



What Comes Next?

Lessons for the Recovery of
Liberal Democracy

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Preface

American democracy is in crisis. At a time of deepening polarization and social strife, many of our elected officials – most notably our chief executive – routinely disregard, and indeed actively undermine, the very norms and institutions that buttress our democratic system. At every turn, the foundational values of American democracy are under attack.

Fortunately, the threats facing our democracy are not unique and there is much to learn from other countries and from our own history – both about democratic backsliding and about strategies to reverse its course. Understanding the experiences of other democracies can help us grapple with challenges we are experiencing today, and plan for those that may lie ahead.

Democracy Fund invited Rachel Kleinfeld and David Solimini of the Carnegie Endowment for World Peace to write ***What Comes Next? Lessons for the Recovery of Liberal Democracy*** to tackle just this question. Through their research, Rachel and David dig into several case studies and offer insightful recommendations on what might be done in the United States to recover from the path of institutional decline.

Rachel and David's analysis challenges us to revisit many of the assumptions Democracy Fund has made in assessing our democracy's vulnerabilities and deploying strategies to protect it. Our staff has grappled these insights in ways that have enriched our thinking and the approach to our work. Among others:

- We are affirmed in our work focused on ensuring the independence of a robust, healthy media that can hold those in power to account. The watchdog function of the media cannot be underestimated.
- We take to the warning against placing too much hope in the political parties and legislature to defend themselves against abuses of power by a strong executive. We must explore ways to find, pressure, and incentivize, alternative champions of democracy.
- While the paper corroborates our fears on the risk of the American's system reliance on informal norms, we were encouraged to read how federalism should be considered an important tool in combatting the worst overreaches of an embattled federal government.

Democracy Fund regularly publishes research relating to our established program areas, and we occasionally commission work that is intended to push our thinking in new directions. We, like others, have much to learn. We are all well-advised to engage deeply with new, big ideas that challenge our assumptions. The research is a platform for rigorous scholarship that can help us identify new strategies to build a healthier democracy.



Joe Goldman
President, Democracy Fund

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Executive Summary

Democracy in America suffers from a decades-long pattern of institutional decline. The candidacy and election of President Donald Trump is a symptom as well as an accelerant of this institutional degradation, catalyzing reactions from other institutions, parties, and voters. On the positive side, President Trump's brazen disregard for the longstanding norms of American governance has drawn attention to long-running problems, creating new interest in what the United States might learn from the experience of other countries in similar situations.

What can we learn from other democracies that have faced executive degradation¹ of pre-weakened democratic institutions, particularly countries with polarized populations? Based on the trajectories of other nations, what damage might we expect to see by the end of the Trump administration? Are there lessons for renewal that can be applied the day this administration exits the scene?

Few countries are directly comparable to the United States. As the world's oldest continual democracy, the United States has far more established institutions than most other states. And yet the laws protecting the checks and balances of our government are older and thinner than those of most modern democracies, creating the impression of a strong state that has in practice relied more on norms than law to maintain its institutions. America's implementation of federalism is deeper than in most other countries and is a significant buffer against executive overreach. On the other hand, its population is deeply – and often evenly – polarized by identity-driven divisions that do not lend themselves to compromise. For both sides, every political fight is an identity battle and each battle is potentially winnable. The temptation to engage in undemocratic behavior is significant.

In declining order of direct comparison, we looked at cases of democratic decline and subsequent renewal in Italy under Silvio Berlusconi, Colombia under President Álvaro Uribe, Louisiana during the Huey Long period, Argentina during the populist regimes of Carlos Menem and the Kirchners, South Korea's President Park Geun-hye, Peru during the reign of Alberto Fujimori, and India under Indira and Rajiv Gandhi. We also looked at the similarities and differences between these states and countries that faced executive degradation and have not yet recovered, particularly Hungary, Poland, Turkey, and Venezuela.

THE RISE OF POPULIST AND AUTHORITARIAN LEADERS

Leaders willing to degrade democratic institutions were generally enabled by weak or delegitimized parties, or, in the case of India, *de facto* one-party rule that limited opposition parties to minority status in the government. These leaders govern in highly personalized ways, demanding loyalty, erasing distinctions between the leader and the state, and taking personal credit for the delivery of state goods. The personal, celebrity style tended to

captivate voters, forcing weak opposition parties to offer similar candidates. The political environment begins to favor single issue or personality-driven movements that briefly catch fire and flame out, further eroding functional parties built around coherent ideological platforms. This vicious cycle increased the likelihood that democratic degradation would outlast the individual leader and continue through copycat candidates across parties or dynastic family succession.

INSTITUTIONAL DAMAGE

The leaders in our cases caused two different types of damage. The first type of damage is the undermining of state institutions of horizontal accountability – particularly the judiciary, prosecutors, and legislatures – and frequent attempts to reduce the scope for vertical accountability from voters, the media, and civil society by manipulating elections, harassing the press, and reducing freedom of organization. A reduction in vertical accountability was particularly common among democracies that have not recovered.

