of online ecosystems of bots that amplify “anti-system” voices. This information war is only the first step in the ongoing Russian campaign to destabilize the political systems of Western democracies.

There are some who have gone so far as to ask whether Russia holds some undue influence over President Trump personally as part of its efforts to destabilize Western Democracy.³⁶⁷ If any version of that were true, the consequences for American democracy would be hard to overstate.

With such high stakes, we must be aware of the particular threat to democracy that foreign interference poses, and the rationale behind foreign actors' efforts. In this section, we discuss why Russia engages in such activities, what forms those activities take, why they work, and what we can expect in the future.

3.1 Why Does Russia Undermine Western Democracies?

THE KREMLIN'S STRATEGY is essentially to destabilize and delegitimize democracy around the world, “to upend the Western liberal order by turning Western virtues of openness and plurality into vulnerabilities to be exploited.”³⁶⁸

Vladimir Putin is waging an information war on the West, leveraging social media and new communications platforms to renew and update the Soviet Union's Cold War-era “active measures”—“tools of political warfare... aimed to influence world events through the manipulation of media, society, and politics.”³⁶⁹ These measures have two targets. One target is his own population: these attacks help him consolidate his own power by demonstrating to the Russian people the futility of democratic reform.

The second target is the West: these attacks also aim to undermine public confidence in democracy as a system of government. Through a broad influence campaign, Putin has attempted to convince a Russian audience that “the presumed deficiencies of... the United States demonstrated the failure of liberal democracy... and the unacceptability of Western models of development for Russia,” and a Western audience “that their ruling elites were failing them.”³⁷⁰ Unfortunately, he has found many willing allies and fellow travelers in the United States and Western Europe, many of whom are fooled into believing an actual ideological affinity exists when they are simply being used to advance the agenda of a foreign power.

In both his domestic and international attacks on democracy, Putin depends on reducing democracy to a game between elites with no other source of legitimacy. In *The Origins of Totalitarianism*, Arendt says of mass movements that “the essential conviction shared by all ranks... is that politics is a game of cheating,” which allows leaders to discard any pretense of adherence to the rule of law.³⁷¹ Thus, every action is reduced to a simple political calculus, a move in a “game” in which the objective is simply to beat your opponent and gain power by whatever means necessary. Belief in this cynical perspective sustains authoritarian regimes around the world.

3.2 What Did Russia Do?

IN THE 2016 presidential election, according to the nonpartisan conclusion of the intelligence agencies of the United States and our closest allies, the Russian Federation engaged in a protracted influence oper-

ation to encourage chaos and division in the American electorate, with the intention of hurting Hillary Clinton’s legitimacy and elevating Donald Trump’s candidacy.³⁷²

While some questions remain about the extent to which the Kremlin had the active cooperation of the Trump campaign, the fundamental elements of the Russian destabilization efforts are already clear enough to warrant extensive discussion.

What we know at this point is that Kremlin-aligned entities purchased political ads on Facebook,³⁷³ marshalled bots and paid agitators to fill Twitter with antagonistic messages and disinformation, and used their own media outlets to push divisive messages on the American electorate.³⁷⁴ We know that Russia weaponized information gained from their hacking operations against Democratic targets, releasing damaging information (some false or out of context) on Donald Trump’s opponents.³⁷⁵

We do not yet know the full extent of the Trump campaign’s cooperation and coordination with Russia, but we know that numerous campaign officials had repeated contacts with Russian actors, and that Donald Trump cited WikiLeaks—an outlet identified by U.S. intelligence as a platform for Russian intel operations—quite frequently in the last months before the election, while his son was in direct contact with the organization.³⁷⁶ We do not know if these efforts were enough on their own to swing the election, but the intent of the campaign was clear, as was the willingness of the Trump campaign to take advantage of it.

It is likely that the Kremlin will renew these efforts in future elections, especially given that their preferred candidate, Donald Trump, has indeed spent his presidency in denial about this intelligence operation and has abdicated his responsibility to prevent similar operations in the future.

3.3 Russia’s Message Is Still Powerful

PUTIN’S AIM THROUGH election interference is to convince a Western audience that their ruling elites cannot be trusted, to sow and exploit discord and division. As we noted in Section 1, this argument found an electorate already dissatisfied with American governance. Many Americans had already lost so much faith in the United States that belief in Russian propaganda was not a profound leap.

What kind of message, then, did Russia push on the American electorate in 2016? Modern Russian disinformation, unlike its Soviet counterpart in the Cold War, is not attempting to sell an optimistic vision of the future or convince others of the superiority of the Russian system of government. Rather, Russia’s intention is to spread corruption, to sow doubt and fear, to demoralize its opponents, and make them despair of finding objective truth in the chaos of competing narratives.³⁷⁷

Russia’s strategy is to nurture cynicism in the American public. Cynicism toward the reality of democratic governance is a defining feature of many of these criticisms, because any imperfections in a dysfunctional representative system can be exploited as an argument against the viability of that system.

It is designed to inflame partisan hatred on both sides of the political spectrum by amplifying criticisms of the political system. Their efforts target multiple subsets of American citizens, and use different methods and information systems to drive those groups away from a unifying consensus. These criticisms have found an increasingly receptive audience in our polarized times. A rise in political apathy also shows an increase in ambivalence toward the existing democratic order throughout the West.³⁷⁸

Cynicism, in other words, is a necessary component in the construction of a consensus against a free and open society. This has long been recognized both by authoritarian leaders and by scholars on the subject. Vladimir Putin, for example, encourages a great degree of cynicism in his own country and abroad. He attempts to convince Russians that democracy is a sham, that corruption is endemic to every system of government, and that there is no hope for anything better. Adherents to this creed proliferate, even in the West, as political extremists from both sides of the aisle are eager to denounce the existing order.³⁷⁹

In its attempt to influence the American electorate and shape American policy, Russia wields two primary weapons: money and information.

3.4 Follow the Money

AFTER THE DISSOLUTION of the Soviet Union, a class of newly rich Russian oligarchs took power through the acquisition of newly privatized industries. The Kremlin's allies conveniently found themselves in the best position to enrich themselves, and the web of corruption emanating from the center has been expanding ever since.³⁸⁰ The money now finding its way to the West through a variety of opaque financial institutions is essentially an export of the kind of systemic corruption that is now endemic to Russia. The prize of cooperation with organized crime might be abundant wealth, but it comes at a cost: an inability to challenge the source of the dirty money. This compromise not only impacts individuals, but governments throughout the West, who have increasingly found it difficult to put limitations on Russian oligarchs who have used their money to purchase influence in Western capitals.

America, for its part, has been referred to as “the international kleptocrats’ favorite place to launder money” for a reason.³⁸¹ It is easy to see how this kind of dirty money could be a subversive factor in the increasingly cash-saturated world of American politics. The new system enables a bold lobbying effort by hostile foreign governments, as we have seen in the emerging cases of Michael Flynn and his work for Turkey,³⁸² as well as Paul Manafort’s efforts on behalf of Yanukovich’s pro-Russia Ukrainian government.³⁸³

The opacity of financial institutions and the trail of offshore money makes it difficult to track who is investing in whom, giving this corrupt cash influence over both public and private sector affairs. This opacity also means that when you’ve become involved in the web of corruption, you can become both wealthy and beholden to the Kremlin’s interests. This is the kind of leverage that someone like Donald Trump could be susceptible to—his shadowy business dealings and unclear financial entanglements mean

that the Kremlin may be able to influence him simply by threatening to release information on where his money is sourced or how it was transferred, which he may not want the public to know.

3.5 Information War

WHILE MONEY IS certainly a factor, information is perhaps the Kremlin’s most prominent tool in the election interference toolkit. Russian manipulation of both social and traditional media is designed to appeal to a broad and diverse group of Americans, by no means limited to Trump supporters or the far right. Many on the far left, due to their own ideological convictions, are inclined to give a sympathetic ear to the Kremlin’s argument claiming that all governments are equally corrupt, and that rendering moral judgment on any one of them would be hypocritical.

This false equivalency was eagerly embraced in the 2016 election by some Americans, many of whom are convinced that the American system of government is already corrupt, unequal, and authoritarian. With this false conviction, for these Americans it becomes difficult to differentiate between an imperfect American government and a lavishly corrupt Russian counterpart which harasses, imprisons, exiles, and murders its critics.

As we noted in Section 1, many Americans are deeply cynical about their own country (which is not to discount that many domestic criticisms of the fairness of the American system are well-founded). This nevertheless makes them more susceptible to disinformation from Kremlin-affiliated organizations like WikiLeaks that appear to be fellow-travelers on their well-intentioned crusade against what they perceive to be a hopelessly corrupt American government. Many in this political camp continue even today to downplay the issue of Russian efforts at interference, and are happy to join with Mr. Trump and his supporters in denouncing American elections as a “rigged system.”

Even so, the Russian influence campaign has undoubtedly found its most lucrative return on investment on the far right of the political spectrum. Not only have some right-wing organizations declared open admiration and ideological affinity for Putin, but many figures in the Trump campaign, transition, and administration teams were in direct contact with Kremlin representatives over the course of the previous two years.³⁸⁴

Throughout the 2016 election and even into the administration, the Trump team, not noted for its message discipline, was remarkably consistent in its support of the most prominent elements of Russian propaganda: namely, that the election was “rigged,” NATO is obsolete, America is just as bad as Russia, Putin is not that bad, Russia is the victim of Western aggression, and so on.³⁸⁵ The president is joined in this pro-Russia crusade by certain right-wing organizations, which have, over the past few decades, quietly developed strong affinity toward Russia. The National Rifle Association (NRA), for example, has found a willing ally in the Kremlin. Over time, NRA political activity has shifted from advocating for gun rights to fighting a full-blown culture war, in which many see Russia as a sort of ideological model.³⁸⁶

This orientation towards Russia has continued into Trump’s presidency. He has continuously resisted implementing congressional sanctions on Russia, asserts that Putin’s denials of election interference are credible, and attempts to cast aspersions on his own intelligence community in favor of Russian propaganda.³⁸⁷ We also know that the president has an unnerving fondness for Vladimir Putin, and a predilection for trying to act in Russia’s best interests, even at American expense.³⁸⁸

To this day, Russian messaging campaigns are either driving American political debate or being amplified by the Trump administration and its allies. Former Acting CIA Director Michael Morell and Director of the National Security Agency Mike Rogers wrote in December that Russian social media accounts being tracked by a German Marshall Fund project known as Hamilton 68³⁸⁹ continue to influence American politics:

In a single week this month, Moscow used these accounts to discredit the FBI after it was revealed that an agent had been demoted for sending anti-Donald Trump texts; to attack ABC News for an erroneous report involving President Trump and Michael Flynn, the former national security adviser; to critique the Obama administration for allegedly “green lighting” the communication between Flynn and then-Russian Ambassador Sergey Kislyak; and to warn about violence by immigrants after a jury acquitted an undocumented Mexican accused of murdering a San Francisco woman.³⁹⁰

Strikingly, each of these stories was also being pushed by the Trump administration or its allies.

The appalling nature of the president’s attitude toward Russia cannot be overlooked, but it is also indicative of a deeper sickness within American politics that such an individual with such egregious authoritarian impulses and foreign sympathies could ever be elevated to the presidency at all.

3.6 The End?

RUSSIAN ACTIVE MEASURES were only successful in 2016 because we had existing divisions for them to exacerbate, dysfunction in our political institutions that allowed for extreme partisan echo chambers, and a general frustration in the electorate that bred cynicism and contempt for regular political order. These dysfunctional elements of our democracy leave us vulnerable to manipulation by hostile foreign powers, and Russia has taken advantage.

The Russian Federation, however, is not the Soviet Union. With a sluggish economy burdened by sanctions and a notoriously corrupt administrative state, their attempts to revise the global balance of power necessarily rely on manipulation, bribery, and disinformation, rather than overt acts of military force or economic pressure.³⁹¹

Thus, though there is much discussion about Russia “hacking our election,” the reality is that their election interference played a largely supplemental role. Donald Trump’s presidency is not solely the product of a Russian conspiracy. He is an American phenomenon, a product of our toxic politics and dem-

ocratic dysfunction. Tens of millions of Americans saw his campaign, and decided that they liked what they saw. The problem, at its heart, is an American one, and will only be fixed in America. Before Russia's much-publicized—and frequently ham-fisted—efforts to influence the 2016 election, their Soviet predecessors had tried and failed for a generation to sow similar discord in the United States and in other Western democracies.³⁹²

Putin's Russia “succeeded” where the Soviets had failed not because they changed their strategy, but because they found an American public far more susceptible to disinformation.

Hostile foreign powers will not stop attempting to undermine our democracy. Russia is only the most prominent example, due to their public role in the 2016 election; yet, the threat is not limited to one country. China, for example, has committed itself to raising its profile throughout the Western world. Beijing has invested heavily in infrastructure development across the globe, has encouraged the development of “Confucius Institutes” at major Western universities, and has funded think tanks and policy efforts that espouse a pro-Chinese worldview.³⁹³ It is not hard to see China attempting to leverage this influence to further corrode our political system, to influence those in positions of power and attempt to wrest concessions that would enable the consolidation of Chinese power in East Asia. Our poor showing in the response to the 2016 election interference from Russia will only encourage further ventures on the part of other foreign powers. Our task, then, is to ensure our norms, ideals, and institutions are sufficiently robust to resist these efforts.

The stakes are high. A dysfunctional democracy is not only a danger to the domestic rule of law, liberty, and equality, but presents a genuine national security concern. A political environment in which the only concern is victory at any cost is one in which it becomes acceptable to align a party, candidate, or movement with a foreign power, so long as that foreign power provides sufficient material aid to propel the beneficiary to victory and free them from any potential ramifications for their conduct. Our Founding Fathers were aware of the threat this kind of foreign interference would pose to a democratic system.

As Alexander Hamilton predicted, “[A]dversaries of republican government might naturally have been expected to make their approaches from more than one quarter, but chiefly from the desire in foreign powers to gain an improper ascendant in our councils.” Furthermore, he posed a question that, in light of the 2016 election results, is now an uncomfortable one: “How could they better gratify this, than by raising a creature of their own to the chief magistracy of the Union?”³⁹⁴

Foreign nations with malicious intent have seen an opening in our politics, and they will attempt to exploit that for their own ends. It is now our responsibility to do whatever we can to fix our political system, to make ourselves impervious to this kind of manipulation, and to reassert our commitment to the democratic norms, ideals, and institutions that set us apart from the authoritarian world.

4. Standing Up for Our Democracy—A Roadmap for the Future

“ Democracy is the worst form of government, except for all those other forms that have been tried from time to time.”

WINSTON CHURCHILL

OUR MOST IMMEDIATE challenge is to recognize the threat to our democracy. As the prior sections of this report explain, this is a threat that began long before Mr. Trump took office, and one that we are seeing around the world—not just in the United States. But the United States, the world’s longest-standing national republic, has for centuries been an example of the potential strength of democracy. As Americans, we must commit to protecting our democracy so it can remain that way for centuries to come.

We must do two things. First, while we are under immediate threat from Mr. Trump’s authoritarian tendencies, each of our institutions—Congress, the courts, the civil service, civil society, the free press, law enforcement, the private sector business community—must make preserving our democracy central to their work.

Second, we must lay the groundwork for a series of broader and more systemic reforms. We are under no illusion that these can be accomplished now with President Trump holding a veto pen and too many of his enablers controlling Congress. But if the period after President Nixon left office is any guide, there will be a window for action in the days after President Trump, and we must be prepared to seize it with reforms to rebuild and strengthen our democracy and commitment to the rule of law for the future.

4.1 Our Institutions Must Put Protecting Democracy Front and Center

CONGRESS

In our constitutional system, Congress is the first check on a runaway executive. So far, however, it has provided negligible oversight of executive abuses, failed to push back against the president’s authoritarian tendencies, and abdicated traditional responsibilities such as authorizing military hostilities overseas. Congress must do better. Most urgently, it must prevent the president from placing himself or his asso-

ciates above the law by interfering with the Russia investigations or pardoning anyone who might be the subject of those investigations. It must exercise its appropriations and oversight powers to restrain undemocratic behavior, including the use of taxpayer funds to spread demonstrably false information, the mistreatment of civil servants, and the various attacks on the press and the judiciary. It must assert its role in authorizing or limiting military conflicts and should immediately debate and decide what authority, if any, to give the president to confront the Assad regime in Syria or to engage in other proactive military engagements. The Senate should also use its power of “advice and consent”—the authority to consult on and confirm presidential nominations—to extract commitments from nominees to maintain independence from the White House and to respond to congressional requests for documents, briefings, or interviews. In assessing legislation, Congress should rely on, protect, and endorse nonpartisan sources of information, such as the Congressional Budget Office, the Government Accountability Office, and the Congressional Research Service.

THE COURTS

The courts must continue to be neutral venues in which judges have ultimate say over the law. They should not be cowed by the president’s attacks, but nor should they overreach in the other direction. They must continue to play their constitutional role as a final check on unlawful actions. In March, five judges on the U.S. Court of Appeals for the Ninth Circuit summed up the current situation, writing that personal attacks on judges “treat the court as though it were merely a political forum in which bargaining, compromise and even intimidation are acceptable principles. The courts of law must be more than that, or we are not governed by law at all.”³⁹⁵ Judges can best defend the integrity of the judicial system by continuing to issue thorough, well-crafted opinions; if panels can issue unanimous decisions in significant cases, so much the better. If the other two branches keep failing to defend constitutional principles, courts must be the final backstop against constitutional erosion and democratic backsliding.

CIVIL SERVANTS

Civil servants, having sworn to “support and defend the Constitution of the United States against all enemies, foreign and domestic,” must stand strong in the face of political pressure. Those who are willing and able to serve should continue to do so. If civil servants observe abuses of power, gross mismanagement, or unlawful conduct, they should report it through the proper channels, including the Office of Inspector General, the Office of Special Counsel, and congressional authorizing committees. Even civil servants who work on matters of intelligence or national security can report improper conduct without compromising their duty to keep sensitive material secure. Watchdogs, such as inspectors general, whistleblower protection offices, ethics offices, and FOIA offices, have a particular responsibility to serve the law, even when doing so may be politically unpopular. And all civil servants must familiarize themselves with how to handle a situation in which they feel they are being asked to do something that conflicts with their oath of office.³⁹⁶ They should not be afraid to refuse to carry out unlawful or inappropriate orders; in this, they can follow the lead of Admiral Mike Rogers, Director of the National Security Agency, who, in response to a question at the Aspen Security Conference in

July, declared, “I will not violate the oath I have taken in my 36 years as a commissioned officer.”³⁹⁷ If circumstances warrant, civil servants can always resign—*en masse*, if necessary.