A second form of damage emerged from these leaders' personalization of the state, treating state institutions and parties as an extension of their personal interests. This personalization harmed democracy by allowing executives to govern by personal whim and thus interfere with the "presumption of regularity" that policies have been vetted and approved through a normal process. It also opened the door to personal corruption and to elite capture. Elite capture is the result of using state power to benefit well-connected businesses, which in turn offer support and assistance to politicians who provide the state goods. Elite capture often involved co-opting portions of the business and media sector by threatening harm (such as tax harassment) to private-sector institutions that showed disloyalty, while offering state benefits such as merger authorizations or duty free tariffs to friendly private-sector actors. The methods of elite capture and the web of cozy relationships between the state and private firms often persist after an executive has left office, simply moving to a successor as business leaders seek similar arrangements with future governments, regardless of party or ideology.

“Corruption and elite capture, particularly, have a long-tail impact on democracy.”

In our cases, countries were often able to restore institutions of horizontal accountability – particularly when vertical accountability remained relatively intact. But the cases where enough time has passed to take a long view demonstrate that rapid return to the status quo ante is unlikely. Corruption and elite capture, particularly, have a long-tail impact on democracy that successor leaders are either unable or unwilling to fully repair.

THE PATHS AND DEAD ENDS OF RECOVERY

The immediate cause that forced a leader out of office varied. In Italy, Berlusconi left office after a conviction caught up with him, coupled with economic decline that finally undermined his support. In Colombia, the courts stood up to President Uribe's attempt to gain a third term. South Korea's President Park was brought down by popular protests fueled by media revelations of corruption, President Fujimori of Peru resigned after videos demonstrating his corruption became public. In India and Argentina, populist leaders stepped down voluntarily after losing elections. In Louisiana, an assassin shot Huey Long.

THE INSTITUTIONS OF JUSTICE ARE A CONSISTENT SOURCE OF RESILIENCE

After an abusive leader left, judiciaries and prosecutors were essential to holding them accountable and often played a role in fixing damage to institutions. They could often perform this role even if they had undergone significant attack. However, judiciaries frequently paid for their efforts with lowered public esteem and a heightened perception that they were partisan institutions.

→ In the United States

Executive efforts to interfere with the political independence of courts and the administration of justice through prosecutors and investigators are a critical concern. Efforts to protect these institutions from manipulation and further politicization should be a priority.

CIVIL SOCIETY AND A FREE MEDIA ARE ESSENTIAL SOURCES OF RESILIENCE

In each case where democracy was renewed, civil society was largely unhampered and at least portions of the media remained free, even if executives had attempted to undermine media integrity or muzzle their voice. In each case where democracy has not yet returned, executives have curtailed civil society organizing. Civil society and the press cannot hold leaders accountable on their own, however. They can only highlight abuses and mobilize voters or institutions of the state (such as courts or legislatures) into action.

→ In the United States:

U.S. media and civil society are established and resilient. Relatively extreme measures would be required to reduce this influence. Politicization of the media intended to reduce public trust, indirect pressure on corporate parent companies, expanding channels of communication that bypass press questioning, or the tools of elite capture, however, are a real concern. Particularly effective civil society groups are vulnerable to focused persecution through tax law, lawsuits brought by semi-private entities friendly with the government, and other methods.

FEDERALISM BUFFERS AGAINST CENTRAL CONTROL ACROSS MULTIPLE INSTITUTIONS

The cases we considered, even when they had federalist government structures, all had more powerful national governments than the United States. Federalism was a source of resilience in Argentina, where local leaders had the independence to place political constraints on national lawmakers; in Louisiana, where national law enforcement pursued corruption; and in India, where regional parties were able to incubate at the state level and eventually win nationally.

→ In the United States:

Federalism creates practical buffers against national executive interference in many of the institutions that were undermined in case countries. It is difficult for a president to manipulate state political parties, election administration, police powers, and local governance. Attempts to remove the barriers of federalism should be serious red flags.

CIVIL SERVICE MAY BE A BELLWETHER

Successful politicization of the civil service seems correlated with long-term democratic damage. The cases where civil service (and state employment) were most affected by the executive, Argentina and Louisiana, democratic recovery was markedly longer. In both cases, civil service professionalism degraded, as jobs were given to loyal partisans willing to do an administration's bidding rather than administer government with independence. This casts a long shadow: De-professionalizing and deskilling the civil service deters strong candidates from entering and blurs the line between the party and the state.

→ In the United States:

America's civil service tradition at the national level is less robust than in most peer democracies, however our strong federalism protects state bureaucracy from national government manipulation. Actions designed to blur the line between the majority party and the administration of government – removing or harassing “disloyal” civil servants, promoting partisans, or dramatic understaffing – are concerning.

DO NOT EXPECT PARTIES AND LEGISLATURES TO PROTECT THEIR PREROGATIVES OR DEMOCRATIC NORMS

Legislatures consistently failed to check the abuses of populist executives, often delegating significant powers to the executive. Opposition parties were often disorganized and ineffective, even when they were able to gain power. Majority parties did not serve a filtering function when faced with populist leaders. Instead, the populist usually transformed the party in his image. More often than not, polarization and the populist political style became entrenched in party institutions and long outlasted individual leaders.

→ In the United States:

Electing a different party to power in the House and Senate will not be enough to repair institutional damage; it may only exacerbate polarization and continue the escalating cycle of norm violation. As long as voters who will support populist leaders compose enough primary voters to determine candidates in the general election, we can expect this style to persist well after President Trump leaves office.

AMERICA'S BROAD RELIANCE ON NORMS MAKES IT MORE DIFFICULT TO CHALLENGE ABUSIVE EXECUTIVES

While U.S. political institutions are over 200 years old, much of today's harm is rooted in the political problems of 1960s and 70s, when American democracy became increasingly consolidated. The United States thus faces the problems of many new democracies but is equipped with institutions that have few explicit means of limiting executive power. Norms are often stronger than laws. But once broken, normative damage is harder to address than legal violations, and norms are more difficult to restore.

→ In the United States:

The bipartisan approach to post-Watergate reforms should be a guidepost for efforts to rebuild, codify, or change norms. Many of those reforms have been undermined in the 45 years since Richard Nixon resigned and are ill-equipped to today's challenges.

THE ROAD IS LIKELY LONG

Successors who took office following populist or authoritarian leaders were crucial to undoing institutional harm. However, they paid a price; most were far less popular than the charismatic leaders who preceded them, and they generally ended their terms with little support. Argentina's current President Macri may be an exception, but it is too early to tell.

More broadly, the departure of the populist leader, prosecutions, and even institutional reform under a successor, rarely undid the full damage caused by these leaders. Popular authoritarian and populist executives perpetuated institutional rot through parties that continued to win elections – as in Argentina – and family succession – as in Louisiana, India, Argentina and nearly Peru. In Colombia, Uribe continues to affect political life, and the current run-off election will be between an Uribe follower and a former guerrilla leader. In Italy, while Berlusconi has failed to stage a comeback, he has left a populist legacy that led to the current government – a coalition of far left and far right populist parties.

The difficult truth is that renewal in our case countries often took decades and even then remained incomplete. While the United States has deep and unique sources of resilience, the particularly bimodal nature of U.S. polarization may exacerbate that time requirement. Defenders of U.S. democracy should not be sanguine. Comparative trends do not offer hopeful signs for an orderly, speedy, consistent, or complete renewal.

“The difficult truth is that renewal... often took decades and even then remained incomplete.”

Introduction

American democracy has been facing democratic degradation for a number of years, a process that has recently accelerated. In order to reverse this trend, it is important to consider its likely extent.² By 2020, what damage will have been done to American democracy, by the Executive branch, or by processes it has set into motion or accelerated? Perhaps most importantly, what can we learn from other democracies that have faced similar decline to determine what events in the near term should cause the greatest concern and what paths to renewal are likely to be fruitful?

The United States, of course, faced democratic degeneration long before the current populist president. He is best considered a symptom and an accelerant of many problematic trends. Congress' approval rating has been driven into single digits and it has been unable to pass major legislation except by party line vote. Party membership is at an all-time low and a majority of Americans want third party options.³ Trust in government institutions had been declining for years before this presidency. Since the early 2000s, presidents and legislators from both sides of the aisle have chipped away at governance norms by delegating increasing power to the presidency, using criminal penalties against the press, and legislating emergency powers, such as the delegation of authority codified in the Patriot Act and continued under presidents of both parties.⁴ The Trump campaign and administration, however, have exacerbated this damage and sped its effect, both directly and by catalyzing reactions from parties, voters, and institutions, focusing many people who were previously complacent on these longstanding trends of democratic degeneration.

To illuminate the likely legacy our republic must address when a new administration takes power, this paper considers other countries that have faced democratic degradation and begun to recover.

- **The first section describes our approach** and how and why we chose our cases;
- **The second section tells the story of each country case**, the ways in which executives degraded democracy, how the tide turned, and the legacy left afterward. It ends with two tables summarizing institutional degradation, and which institutions helped restore democracy;
- **The third and fourth sections compare the harm done to institutions across cases**, suggesting what additional harms the United States might expect to experience over the next 3-7 years, and what might be done to mitigate the damage afterward;
- **The fifth section focuses on the democratic harm caused by personalization of state power and self-dealing**, what we might expect to happen, and what could be done afterward;
- **The final section shares takeaways and closing comparative thoughts** on U.S. sources of resilience and weaknesses.

A Comparative Perspective

The challenge of identifying democracies similar to the United States that have slid backwards and then rebounded is great; there is surprisingly little to go on. Prior to 1975, the world had fewer than fifty democracies.⁵ While many faced military coups, those that were considered to be consolidated rarely declined, and when some did – such as Germany and Italy – it heralded the second world war. Coups and world war are hardly useful comparisons for the U.S. today, leaving researchers with relatively few points of comparison among older democracies.