LAW ENFORCEMENT

Law enforcement professionals must continue to uphold the rule of law, prizing truth and justice over loyalty to the president. At the DOJ, officials should strictly follow the policies limiting contact with the White House, which prohibit most communication with White House staff on investigations and enforcement matters. If staff feel inappropriate political pressure from the executive branch, they should alert the appropriate authorities: the Office of Inspector General, the Office of Professional Responsibility, or the House or Senate Judiciary Committees. Like all civil servants, lawyers at the DOJ should learn what steps to take if they are asked to do something that conflicts with their oath of office. Ultimately, the DOJ must defend the Constitution and the people of the United States over and above the president when situations arise in which their interests are in conflict.

THE PRESS

Journalists must continue their extraordinary work uncovering the truth. They must place a premium on fact-checking to maintain their credibility, and when armed with the truth, have the courage to publish it. In their quest to hold those in power to account, media outlets should support one another, especially when the president denies some of them access while favoring others. In the face of reduced transparency, journalists may have to get creative—relying on sources outside the White House, for example, or ramping up coverage of audio briefings if the president puts an end to televised ones.

THE PRIVATE SECTOR

In countries in which democracy is on the decline, businesses can be co-opted by, or passively abet, an authoritarian’s rise. Often, this is the result of companies making rational short-term bottom-line calculations: cooperating with the government is normally in a business’s interests. Over time, as that government veers farther and farther from acceptable norms, that logic reinforces itself and businesses continue to aid the autocrat’s rise until they have no alternative. Business leaders must recognize this dynamic now. They must make clear what actions by the administration (for example, ignoring a court order or the president personally directing the prosecution of a political opponent) would constitute a red line for the business. Making these commitments public, such as in the form of a pledge to oppose the crossing of certain red lines, would encourage other business leaders to do the same.

THE PUBLIC

At the end of the day, the ultimate check on a runaway government is We the People. If there was ever a time for active citizenship, this is it. Americans must memorize the phone number (202) 224-3121, the congressional switchboard, and learn the names of their senators and representatives and can call them regularly to demand their representatives respond forcefully to undemocratic behavior. Americans should join civic groups like Protect Democracy, Stand Up Republic and others, which, provide specific

information and opportunities to join collective action to stand up for democratic norms and institutions. Write letters to the editor, call into radio shows, host discussion groups with neighbors, spread *accurate* information to friends, and be careful to verify social media stories before sharing them. When there are protests against abusive government behavior, go! History has shown time and again that when Americans stand up and stand together, we can control our own destiny.

4.2 The Days After Trump: Solving Our Democracy’s Broader Problems

IN THE LONGER term, the country will need to implement a set of reforms that address the root causes of democratic decline and strengthen our norms and institutions for the future. We recognize that it will be difficult to solve these problems while Mr. Trump is president. But in the years after he leaves office, we anticipate there will be a window for substantial reform. Just as Congress enacted a series of major ethics reforms in the aftermath of Watergate (the Ethics in Government Act, campaign finance reform, the Church Commission recommendations), so too, in the aftermath of the Trump presidency, will there be opportunity. The onus will be on Congress to act and to do so quickly.

These long-term reforms must stabilize aspects of our democracy that were in decline before Trump, and which created an opportunity for his rise and actions. And they must strengthen the checks and balances that protect our democracy against an authoritarian-minded chief executive in order to protect us against an even more dangerous Trump 2.0, should one ever rise. We propose focusing these reforms on five areas: (1) restoring the integrity of elections; (2) shoring up limits on executive power; (3) ensuring that government works for the people, not the president and his cronies; (4) protecting inclusive and fact-based democratic participation; and (5) rebuilding faith in the project of American government.

4.2.1 Restoring the Integrity of Our Electoral System

AT THE CORE of a healthy democracy is the ability to conduct free and fair elections that capture the preferences of the citizenry. During recent campaigns, we have seen substantial threats of interference in our elections from foreign and domestic actors. Experts warn that the attacks on the 2016 election may only be the beginning, and homegrown problems with our democracy remain a danger. We have also seen sustained efforts to prevent American citizens from voting. In the face of these threats, guaranteeing the integrity of our elections, and ensuring that the American people have confidence in our electoral system, are paramount to repairing our political system. In order to restore the integrity of our elections, we must take action to:

- *Guard election machinery against cyber attacks*—whether from foreign actors like Russia or domestic parties.

- ***Develop stronger tools, including technical assistance for campaigns and parties, to harden security to prevent hacking***—whether from foreign actors like Russia or domestic parties.
- ***Improve data systems to prevent disenfranchisement***—ensure that purges of voter rolls and ID requirements do not disenfranchise voters.
- ***Make it easier for people to vote***—possibly through expanding the days on which one can vote to include weekend options or secured voting by mail, finding ways to shorten lines, and automatic registration.
- ***Prevent executive branch abuse of law enforcement power to target electoral opponents***—so that those in power do not use or threaten investigations against political opponents.
- ***Develop protocols for special elections***—for example, through Congress updating the Presidential Succession Act, so that there is a consensus path forward in the event an election is determined to have been tainted to the point of illegitimacy.
- ***Prevent elections from being delayed or cancelled to benefit an incumbent party***—as some had proposed in the recent Alabama special election.

4.2.2 Hardening Limits on Executive Power by Strengthening Checks and Balances

THE PATH TOWARD authoritarianism features attempts by the executive branch to consolidate power and reduce meaningful checks and balances from other branches of government. (See Section 2.3) Experts on autocrats overseas have also pointed to ways in which they exploit vulnerabilities in existing structures by seizing on legal powers where checks are historically weak by design. We must engage Congress to reclaim its constitutional role as a check, and defend the independent judiciary as a forum for protecting constitutional rights and structural limits on a president’s power. In particular, long-term reforms must:

- ***Protect an independent judiciary***—and in particular ensure there are clear consequences to prevent a president from ignoring a court order.
- ***Place checks on a president’s war powers***—to ensure that the people through their elected representatives have a voice in these decisions, and that no one person can embroil the U.S. in a military conflict outside of that original but eroded constitutional check.
- ***Cement limits on the pardon power***—so that a president does not abuse it to violate other aspects of the Constitution.
- ***Make clear a president is not above the law***—through rejecting broad claims of immunity for unofficial conduct and assertions that a president’s official conduct can never be unlawful.
- ***Enable Congress to be a stronger check***—through increased professional staff and stronger tools to conduct bipartisan oversight.

4.2.3 Ensuring That Government Serves the People, Not the President and His Cronies

HEALTHY DEMOCRACIES HAVE strong independent institutions, such as law enforcement and the civil service. These institutions must operate based on facts and law in the interests of the general public—not for the personal or political preferences of a power-hungry ruler. In the aftermath of President Trump’s corrupt efforts to operate government institutions for the benefit of himself, his family, friends, and allies, we need to legally institutionalize the well-functioning norms to which we had previously assumed leaders would adhere of their own accord. For example, we must:

- *Stop inappropriate White House interference with DOJ and federal agencies*—by prohibiting inappropriate influence on specific investigations and enforcement actions.
- *Protect the civil service*—resisting efforts to chip away at statutory protections for the civil service against firing or retaliation.
- *End White House conflicts of interest*—including requirements for presidential candidates to disclose tax returns and undergo mandatory divestment of conflicts.
- *Prohibit privatized unaccountable security forces*—for example, ensuring the president cannot establish a privately funded intelligence network or homeland security force outside of the command and control of the U.S. government.
- *Block efforts to politicize the military*—prohibiting presidents from calling on members of the military to engage in domestic political issues.

4.2.4 Protecting Open, Inclusive, and Fact-Based Democratic Debate and Participation

A FUNCTIONING DEMOCRACY must invite participation from all Americans, with robust debate on policies informed by a foundation of fact and mutually recognized truth. The spread of deliberately false and misleading news, the aggressive bullying of dissent by the government in new and different ways, and the private intimidation of speakers or minority groups are all threats we must confront. We must also ensure that the government itself cannot quash dissent and democratic participation—for example, through threats and attacks on critics of the president, or government actions that bully private individuals. And we cannot allow organized hate groups or militias to threaten violence to intimidate some communities from participating in democratic debate. Facing these challenges will not be easy, and will require more than just new legal doctrines or legislative action.

- *Protect the ability of all communities to participate in our democracy without facing intimidation*—ensuring that no one group or community uses bullying or threatening tactics to prevent others from democratic participation.

- ***Stop government threats against the press and dissenters***—including reinforcing prohibitions on threatening to use the government against journalists or those who speak their minds.
- ***Combat disinformation from government***—by both prohibiting the dissemination of knowingly false government propaganda and ensuring that necessary government information (like the census and economic or crime statistics) is not censored.
- ***Avoid state-run propaganda***—and ensuring that regulatory decisions about media ownership and licensing are made free of political interference.
- ***Ensure an accurate and inclusive Census***—so that it is free of political interference and all Americans can be counted.
- ***Blunt the spread of misinformation in our political discourse***—increase FARA enforcement to expose state-planted propaganda and require disclosure of foreign and foreign-aligned contributions to think tanks.
- ***Address the challenges posed by new models of sharing news and information***—ensuring that new channels of communication, such as social media, do not become easy avenues for the spreading of disinformation.

4.2.5 Larger Reforms to Rebuild Public Confidence in Democratic Government

THERE IS A final set of challenges we must tackle to secure our democracy, although these are perhaps the most difficult we face. The world is going through a period of dramatic change, and the resulting insecurity has weakened faith in existing institutions and orders. American democracy, and its core institutions like Congress, the media, and the presidency, have not been immune to this unrest. The American public simply does not have the same faith in the promise of American constitutional democracy that it once did. Some of that is the result of tectonic shifts in global politics and economics; some the result of specific actors from institutions in the American political system. To rebuild the public's belief in American democracy as a beacon of freedom to the world, we will need to address the following big challenges.

- ***Reduce the negative impact of money in politics***—including the reconsideration of the *Citizens United* line of cases, and congressional action to enable all Americans to play a meaningful role in funding campaigns.
- ***Ensure congressional districts are representative***—by ending gerrymandering practices where politicians entrench their positions.
- ***Confront inequality and its effect on public confidence in democratic government***—we must recognize that increasing economic inequality is itself a problem and also generates a sense of disempowerment and cynicism about democratic institutions.

- ***Review alternative electoral formats for electing legislators***—consider the range of experiments that are happening at the state and local level including, but not limited to, jungle primaries, multi-member districts, alternative voting, etc., with the goal of widening the criteria for electoral participation.
- ***Review how our democratic structures should work in a time of division and social change***—the makeup of the Senate (especially when combined with the filibuster) and the Electoral College can deny the majority the ability to govern.

As this list makes clear, there is much work to be done at every level of government and civil society in pursuit of our ultimate goal: a strong, robust, and resilient democracy.

In the meantime, Americans must remain alert to the signs of democratic decline. This will not always be easy. “The mental image of authoritarian rule in the minds of most Americans”—violent dictators, the absence of political freedoms—“is completely unrealistic, and dangerously so,” warns the political scientist, Tom Pepinsky. “The fantasy of authoritarianism distracts Americans from the mundane ways in which the mechanisms of political competition and checks and balances can erode.”³⁹⁸ Being able to identify the causes and symptoms of modern democratic decay is a good first step toward stopping those who seek to undermine our institutions and values. The end of democracy in America is not by any means inevitable. But democracy is only as strong as those willing to fight for it, and it cannot long endure in a political vacuum.

Now, then, is the moment for Americans who have never been engaged in politics before to become engaged, and for those who have been involved to increase their involvement. At the end of the day, the final check on an authoritarian president comes from our democratic system itself, and the citizens who fill their role as active participants in governance. We must show up at public forums, attend marches and peaceful protests, and call or meet with our elected officials. We must engage fellow citizens and share our concerns about what is happening to our government, including, civilly, with those with whom we disagree. And we must vote. In the words of Alexander Hamilton, in *Federalist No. 33*, “If the federal government should overpass the just bounds of its authority and make a tyrannical use of its powers, the people, whose creature it is, must appeal to the standard they have formed, and take such measures to redress the injury done to the Constitution as the exigency may suggest and prudence justify.”³⁹⁹

Conclusion

HOW CONCERNED SHOULD we be about Mr. Trump’s first-year assault on America’s democratic norms and institutions? Understanding what’s happening to democracies around the world can help place the U.S. story in context.

The June 2017 Authoritarian Warning Survey, which polled 57 experts on the threats to American democracy, found “a near-consensus that American democracy has weakened over the last 10 years and is now outside the norm for consolidated democracies, especially in rhetoric, media freedom, and executive constraints.”⁴⁰⁰ Survey respondents rated American democracy as comparable to democracy in India and Poland—and considerably worse than in Canada and the United Kingdom. Largely as a result of Mr. Trump’s actions, they forecast a ten percent chance of democratic breakdown in the United States within the next four years.

Given Mr. Trump’s assault on democratic norms and institutions, political scientists lay out two worst-case scenarios. The first involves a crisis—a terrorist attack, for example—that could be used as an excuse to centralize great power in the executive. “Barring a crisis, the odds are quite good that our democratic institutions will constrain Trump, that we will not see in the United States what we see in Turkey or Hungary or Venezuela,” says Steven Levitsky, a political scientist at Harvard University. “But in the event of a crisis, things change. The combination of a president clearly uncommitted to basic democratic norms and a crisis that might give him a boost in approval ratings would allow him to get away with much more.”⁴⁰¹ Even without a crisis, Mr. Trump could dismantle enough checks on his power that he becomes, in effect, above the law.

The second possibility is that Mr. Trump will not break America’s democracy but substantially weaken it, crossing lines and devaluing the norms of political behavior that have sustained the republic for over two centuries. His presidency could do lasting damage to the free press and the judiciary, and his leadership could exacerbate partisan political polarization while increasing distrust in government. “The Trump presidency, and the reaction to it,” says Mr. Levitsky, “could leave the informal guardrails of our democracy weaker than at any time since Reconstruction.”

In either case, Americans must protect our institutions in the short term and strengthen them in the long-term to prevent a more dangerous authoritarian from coming to power in the future. Democracy in America is, as we noted, an ambitious ongoing project, an experiment in the ability of the people to rule themselves. While we currently face a myriad of challenges, the experiment is not over. Our nation has great capacity for renewal and reform. As citizens, we must remain vigilant, aware of the norms, values, and institutions that constitute a democratic society and government, and able to hold our leaders accountable to them. In the aftermath of the Trump era, our leaders will have a responsibility to enact real reform that could preserve our democracy for future generations of Americans. We must ensure that they are successful in doing so.

Endnotes

- 1 Nathaniel Persily and Jon Cohen, “Americans Are Losing Faith in Democracy—and in Each Other,” *Washington Post*, Oct. 14, 2016, https://www.washingtonpost.com/opinions/americans-are-losing-faith-in-democracy—and-in-each-other/2016/10/14/b35234ea-90c6-11e6-9c52-0b10449e33c4_story.html?utm_term=.1ccaa08df9d2.
- 2 Only 12 percent of Americans express confidence in Congress (down from 40 percent in 1977); 40 percent express confidence in the Supreme Court (down from 45 percent in 1977), and 32 percent express confidence in the presidency (down from 52 percent in 1975); see Gallup, “Confidence in Institutions,” <http://news.gallup.com/poll/1597/confidence-institutions.aspx>.
- 3 Alexis de Tocqueville, *Democracy in America*, G. Dearborn & Co., 1838.
- 4 Robert D. Putnam, *Bowling Alone: The Collapse and Revival of American Community*, Simon & Schuster, 2001.
- 5 Larry Diamond, “Facing Up to the Democratic Recession,” *Journal of Democracy* 26, no. 1 (Jan. 2015), http://www.journalofdemocracy.org/sites/default/files/Diamond-26-1_0.pdf.
- 6 Roberto Stefan Foa and Yascha Mounk, “The End of the Consolidation Paradigm: A Response to Our Critics,” *Journal of Democracy*, (June 2017), <http://roberto.foa.name/FoaMounkEndofConsolidationParadigm.pdf>.
- 7 Diamond, *supra* note 5.
- 8 *Id.*
- 9 *Id.*; but for the case that the trend away from democracy is illusory, see Steven Levitsky and Lucan Way, “The Myth of Democratic Recession,” *Journal of Democracy* 26, no. 1 (Jan. 2015), <http://www.journalofdemocracy.org/article/myth-democratic-recession>.
- 10 Roberto Stefan Foa and Yascha Mounk, “Signs; Don’t Write Off Populists Just Yet,” *The Economist*, May 24, 2017, <http://www.economist.com/blogs/graphicdetail/2017/05/daily-chart-17>.
- 11 Foa and Mounk, *supra* note 6.
- 12 *Financial Times*, “Illiberal Democracy on the Polish Horizon,” Dec. 21, 2016, <https://www.ft.com/content/145d41fc-c782-11e6-8f29-9445cac8966f>.