As the number of democratic states expanded, however, so did the number of newer democracies that faced institutional backsliding. These states may be more comparable to the United States than Americans would be comfortable admitting. Many scholars consider the United States to be a democracy that fully consolidated only in the past 50 years.⁶ While America had representative institutions and elections for nearly two hundred years before the 1960s, in the eleven states of the confederacy, a virtual one-party state prevailed, enforced by legal barriers to voting as well as actual and threatened violence.

Many of the pathologies of American politics today can be traced back to the political and social upheaval that took place during the 1960s and 70s when this system broke down, forcing a fundamental party realignment. Democrats became the party of civil rights, causing a massive fall in their constituency, and spurring an ideological and geographic realignment of both parties. Republicans and Democrats reformulated their platforms along a range of cultural and identity issues that, unlike economic policy, are inherently less prone to compromise.⁷

While for much of the twentieth century there was significant overlap in policy positions between conservative southern Democrats and liberal northern Republicans, the parties today are ideologically consistent cultural identities with no overlap at the voting level in Congress.⁸ Their most active constituents are separated geographically and hold increasingly divergent beliefs regarding American national identity, the role of religion, gender and sexuality, the obligations of government, the importance and impact of race, and the purpose of American power in the world.⁹ This identity-based, affective polarization rooted in the disruption of the 1960s and 1970s drives much of today's institutional damage.

“Many scholars consider the United States to be a democracy that fully consolidated only in the past 50 years.”

Case Studies

Informed by this reading of U.S. history, we have included newer democracies that faced comparable challenges before renewing themselves. Yet clearly analogous cases remain elusive because of the unique nature of U.S. political institutions and the complexity of its political culture create interlocking problems. We thus cast a broad net, considering cases where:

1. **Executives had degraded democratic institutions.**

Whether stemming from a populist leader who bypasses parties and institutions to govern directly with “the people,” or a more authoritarian leader who happens to be popular, each case involves an executive who erodes checks and balances on horizontal institutions of accountability, such as courts and legislatures, and vertical institutions of accountability, such as civil society and the media.

2. **Many leaders also engaged in a different form of democratic damage in which they treated state institutions and parties as an extension of their personal interests.**

This process reduces the regularity of government decision-making, so that whims and personal preferences seep into policy. It abets elite capture, in which state powers are used to benefit certain loyal or well-connected businesses, forming a cronyistic network of mutual benefit between connected business elites and politicians that once begun, often perpetuates itself across leaders and parties. It also aids executives who wish to engage in personal corruption.

Because we see the level of U.S. polarization as affecting the trajectory of recovery, where possible, we sought cases that also featured the following:

3. **Affective polarization divides the population.**

A polarized population that views the opposing party as a threat to the polity may prefer to reduce democratic safeguards than see the other party win.

The current predicament is exacerbated by two additional features of today’s political environment: **new communications technologies** are available to political leaders, but mediating institutions have not yet developed around them, and **significant economic stagnation** is abetting fears of social marginalization for certain demographics. We found these trends to recur across many historical cases as well.

We limited cases to states with relatively consolidated democracies, excluding countries in which democracy was quite tentative before decline began, such as the Republic of Georgia or Ukraine. Yet even among cases we considered, some states were clearly weaker and less consolidated than the United States, creating possible divergence.

Finally, we sought countries that had moved past the moment of decline and begun to recover. However, in many cases of democratic decline, countries are still sliding downward. Hungary, Poland, Turkey, and Venezuela are examples of executive degradation of democracy that share similarities to what the United States is currently experiencing under Donald Trump but have not recovered and thus offer no lessons for what the day after may hold. To avoid an overly sanguine reading of the positive cases, we looked to these negative cases for patterns. These are considered throughout this report, even though length constraints mean we will not discuss them in depth.

PRIMARY CASES

ITALY, 1994–2013

As a consolidated democracy with a constitutionally protected judiciary and longstanding democratic norms, Italy is the most similar case to the United States structurally, though it differs in having a parliamentary system and endemic corruption prior to Berlusconi.

Silvio Berlusconi dominated Italian politics from 1994 through 2013 when he left the Senate, governing the country for three non-consecutive terms as Prime Minister. Berlusconi's rhetoric, sexual escapades, and disdain for established norms of presidential decorum bear a strong resemblance to Trump's activities. A media tycoon dogged by multiple lawsuits for crimes ranging from accounting fraud to sex with a minor, Berlusconi passed more than forty laws to benefit his business interests and evade facing trial while painting himself as the victim of a politicized witch-hunt by a left-wing judiciary.¹⁰ While not illiberal himself, his coalition brought a neo-fascist party into power that legitimized former extremists. Italy had previously had a polarized political culture; Italians stuck with the party they were born into, and it defined personal as well as political identity. Berlusconi revived these identities just as they were beginning to decline and used polarizing rhetoric to energize his base. Because Berlusconi owned most major television channels in the country, he did not attack the press directly, but he did use his ability to speak directly to the people to circumvent other media.¹¹

Berlusconi eventually lost power after 2011, when economic collapse and a conviction for sex with an underage prostitute – not his corruption – undermined his popular support. After courts finally convicted him of tax fraud in 2013, opposition forces allied with far-right former coalition partners to force him out of the Senate.

Two presidents of the republic played key roles in preventing him from further harming democratic institutions during his leadership, particularly the courts.¹² The magistracy sparred with him throughout his time in office and succeeded in overturning, restraining, or undoing many of his more egregious laws – though often not speedily enough to prosecute him, since he reduced statutes of limitations.¹³

The laws that remain, however, make corruption, political self-dealing, and organized crime more difficult to prosecute than in the years before he took power.¹⁴ Berlusconi took power just as the judiciary was exposing endemic corruption among every existing political party.¹⁵ Norms were changing, and his new party stepped into the void offering change. His years in power, however, revived and deepened political corruption and personalization of the state.

Berlusconi's other significant legacy is the further weakening of Italy's political parties, including normalization of the far right.¹⁶ These legacies, combined with the inability of traditional parties unable to muster effective opposition to Berlusconi's style, created the environment that gave rise to the newest Italian government: a populist combination of the far-left Five Star Movement (*Movimento 5 Stelle*) and far-right Lega parties.¹⁷

“Italy is the most similar case to the United States structurally, though it differs in having a parliamentary system and endemic corruption prior to Berlusconi.”

COLOMBIA, 2002–2010

President Uribe served as president of Colombia from 2002–2010. He won quick popularity by successfully prosecuting a war against guerrilla forces that had terrorized the country for decades. Despite significant left-wing protests throughout most of his time in office, Uribe's success against the FARC guerrillas led to levels of support unheard of in Colombia, ranging from 65–80 percent throughout his decade-long leadership.¹⁸ His early moves were not clearly anti-democratic. To reduce corruption, he pressed for a series of referenda that would have reduced the size of the legislature.¹⁹ However, as the judiciary stood against his programs, he began to criticize judges – who he called “terrorists disguised as civilians” – and the press.²⁰ As he amended laws to run for a second and then a third term, he began to veer toward greater authoritarianism. He used the country's intelligence directorate to wiretap opponents, spy on the press, bribe judges and legislators, and assist paramilitaries in electoral fraud to help friendly legislators gain office.²¹ In pursuing his war against the FARC, he permitted human rights abuses by the military and paramilitaries.²² Corruption scandals began to engulf his cabinet and many of his supporters in parliament, though Uribe himself does not appear to have engaged in self-dealing or building networks that support elite capture.

Uribe's successor, President Santos, and Colombia's court system (which has prosecutorial and investigative roles), deserve most of the credit for unraveling the darker portions of Uribe's legacy, along with the media. In 2002 during Uribe's first year in office, the courts fought his attempt to centralize power through referendum.²³ Assisted by investigative journalists and individual civil society activists, they unraveled human rights scandals and the fact that paramilitary organizations were funding the campaigns of nearly a third of parliament – including many legislators close to Uribe. They also uncovered his misuse of the intelligence agency.²⁴

By 2017, former President Uribe was facing 28 different legal cases and courts had convicted the former chief of intelligence and multiple senior members of Uribe's staff.²⁵ These activities risked exacerbating popular polarization, given Uribe's significant popularity. Colombia was lucky that Uribe's successor was a member of his administration whose candidacy was considered a “third term” for Uribe, even though he nevertheless chose to undo much of his predecessor's harm. President Santos enabled anti-corruption investigations of Uribe's cabinet to continue by appointing an Attorney General to the previously vacant post, dissolved the intelligence agency when the level of its malfeasance became clear, and had already altered military policy to reduce human rights abuse while serving as Uribe's Minister of Defense.

However, Colombia's courts have paid for their activism – as well as for a corruption scandal involving the Supreme Court. A 2017 Gallup poll found that 72 percent of the population had an unfavorable opinion of the Supreme Court and 63 percent an unfavorable opinion of the Constitutional Court.²⁶ Despite defending democracy and bringing peace, Santos was an unpopular president. Meanwhile, Uribe has not left the political scene. His barnstorming around the country managed to disrupt the peace referendum, and a candidate considered his spiritual successor is currently in the runoff for the presidency against a former FARC guerrilla, pointing to the ongoing polarization of the population.

Colombia has obvious differences from the United States: notably the high, sustained levels of criminal and political violence and weaker, more corrupt institutions. Uribe was not a populist, although he used his popularity to bypass institutions, and although he came to power as a conservative, he ran on an independent ticket rather than as a member of the conservative party. However, as a middle income, fairly consolidated democracy with direct elections for president, a strong and constitutionally protected judiciary, and immense levels of affective polarization between liberals and conservatives, it also bears much in common.