- 13 Amanda Taub, “How Stable Are Democracies? ‘Warning Signs Are Flashing Red,’” *New York Times*, Nov. 29, 2016, <https://www.nytimes.com/2016/11/29/world/americas/western-liberal-democracy.html>.
- 14 Foa and Mounk, *supra* note 6.
- 15 Ken Dilanian, "Intelligence Director Says Agencies Agree on Russian Meddling," *NBC News*, July 21, 2017, <https://www.nbcnews.com/news/us-news/intelligence-director-says-agencies-agree-russian-meddling-n785481>.
- 16 Michael Morell and Mike Rogers, “Russia Never Stopped Its Cyberattacks on the United States,” *Washington Post*, Dec. 25, 2017, https://www.washingtonpost.com/opinions/russia-never-stopped-its-cyberattacks-on-the-united-states/2017/12/25/83076f2e-e676-11e7-a65d-1ac0fd7f097e_story.html?utm_term=.1964f49e370a.
- 17 Ruth Ben-Ghiat, “An American Authoritarian,” *The Atlantic*, Aug. 10, 2016, <https://www.theatlantic.com/politics/archive/2016/08/american-authoritarianism-under-donald-trump/495263/>.
- 18 *Pew Research Center*, “Public Trust in Government: 1958-2017,” May 3, 2017, <http://www.people-press.org/2017/05/03/public-trust-in-government-1958-2017/>.
- 19 *International Institute for Democracy and Electoral Assistance*, The Global State of Democracy Indices, <https://www.idea.int/gsod-indices/#/indices/compare-attributes?rsc=%5B%5D&attr=%5B%5D>.
- 20 *Varieties of Democracy*, “Democracy at Dusk: V-Dem Annual Report 2017,” May 2017, https://www.v-dem.net/media/filer_public/b0/79/b079aa5a-eb3b-4e27-abdb-604b11ecd3db/v-dem-annualreport2017_v2.pdf.
- 21 Chart was constructed using *Variety in Democracy*’s “Country Graph” generator, accessible at <https://www.v-dem.net/en/analysis/CountryGraph/>.
- 22 *Economist Intelligence Unit*, “Democracy Index 2016: Revenge of the Deplorables,” https://www.eiu.com/public/topical_report.aspx?campaignid=DemocracyIndex2016.
- 23 *Economist Intelligence Unit*, “Democracy Index,” <https://infographics.economist.com/2017/DemocracyIndex/>.
- 24 *The Economist*, “Declining Trust in Government Is Denting Democracy,” Jan. 25, 2017, <https://www.economist.com/blogs/graphicdetail/2017/01/daily-chart-20>.
- 25 *Economic Intelligence Unit*, *supra* note 22.
- 26 *Edelman*, “2017 Edelman Trust Barometer: Global Report,” <https://www.edelman.com/trust2017/>.
- 27 *Organisation for Economic Co-operation and Development*, “Inequality and Income,” <http://www.oecd.org/social/inequality.htm>.
- 28 *International Labour Organization and Organisation for Economic Co-operation and Development*, “The Labour Share in G20 Economies,” Feb. 26-27, 2015, <https://www.oecd.org/g20/topics/employment-and-social-policy/The-Labour-Share-in-G20-Economies.pdf>.

- 29 *The Economist*, “The Big Freeze,” Sep. 6, 2014, <https://www.economist.com/news/finance-and-economics/21615589-throughout-rich-world-wages-are-stuck-big-freeze>.
- 30 Jay Shambaugh, “Thirteen Facts About Wage Growth,” *Brookings*, Sep. 25, 2017, <https://www.brookings.edu/research/thirteen-facts-about-wage-growth/>.
- 31 Daniel Bachman, “Income Inequality in the United States: What do We Know and What Does It Mean?” *Deloitte*, July 12, 2017, <https://www2.deloitte.com/insights/us/en/economy/issues-by-the-numbers/july-2017/rising-income-inequality-gap-united-states.html>.
- 32 D’vera Cohn and Andrea Caumont, “10 Demographic Trends That Are Shaping the U.S. and the World,” *Pew Research Center*, Mar. 31, 2016, <http://www.pewresearch.org/fact-tank/2016/03/31/10-demographic-trends-that-are-shaping-the-u-s-and-the-world/>.
- 33 *Congressional Budget Office*, “A Description of the Immigrant Population—2013 Update,” May 8, 2013, <https://www.cbo.gov/publication/44134>.
- 34 *Pew Research Center*, “Modern Immigration Wave Brings 59 Million to U.S., Driving Population Growth and Change Through 2065,” Chapter 5: U.S. Foreign-Born Population Trends, Sep. 28, 2015, <http://www.pewhispanic.org/2015/09/28/chapter-5-u-s-foreign-born-population-trends/>.
- 35 Mark Hugo Lopez and Ana Gonzalez-Barrera, “Women’s College Enrollment Gains Leave Men Behind,” *Pew Research Center*, Mar. 6, 2014, <http://www.pewresearch.org/fact-tank/2014/03/06/womens-college-enrollment-gains-leave-men-behind/>.
- 36 David Wessel, “The Typical Male U.S. Worker Earned Less in 2014 Than in 1973,” *Brookings*, Sep. 18, 2015, <https://www.brookings.edu/opinions/the-typical-male-u-s-worker-earned-less-in-2014-than-in-1973/>.
- 37 *Pew Research Center*, “America’s Changing Religious Landscape,” May 12, 2015, <http://www.pewforum.org/2015/05/12/americas-changing-religious-landscape/>.
- 38 Michael Lipka, “Millennials Increasingly Are Driving Growth Of ‘Nones,’” *Pew Research Center*, May 12, 2015, <http://www.pewresearch.org/fact-tank/2015/05/12/millennials-increasingly-are-driving-growth-of-nones/>.
- 39 Art Swift, “Americans’ Trust in Mass Media Sinks to New Low,” *Gallup*, Sep. 14, 2016, <http://news.gallup.com/poll/195542/americans-trust-mass-media-sinks-new-low.aspx>.
- 40 *Id.*
- 41 Terry McDermott, “Dumb Like a Fox: Fox News Isn’t Part of the GOP; It Simply (and Shamelessly) Mastered the Confines of Cable,” *Columbia Journalism Review*, Mar./Apr. 2010, http://archives.cjr.org/cover_story/dumb_like_a_fox.php?page=all.
- 42 Dan Cassino, et al., “What You Know Depends on What You Watch: Current Events Knowledge Across Popular News Sources,” *Fairleigh Dickinson University*, May 3, 2012, <http://publicmind.fdu.edu/2012/confirmed/final.pdf>.

- 43 See, generally, Eli Pariser, *The Filter Bubble: What the Internet Is Hiding from You*, Viking/Penguin Press, 2011.
- 44 Gillian Bolsover, et al., “Junk News and Bots During the U.S. Election: What Were Michigan Voters Sharing Over Twitter?” *Oxford Internet Institute*, Mar. 26, 2017, <http://comprop.oii.ox.ac.uk/wp-content/uploads/sites/89/2017/03/What-Were-Michigan-Voters-Sharing-Over-Twitter-v2.pdf>.
- 45 Hunt Allcott and Matthew Gentzkow, “Social Media and Fake News in the 2016 Election,” *Journal of Economic Perspectives* 31, no. 2 (Spring 2017), <https://web.stanford.edu/~gentzkow/research/fakenews.pdf>.
- 46 Monica Anderson and Andrea Caumont, “How Social Media Is Reshaping News,” *Pew Research Center*, Sep. 24, 2014, <http://www.pewresearch.org/fact-tank/2014/09/24/how-social-media-is-reshaping-news/>.
- 47 Susan Essoyan, “‘News Literacy’ Can Help Restore Trust in Media, Editor Says,” *Honolulu Star Advertiser*, May 13, 2017, <http://www.staradvertiser.com/2017/05/13/hawaii-news/news-literacy-can-help-restore-trust-in-media-editor-says/>.
- 48 Brian Stelter, “Local TV News Is Following Print’s Path, Study Says,” *New York Times*, Mar. 18, 2013, <http://www.nytimes.com/2013/03/18/business/media/local-tv-news-is-following-prints-path-study-says.html>.
- 49 *Pew Research Center*, “The Partisan Divide on Political Values Grows Even Wider,” Oct. 5, 2017, <http://www.people-press.org/2017/10/05/the-partisan-divide-on-political-values-grows-even-wider/>.
- 50 Richard Florida, “How Place Shapes Our Politics,” *CityLab*, Dec. 12, 2017, <https://www.citylab.com/life/2017/12/how-place-shapes-our-politics/548147/>.
- 51 Brian Thiede, et al., “6 Charts That Illustrate the Divide Between Rural and Urban America,” *PBS*, Mar. 17, 2017, <https://www.pbs.org/newshour/nation/six-charts-illustrate-divide-rural-urban-america>.
- 52 Kyle Munson, “Small Iowa Towns Find New Ways to Repopulate,” *Des Moines Register*, June 28, 2014, <https://www.desmoinesregister.com/story/news/local/kyle-munson/2014/06/28/kyle-munson-small-iowa-towns-find-new-ways-repopulate-manning/11584653/>.
- 53 David Barboza, “Meatpackers’ Profits Hinge On Pool of Immigrant Labor,” *New York Times*, Dec. 21, 2001, <http://www.nytimes.com/2001/12/21/us/meatpackers-profits-hinge-on-pool-of-immigrant-labor.html>; Patricia Cohen, “Immigrants Keep an Iowa Meatpacking Town Alive and Growing,” *New York Times*, May 29, 2017, <https://www.nytimes.com/2017/05/29/business/economy/storm-lake-iowa-immigrant-workers.html>; *Public Radio International*, “Meat Processing Across the Midwest Largely Done by Immigrants,” May 15, 2013, <https://www.pri.org/stories/2013-05-15/meat-processing-across-midwest-largely-done-immigrants>.
- 54 *This American Life*, “632: Our Town, Part One,” Dec. 8, 2017, <https://www.thisamericanlife.org/radio-archives/episode/632/our-town>.
- 55 Gregory J. Martin and Steven Webster, “Does Residential Sorting Explain Geographic Polarization?” *Emory University*, May 13, 2017, http://polisci.emory.edu/faculty/gjmart2/papers/partisan_sorting_density.pdf.
- 56 Jowei Chen and Jonathan Rodden, “Don’t Blame the Maps,” *New York Times*, Jan. 24, 2014, <https://www.nytimes.com/2014/01/26/opinion/sunday/its-the-geography-stupid.html>.

- 57 *Pew Research Center*, “The Partisan Divide on Political Values Grows Even Wider,” Oct. 5, 2017, <http://www.people-press.org/2017/10/05/the-partisan-divide-on-political-values-grows-even-wider/>.
- 58 Jonathan Rauch and Raymond J. La Raja, “Re-Engineering Politicians: How Activist Groups Choose Our Candidates—Long Before We Vote,” *Brookings*, Dec. 7, 2017, <https://www.brookings.edu/research/re-engineering-politicians-how-activist-groups-choose-our-politicians-long-before-we-vote/>.
- 59 For a particularly creative explanation of this dynamic, see Lawrence Lessig, “We the People, and the Republic We Must Reclaim,” *TED Talk*, Feb. 2013, https://www.ted.com/talks/lawrence_lessig_we_the_people_and_the_republic_we_must_reclaim#t-125362.
- 60 *Pew Research Center*, “Trends in Party Identification, 1939-2014,” Apr. 7, 2015, <http://www.people-press.org/interactives/party-id-trend/>; Jeffrey M. Jones, “Democratic, Republican Identification Near Historical Lows,” *Gallup*, Jan. 11, 2016, <http://news.gallup.com/poll/188096/democratic-republican-identification-near-historical-lows.aspx>.
- 61 Note that European party membership tends to be structured on a different basis and includes a form of paid membership. See Ingrid van Biezen, “The Decline in Party Membership Across Europe Means That Political Parties Need to Reconsider How They Engage with the Electorate,” *London School of Economics and Political Science*, May 6, 2013, <http://blogs.lse.ac.uk/euoppblog/2013/05/06/decline-in-party-membership-europe-ingrid-van-biezen/>.
- 62 Philip Bump, “The Growing Myth of the ‘Independent’ Voter,” *Washington Post*, Jan. 11, 2016, https://www.washingtonpost.com/news/the-fix/wp/2016/01/11/independents-outnumber-democrats-and-republicans-but-theyre-not-very-independent/?utm_term=.030a362de8e8.
- 63 Brian J. McCabe, “Primary Voter Turnout Stays Low, But More So for Democrats,” *Five Thirty Eight*, Sep. 14, 2010, <https://fivethirtyeight.com/features/primary-voter-turnout-stays-low-but-more-so-for-democrats/>.
- 64 *Pew Research Center*, “Beyond Distrust: How Americans View Their Government: 6. Perceptions of Elected Officials and the Role of Money in Politics,” Nov. 23, 2015, <http://www.people-press.org/2015/11/23/6-perceptions-of-elected-officials-and-the-role-of-money-in-politics/>.
- 65 Martin Gilens, “Affluence and Influence Economic Inequality and Political Power in America,” *Princeton University Press*, Apr. 6, 2014, <https://press.princeton.edu/titles/9836.html>; note that bipartisan critics of the work have disagreed with Gillens’ more extended recommendations, but his core empirical finding has withstood scrutiny; see, e.g., Tyler Cowen, “Affluence and Influence,” *Marginal Revolution*, July 22, 2012, <http://marginalrevolution.com/marginalrevolution/2012/07/affluence-and-influence.html> and Matthew Yglesias, “Response: Holding Politicians Accountable,” *Boston Review*, July/Aug. 2012, http://bostonreview.net/archives/BR37.4/ndf_matthew_yglesias_money_politics_democracy.php.
- 66 *Pew Research Center*, “Perceptions of the Public’s Voice in Government and Politics,” Nov. 23, 2015, <http://www.people-press.org/2015/11/23/8-perceptions-of-the-publics-voice-in-government-and-politics/>.

- 67 Harvard professor Michael J. Sandel has argued that the marketization of ever more aspects of society, when coupled with rising inequality, has expanded differences in Americans' lived experiences in a way that could exacerbate this trend; see Sandel, *What Money Can't Buy: The Moral Limits of Markets*, Farrar, Straus & Giroux, 2013.
- 68 *Pew Research Center*, "Partisanship and Political Animosity in 2016," June 22, 2016, <http://www.people-press.org/2016/06/22/partisanship-and-political-animosity-in-2016/>.
- 69 *Pew Research Center*, *supra* note 66.
- 70 Lisa Rosenberg, "U.S. Political Finance: Americans Spend More on Elections, but They Lead from Behind," *Sunlight Foundation*, Nov. 10, 2014, <https://sunlightfoundation.com/2014/11/10/u-s-political-finance-americans-spend-more-on-elections-but-they-lead-from-behind/>.
- 71 Democratic Minority Leader Nancy Pelosi, "Transcript of Pelosi, Van Hollen Press Conference Today," Apr. 3, 2014, <https://www.democraticleader.gov/newsroom/press-releases/transcript-pelosi-van-hollen-press-conference-today/>; Paul Blumenthal, "Senate Candidates Actually Debate the Insidious Influence of Money in Politics," *Huffington Post*, Oct. 17, 2014, https://huffingtonpost.com/2014/10/17/2014-money-in-politics_n_5998854.html.
- 72 *NewsMax*, "Reuters Poll: Most Americans Think Too Much Money in Politics," May 24, 2012, <http://www.newsmax.com/Newsfront/americans-money-politics-elections/2012/05/24/id/440238/>; Susan Page, "Poll: Too Much Money Spent on Presidential Campaign," *USA Today*, Oct. 29, 2008, http://usatoday30.usatoday.com/news/politics/election2008/2008-10-29-poll_N.htm.
- 73 Senator Mitch McConnell would later be among those to challenge parts of the Act in court as abridging the First Amendment, an argument eventually adopted by a divided Supreme Court in the *Citizens United* case.
- 74 Francis Fukuyama, "The Decay of American Political Institutions," *The American Interest* 9, no. 3, Dec. 8, 2013, <https://www.the-american-interest.com/2013/12/08/the-decay-of-american-political-institutions/>.
- 75 To understand some of the ways in which the industry has become a nexus for financial influence, see *American Bar Association*, "Lobbying Law in the Spotlight: Challenges and Proposed Improvements: Report of the Task Force on Federal Lobbying Laws Section of Administrative Law and Regulatory Practice," Jan. 3, 2011, https://www.americanbar.org/content/dam/aba/migrated/2011_build/administrative_law/lobbying_task_force_report_010311.authcheckdam.pdf.
- 76 Brink Lindsey and Steven M. Teles, "Worried About Concentration? Then Worry About Rent-Seeking," *Pro-Market*, Apr. 18, 2017, <https://promarket.org/worried-concentration-worry-rent-seeking/>.
- 77 Lorelei Kelly, "Dumb by Design: Gingrich's Lobotomy of Congress and Today's Dysfunction," *Huffington Post*, Nov. 29, 2011, https://www.huffingtonpost.com/lorelei-kelly/newt-gingrich-congress-expert-knowledge_b_1118297.html.
- 78 *Sunlight Foundation*, "Keeping Congress Competent: Staff Pay, Turnover, and What It Means for Democracy," Dec. 21, 2010, <https://sunlightfoundation.com/policy/documents/keeping-congress-competent/>.
- 79 *Gallup*, "Congress and the Public," <http://news.gallup.com/poll/1600/congress-public.aspx>.

- 80 *United States Senate Committee on the Budget*, “America’s Broken Budget Process,” <https://www.budget.senate.gov/brokenbudget>.
- 81 *United States Senate*, “Filibuster and Cloture,” https://www.senate.gov/artandhistory/history/common/briefing/Fili-buster_Cloture.htm.
- 82 *United States Senate*, “Cloture Motions,” https://www.senate.gov/pagelayout/reference/cloture_motions/cloture-Counts.htm.
- 83 Allison Graves, “Did Senate Republicans Filibuster Obama Court Nominees More Than All Others Combined?” *PolitiFact*, Apr. 9, 2017, <http://www.politifact.com/truth-o-meter/statements/2017/apr/09/ben-cardin/did-senate-republicans-filibuster-obama-court-nomi/>.
- 84 Richard E. Neustadt, *Presidential Power: The Politics of Leadership*, Wiley, 1960.
- 85 For example, when President Obama did seek congressional support (he claimed he did not need actual authorization) to respond to a chemical weapons attack by the Assad Regime in Syria in 2013, Congress failed to ever hold a floor vote.
- 86 *Chamber of Commerce of the U.S. v. Reich*, 74 F.3d 1322 (D.C. Cir. 1996).
- 87 *The White House Office of the Press Secretary*, “President Barack Obama’s State of the Union Address,” Jan. 28, 2014, <https://obamawhitehouse.archives.gov/the-press-office/2014/01/28/president-barack-obamas-state-union-address>.
- 88 *Gallup*, “Congress and the Public,” <http://news.gallup.com/poll/1600/congress-public.aspx>.
- 89 *Gallup*, “Supreme Court,” <http://news.gallup.com/poll/4732/supreme-court.aspx>.
- 90 Jim Norman, “Americans’ Confidence in Institutions Stays Low,” *Gallup*, June 13, 2016, <http://news.gallup.com/poll/192581/americans-confidence-institutions-stays-low.aspx>.
- 91 Bill Bishop, “Americans Have Lost Faith in Institutions. That’s Not Because of Trump or ‘Fake News,’” *Washington Post*, Mar. 3, 2017, https://www.washingtonpost.com/posteverything/wp/2017/03/03/americans-have-lost-faith-in-institutions-thats-not-because-of-trump-or-fake-news/?utm_term=.c342cba893a3.
- 92 Roberto Stefan Foa and Yascha Mounk, “The Danger of Deconsolidation: the Democratic Disconnect,” *Journal of Democracy* 27, no. 3 (July 2016), <http://www.journalofdemocracy.org/sites/default/files/Foa%26Mounk-27-3.pdf>; some of the findings of the World Values Survey presented by Foa and Mounk have been challenged by Erik Voeten in his article, “That Viral Graph About Millennials Declining Support for Democracy? It’s Very Misleading,” *Washington Post*, Dec. 5, 2016, https://www.washingtonpost.com/news/monkey-cage/wp/2016/12/05/that-viral-graph-about-millennials-declining-support-for-democracy-its-very-mislead-ing/?utm_term=.66e443949890. However, Voeten’s analysis largely confirms the findings of Foa and Mounk while disputing the presentation and methodology of some polling data.