LOUISIANA, 1928-1960

Of particular resonance to the American experience is Huey Long's governance of the state of Louisiana from 1928 until his assassination in 1935, followed by his brother's three terms as governor. At the time, Louisiana was a one-party state and Huey Long's win represented a factional takeover of his party's establishment. Consistent with the American southern populist tradition, Long pitted "the people" against the wealthy and powerful – in this case the large resource extraction industries that dominated the Louisiana economy – and created a populist faction that lasted arguably into the 1980s.²⁷

Long's governorship was characterized by attacks on the press in which he lambasted "lying newspapers" and heckled reporters at events, accusing them of printing invented stories and of profiting at the public's expense. He imposed new taxes and other costs on outlets that did not support his agenda in an attempt to censor them and released embarrassing information about individual publishers. Long was also able to circumvent the press and speak directly to the people through the increasingly prevalent technology of radio, a sophisticated political circular distribution system, and his own newspaper.²⁸

Long made no distinction between himself, his faction, and the government, using public office to build a distributed corruption racket that siphoned government coffers and employee wages to fund campaigns, patronage, bribery, and his own interests. It was common for him to demand personal apologies and promises of loyalty in exchange for government services. Long headed a secret police force, membership of which was known only to members of his own Long Organization, and used it to intimidate (and once even kidnap) political opponents.²⁹

After an early attempt to impeach Long failed, the legislature became a rubber stamp, knowing Long's popularity and machine could end their careers. Long continued to control state governance in Louisiana after he was elected to the U.S. Senate through a hand-picked governor, calling special legislative sessions and passing new laws – often in person.³⁰ By 1935, Long had significantly centralized state power under the governor.³¹ Newly created governor-appointed commissions controlled local government budgets and school systems, local law enforcement, vote counting, the hiring and firing of state employees, and some municipal council members. The governor, given unreviewable power to call the National Guard, used them to end an armed rebellion of anti-Longists when Long was in the Senate.³²

Long delivered for his constituents and was thus immensely popular despite undoing Louisiana's democracy.³³ His rule ended when he tried to oust a judge, and the judge's brother assassinated him in 1935.³⁴ But through the 1960s Louisiana politics swung between a Long faction and an elite-led "good government" anti-Long faction, until the realignment of the Democratic Party changed the nature of the one-party state.³⁵ His legacy continued through his son, who served in the U.S. Senate from 1948 to 1987, his brother, who served

three terms as governor, and ten other members of his family who served in elected office (eleven if one counts his mistress, whom he appointed the state's chief tax collector). A third cousin is currently Louisiana's State Senate president.³⁶

The power of the Long Organization meant Louisiana's institutions could do little against his legacy, even after his death. FDR used the federal Department of Justice to indict members of the Long Organization, usually on tax charges, and the U.S. Supreme Court ended his newspaper tax.³⁷ However, his politicization of the civil service and police are still felt today in the level of corruption of the state's politics, the poor performance of Louisiana's bureaucracy, and its legacy of police criminality.

Structurally, Louisiana was less evenly polarized than the United States today, having a small elite that had previously controlled power and a much larger populist base.³⁸ State courts and other institutions were also less strong than at the national level. As a governor and then senator, Long stood at a different place within the federal hierarchy than Donald Trump. He also operated as a faction within a one-party state. However, as an American state, Louisiana clearly shares many commonalities with the United States today.

SECONDARY CASES

We also looked at cases that were less structurally similar to the United States but bore elements in common that yield interesting points of comparison. In order of similarity, these were:

ARGENTINA, 1989–2015

No paper touching on populism can ignore Argentina, whose governance is synonymous with the term. Argentina bore much in common with the United States in the early decades of the twentieth century. Argentina's constitution was modeled on the United States, and both had presidential systems and federal governments, fairly honest elections, independent courts, vibrant media, and active civil societies.³⁹ Argentina was a major economy, and both countries had significant inequality that affected politics: Argentina's wealthy business elites mirrored the Southern planter dominance and northern Gilded Age trusts in the United States. However, Argentina took a different turn following the Great Depression. Its government was constantly interrupted by military coups from 1930 through 1983, preventing democratic institutions from stabilizing.

Argentina's first bout with a populist leader happened as a result of the 1943 coup that brought Juan Perón to power.⁴⁰ The populist political machine he founded has warped Argentinian politics ever since. Politics became polarized between a Peronist party positioned as the party of the masses, and the non-populist Radical party, led by elites who also supported democracy.⁴¹ The Radicals governed for six years after the restoration of democracy in 1983. Thereafter, from 1989 to 2015, populist leaders Carlos Menem, Nestor Kirchner, and his wife Christina Fernandez Kirchner controlled the country with a brief interregnum from 1999 to 2003, which saw four different presidents (the longest-serving from the Radical Party) take office amid popular protests and economic crisis that delegitimized that party.