- 93 Protect Democracy developed these categories after consultation with numerous scholars of democracy and democratic decline, including Professors Ruth Ben-Ghiat (NYU), Aziz Huq (University of Chicago), Steven Levitsky (Harvard), Yascha Mounk (Harvard), Kim Lane Scheppele (Princeton), Timothy Snyder (Yale), and Daniel Ziblatt (Harvard), as well as Prof. Michael Miller (George Washington University) and the developers of the Authoritarian Warning Survey. While these actions can be categorized and combined in different ways, such that some of these or other scholars might identify three or four categories and others six or seven, they all involve diminishing or eliminating the checks from inside or out of government.
- 94 Email Interview with Timothy Snyder (Jan. 6, 2018). For more on the history and social science of how autocrats use rhetoric to expand their power or facilitate horrific acts, *see* Ruth Ben-Ghiat, “Trump’s ‘Trial Balloons’ Test Our Commitment to Freedom,” CNN, Nov. 8, 2017, <https://amp.cnn.com/cnn/2017/11/08/opinions/trump-authoritarian-trial-balloons-ben-ghiat/index.html>; Richard Ashby Wilson, “When Does Political Discord Escalate to Incitement? Ask Donald Trump,” *The Guardian*, Dec. 19, 2017, <https://www.theguardian.com/commentisfree/2017/dec/19/political-discord-incitement-donald-trump>.
- 95 Zach Beauchamp, “Experts on Authoritarianism Are Absolutely Terrified by the Comey Firing,” *Vox*, May 11, 2017, <https://www.vox.com/world/2017/5/11/15611346/comey-trump-russia-authoritarianism>.
- 96 *Id.*
- 97 *Id.*
- 98 Civil Service Reform Act of 1978, 5 U.S.C. Sec. 1101 et seq. (2012).
- 99 *See* Yascha Mounk, “Keeping the Oath,” *Slate*, Sep. 6, 2017, http://www.slate.com/articles/news_and_politics/the_good_fight/2017/09/the_upholdtheoath_campaign_seeks_to_remind_public_servants_where_their_true.html.
- 100 White House Communications with the DOJ and FBI, *United to Protect Democracy*, Mar. 8, 2017, <https://protectdemocracy.org/agencycontacts/>; Justin Florence, “On the Importance of Limiting White House-DOJ Contacts: It’s Not Just About Obstruction,” *Lawfare*, May 22, 2017, <https://www.lawfareblog.com/importance-limiting-white-house-doj-contacts-its-not-just-about-obstruction>; *see also* Letter from Justin Florence, Protect Democracy, to Department of Justice Inspector General Michael Horowitz and Office of Professional Responsibility Counsel Robin Ashton re: Investigating Improper White House Influence on Specific Investigations, Jan. 4, 2018, <http://protectdemocracy.org/wp-content/uploads/2018/01/PD-letter-to-DOJ-IG-and-OPR-re-WH-interference-01042018.pdf>.
- 101 For one former Justice Department official’s experience with this principle, *see* Andrew McCarthy, “On Strzok, Let’s Wait for the Evidence,” *National Review*, Dec. 6, 2017, <http://www.nationalreview.com/article/454413/fbi-agent-peter-strzok-rush-judgment>.
- 102 White House Communications with the DOJ and FBI, *United to Protect Democracy*, Mar. 8, 2017, <https://protectdemocracy.org/agencycontacts/>.

- 103 Michael D. Shear and Matt Apuzzo, “FBI Director James Comey Is Fired by Trump,” *New York Times*, May 9, 2017, <https://www.nytimes.com/2017/05/09/us/politics/james-comey-fired-fbi.html>; James Griffiths, “Trump Says He Considered ‘This Russia Thing’ Before Firing FBI Director Comey,” *CNN*, May 12, 2017, <http://www.cnn.com/2017/05/12/politics/trump-comey-russia-thing/index.html>; The Editorial Board, “Trump’s Firing of Comey Is All About the Russia Inquiry,” *New York Times*, May 9, 2017, <https://www.nytimes.com/2017/05/09/opinion/donald-trumps-firing-of-james-comey.html>.
- 104 James B. Comey, “Statement for the Record,” *Senate Select Committee on Intelligence*, June 8, 2017, <https://www.intelligence.senate.gov/sites/default/files/documents/os-jcomey-060817.pdf>.
- 105 Excerpts from the *Times* Interview with Trump, *New York Times*, July 19, 2017, <https://www.nytimes.com/2017/07/19/us/politics/trump-interview-transcript.html>.
- 106 Yoni Appelbaum, “Trump’s Promise to Jail Clinton Is a Threat to American Democracy,” *The Atlantic*, Oct. 10, 2016, <https://www.theatlantic.com/politics/archive/2016/10/trumps-promise-to-jail-clinton-is-a-threat-to-american-democracy/503516/>.
- 107 Peter W. Stevenson, “A Brief History of the ‘Lock Her Up!’ Chant by Trump Supporters Against Clinton,” *Washington Post*, Nov. 22, 2016, <https://www.washingtonpost.com/news/the-fix/wp/2016/11/22/a-brief-history-of-the-lock-her-up-chant-as-it-looks-like-trump-might-not-even-try/>.
- 108 Peter Baker, Jeremy W. Peters, and Rebecca R. Ruiz, “In Trump’s World, ‘Very Weak’ Sessions Twists in the Wind,” *New York Times*, July 25, 2017, <https://www.nytimes.com/2017/07/25/us/politics/trump-attacks-own-attorney-general-jeff-sessions.html>.
- 109 Josh Delk, “Trump on DOJ Probing Clinton: ‘Hopefully They Are Doing Something,’” *The Hill*, Nov. 2, 2017, <http://thehill.com/blogs/blog-briefing-room/358548-trump-frustrated-he-cant-be-involved-in-fbi-decisions>.
- 110 Donald J. Trump (@realDonaldTrump), Twitter, (Nov. 28, 2017, 6:45 PM), <https://twitter.com/realDonaldTrump/status/935701139198181376>.
- 111 Donald J. Trump (@realDonaldTrump), Twitter, (Dec. 2, 2018, 6:13 PM), <https://twitter.com/realDonaldTrump/status/937142713211813889>.
- 112 Donald J. Trump (@realDonaldTrump), Twitter, (Jan. 2, 2018, 4:48 AM) <https://twitter.com/realDonaldTrump/status/948174033882927104>.
- 113 Jana Heigl, “A Timeline of Donald Trump’s False Wiretapping Charge,” *PolitiFact*, Mar. 21, 2017, <http://www.politifact.com/truth-o-meter/article/2017/mar/21/timeline-donald-trumps-false-wiretapping-charge/>.
- 114 Donald Trump, (@realDonaldTrump), Twitter, (July 24, 2017, 5:49 AM), <https://twitter.com/realDonaldTrump/status/889467610332528641>.
- 115 Donald Trump (@realDonaldTrump), Twitter, (July 25, 2017, 3:12 AM), <https://twitter.com/realDonaldTrump/status/889790429398528000>.

- 116 Donald Trump (@realDonaldTrump), Twitter, (Oct. 29, 2017, 6:53 AM), <https://twitter.com/realDonaldTrump/status/924635359480303616>.
- 117 Donald Trump (@realDonaldTrump), Twitter, (Oct. 29, 2017, 7:02 AM), <https://twitter.com/realDonaldTrump/status/924637600094326784>.
- 118 Michael S. Schmidt and Maggie Haberman, “Justice Dept. to Weigh Inquiry Into Clinton Foundation,” *New York Times*, Nov. 13, 2017, https://www.nytimes.com/2017/11/13/us/politics/justice-department-uranium-special-counsel.html?_r=0.
- 119 Greg Price, “An [sic] Uranium One Investigation? Trump’s Justice Department Talking to FBI Agents About Hillary Clinton Scandal,” *Newsweek*, Dec. 21, 2017, <http://www.newsweek.com/uranium-trump-justice-fbi-clinton-755066>.
- 120 Betsy Woodruff, “Justice Department ‘Looking Into’ Clinton’s Emails—Again,” *The Daily Beast*, Jan. 4, 2018, <https://www.thedailybeast.com/justice-department-looking-into-hillary-clintons-emails-again>.
- 121 Trish Turner & Mike Levine, “FBI, DOJ Ramp Up Clinton Foundation Investigation,” *ABC News*, Jan. 5, 2018, <http://abcnews.go.com/Politics/fbi-doj-ramp-clinton-foundation-investigation/story?id=52171980>.
- 122 Philip Bump, “Trump’s Press Secretary Offers Suggested Punishments for Two Trump Critics,” *Washington Post*, Sep. 13, 2017, https://www.washingtonpost.com/news/politics/wp/2017/09/13/trumps-press-secretary-offers-suggested-punishments-for-two-trump-critics/?utm_term=.9b6434bb4509.
- 123 Transcript of “Your World” Interview with Thomas Homan, Acting U.S. Immigration and Customs Enforcement Director, “Acting ICE Director: California Made a Foolish Decision,” *Fox News*, Jan. 2, 2017, <http://www.foxnews.com/transcript/2018/01/02/acting-ice-director-california-made-foolish-decision.html>.
- 124 *Id.*
- 125 Michael S. Schmidt, “Obstruction Inquiry Shows Trump’s Struggle to Keep Grip on Russia Investigation,” *New York Times*, Jan. 4, 2018, https://www.nytimes.com/2018/01/04/us/politics/trump-sessions-russia-mcgnahn.html?_r=0.
- 126 Donald F. McGahn II, Counsel to the President, to All White House Staff re: Communications Restrictions with Personnel at the Department of Justice, Jan. 27, 2017, <https://www.politico.com/f/?id=0000015a-dde8-d23c-a7ff-dfef4d530000>.
- 127 The Department of Justice reportedly is still governed by its own policy on contacts with the White House that was issued by Attorney General Holder in 2009. See Memorandum from the Attorney General to Heads of Component Departments and United States Attorneys re: Communications with the White House and Congress, May 11, 2009, <https://lawfare.s3-us-west-2.amazonaws.com/staging/2017/2009%20Eric%20Holder%20memo.pdf>.
- 128 Isaac Arnsdorf, “Priebus Request to FBI Violated Norms, if Not Rules,” *Politico*, Feb. 24, 2017, <https://www.politico.com/story/2017/02/reince-priebus-fbi-contact-trump-235351>.

- 129 Harry Siegel, “Stephen Miller Called U.S. Attorney About Travel Ban Defense,” *New York Daily News*, Feb. 18, 2017, <http://www.nydailynews.com/opinion/stephen-miller-called-u-s-attorney-travel-ban-defense-article-1.2975873>.
- 130 Sandhya Somashekhar and Jenna Johnson, “Bharara Says Trump Phone Calls Made Him Uncomfortable,” *Washington Post*, June 11, 2017, https://www.washingtonpost.com/politics/bharara-says-trump-phone-calls-made-him-uncomfortable/2017/06/11/53d4b090-4ebe-11e7-91eb-9611861a988f_story.html?utm_term=.a2c8080752b5; see also Maggie Haberman and Charlie Savage, “U.S. Attorney Preet Bharara Says He Was Fired After Refusing to Quit,” *New York Times*, Mar. 11, 2017, <https://www.nytimes.com/2017/03/11/us/politics/preet-bharara-us-attorney.html>; “‘This Week’ Transcript,” *ABC News*, June 11, 2017, <http://abcnews.go.com/Politics/week-transcript-11-17-preet-bharara-jay-sekulow/story?id=47957684>.
- 131 Ed Kilgore, “Trump Courts Appearance of Impropriety in Interviewing U.S. Attorney Candidates,” *New York Times*, Oct. 19, 2017, <http://nymag.com/daily/intelligencer/2017/10/trump-breaks-precedent-interviews-u-s-attorney-prospects.html>.
- 132 Robert E. Kessler and John Riley, “Ex-Prosecutors Named to Fill LI, Manhattan U.S. Attorney Posts,” *Newsday*, Jan. 3, 2018, <https://www.newsday.com/news/nation/us-attorney-eastern-southern-district-donoghue-berman-1.15788187>.
- 133 Laura Jarrett, “President Has Rare Meeting With US Attorney Nominee,” *CNN*, July 21, 2017, <http://edition.cnn.com/2017/07/20/politics/donald-trump-jessie-liu-dc-us-attorney/index.html>.
- 134 Joyce Alene (@JoyceWhiteVance), Twitter, (Dec. 28, 2017, 7:59 PM), <https://twitter.com/JoyceWhiteVance/status/946591501789941761>.
- 135 Brian M. Rosenthal, “Police Criticize Trump for Urging Officers Not to Be ‘Too Nice’ With Suspects,” *New York Times*, July 29, 2017, <https://www.nytimes.com/2017/07/29/nyregion/trump-police-too-nice.html>; Matt Zapposky and Mark Berman, “Acting DEA Administrator Says Trump ‘Condoned Police Misconduct’ in Comments About How Cops Handle Suspects,” *Washington Post*, Aug. 1, 2017, https://www.washingtonpost.com/news/post-nation/wp/2017/08/01/acting-dea-administrator-says-trump-condoned-police-misconduct-in-remarks-about-handling-suspects/?utm_term=.684fe1701585.
- 136 “74-Question Document Distributed to Department of Energy by Trump Transition Team,” https://www.eenews.net/assets/2016/12/09/document_gw_06.pdf; Jason Slotkin, “Department of Energy Defies Trump, Won’t Name Climate Change Workers,” *NPR*, Dec. 13, 2016, <http://www.npr.org/sections/thetwo-way/2016/12/13/505440178/departments-of-energy-defies-trump-wont-name-climate-change-workers>.
- 137 Abby Phillip, “Spicer: Diplomats Opposed to Immigration Ban Should ‘Either Get with the Program or They Can Go,’” *Washington Post*, Jan. 30, 2017, https://www.washingtonpost.com/news/post-politics/wp/2017/01/30/spicer-diplomats-opposed-to-immigration-ban-should-either-get-with-the-program-or-they-can-go/?utm_term=.2c9f917e7c6a.
- 138 Aria Bendix, “EPA Says Goodbye to Half Its Scientific Board,” *The Atlantic*, May 9, 2017, <https://www.theatlantic.com/news/archive/2017/05/epa-dismisses-half-the-scientists-on-its-review-board/525909/>.

- 139 Juliet Eilperin, Brady Dennis and Chris Mooney, “In Unprecedented Move, EPA to Block Scientists Who Get Agency Funding from Serving As Advisers,” *Washington Post*, Oct. 30, 2017, https://www.washingtonpost.com/news/energy-environment/wp/2017/10/30/in-unprecedented-shift-epa-to-prohibit-scientists-who-receive-agency-funding-from-serving-as-advisers/?utm_term=.6f04a7212f74.
- 140 Brady Dennis and Juliet Eilperin, “‘Mr. Pruitt is Welcome to Officially Fire Me’ — As Epa Carries Out Controversial Policy, One Scientist Balks,” *Washington Post*, Nov. 10, 2017, https://www.washingtonpost.com/news/energy-environment/wp/2017/11/10/epa-extends-controversial-conflict-of-interest-policy-to-nearly-two-dozen-advisory-boards/?utm_term=.847b3820daf9.
- 141 Evan Halper, “Interior Secretary Ryan Zinke Calls His Staff Disloyal in Speech to Oil Industry,” *Los Angeles Times*, Sep. 26, 2017, <http://beta.latimes.com/politics/washington/la-na-essential-washington-updates-zinke-at-tacks-staff-1506443722-htmlstory.html>; see also Matthew Daly, “Zinke: One-Third of Interior Employees Not Loyal to Trump,” *Los Angeles Times*, Sep. 26, 2017, <http://www.latimes.com/sns-bc-us-interior-zinke-20170925-story.html>.
- 142 Rene Marsh and Eli Watkins, “Interior Dept. Freezes Work of Advisory Boards,” *CNN*, May 8, 2017, <http://edition.cnn.com/2017/05/08/politics/interior-department-ryan-zinke-science/index.html>.
- 143 Adam Serwer, “Trump Escalates His Attacks Against FBI Officials,” *The Atlantic*, Dec. 23, 2017, <https://www.theatlantic.com/politics/archive/2017/12/trump-escalates-his-attacks-against-fbi-officials/549164/>.
- 144 Benjamin Wittes, “The President Vs. Federal Law Enforcement: Trump Attacks Everyone,” *Lawfare*, July 20, 2017, <https://www.lawfareblog.com/president-vs-federal-law-enforcement-trump-attacks-everyone>; Susan Hennessey and Benjamin Wittes, “Abuse of Power: The White House Slimes James Comey — Again,” *Lawfare*, Sep. 13, 2017, <https://lawfareblog.com/abuse-power-white-house-slimes-james-comey%E2%80%94again>.
- 145 Max Kutner, “Trump’s Tweets About FBI Could Be Witness Intimidation, Former White House Lawyers Say,” *Newsweek*, Dec. 25, 2017, <http://www.newsweek.com/trumps-tweets-about-fbi-could-be-witness-intimidation-former-white-house-758591>.
- 146 Ledyard King, “GOP Congressman Says It’s Time to ‘Purge’ FBI of Anti-Trump Elements,” *USA Today*, Dec. 26, 2017, <https://www.usatoday.com/story/news/politics/onpolitics/2017/12/26/gop-congressman-says-its-time-purge-fbi-anti-trump-elements/982610001/>.
- 147 Ian Schwartz, “Judicial Watch’s Fitton: Was FBI Turned Into A KGB-Type Operation Under Obama Administration?” *RealClearPolitics*, Dec. 14, 2017, https://www.realclearpolitics.com/video/2017/12/14/judicial_watches_fitton_was_fbi_turned_into_a_kgb-type_operation_under_obama_administration.html.
- 148 Michael Patrick Leahy, “Top 10 Holdover Obama Bureaucrats President Trump Can Fire Or Remove Today,” *Breitbart*, Feb. 18, 2017, <http://www.breitbart.com/big-government/2017/02/18/top-ten-holdover-obama-bureaucrats-president-trump-can-fire-today/>; Nahal Toosi and Andrew Restuccia, “Federal Staffers Panicked by Conservative Media Attacks,” *Politico*, Mar. 22, 2017, <http://www.politico.com/story/2017/03/government-employees-conservative-media-236321>.

- 149 Kate Brannen, Dan De Luce and Jenna McLaughlin, “Trump’s Trolls Are Waging War on America’s Civil Servants,” *Foreign Policy*, July 10, 2017, <http://foreignpolicy.com/2017/07/10/trumps-trolls-are-waging-war-on-americas-civil-servants/>.
- 150 Kim Lane Scheppelle, “Worst Practices and the Transnational Legal Order (or How to Build A Constitutional ‘Democratorship’ in Plain Sight),” *U.C. Irvine Law Review* p. 24 (forthcoming 2017), available at https://www.law.utoronto.ca/utfl_file/count/documents/events/wright-scheppelle2016.pdf, citing, *inter alia*, Miklós Bánkuti, Gábor Halmai and Kim Lane Scheppelle, “Hungary’s Illiberal Turn: Dismantling the Constitution,” *Journal of Democracy* 21, no. 3, pp. 138-145 (2012).
- 151 Aziz Z. Huq and Tom Ginsburg, “How to Lose a Constitutional Democracy,” *U.C. Los Angeles Law Review*, (forthcoming 2018), p. 45, available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2901776.
- 152 Josh Keller, Iaryna Mykhalysyn and Safak Timur, “The Scale of Turkey’s Purge Is Nearly Unprecedented,” *New York Times*, Aug. 2, 2016, <https://www.nytimes.com/interactive/2016/08/02/world/europe/turkey-purge-Erdoğan-scale.html>; see also *Turkish Minute*, “New York Times: the Scale of Turkey’s Purge Is Nearly Unprecedented,” Aug. 3, 2016, <https://www.turkishminute.com/2016/08/03/new-york-times-scale-turkeys-purge-nearly-unprecedented/>.
- 153 *Id.*
- 154 Hubert Tworzecki and Radosław Markowski, “Why Is Poland’s Law and Justice Party Trying to Rein in the Judiciary?” *New York Times*, July 26, 2017, https://www.washingtonpost.com/news/monkey-cage/wp/2017/07/26/why-is-polands-law-and-justice-party-trying-to-rein-in-the-judiciary/?utm_term=.49308f7ef0a4.
- 155 *Id.*
- 156 “Venezuela Public Workers Face Sack Over Referendum,” *BBC*, Aug. 23, 2016, <http://www.bbc.com/news/world-latin-america-37164447>.
- 157 Ellen Barry, “Russia Charges Anticorruption Activist in Plan to Steal Timber,” *New York Times*, July 31, 2012, <http://www.nytimes.com/2012/08/01/world/europe/aleksei-navalny-charged-with-embezzlement.html>.
- 158 Michael Weiss, “What the Aleksei Navalny Case Says About Life in Putin’s Russia,” *The Atlantic*, Apr. 22, 2013, <https://www.theatlantic.com/international/archive/2013/04/what-the-aleksei-navalny-case-says-about-life-in-putins-russia/275175/>.
- 159 Sean Illing, “Historian Timothy Snyder: Trump’s Lies Are Creeping Tyranny,” *Vox*, May 22, 2017, <https://www.vox.com/conversations/2017/5/22/15663268/donald-trump-democracy-timothy-snyder-fascism-truth>.
- 160 Freedom of Information Act, 5 U.S.C. § 552 (2012); Federal Advisory Committee Act, 5 U.S.C. App. Seq. 1–16.
- 161 Data Quality Act (or Information Quality Act), 44 U.S.C. § 3516(2012).
- 162 Administrative Procedure Act, 5 U.S.C. §§ 551 et seq. (2012).

- 163 David Leonhardt and Stuart A. Thompson, “Trump’s Lies,” *New York Times*, last updated Dec. 14, 2017, <https://www.nytimes.com/interactive/2017/06/23/opinion/trumps-lies.html>.
- 164 *Washington Post*, “President Trump Has Made 1,950 False Or Misleading Claims Over 347 Days,” last updated Jan. 3, 2018, https://www.washingtonpost.com/news/fact-checker/wp/2018/01/02/president-trump-has-made-1949-false-or-misleading-claims-over-347-days/?utm_term=.accd45f9ea54.
- 165 Leonhardt and Thompson, *supra* note 163.
- 166 Abby Phillip and Mike DeBonis, “Without Evidence, Trump Tells Lawmakers 3 Million to 5 Million Illegal Ballots Cost Him the Popular Vote,” *Washington Post*, Jan. 23, 2017, https://www.washingtonpost.com/news/post-politics/wp/2017/01/23/at-white-house-trump-tells-congressional-leaders-3-5-million-illegal-ballots-cost-him-the-popular-vote/?utm_term=.f5c603b6f8c7.
- 167 Marc Short and Brian Blase, “The Fundamental Error in the CBO’s Health-Care Projections,” *Washington Post*, July 14, 2017, https://www.washingtonpost.com/opinions/the-fundamental-error-in-the-cbos-health-care-projections/2017/07/14/25f0d8a4-67ee-11e7-a1d7-9a32c91c6f40_story.html?utm_term=.07f0a2e4d332.
- 168 Damian Paletta, “White House Attacks on CBO Could Set Up Months of Brawling,” *Washington Post*, Mar. 13, 2017, https://www.washingtonpost.com/business/economy/white-house-attacks-on-cbo-could-set-up-months-of-brawling/2017/03/13/0ece13e0-0839-11e7-93dc-00f9bdd74ed1_story.html?utm_term=.8768854ba829.
- 169 In January, House Republicans reinstated the Holman Rule, which allows lawmakers to cut the pay of an individual federal worker to as low as \$1; see Jenna Portnoy and Lisa Rein, “House Republicans Revive Obscure Rule That Allows Them to Slash the Pay of Individual Federal Workers to \$1,” *Washington Post*, Jan. 5, 2017, https://www.washingtonpost.com/local/virginia-politics/house-republicans-revive-obscure-rule-that-could-allow-them-to-slash-the-pay-of-individual-federal-workers-to-1/2017/01/04/4e80c990-d2b2-11e6-945-a-76f69a399dd5_story.html?utm_term=.d16efab0f0d3). In July 2017, Rep. Morgan Griffith (R-Va) attempted (unsuccessfully) to use the rule as part of an amendment to cut funding from specific employees at the congressional Budget Office; see Lindsey McPherson, “House to Vote on CBO Staff Cuts,” *Roll Call*, July 26, 2017, [http://www.rollcall.com/news/politics/house-vote-cbo-staff-cuts](http://www.rollcall.com/news/politics/house-vote-cbo-staff-cutshttp://www.rollcall.com/news/politics/house-vote-cbo-staff-cuts).
- 170 The Editorial Board, “Save the Census,” *New York Times*, July 17, 2017, <https://www.nytimes.com/2017/07/17/opinion/census-trump-budget-cuts.html>.
- 171 *U.S. Government Accountability Office*, “High-Risk Series: Progress on Many High-Risk Areas, While Substantial Efforts Needed on Others,” GAO-17-317, Feb. 15, 2017, <https://www.gao.gov/highrisk/2020-decennial-census/why-did-study>.
- 172 Dina Fine Maron, “Trump Administration Restricts News from Federal Scientists At USDA, EPA,” *Scientific American*, Jan. 24, 2017, <https://www.scientificamerican.com/article/trump-administration-restricts-news-from-federal-scientists-at-usda-epa/>.
- 173 Michael Collins, “EPA Removes Climate Change Data, Other Scientific Information from Website,” *USA Today*, Apr. 29, 2017, <https://www.usatoday.com/story/news/politics/2017/04/29/epa-removes-climate-change-data-other-scientific-information-website/101072040/>.

- 174 Lisa Friedman, “E.P.A. Cancels Talk on Climate Change by Agency Scientists,” *New York Times*, Oct. 22, 2017, <https://www.nytimes.com/2017/10/22/climate/epa-scientists.html>.
- 175 Jenna Johnson, “FEMA Removes—Then Restores—Statistics About Drinking Water Access and Electricity in Puerto Rico from Website,” *Washington Post*, Oct. 6, 2017, <https://www.washingtonpost.com/news/post-politics/wp/2017/10/05/fema-removes-statistics-about-drinking-water-access-and-electricity-in-puter-to-rico-from-website/>. Protect Democracy has filed a lawsuit to force the release of any government documents related to this removal. *More information available at* <https://protectdemocracy.org/update/protect-democracy-files-suit-information-political-interference-fema-data/>.
- 176 Eric Klinenberg, “Puerto Rico’s Actual Death Toll,” *New York Times*, Nov. 13, 2017, <https://www.nytimes.com/2017/11/13/opinion/puerto-rico-death-maria.html>.
- 177 Sydney Ember and Michael M. Grynbaum, “News Media, Target of Trump’s Declaration of War, Expresses Alarm,” *New York Times*, Jan. 22, 2017, <https://www.nytimes.com/2017/01/22/business/media/sean-spicer-donald-trump-alternative-facts.html>; Michael M. Grynbaum, “Trump Calls the News Media the ‘Enemy of the American People,’” *New York Times*, Feb. 17, 2017, <https://www.nytimes.com/2017/02/17/business/trump-calls-the-news-media-the-enemy-of-the-people.html>.
- 178 Paul Waldman, “Donald Trump Declares War on the Press,” *Washington Post*, May 31, 2016, https://www.washingtonpost.com/blogs/plum-line/wp/2016/05/31/donald-trump-declares-war-on-the-press/?utm_term=.7c12ba3bd3af.
- 179 Donald Trump, (@realDonaldTrump), Twitter, (June 29, 2017, 5:52 AM), <https://twitter.com/realDonaldTrump/status/880408582310776832>.
- 180 Donald Trump, (@realDonaldTrump), Twitter, (Sep. 2, 2017, 5:28 AM), <https://twitter.com/realDonaldTrump/status/771686352438042624>.
- 181 Hank Berrien, “Trump Called a Reporter a ‘Nasty Guy.’ That ‘Nasty Guy’ Just Forced Trump to Pay Up for Veterans,” *The Daily Wire*, May 25, 2016, <https://www.dailywire.com/news/6029/trump-called-reporter-nasty-guy-nasty-guy-just-hank-berrien#>.
- 182 Mika Brzezinski and Joe Scarborough, “Donald Trump Is Not Well,” *Washington Post*, June 30, 2017, https://www.washingtonpost.com/opinions/donald-trump-is-not-well/2017/06/30/97759ee0-5d0f-11e7-9b7d-145.76dc0f39d_story.html?utm_term=.c582fb107d9d; *see also* Gabriel Sherman, “What Really Happened Between Donald Trump, the Hosts of Morning Joe, and the National Enquirer,” *New York Magazine*, June 30, 2017, <http://nymag.com/daily/intelligencer/2017/06/what-happened-between-trump-morning-joe-and-the-enquirer.html>.
- 183 Donald Trump, (@realDonaldTrump), Twitter, (July 2, 2017, 6:21 AM), <https://twitter.com/realDonaldTrump/status/881503147168071680>.
- 184 Jessica Estepa, “Here’s Who the Trump Campaign Considers ‘The President’s Enemies,’” *USA Today*, Aug. 14, 2017, <https://www.usatoday.com/story/news/politics/onpolitics/2017/08/14/trump-campaign-ad-calls-media-enemies-of-the-president/564530001/>.
- 185 David Nakamura, “White House: ESPN’s Jemele Hill Should Be Fired for Calling Trump a ‘White Supremacist,’” *Washington Post*, Sep. 13, 2017, https://www.washingtonpost.com/news/post-politics/wp/2017/09/13/white-house-espns-jemele-hill-should-be-fired-for-calling-trump-a-white-supremacist/?utm_term=.d3a52d5d62e8.

- 186 Emily Yahr, “President Trump Calls for Washington Post Reporter Who Apologized for Inaccurate Tweet To Be Fired,” *Washington Post*, Dec. 9, 2017, https://www.washingtonpost.com/lifestyle/style/president-trump-calls-for-washington-post-reporter-who-apologized-for-inaccurate-tweet-to-be-fired/2017/12/09/2fb-467de-dd4b-11e7-b1a8-62589434a581_story.html?utm_term=.fa7035343648.
- 187 Donald J. Trump, “Rally Speech in Pensacola, Florida,” Dec. 8, 2017, <https://www.c-span.org/video/?438191-1/president-trump-holds-rally-pensacola-florida&start=423>; Julia Manchester, “Trump: ABC Should Have Fired ‘Fraudster’ Brian Ross,” *The Hill*, Dec. 8, 2017, <http://thehill.com/homenews/administration/364061-trump-abc-should-have-fired-fraudster-brian-ross>.
- 188 Steven Erlanger, “‘Fake News,’ Trump’s Obsession, Is Now a Cudgel for Strongmen,” *New York Times*, Dec. 12, 2017, <https://www.nytimes.com/2017/12/12/world/europe/trump-fake-news-dictators.html>.
- 189 Sabrina Siddiqui, “Trump Press Ban: BBC, CNN and Guardian Denied Access to Briefing,” *The Guardian*, Feb. 25, 2017, <https://www.theguardian.com/us-news/2017/feb/24/media-blocked-white-house-briefing-sean-spicer>.
- 190 Philip Rucker, “Trump Threatens to Cancel White House Briefings Because It Is ‘Not Possible’ for His Staff to Speak with ‘Perfect Accuracy,’” *Washington Post*, May 12, 2017, https://www.washingtonpost.com/news/post-politics/wp/2017/05/12/trump-threatens-to-cancel-white-house-briefings-because-it-is-not-possible-to-always-tell-the-truth/?utm_term=.09c4f13ae660.
- 191 *Id.*
- 192 Jonathan Easley, “White House Reporters Fume Over Off-Camera Briefings,” *The Hill*, June 19, 2017, <http://thehill.com/homenews/administration/338457-white-house-reporters-fume-over-off-camera-briefings>.
- 193 Elise Viebeck, “Television Reporters Told to Stop Recording in Senate Hallways, Prompting Outcry,” *Washington Post*, June 13, 2017, https://www.washingtonpost.com/powerpost/television-reporters-told-to-stop-filming-in-senate-hallways-prompting-outcry/2017/06/13/a9861d4e-5053-11e7-91eb-9611861a988f_story.html?utm_term=.782829124d0c.
- 194 *Human Rights Watch*, “Tightening the Grip: Concentration and Abuse of Power in Chávez’s Venezuela,” July 17, 2012, <https://www.hrw.org/report/2012/07/17/tightening-grip/concentration-and-abuse-power-chavez-venezuela>.
- 195 Annabelle Chapman, “Pluralism Under Attack: the Assault on Press Freedom in Poland,” *Freedom House*, June 2017, p. 16, https://freedomhouse.org/sites/default/files/FH_Poland_Report_Final_2017.pdf.
- 196 *Freedom House*, “Freedom of the Press 2017: Turkey Profile,” <https://freedomhouse.org/report/freedom-press/2017/turkey>.

- 197 Philip N. Howard, “Hungary’s Crackdown on the Press,” *New York Times*, Sep. 8, 2014, <https://www.nytimes.com/2014/09/09/opinion/hungarys-crackdown-on-the-press.html? r=0>.
- 198 Peter Roudik, “Russia: Defamation Is Criminalized Again,” *Library Of Congress: Global Legal Monitor*, Aug. 20, 2012, <https://www.loc.gov/law/foreign-news/article/russia-defamation-is-criminalized-again/>, citing Federal Law No. 141 on Amendments to the Criminal Code of the Russian Federation, art. 1 [in Russian], Rossiiskaia Gazeta, available at RG.RU, July 28, 2012).
- 199 Alex Luhn, “Russia Tightens Limit on Foreign Ownership of Media,” *The Guardian*, Sep. 26, 2014, <https://www.theguardian.com/world/2014/sep/26/russia-limit-foreign-ownership-media>; Karoun Demirjian, “Russian Advertising Ban on Paid Cable and Satellite Channels Threatens Independents,” *Washington Post*, Nov. 6, 2014, https://www.washingtonpost.com/world/europe/russian-advertising-ban-on-paid-cable-and-satellite-channels-threatens-independents/2014/11/05/ebbf933e-6370-11e4-ab86-46000e1d0035_story.html?utm_term=.4f48d2e8f411; BBC, “Russia Lenta.ru Editor Timchenko Fired in Ukraine Row,” Mar. 12, 2014, <http://www.bbc.co.uk/news/world-europe-26543464>.
- 200 Linda Qiu, “Does Vladimir Putin Kill Journalists?” *PolitiFact*, Jan. 4, 2016, <http://www.politifact.com/punditfact/article/2016/jan/04/does-vladimir-putin-kill-journalists/>.
- 201 *In re Sealed Case* (Espy), 121 F.3d 729 (D.C. Cir. 1997).
- 202 Stephen Collinson and Maegan Vazquez, “White House Turns to Above-the-Law Political Defense,” *CNN*, Dec. 12, 2017, <http://edition.cnn.com/2017/12/04/politics/trump-john-dowd-obstruct-justice/index.html>.
- 203 Mike Allen, “Exclusive: Trump Lawyer Claims the ‘President Cannot Obstruct Justice,’” *Axios*, Dec. 4, 2017, <https://www.axios.com/exclusive-trump-lawyer-claims-the-president-cannot-obstruct-justice-2514742663.html>.
- 204 Steve Vladeck, “Trump’s Lawyer: Summer Zervos Can’t Sue in State Court. Legal Expert: Wrong.” *NBC News*, Dec. 7, 2017, <https://www.nbcnews.com/think/opinion/trump-s-lawyer-summer-zervos-can-t-sue-state-court-ncna827346>.
- 205 Z. Byron Wolf, “Read This: How Trump Defended Criticism of Judge for Being ‘Mexican,’” *CNN*, Apr. 20, 2017, <http://www.cnn.com/2017/04/20/politics/donald-trump-gonzalo-curiel-jake-tapper-transcript/index.html>.
- 206 Donald Trump (@realDonaldTrump), Twitter, (Feb. 4, 2017, 5:12AM), <https://twitter.com/realdonaldtrump/status/827867311054974976?lang=en>.
- 207 Sarah Westwood, “Exclusive Interview: Trump ‘Absolutely’ Looking At Breaking Up 9th Circuit,” *Washington Examiner*, Apr. 26, 2017, <http://www.washingtonexaminer.com/exclusive-interview-trump-absolutely-looking-at-breaking-up-9th-circuit/article/2621379>.
- 208 Michelle Mark, “The Trump Administration Violated 2 Court Orders After the First Travel Ban, Inspector General Says,” *Business Insider*, Nov. 21, 2017, <http://www.businessinsider.com/homeland-security-suppress-ing-trump-travel-ban-report-inspector-general-2017-11>; Tal Kopan, “Homeland Security Inspector General Retires Amid Flap Over Travel Ban Report,” *CNN*, Nov. 30, 2017, <http://www.cnn.com/2017/11/30/politics/dhs-inspector-general-travel-ban/index.html>.