Menem and the Kirchners continued the Peronist political machine tradition. They argued that institutions of accountability benefited a wealthy minority and impeded the popular will. Perón, for instance, painted courts as conservative upholders of the wealthy elite, and convinced Congress to impeach justices who ruled against his attempt to redistribute economic power to renters and tenants. The norm of secure judicial tenure was replaced with the expectation that each incoming president would appoint new Supreme Court justices to achieve political goals.⁴² Corruption marked their presidencies: Menem and his former Minister of Justice were later convicted for an arms-smuggling plot for self-enrichment.⁴³ Nestor Kirchner doubled his salary by presidential decree, and financial disclosures show that the Kirchners' wealth increased by 572 percent during their years in office, while campaign finance and corruption scandals dogged their presidencies.⁴⁴ Presidents personalized power and ruled through decree, bypassing a supine legislature that had delegated most important powers to the president. This allowed the Kirchners to remove the president of the Central Bank by decree, fire judges who investigated their assets, and manipulate payments from the federal to state level to harm rising political stars who could challenge their rule. Their political machine created a patronage network that went through state and local government all the way to elementary school teachers. Menem attempted an illegal third term but was rebuffed; Nestor Kirchner's wife ran after his two terms were finished and was elected to two terms of her own.

However, she stepped down when her time was up, running for the Senate to maintain ongoing immunity from corruption prosecution. Mauricio Macri, the popular mayor of Buenos Aires who had spent over a decade building a new political party, was the first non-Peronist to win a modern Argentinian election. Macri immediately began undoing decades of democratic decline. He crafted a coherent judicial reform package to strengthen the judiciary and increase its independence and has tried to pass electoral reforms to level the playing field for non-Peronist parties. He brought Argentina into compliance with the OECD anti-bribery convention, strengthening financial controls, increasing transparency, and issuing a decree against nepotism. Domestic intelligence and policing functions have been shifted to field offices to decentralize control and enable better policing of corruption. Macri also returned independence to statistical offices that had been manipulated.⁴⁵ While his free-market economic reforms have angered Peronists, they also reduced sources of graft and put Argentina's turbulent economy on a steadier path.⁴⁶ Midterm elections, seen as a referendum on his rule, led to Macri's party sweeping nearly every district in the country as voters showed their approval for his reforms. Having accomplished some of his agenda, Macri has been forced to delay other important fixes as popular sentiment against his economic policies has increased.

“the state’s startling about-face shows how voters... can begin to unravel decades of entrenched democratic dysfunction.”

While Argentina remains in the early days of progress, the state's startling about-face shows how voters, empowered by an astute political leader who took the time to build a strong party rather than a weak vehicle intended only to elect himself, can begin to unravel decades of entrenched democratic dysfunction.

SOUTH KOREA, 2012–2018

Although it had been democratic for thirty years, South Korea was a less consolidated democracy than the other cases. In 2003, 79.5 percent of South Koreans told the East Asian Barometer that they had a limited democracy, due to the corrupt networks between the country's big businesses and politicians that had led to corruption investigations against every past president, frequent post-election indictments for violating campaign finance laws, a weak, corrupt judiciary, and weak political parties organized around individuals.⁴⁷ However, Korea's presidential system, vibrant media, strong civil society, and its level of wealth are commonalities with the United States. Perhaps the greatest similarity is its polarized population. In the same way U.S. politics remains divided by different interpretations of the social upheaval of the 1960s and 1970s, South Korea's cleavage revolves around the identity divide between liberals who supported the democracy movement from the 1960s to 1980, and conservatives who hew to the economic miracle of the previous autocratic era and deep national security fears spurred by North Korea.⁴⁸

President Park Geun-hye was elected to the presidency in 2012 with 51.6 percent of the vote, largely on the strength of her name; conservatives idolized her father, who led the authoritarian regime that oversaw the country's economic transformation from post-WWII poverty to a wealthy, developed nation after his 1961 authoritarian coup.⁴⁹ Park's candidacy was also aided by a smear campaign against her opponent, buttressed by thousands of social media messages sent illegally by South Korea's intelligence agency.⁵⁰ When the Prosecutor General indicted the agency's director for this electoral malfeasance, information about a possible love child leaked out and led to the prosecutor's resignation.⁵¹ Such dirty tricks had been curbed under three decades of democracy but had been revived under Park's predecessor's government.

Park allowed the intelligence agency's monitoring of political activists and electoral meddling to continue, promising to clean it up following a scandal, only to reverse course and cut the legislature out of intelligence reform discussions. Under the rubric of national security, she used the intelligence agency to curb some of her opponents. Information they provided helped her administration create a blacklist of nearly 10,000 artists who were critical of the government.⁵² When the press began to report on corruption scandals emerging from her cabinet, a close Park supporter in the legislature accused the editor of the country's largest newspaper of corruption himself – information likely fed to her by the intelligence agency.⁵³ He resigned, and some of South Korea's press began to self-censor to avoid a similar fate. Park was widely criticized after she was absent for seven hours following a ferry disaster (possibly rooted in government corruption) killed hundreds of high school students and devastated the nation. Yet analysts saw Park as invincible thanks to a “concrete floor” of about 30 percent of the population whose support never budged.⁵⁴