- 209 John Roth, “DHS OIG Completes Its Review of Implementation of the Travel Ban; Awaits Decision by DHS Regarding Whether It Will Invoke Privilege,” *Office of Inspector General*, Nov. 21, 2017, <https://www.oig.dhs.gov/sites/default/files/assets/pr/2017/oigpr-112117-dhs-oig-completes-review-implementation-travel-ban.pdf>.
- 210 Josh Gerstein, Ted Hesson and Seung Min Kim, “Watchdog Says Homeland Security Bottling Up Travel Ban Report,” *Politico*, Nov. 20, 2017, <https://www.politico.com/story/2017/11/20/homeland-security-travel-ban-253902>.
- 211 Andrew Kaczynski, “AG Sessions Says He’s ‘Amazed’ a Judge ‘On an Island in the Pacific’ Can Block Trump’s Immigration Order,” *CNN*, Apr. 21, 2017, <http://edition.cnn.com/2017/04/20/politics/kfile-sessions-psychoanalyze/>.
- 212 *President of the United States*, Executive Grant of Clemency, Aug. 25, 2017, <https://www.justice.gov/pardon/file/993586>.
- 213 Findings of Fact and Conclusions of Law, *United States of America v. Joseph M. Arpaio*, No. CR-16-01012-001-PHX-SRB, ECF No. 210 (D.AZ. July 31, 2017), accessed January 2, 2018 at <https://assets.documentcloud.org/documents/3903728/Joe-Arpaio-Was-Just-Found-Guilty-Read-The-Ruling.pdf>.
- 214 For more information, see <https://protectdemocracy.org/update/protect-democracy-legal-experts-ask-ninth-circuit-take-validity-arpaio-pardon/>.
- 215 Justin Florence, “What’s the Legal Basis for the Syria Strikes?” *Protect Democracy*, May 8, 2017, <https://protectdemocracy.org/update/whats-legal-basis-syria-strikes/>.
- 216 Tim Kaine and Adam Schiff, “Congressman Adam Schiff and Senator Tim Kaine Send Letter to President Trump Asking for Legal Basis of Syria Strike,” Apr. 25, 2017, <https://www.kaine.senate.gov/press-releases/congressman-adam-schiff-and-senator-tim-kaine-send-letter-to-president-trump-asking-for-legal-basis-of-syria-strike>.
- 217 *Protect Democracy Project, Inc v. U.S. Dep’t of Def.*, No. 17-cv-00842, 2017 WL 2992076, at *4 (D.D.C. July 13, 2017), https://ecf.dcd.uscourts.gov/cgi-bin/show_public_doc?2017cv0842-14.
- 218 *Protect Democracy Project, Inc v. U.S. Dep’t of Def.*, No. 17-cv-00842, ECF No. 26-2, (D.D.C. Dec. 8, 2017), <https://protectdemocracy.org/wp-content/uploads/2017/12/26-2-PI-Cross-Mot-for-SJ-and-Oppn-to-Def-SJ-1.pdf>.
- 219 Burgess Everett and Josh Dawsey, “White House Orders Agencies to Ignore Democrats’ Oversight Requests,” *Politico*, June 2, 2017, <http://www.politico.com/story/2017/06/02/federal-agencies-oversight-requests-democrats-white-house-239034>.
- 220 Curtis Gannon, Letter of Opinion for the Counsel to the President: Authority of Individual Members of Congress to Conduct Oversight of the Executive Branch, Office of Legal Counsel, May 1, 2017, <https://www.justice.gov/olc/file/966326/download>.
- 221 Letter from Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, to Donald J. Trump, President of the United States, June 7, 2017, [https://www.judiciary.senate.gov/imo/media/doc/2017-06-07%20CEG%20to%20DJT%20\(oversight%20requests\).pdf](https://www.judiciary.senate.gov/imo/media/doc/2017-06-07%20CEG%20to%20DJT%20(oversight%20requests).pdf).

- 222 Letter from Marc Short, Director, White House Legislative Affairs, to Charles E. Grassley, Chairman, U.S. Senate Committee on the Judiciary, July 20, 2017, <https://www.judiciary.senate.gov/imo/media/doc/2017.07.20%20WH-Short%20Response%20to%20CEG%20re%20Oversight.pdf>; Elana Schor, “White House Promises to Cooperate on All Oversight Requests,” *Politico*, July 28, 2017, <http://www.politico.com/story/2017/07/28/white-house-congress-oversight-requests-grassley-241100>.
- 223 Yvette Cabrera, “Trump Officials Invent a New Strategy to Dodge Questions—It Won’t Stop Unless Congress Gets Tough,” *ThinkProgress*, June 15, 2017, <https://thinkprogress.org/trump-officials-invent-a-new-strategy-to-dodge-questions-it-wont-stop-unless-congress-gets-tough-72d47ae079f7/>.
- 224 Ilya Somin, “Why Trump’s Executive Order on Sanctuary Cities Is Unconstitutional,” *Washington Post*, Jan. 26, 2017, https://www.washingtonpost.com/news/volokh-conspiracy/wp/2017/01/26/constitutional-problems-with-trumps-executive-order-on-sanctuary-cities/?utm_term=.f93b43c94766.
- 225 Joel Schectman, Chris Kenning, and Toni Clarke, “Trump Blasts States for Refusing to Hand Over Voter Data,” *Reuters*, July 1, 2017, <https://www.reuters.com/article/us-usa-trump-vote-tweet-idUSKBN19M3JN>.
- 226 Donald J. Trump (@realDonaldTrump), Twitter, (July 1, 2017, 6:07 am), <https://twitter.com/realdonaldtrump/status/881137079958241280?lang=en>.
- 227 Isaac Arnsdorf, “Trump: ‘The President Can’t Have a Conflict of Interest,’” *Politico*, Jan. 16, 2017, <https://www.politico.com/story/2016/11/trump-the-president-cant-have-a-conflict-of-interest-231760>. The reality is more complicated. While the federal criminal conflict of interest statute, 18 U.S.C. 208, exempts the president and vice president, that is arguably because Congress believed the Constitution prevented the president from engaging in conflicts of interest that would place the president’s personal interests above the public interest.
- 228 Time Staff, “Donald Trump’s Many, Many Business Dealings in 1 Map,” *Time*, Jan. 10, 2017, <http://time.com/4629308/donald-trump-business-deals-world-map/>.
- 229 Anita Kumar, “Foreign Governments Are Finding Ways to Do Favors for Trump’s Business,” *McClatchy DC Bureau*, <http://www.mcclatchydc.com/news/nation-world/article192131074.html>.
- 230 Peter Overby, “Critics Say Trump Group Doing New Foreign Deals, Despite Pledge to Refrain,” *NPR*, Feb. 13, 2017, <https://www.npr.org/2017/02/13/514935064/critics-say-trump-group-doing-new-foreign-deals-despite-pledge-to-refrain>.
- 231 *Id.*
- 232 Kumar, *supra* note 229.
- 233 *Constitutional Accountability Center*, “CAC Resource Page: Trump and the Foreign Emoluments Clause,” <https://www.theconstitution.org/trump-and-foreign-emoluments-clause>.
- 234 Kumar, *supra* note 229.
- 235 Jeffrey Toobin, “Behind the Democrats’ Emoluments Lawsuit Against Trump,” *The New Yorker*, June 20, 2017, <http://www.newyorker.com/news/daily-comment/behind-the-democrats-emoluments-lawsuit-against-trump>.

- 236 Norman Eisen, Richard Painter and Lawrence Tribe, “The Emoluments Clause, Its Text, Meaning, and Application to Donald J. Trump,” *Brookings*, Dec. 16, 2016, <https://www.brookings.edu/research/the-emoluments-clause-its-text-meaning-and-application-to-donald-j-trump/>.
- 237 Esther Yu Hsi Lee, “Trump Has Spent One-Third of His Days in Office Visiting a Trump-Owned Property,” *ThinkProgress*, Dec. 31, 2017, <https://thinkprogress.org/trump-2017-whereabouts-bdd2f9b0d24b/>.
- 238 Marilyn Geewax and Jackie Northam, “State Department Removes Webpage Featuring Trump’s For-Profit Club, Mar-A-Lago,” *NPR*, Apr. 24, 2017, <https://www.npr.org/2017/04/24/525444099/state-department-website-features-trumps-for-profit-club-mar-a-lago>.
- 239 Donald J. Trump (@realDonaldTrump), Twitter (Feb. 8, 2017 7:51 AM), <https://twitter.com/realDonaldTrump/status/829356871848951809>.
- 240 Elizabeth Segran, “Why Trump’s Nordstrom Tweet May Have Crossed an Ethical Line,” *Fast Company*, Feb. 8, 2017, <https://www.fastcompany.com/3068034/why-trumps-nordstrom-tweet-may-have-crossed-an-ethical-line>.
- 241 Interview of Kellyanne Conway on *Fox & Friends*, Fox News, Feb. 9, 2017, video accessed January 5, 2018 at <https://www.youtube.com/watch?v=f6ABh6YzJ6A>.
- 242 Richard Perez-Pena, “Ethics Watchdog Denounces Conway’s Endorsement of Ivanka Trump Products,” *New York Times*, Feb. 14, 2017, <https://www.nytimes.com/2017/02/14/us/politics/Kellyanne-Conway-ivanka-trump-ethics.html>.
- 243 Mollie Simon, “Former Ethics Director Says Trump Is Causing a ‘Crisis,’ Calls For Reforms,” *NPR*, July 28, 2017, <http://www.npr.org/2017/07/28/540004069/former-ethics-director-says-trump-is-causing-a-crisis-calls-for-reforms>.
- 244 Clava Brodsky, “Hungary’s Dangerous Constitution,” *Columbia Journal of Transnational Law Bulletin*, accessed January 2, 2018 at <http://jtl.columbia.edu/hungarys-dangerous-constitution/>.
- 245 Magyarország Alaptörvénye [The Fundamental Law of Hungary], Closing and Miscellaneous Provisions § 5, Apr. 25, 2011, English translation available at <http://2010-2014.kormany.hu/download/e/2a/d0000/ THE%20 FUNDAMENTAL%20LAW%20OF%20HUNGARY.pdf>.
- 246 Kim Lane Scheppele, “Understanding Hungary’s Constitutional Revolution,” A. von Bogdandy and P. Sonnevend (eds.), *Constitutional Crisis in the European Constitutional Area: Theory, Law and Politics in Hungary and Romania*, Hart Publishing, 2015, accessed January 2, 2018 at https://law.yale.edu/system/files/understanding_hungarys_constitutional_revolution.pdf.
- 247 *Id.* at 117.
- 248 Fundamental Law, Closing and Miscellaneous Provisions § 1; *Q&A: Hungary’s Controversial Constitutional Changes*, BBC, (Mar. 11, 2013), <http://www.bbc.com/news/world-europe-21748878>.

- 249 Kim Lane Scheppelle, “Guest Post: Hungary’s Attacks on the Rule of Law and Why They Matter for Business,” *Financial Times*, Feb. 5, 2014, <https://www.ft.com/content/6c538e70-168f-3d1e-ba92-8a80790a6247>.
- 250 *Human Rights Watch*, “EU: Polish Government Undermines Rule of Law,” Feb. 16, 2017, <https://www.hrw.org/news/2017/02/16/eu-polish-government-undermines-rule-law>.
- 251 *Freedom House*, “Nations In Transition 2016,” <https://freedomhouse.org/report/nations-transit/2016/poland>.
- 252 Michał Broniatowski, “Polish Government Moves to Take Control of Top Court,” *Politico*, July 13, 2017, <http://www.politico.eu/article/polish-government-moves-to-take-control-of-top-court/>; see also “A Veto Gives the Rule of Law in Poland a Reprieve,” *The Economist*, July 29, 2017, <https://www.economist.com/news/europe/21725575-governing-law-and-justice-party-still-aims-nobble-judiciary-veto-gives-rule>; “Poland’s Government Is Putting the Courts Under Its Control,” *The Economist*, July 22, 2017, <https://www.economist.com/news/europe/21725333-question-whether-eu-will-do-anything-about-it-polands-government-putting-courts>.
- 253 Daniel Boffey and Christian Davies, “Poland Cries Foul as EU Triggers ‘Nuclear Option’ Over Judicial Independence,” *The Guardian*, Dec. 20, 2017, <https://www.theguardian.com/world/2017/dec/20/eu-process-poland-voting-rights>.
- 254 Rick Lyman, “Poland’s President Offers New Path to End Court Crisis,” *New York Times*, Sep. 25, 2017, <https://www.nytimes.com/2017/09/25/world/europe/poland-courts-andrzej-duda.html>; “Polish MPs Pass Judicial Bills Amid Accusations of Threat to Democracy,” *The Guardian*, Dec. 8, 2017, <https://www.theguardian.com/world/2017/dec/08/polish-mps-pass-supreme-court-bill-criticised-as-grave-threat>.
- 255 Boffey and Davies, *supra* note 253.
- 256 *Freedom House*, “Freedom in the World Report 2015: Turkey Profile,” <https://freedomhouse.org/report/freedom-world/2015/turkey>.
- 257 *Id.*
- 258 *Id.*
- 259 *Office of the United Nations High Commissioner for Human Rights*, “UN Experts Urge Turkey to Respect the Independence of the Judiciary and Uphold the Rule of Law,” July 19, 2016, <http://www.ohchr.org/en/newsevents/pages/displaynews.aspx?newsid=20285&langid=e>.
- 260 Patrick Kinglsey, “Erdoğan Claims Vast Powers in Turkey After Narrow Victory in Referendum,” *New York Times*, Apr. 16, 2017, <https://www.nytimes.com/2017/04/16/world/europe/turkey-referendum-polls-erdogan.html>; Sinan Ekim and Kemal Kirişçi, “The Turkish Constitutional Referendum, Explained,” *Brookings*, Apr. 13, 2017, <https://www.brookings.edu/blog/order-from-chaos/2017/04/13/the-turkish-constitutional-referendum-explained/>.
- 261 Merrit Kennedy, “Venezuelan Authorities Halt Drive To Recall President Nicolas Maduro,” *NPR*, Oct. 21, 2016, <https://www.npr.org/sections/thetwo-way/2016/10/21/498842534/venezuelan-authorities-halt-drive-to-recall-president-nicolas-maduro>.

- 262 Mariana Zuñiga and Nick Miroff, “Denounced As Dictator, Maduro Backs Down, Reverses Court’s Ruling on Venezuela Legislature’s Powers,” *Washington Post*, Apr. 1, 2017, https://www.washingtonpost.com/world/the-americas/denounced-as-a-dictatorship-venezuela-backs-down-reverses-court-ruling/2017/04/01/88451da8-1659-11e7-bb16-269934184168_story.html?utmterm=.70296754e208.
- 263 Sibylla Brodzinsky, “Venezuela Heading for Dictatorship After ‘Sham’ Election, Warns US Amid Clashes,” *The Guardian*, July 31, 2017, <https://www.theguardian.com/world/2017/jul/30/fear-of-violence-hangs-over-venezuela-assembly-election>.
- 264 *Id.*
- 265 Nikki Haley (@nikkihaley), Twitter, (July 30, 2017 4:13 PM), <https://twitter.com/nikkihaley/status/891768738239979522>.
- 266 Emma Bowman, “Several Countries Reject Venezuela’s Election to Rewrite Constitution,” *NPR*, July 30, 2017, <https://www.npr.org/sections/thetwo-way/2017/07/30/540472340/several-countries-reject-venezuelas-election-to-rewrite-constitution>.
- 267 “New Venezuela Congress Leader Pushes for Negotiated Solution,” *Associated Press*, Jan. 5, 2018, http://hosted.ap.org/dynamic/stories/L/LT_VENEZUELA_POLITICAL_CRISIS?SITE=AP&SECTION=HOME&TEMPLATE=DEFAULT.
- 268 *Freedom House*, “Freedom in the World 2017: Russia profile,” <https://freedomhouse.org/report/freedom-world/2017/russia>.
- 269 Chuck Jones, “A Year Ago, Trump Promised Carrier Workers Help. We’re Still Waiting.” *Washington Post*, Nov. 29, 2017, https://www.washingtonpost.com/news/posteverything/wp/2017/11/29/a-year-ago-trump-promised-carrier-workers-help-were-still-waiting/?utm_term=.44b574812a9e.
- 270 Donald J. Trump (@realDonaldTrump), Twitter, (Dec. 7, 2016, 4:41 PM), <https://twitter.com/realDonaldTrump/status/806660011904614408>.
- 271 Michael D. Shear, “Trump As Cyberbully in Chief? Twitter Attack on Union Boss Draws Fire,” *New York Times*, Dec. 8, 2016, <https://www.nytimes.com/2016/12/08/us/politics/donald-trump-twitter-carrier-chuck-jones.html>.
- 272 James Briggs, “Carrier Postpones Layoffs That Were Set to Hit 3 Days Before Christmas,” *Indy Star*, Nov. 9, 2017, <https://www.indystar.com/story/money/2017/11/07/carrier-postpones-layoffs-were-set-hit-3-days-before-christmas/841273001/>; see also Gregg Re, “Final Round of Layoffs Planned At Carrier Plant Trump Promised to Save,” *Fox News*, Nov. 8, 2017, <http://www.foxnews.com/politics/2017/11/08/more-layoffs-planned-at-carrier-plant-trump-promised-to-save.html>; Naomi Lim, “Former Carrier Employee Slams Trump: He ‘Blew Smoke Up Our Asses,’” *Washington Examiner*, July 23, 2017, <http://www.washingtonexaminer.com/former-carrier-employee-slams-trump-he-blew-smoke-up-our-asses/article/2629460>.

- 273 Jenna Johnson, “This Is What Happens When Donald Trump Attacks a Private Citizen on Twitter,” *Washington Post*, Dec. 8, 2016, https://www.washingtonpost.com/politics/this-is-what-happens-when-donald-trump-attacks-a-private-citizen-on-twitter/2016/12/08/a1380ece-bd62-11e6-91ee-1addfe36cbe_story.html?utm_term=.3d6ffcab560d.
- 274 The Editorial Board, “Will Trump’s Lows Ever Hit Rock Bottom?” *USA Today*, Dec. 15, 2017, <https://www.usatoday.com/story/opinion/2017/12/12/trump-lows-ever-hit-rock-bottom-editorials-debates/945947001/>.
- 275 Donald J. Trump (@realDonaldTrump), Twitter, (Sep. 30, 2017, 4:26 AM), <https://twitter.com/realDonaldTrump/status/914089003745468417>;
Donald J. Trump (@realDonaldTrump), Twitter, (Sep. 30, 2017, 4:29 AM), <https://twitter.com/realdonaldtrump/status/91408988596754434>.
- 276 Kate Sommers-Dawes, “All the Times Trump Has Called for Violence at His Rallies,” *Mashable*, Mar. 12, 2016, <http://mashable.com/2016/03/12/trump-rally-ignite-violence/#R8p1pU7EViqU>.
- 277 Mark Sanford, “I Support You, Donald Trump. Now Release Your Tax Returns,” *New York Times*, Aug. 14, 2016, https://www.nytimes.com/2016/08/15/opinion/i-support-you-donald-trump-now-release-your-tax-returns.html?_r=0.
- 278 Rachel Bade, “Trump Posse Browbeats Hill Republicans,” *Politico*, Dec. 21, 2016, <http://www.politico.com/story/2016/12/donald-trump-congress-republicans-232800>.
- 279 *Id.*
- 280 *Associated Press*, “Trump Says NFL Should Fire Players Who Kneel During Anthem,” Sep. 22, 2017, <http://www.nbcsports.com/boston/new-england-patriots/trump-says-nfl-should-fire-players-who-kneel-during-anthem>.
- 282 Emily Yahr, “President Trump Calls for Washington Post Reporter Who Apologized for Inaccurate Tweet to Be Fired,” *Washington Post*, Dec. 9, 2017, https://www.washingtonpost.com/lifestyle/style/president-trump-calls-for-washington-post-reporter-who-apologized-for-inaccurate-tweet-to-be-fired/2017/12/09/2fb-467de-dd4b-11e7-b1a8-62589434a581_story.html?utm_term=.5462da87a20a.
- 283 Ian Schwartz, “Trump: ABC Should Have Fired Brian Ross for False Flynn Story,” *RealClearPolitics*, Dec. 9, 2017, https://www.realclearpolitics.com/video/2017/12/09/trump_abc_should_have_fired_brian_ross_for_false_flynn_story_i_should_sue.html.
- 284 Peter Baker and Ken Belson, “Trump Threatens NFL and Attacks Jemele Hill of ESPN,” *New York Times*, Oct. 10, 2017, <https://www.nytimes.com/2017/10/10/us/politics/trump-nfl-jemele-hill.html>.
- 285 Henry J. Gomez, “Donald Trump’s Allies Join His Crusade Against the NFL,” *Buzzfeed*, Sep. 24, 2017, https://www.buzzfeed.com/henrygomez/donald-trumps-allies-start-nfl-boycott-ad-campaign?utm_term=.mwEYpLV-vp#.vmqOPKewP.
- 286 Dan Gartland, “Kickboxing Instructor Fired for Sitting During National Anthem,” *Sports Illustrated*, Oct. 11, 2017, <https://www.si.com/more-sports/2017/10/11/national-anthem-protest-kickboxing-tyler-chancellor-fired>.

- 287 Joanna Walters, “Woman Who Gave Donald Trump The Middle Finger Fired From Her Job,” *The Guardian*, Nov. 7, 2017, <https://www.theguardian.com/us-news/2017/nov/06/woman-trump-middle-finger-fired-juli-briskman>.
- 288 Donald Trump, (@realDonaldTrump), Twitter, (June 28, 2017, 6:06 AM), <https://twitter.com/realDonaldTrump/status/880049704620494848>; Patricia Cohen, “Trump, Amazon, and ‘Internet Taxes’: What Did He Mean?” *New York Times*, June 28, 2017, https://www.nytimes.com/2017/06/28/business/trump-internet-tax-amazon.html?_r=0.
- 289 Aric Jenkins, “President Trump Calls CNN Staff ‘Horrible Human Beings’ in Leaked Audio From RNC Fundraiser,” *Time*, July 1, 2017, <http://time.com/4842997/donald-trump-cnn-horrible-human-beings/>.
- 290 Sarah Ellison, “Has Trump Turned CNN Into a House of Existential Dread?” *Vanity Fair*, July 18, 2017, <https://www.vanityfair.com/news/2017/07/has-trump-turned-cnn-into-a-house-of-existential-dread>; Joe Concha, “CNN Employee to Vanity Fair: ‘Real Chance That Zucker Is Being Forced Out,’” *The Hill*, July 19, 2017, <http://thehill.com/homenews/media/342681-cnn-employee-to-vanity-fair-real-chance-zucker-could-be-forced-out>.
- 291 Hadas Gold, “Donald Trump: We’re Going to ‘Open Up’ Libel Laws,” *Politico*, Feb. 26, 2016, <http://www.politico.com/blogs/on-media/2016/02/donald-trump-libel-laws-219866>; Donald Trump (@realDonaldTrump), Twitter, (Mar. 30, 2017, 7:27 AM) <https://twitter.com/realDonaldTrump/status/847455180912181249>; Martin Pengelly, “Reince Priebus Says White House Is Looking Into Change to Libel Laws,” *The Guardian*, Apr. 30, 2017, <https://www.theguardian.com/media/2017/apr/30/reince-priebus-libel-law-change-media-white-house>.
- 292 Peter Baker and Cecilia Kang, “Trump Threatens NBC Over Nuclear Weapons Report,” *New York Times*, Oct. 11, 2017, https://www.nytimes.com/2017/10/11/us/politics/trump-nbc-fcc-broadcast-license.html?_r=0.
- 293 Josh Dawsey and Ashley Parker, “Trump Lawyer Seeks to Block Insider Book on White House,” *Washington Post*, Jan. 4, 2018, https://www.washingtonpost.com/politics/trump-slams-bannon-when-he-was-fired-he-not-only-lost-his-job-he-lost-his-mind/2018/01/03/21fb158a-f0aa-11e7-b3bf-ab90a706e175_story.html?utm_term=.bc17555e2ea5.
- 294 Heba Saleh, “Activists Accuse Egypt Leader of Stifling Dissent Ahead of Poll,” *Financial Times*, June 1, 2017, <https://www.ft.com/content/84c46f0a-469f-11e7-8d27-59b4dd6296b8>.
- 295 Zoltan Simon, “Hungarians Press on With Protests as Orbán Takes Aim at Soros,” *Bloomberg News*, Apr. 15, 2017, <https://www.bloomberg.com/news/articles/2017-04-15/hungarian-laws-fueling-protests-target-soros-orban-tells-idok>.
- 296 *Id.*
- 297 Erin Cunningham, “In Quest to Punish Coup Plotters, Turkey Squeezes Out Room for Dissent,” *Washington Post*, July 25, 2016, https://www.washingtonpost.com/world/middle-east/in-quest-to-punish-coup-plotters-turkey-squeezes-out-room-for-dissent/2016/07/25/6804175e-4dd4-11e6-bf27-405106836f96_story.html?utm_term=.30177a671e8f
- 298 Patrick Kingsley, “Turkey Arrests Dozens Over Referendum Protests,” *New York Times*, Apr. 19, 2017, <https://www.nytimes.com/2017/04/19/world/europe/turkey-Erdoğan-arrests.html>.

- 299 Karoun Demirjian, “Meanwhile in Russia, Putin Passes Law Against Protests,” *Washington Post*, July 22, 2014, https://www.washingtonpost.com/news/worldviews/wp/2014/07/22/meanwhile-in-russia-putin-passes-law-against-protests/?utm_term=.986ee9404dd0.
- 300 *Id.*
- 301 Shaun Walker, “Russian Opposition Leader Alexei Navalny Jailed After Protests,” *The Guardian*, Mar. 27, 2017, <https://www.theguardian.com/world/2017/mar/27/russian-opposition-leader-alexei-navalny-at-court-following-arrest>.
- 302 *Associated Press in Moscow*, “Russian Opposition Leader Alexei Navalny Barred from Running for President,” *The Guardian*, Dec. 25, 2017, <https://www.theguardian.com/world/2017/dec/25/russian-opposition-leader-alexei-navalny-barred-from-running-for-president>.
- 303 Jan-Werner Müller, *What Is Populism?*, Penn Press, 2016. <http://www.upenn.edu/pennpress/book/15615.html>.
- 304 “‘Islam Is Peace’ Says President,” Remarks by the President at Islamic Center of Washington, D.C., Washington, D.C., *Office of the Press Secretary*, Sep. 17, 2001, <https://georgewbush-whitehouse.archives.gov/news/releases/2001/09/20010917-11.html>.
- 305 Jan-Werner Müller, “Real Citizens,” *Boston Review*, Oct. 26, 2016, <http://bostonreview.net/politics/jan-werner-muller-populism>.
- 306 Jan-Werner Müller, “Donald Trump’s Use of the Term ‘the People’ Is a Warning Sign,” *The Guardian*, Jan. 24, 2017, <https://www.theguardian.com/commentisfree/2017/jan/24/donald-trumps-warning-sign-populism-authoritarianism-inauguration>.
- 307 Time Staff, “Here’s Donald Trump’s Presidential Announcement Speech,” *Time*, June 16, 2015, <http://time.com/3923128/donald-trump-announcement-speech/>.
- 308 Katie Reilly, “Here Are All the Times Trump Insulted Mexico,” *Time*, Aug. 31, 2016, <http://time.com/4473972/donald-trump-mexico-meeting-insult/>.
- 309 Donald J. Trump (@realDonaldTrump), Twitter, (May 2, 2016, 7:06AM), <https://twitter.com/realDonaldTrump/status/727137190967435265>.
- 310 Brent Kendall, “Trump Says Judge’s Mexican Heritage Presents ‘Absolute Conflict,’” *Wall Street Journal*, June 3, 2016, <https://www.wsj.com/articles/donald-trump-keeps-up-attacks-on-judge-gonzalo-curiel-1464911442>.
- 311 Video clip, “Paul Ryan: Trump Made ‘Textbook Definition of a Racist Comment,’” *PBS*, June 7, 2016, <http://www.pbs.org/weta/washingtonweek/web-video/paul-ryan-trump-made-textbook-definition-racist-comment>.
- 312 Theodore Schleifer, “Donald Trump: ‘I Think Islam Hates Us,’” *CNN*, Mar. 10, 2016, <http://www.cnn.com/2016/03/09/politics/donald-trump-islam-hates-us/index.html>.
- 313 Fred Barbash, “Muslim Ban Language Suddenly Disappears from Trump Campaign Website After Spicer Questioned,” *Washington Post*, May 9, 2017, https://www.washingtonpost.com/news/morning-mix/wp/2017/05/09/trumps-preventing-muslim-immigration-vow-disappears-from-campaign-website-after-spicer-ques-tioned/?utm_term=.d9ee9e14176f.

- 314 Melanie Zanona And Lydia Wheeler, “Judge Blocks Trump’s Revised Travel Ban,” *The Hill*, Mar. 15, 2017, <http://thehill.com/regulation/court-battles/324210-judge-blocks-trumps-revised-travel-ban>.
- 315 Sophia Nelson, “What’s Trump’s Problem with Black Women?” *Politico*, Oct. 26, 2017, <https://www.politico.com/magazine/story/2017/10/26/trump-black-women-gop-215751>; Vann R. Newkirk II, “Donald Trump’s Eternal Feud with Blackness,” *The Atlantic*, Nov. 22, 2017, <https://www.theatlantic.com/politics/archive/2017/11/donald-trump-lavar-ball-marshawn-lynch-tweeting/546686>; Greg Sargent, “Trump just rage-tweeted about a prominent African American again,” *Washington Post*, Nov. 22, 2017, https://www.washingtonpost.com/blogs/plum-line/wp/2017/11/22/trump-just-rage-tweeted-about-a-prominent-african-american-again/?utm_term=.92b20d147004.
- 316 Travis Waldron, “There’s a Reason Powerful Americans Love to Attack Black Sports Figures,” *Huffington Post*, Nov. 23, 2017, https://www.huffingtonpost.com/entry/trump-white-america-black-athletes_us_5a15db6ce4b064948072a8c4.
- 317 Scott Bixby, “Trump on Colin Kaepernick: ‘He Should Find a Country That Works Better for Him,’” *The Guardian*, Aug. 29, 2017, <https://www.theguardian.com/sport/2016/aug/29/donald-trump-colin-kaepernick-national-anthem-protest>.
- 318 *SI Wire*, “Video: Donald Trump Criticizes Colin Kaepernick at Rally in Kentucky,” *Sports Illustrated*, Mar. 20, 2017, <https://www.si.com/nfl/2017/03/20/donald-trump-colin-kaepernick-kentucky-rally-video>; Judd Legum, “Trump Delivers Unhinged Rant on NFL, Calls Colin Kaepernick a ‘Son of a Bitch,’” *ThinkProgress*, Sep. 22, 2017, <https://thinkprogress.org/trump-delivers-unhinged-rant-on-nfl-calls-colin-kaepernick-a-son-of-a-bitch-f6d6298516ad/>.
- 319 Maegan Vazquez, “Trump Calls LaVar Ball an ‘Ungrateful Fool,’” *CNN*, Nov. 22, 2017, <http://www.cnn.com/2017/11/22/politics/trump-lavar-ball-tweets/index.html>.
- 320 Abby Phillip, “Trump Attacks ESPN’s Jemele Hill, Calls for End to NFL Tax Breaks,” *Washington Post*, Oct. 10, 2017, https://www.washingtonpost.com/news/post-politics/wp/2017/10/10/trump-attacks-espns-jemele-hill-calls-for-end-to-nfl-tax-breaks/?utm_term=.3aeb9df15487.
- 321 Richard Prince, “Trump Campaign Video Attacks April Ryan,” *The Root*, Aug. 16, 2017, <https://journalisms.theroot.com/trump-campaign-video-attacks-april-ryan-1797892482>.
- 322 Philip Bump, “‘They Friends of Yours?’: Trump Asks Black Reporter to Set Up Meeting with Black Caucus,” *Washington Post*, Feb. 16, 2017, https://www.washingtonpost.com/news/politics/wp/2017/02/16/trump-asks-a-black-reporter-to-set-up-a-meeting-with-black-members-of-congress/?utm_term=.dfeae328e818.
- 323 Nolan D. McCaskill, “Trump Attacks Merck CEO for Quitting Manufacturing Council over Charlottesville,” *Politico*, Aug. 14, 2017, <https://www.politico.com/story/2017/08/14/trump-tweet-ken-frazier-merck-charlottesville-241613>.
- 324 Jeremy Diamond, “Trump Keeps up Attack on ‘Wacky’ Congresswoman over Gold Star Call,” *CNN*, Oct. 22, 2017, <http://www.cnn.com/2017/10/21/politics/trump-tweets-wilson-gold-star/index.html>.

- 325 Colleen Shalby, “From Blaming ‘Many Sides’ to ‘Racism Is Evil’ and Back Again, What Trump Has Said so Far on Charlottesville,” *Los Angeles Times*, Aug. 15, 2017, <http://beta.latimes.com/politics/washington/la-na-essential-washington-updates-how-trump-s-responded-to-violence-in-1502831078-htmlstory.html>.
- 326 Rosie Gray, “Trump Defends White-Nationalist Protesters: ‘Some Very Fine People on Both Sides,’” *The Atlantic*, Aug. 15, 2017, <https://www.theatlantic.com/politics/archive/2017/08/trump-defends-white-nationalist-protesters-some-very-fine-people-on-both-sides/537012/>.
- 327 Donald J. Trump (@realDonaldTrump), Twitter, (July 26, 2017, 5:55 AM), <https://twitter.com/realDonaldTrump/status/890193981585444864>;
Donald J. Trump (@realDonaldTrump), Twitter, (July 26, 2017, 6:04 AM), <https://twitter.com/realDonaldTrump/status/890196164313833472>;
Donald J. Trump (@realDonaldTrump), Twitter, (July 26, 2017, 6:08 AM), <https://twitter.com/realdonaldtrump/status/890197095151546369>.
- 328 GarrettEpps, “Trump’s Tweets Take Down His Military Ban on Trans People,” *The Atlantic*, Nov. 1, 2017, <https://www.theatlantic.com/politics/archive/2017/11/pricking-of-his-thumbs/544547/>.
- 329 Keno Versek, “Orbán Friend Says Roma ‘Shouldn’t Be Allowed to Exist’,” *Spiegel Online*, Jan. 11, 2013, <http://www.spiegel.de/international/europe/hungarian-journalist-says-roma-should-not-be-allowed-to-exist-a-876887.html>.
- 330 Testimony of Paul A. Shapiro, Director, Center for Advanced Holocaust Studies, United States Holocaust Memorial Museum, to the U.S. Commission on Security and Cooperation in Europe regarding “The Trajectory of Democracy: Why Hungary Matters,” Washington, D.C., Mar. 19, 2013, accessed January 4, 2018 at <https://www.ushmm.org/m/pdfs/20130802-testimony.pdf>.
- 331 *United States Holocaust Memorial Museum*, “Museum Condemns Attempts to Rehabilitate Hungarian Fascist Leader,” June 28, 2017, <https://www.ushmm.org/information/press/press-releases/museum-condemns-attempts-to-rehabilitate-hungarian-fascist-leader>.
- 332 Thomas Escritt, “Hungary’s Minorities Bear Brunt of Anti-Migrant Rhetoric,” *Reuters*, Oct. 1, 2015, <https://www.reuters.com/article/us-europe-migrants-hungary-roma/hungarys-minorities-bear-brunt-of-anti-migrant-rhetoric-idUSKCN0RV43E20151001>.
- 333 Vanessa Gera, “Right-Wing Polish Leader Kaczynski Says Migrants Carry Diseases to Europe,” *U.S. News*, Oct. 14, 2015, <https://www.usnews.com/news/world/articles/2015/10/14/right-wing-polish-leader-migrants-carry-diseases-to-europe>.
- 334 Jan Cieski, “Why Poland Doesn’t Want Refugees,” *Politico*, May 21, 2017, <https://www.politico.eu/article/politics-nationalism-and-religion-explain-why-poland-doesnt-want-refugees/>.
- 335 Zia Weise, “Turkish ‘No’ Voices Muffled in Erdoğan’s Referendum,” *Politico*, Feb. 25, 2017 (updated Apr. 12, 2017), <https://www.politico.eu/article/turkey-constitutional-referendum-recep-tayyip-erdogan-orhan-pamuk-akp-chp-degirmenci-hurriyet/>.

- 336 Constanze Letsch and Ian Traynor, “Election Result Heralds a New Turkey, but Not the One Erdoğan Wanted,” *The Guardian*, June 8, 2015, <https://www.theguardian.com/world/2015/jun/08/election-new-turkey-Erdoğan-gezi-park>.
- 337 The Editorial Board, “As Chechnya Tortures and Kills Gay Men, Putin Shrugs,” *Washington Post*, Apr. 24, 2017, https://www.washingtonpost.com/opinions/as-chechnya-tortures-and-kills-gay-men-putin-shrugs/2017/04/24/12f6a9b0-2697-11e7-b503-9d616bd5a305_story.html?utm_term=.49689e059454.
- 338 Owen Matthews, “Revealed: Putin’s Covert War on Western Decadence,” *The Spectator*, Oct. 1, 2016, <https://www.spectator.co.uk/2016/10/revealed-putins-covert-war-on-western-decadence/>.
- 339 *See, e.g.*, Voting Rights Act, 42 U.S.C. Sec. 10101 et seq. (Supp. II 2015).
- 340 Help America Vote Act, 52 U.S.C. Sec. 20901 et seq. (Supp. II 2015); National Voter Registration Act of 1993, 52 U.S.C. Sec. 20501 et seq. (Supp. II 2015).
- 341 Stephen Collinson, “Donald Trump Refuses to Say Whether He’ll Accept Election Results,” *CNN*, Oct. 20, 2016, <http://www.cnn.com/2016/10/19/politics/presidential-debate-highlights/index.html>.
- 342 Patricia Zengerle and Emily Stevenson, “Trump Says He Will Accept Election Result—If He Wins,” *Reuters*, Oct. 19, 2016, <http://www.reuters.com/article/us-usa-election-idUSKCN12J0ZM>.
- 343 Philip Bump, “There Have Been Just Four Documented Cases of Voter Fraud in the 2016 Election,” *Washington Post*, Dec. 1, 2016, https://www.washingtonpost.com/news/the-fix/wp/2016/12/01/0-000002-percent-of-all-the-ballots-cast-in-the-2016-election-were-fraudulent/?utm_term=.af2f5f253715.
- 344 Brennan Center Staff, “In Their Own Words: Officials Refuting False Claims of Voter Fraud,” *Brennan Center*, Apr. 13, 2017, <http://www.brennancenter.org/quotes-on-voter-fraud>.
- 345 Michael D. Shear and Peter Baker, “After His Claim of Voter Fraud, Trump Vows ‘Major Investigation,’” *New York Times*, Jan. 25, 2017, <https://www.nytimes.com/2017/01/25/us/politics/trump-voting-fraud-false-claim-in-vestigation.html>.
- 346 Donald J. Trump (@realDonaldTrump), Twitter, (Jan. 25, 2017, 4:10 AM), <https://twitter.com/realdonaldtrump/status/824227824903090176>.
- 347 Presidential Executive Order on the Establishment of Presidential Advisory Commission on Election Integrity, May 11, 2017, <https://www.whitehouse.gov/presidential-actions/presidential-executive-order-establishment-presidential-advisory-commission-election-integrity/>.
- 348 Julie Hirschfield Davis, “Trump Picks Voter ID Advocate for Election Fraud Panel,” *New York Times*, May 11, 2017, <https://www.nytimes.com/2017/05/11/us/politics/trump-voter-fraud.html>.

- 349 The commission’s data request triggered several lawsuits, including one by Protect Democracy. That case, *United to Protect Democracy v. Presidential Advisory Commission on Election Integrity*, argues that the request violated federal laws requiring that, before the government collect sweeping information from Americans, it must disclose to the public the justification for the data-collection, the intended use, and the privacy and data safety protections that will be employed, and then allow for public comment before moving forward.
- 350 Michael Chertoff, “Trump’s Voter Data Request Poses an Unnoticed Danger,” *Washington Post*, July 5, 2017, https://www.washingtonpost.com/opinions/trumps-voter-data-request-poses-an-unnoticed-danger—to-national-security/2017/07/05/470efce0-60c9-11e7-8adc-fea80e32bf47_story.html?utm_term=.5cd35f6dd4b9.
- 351 Susan Hennessey and Benjamin Wittes, “Jeff Sessions Just Confessed His Negligence on Russia,” *Foreign Policy*, Oct. 20, 2017, <http://foreignpolicy.com/2017/10/20/jeff-sessions-just-confessed-his-negligence-on-russia/>.
- 352 *Id.*
- 353 Michael K. Miller, “The Surprising Benefits of Autocratic Elections,” *Washington Post* (Apr. 2, 2015), https://www.washingtonpost.com/news/monkey-cage/wp/2015/04/02/the-surprising-benefits-of-autocratic-elections/?utm_term=.9a20af16e3d7.
- 354 Reuters Staff, “Venezuela Lawmakers Strip Power from Caracas Mayor,” *Reuters*, Apr. 7, 2009, <https://www.reuters.com/article/venezuela-chavez-opposition-idAFN0749304620090407>.
- 355 Diego Cupolo, “What Turkey’s Election Observers Saw,” *The Atlantic*, Apr. 21, 2017, <https://www.theatlantic.com/international/archive/2017/04/turkey-Erdoğan-referendum-kurds-hdp-fraud/523920/>.
- 356 Patrick Kingsley, “Videos Fuel Charges of Fraud in Erdoğan’s Win in Turkey Referendum,” *New York Times*, Apr. 18, 2017, <https://www.nytimes.com/2017/04/18/world/europe/turkey-referendum-is-haunted-by-allegations-of-voter-fraud.html>.
- 357 Hamid Alizadeh, “Turkey: How Did Erdoğan ‘Win’ the Referendum?” *Socialist Appeal*, Apr. 19, 2017), <http://www.socialist.net/turkey-how-did-erdogan-win-the-referendum.htm>.
- 358 The Data Team, “Fraud in Russia’s Elections,” *The Economist*, Sep. 9, 2016, <http://www.economist.com/blogs/graphicdetail/2016/09/daily-chart-12>.
- 359 Note that China also has an influence operation, but it has been much lower profile in the United States. Its impact has been much greater in Australia and New Zealand; see Jamil Anderlini and Jamie Smyth, “West Grows Wary of China’s Influence Game,” *Financial Times*, Dec. 19, 2017, <https://www.ft.com/content/d3ac306a-e188-11e7-8f9f-de1c2175f5ce>.
- 360 Jeremy Diamond, “Intel Report: Putin Directly Ordered Effort to Influence Election,” *CNN*, Jan. 6, 2017, <http://www.cnn.com/2017/01/06/politics/intelligence-report-putin-election/index.html>.
- 361 *Intelligence Community Assessment*, “Assessing Russian Activities and Intentions in Recent US Elections,” Jan. 6, 2017, https://www.dni.gov/files/documents/ICA_2017_01.pdf (hereinafter “IC Assessment”).

- 362 Carol Morello, “Tillerson Has Harsh Words for Russia’s ‘Malicious Tactics,’” *Washington Post*, Nov. 28, 2017, https://www.washingtonpost.com/world/national-security/tillerson-has-harsh-words-for-russias-malicious-tactics/2017/11/28/f3136426-d465-11e7-a986-d0a9770d9a3e_story.html?utm_term=.9c255ac48212.
- 363 Daniella Diaz, “CIA Director Stands by Intel Community Assessment Russia Meddled in Election,” *CNN*, Nov. 11, 2017, <http://www.cnn.com/2017/11/11/politics/mike-pompeo-cia-donald-trump-white-house-russia-med-dling/index.html?>
- 364 Ken Dilanian, “Intelligence Director Says Agencies Agree on Russian Meddling,” *CNN*, July 21, 2017, <https://www.nbcnews.com/news/us-news/intelligence-director-says-agencies-agree-russian-meddling-n785481>.
- 365 Adam Entous, et al., “Kremlin Trolls Burned Across the Internet as Washington Debated Options,” *Washington Post*, Dec. 25, 2017, https://www.washingtonpost.com/world/national-security/kremlin-trolls-burned-across-the-internet-as-washington-debated-options/2017/12/23/e7b9dc92-e403-11e7-ab50-621fe0588340_story.html?utm_term=.ff9ca9b4aecc.
- 366 Alina Polyakova, et al., “The Kremlin’s Trojan Horses,” *Atlantic Council*, Nov. 15, 2016, <http://www.atlantic-council.org/publications/reports/kremlin-trojan-horses>.
- 367 Alina Polyakova, et al., “The Kremlin’s Trojan Horses 2.0,” *Atlantic Council*, Nov. 15, 2017, <http://www.atlanticcouncil.org/publications/reports/the-kremlin-s-trojan-horses-2-0>.
- 368 See, e.g., Howard Blum, “How Ex-Spy Christopher Steele Compiled His Explosive Trump-Russia Dossier,” *Vanity Fair*, Apr. 2017, <https://www.vanityfair.com/news/2017/03/how-the-explosive-russian-dossier-was-compiled-christopher-steele>; David Ignatius, “A History of Donald Trump’s Business Dealings in Russia,” *Washington Post*, Nov. 2, 2017, https://www.washingtonpost.com/opinions/a-history-of-donald-trumps-business-dealings-in-russia/2017/11/02/fb8eed22-ba9e-11e7-be94-fabb0f1e9ffb_story.html?utm_term=.cbe3d2979822; Luke Harding, “The Hidden History of Trump’s First Trip to Moscow,” *Politico*, Nov. 22, 2017, <https://www.politico.eu/article/donald-trump-russia-the-hidden-history-of-trumps-first-trip-to-moscow/>.
- 369 Alina Polyakova, et al., *supra* note 366.
- 370 Anton Shekhovtsov, *Russia and the Western Far Right: Tango Noir*, Routledge, 2017, p. 250.
- 371 Hannah Arendt, *The Origins of Totalitarianism*, Harcourt, Brace, Jovanovich, 1973, p. 382.
- 372 IC Assessment, *supra* note 361; for a summary of how these efforts fit in with longstanding Russian efforts to destabilize Western democracies, see Amicus Brief on behalf of Former National Security Officials in Support of Neither Party, *Cockrum v. Trump Campaign* (D.D.C. Dec. 8, 2017), <https://protectdemocracy.org/resource-library/document/amicus-brief-former-national-security-officials-support-neither-party/>.
- 373 Kurt Wagner, “Facebook Will Share 3,000 Russian Political Ads with Congress on Monday,” *Recode*, Oct. 1, 2017, <https://www.recode.net/2017/10/1/16394288/facebook-russia-ads-congress-senate-house-mark-zuckerberg>.

- 374 Scott Shane, “The Fake Americans Russia Created to Influence the Election,” *New York Times*, Sep. 7, 2017, <https://www.nytimes.com/2017/09/07/us/politics/russia-facebook-twitter-election.html>.
- 375 Fred Kaplan, “The Info Wars to Come,” *Slate*, Sep. 8, 2017, http://www.slate.com/articles/news_and_politics/war_stories/2017/09/russia_is_weaponizing_social_media.html.
- 376 Julia Ioffe, “The Secret Correspondence Between Donald Trump Jr. and WikiLeaks,” *The Atlantic*, Nov. 13, 2017, <https://www.theatlantic.com/politics/archive/2017/11/the-secret-correspondence-between-donald-trump-jr-and-wikileaks/545738/>.
- 377 Garry Kasparov, *Winter Is Coming: Why Vladimir Putin and the Enemies of the Free World Must Be Stopped*, Atlantic Books, 2015; Shekhovtsov, *supra* note 370.
- 378 Roberto Stefan Foa and Yascha Mounk, “The Danger of Deconsolidation: The Democratic Disconnect,” *Journal of Democracy* 27, no. 3 (July 2016), <http://www.journalofdemocracy.org/sites/default/files/Foa-Mounk-27-3.pdf>.
- 379 Kasparov, *supra* note 377.
- 380 Masha Gessen, *The Man Without a Face: The Unlikely Rise of Vladimir Putin*, Penguin Press, 2012.
- 381 Ben Judah and Belinda Li, “Money Laundering for 21st Century Authoritarianism: Western Enablement of Kleptocracy,” Kleptocracy Initiative, *Hudson Institute*, p.7 (Dec. 2017), <https://s3.amazonaws.com/media.hudson.org/files/publications/MoneyLaunderingKI.pdf>.
- 382 Peter Baker and Matthew Rosenberg, “Michael Flynn Was Paid to Represent Turkey’s Interests During Trump Campaign,” *New York Times*, Mar. 10, 2017, <https://www.nytimes.com/2017/03/10/us/politics/michael-flynn-turkey.html>.
- 383 Jeremy Herb, et al., “Ex-Trump Campaign Adviser Pleads Guilty to Making False Statement,” *CNN*, Oct. 31, 2017, <http://www.cnn.com/2017/10/30/politics/paul-manafort-russia-investigation-surrender/index.html>.
- 384 Rosalind S. Helderman and Tom Hamburger, “Guns and Religion: How American Conservatives Grew Closer to Putin’s Russia,” *Washington Post*, Apr. 30, 2017, https://www.washingtonpost.com/politics/how-the-republican-right-found-allies-in-russia/2017/04/30/e2d83ff6-29d3-11e7-a616-d7c8a68c1a66_story.html; *see also* Herb, et al., *supra* note 383.
- 385 Even into his presidency, Donald Trump continues to defend Vladimir Putin against all odds, even to the point of excusing the murder of Russian journalists; *see, e.g.*, Brooke Seipel, “Trump Defends Putin,” *The Hill*, Feb. 4, 2017, <http://thehill.com/blogs/ballot-box/317945-trump-defends-putin-you-think-our-country-is-so-innocent>.
- 386 Natasha Bertrand, “A Chilling National Rifle Association Ad Gaining Traction Online Appears to Be ‘an Open Call to Violence,’” *Business Insider*, June 29, 2017, www.businessinsider.com/national-rifle-association-ad-call-to-violence-2017-6; Rosalind S. Helderman and Tom Hamburger, “Guns and Religion: How American Conservatives Grew Closer to Putin’s Russia,” *Washington Post*, Apr. 30, 2017, https://www.washingtonpost.com/politics/how-the-republican-right-found-allies-in-russia/2017/04/30/e2d83ff6-29d3-11e7-a616-d7c8a68c1a66_story.html.

- 387 Matthew Rosenberg, “Trump Misleads on Russian Meddling: Why 17 Intelligence Agencies Don’t Need to Agree,” *New York Times*, July 6, 2017, <https://www.nytimes.com/2017/07/06/us/politics/trump-russia-intelligence-agencies-cia-fbi-nsa.html>; Alex Ward, “Trump Chooses Putin’s Word Over the US Intelligence Community’s—Again,” *Vox*, Nov. 11, 2017, <https://www.vox.com/2017/11/11/16636906/trump-russia-putin-intelligence>.
- 388 Natasha Bertrand, “Former Officials: Trump Seemed Prepared to Lift Russia Sanctions ‘in Exchange for Absolutely Nothing,’” *Business Insider*, June 2, 2017, <http://www.businessinsider.com/trump-wanted-to-lift-russia-sanctions-days-after-taking-office-2017-6>.
- 389 *German Marshall Fund*, “Tracking Russian Influence Operations on Twitter,” <http://dashboard.securingdemocracy.org/>.
- 390 Michael Morell and Mike Rogers, “Russia Never Stopped Its Cyberattacks on the United States,” *Washington Post*, Dec. 25, 2017, https://www.washingtonpost.com/opinions/russia-never-stopped-its-cyberattacks-on-the-united-states/2017/12/25/83076f2e-e676-11e7-a65d-1ac0fd7f097e_story.html?utm_term=.e886102a256c.
- 391 This is to discount neither the very real military invasions of Georgia (2008) and Ukraine (2014), the latter of which is still ongoing, nor the reliance of many European countries on Russian oil and natural gas—the major factor keeping the Russian economy afloat. Rather, this discussion focuses on the relationship of Russia to the most prominent Western democracies, in particular the United States, which it sees as rivals in the race for regional hegemony.
- 392 Adam Taylor, “Before ‘Fake News,’ There Was Soviet ‘Disinformation,’” *Washington Post*, Nov. 26, 2016, https://www.washingtonpost.com/news/worldviews/wp/2016/11/26before-fake-news-there-was-soviet-disinformation/?utm_term=.53ff3e2eaf2c.
- 393 *American Association of University Professors*, “On Partnerships with Foreign Governments: The Case of Confucius Institutes,” June 2014, <https://www.aaup.org/report/confucius-institutes>; Bethany Allen-Ebrahimian, “This Beijing-Linked Billionaire Is Funding Policy Research at Washington’s Most Influential Institutions,” *Foreign Policy*, Nov. 28, 2017, <http://foreignpolicy.com/2017/11/28/this-beijing-linked-billionaire-is-funding-policy-research-at-washingtons-most-influential-institutions-china-dc/>.
- 394 *Federalist No. 68*.
- 395 Fred Barbash, “Appeals Court Judges Rebuke Trump for ‘Personal Attacks’ on Judiciary, ‘Intimidation,’” *Washington Post*, Mar. 16, 2017, https://www.washingtonpost.com/news/morning-mix/wp/2017/03/16/appeals-court-judges-rebuke-trump-for-personal-attacks-on-judiciary-intimidation/?tid=a_inl&utm_term=.2d6ef3e54365.
- 396 One such resource can be found here: Ian Samuel, “The Nervous Civil Servant’s Guide to Defying an Illegal Order,” *Slate*, Feb. 2, 2017), http://www.slate.com/articles/news_and_politics/politics/2017/02/legal_protections_for_civil_servants_who_refuse_to_carry_out_illegal_orders.html; civil servants that wish to reaffirm their oath publicly can do so here at *Uphold the Oath*: <https://upholdtheoath.org/>.

- 397 David Ignatius, “It’s Time to Start Thinking About the Unthinkable,” *Washington Post*, July 27, 2017, https://www.washingtonpost.com/opinions/its-time-to-start-thinking-about-the-unthinkable/2017/07/27/0b63b776-7311-11e7-8839-ec48ec4cae25_story.html?utm_term=.fbc7f26f994d.
- 398 Thomas Pepinsky, “Life in Authoritarian States Is Mostly Boring and Tolerable,” *Vox*, Jan. 9, 2017, <https://www.vox.com/the-big-idea/2017/1/9/14207302/authoritarian-states-boring-tolerable-fascism-trump>.
- 399 *Federalist No. 33*.
- 400 Miller, *supra* note 353.
- 401 Telephone interview with Steven Levitsky, June 8, 2017.