Scandal finally caught up with Park when a conservative-leaning television station sensed business opportunity despite its ideology and unraveled the story of how she had relegated myriad constitutional duties to her close personal confidant, a woman named Choi Soon-sil. Choi sat in on classified briefings, took part in affairs of state, and then used that access to extort Korean companies.⁵⁵ In exchange for merger approvals, duty-free licenses, and other benefits (or to avoid harm) businesses contributed to Choi's “charities,” which then funneled money to her.⁵⁶ Despite the massive corruption and democratic breaches, Park's supporters

didn't begin to depart until the media showcased how Choi had strong-armed a university into enrolling her daughter and maintaining the daughter's high grade point average despite her failure to attend classes. In a country facing economic stagnation, where the meritocratic university system is the path to opportunity, it was this more personal, understandable harm that caused Park's upper-middle class support to melt away.⁵⁷

South Korea's institutions of horizontal accountability were slow to act against the president. Prosecutors allowed Choi time to destroy evidence and refused to consider opening an investigation until after weeks of public protest.⁵⁸ The courts opposed the special prosecutor's request for a warrant to arrest Samsung's leader for bribery linked to the scandal. The legislature, despite being controlled by the opposition, only began to speak up after Park's support dropped below 5 percent.

Instead, it was protestors who brought down the president, spurred by the media reports. Highly organized protests began in late October and continued for twenty weeks, with some protest days encompassing over 1.5 million people.⁵⁹ In December, the legislature finally impeached Park, and in March, the Constitutional Court – entirely filled with appointees from her administration and the previous conservative administration – confirmed the impeachment, enabling prosecutors to indict.

The caretaker prime minister, a usually ceremonial post, called for new elections and pushed the cases against the administration forward; the courts sentenced Park to 24 years in jail for her abuse of office. Park's elected successor, President Moon Jae-in, immediately began restoring democratic institutions. He has appointed reformers to lead the prosecutorial service and intelligence service, demanding that they professionalize these agencies.⁶⁰ The intelligence service has launched an internal investigation into thirteen cases of its own domestic political interference.⁶¹ While conservative politicians have declared the investigations politically motivated, an internal survey of intelligence employees found that 81 percent felt the task force was necessary.

PERU, 1990–2000

The final two cases, Peru and India, both diverge from the United States in having short periods in which democracy was completely suspended under the leadership of Alberto Fujimori and Indira Gandhi. Both are also quite different structurally and historically. Peru had a semi-presidential system similar to the United States, but the main similarity relevant to this study concerned Fujimori's creation of a right-wing populism that fused economic policies desired by the left with a strong law-and-order platform for the right.

Peru was governed by a military dictatorship until 1980. Democracy was restored simultaneously with the outbreak of guerrilla warfare in its rural mountains that claimed 35,000 lives. The country soon fell into hyperinflation. To many Peruvians, the bloated government bureaucracy of patronage appointees seemed unable to do anything to stop the country's decline, while the rule of law had little resonance with a judiciary viewed as corrupt and elitist.

Fujimori came to power in 1990, running against the country's established parties, which were seen as self-serving.⁶² He quickly gained popularity by taming hyperinflation and effectively fighting the Sendero Luminoso guerrillas. While fighting the war, he also co-opted the military, demoting officers who upheld professional norms and promoting those

willing to be politicized.⁶³ In 1992, unable to pass security and economic policies through an opposition-controlled Congress, he called a self-coup. With the support of his faction of the military, he dissolved the legislature, reorganized the judiciary, and governed by decree.

With Fujimori far more popular than the legislature, voters cheered the end of gridlock. They gave him overwhelming support a few months later, when he captured the leader of Sendero Luminoso and largely ended the guerrilla threat. Fujimori's popularity jumped to 81 percent and remained above 66 percent for the next three years as he continued to deliver on his mandate.⁶⁴ He slashed the civil service but did not politicize it, instead creating a functional state with less petty corruption. Meanwhile, he funneled the state budget through the Presidential Ministry and created a series of new organizations that allowed him to deliver redistributive projects and economic giveaways tied directly to his name and largesse, rather than faceless government programs.⁶⁵ He used these programs to publicly help particular regions whose support he needed to win elections. He also advanced women in his cabinet and passed electoral gender quotas to deepen his support among that half of the population.⁶⁶

Popularity allowed Fujimori to govern with few checks. He passed a constitutional reform that gave him a second term and created a unicameral legislature that was easier for him to control. The press was free, but the government worked to control television – the most popular medium for the poor – by using tax audits, slander, and threats to cow journalists.⁶⁷ Fujimori fired 80 percent of the judiciary and filled their spots with “provisional” judges who could be removed at will.⁶⁸ Judges who opposed the government were harassed, faced cases for corruption (often grounded), or were fired. Provisional judges were given the right to appoint the National Election Board, which was stacked with Fujimori allies. Yet outright fraud wasn't necessary. In fairly honest 1995 elections, the four traditional parties won less than 12 percent of the vote, having received 90 percent a decade before. No party met the 5 percent threshold for legal representation, so the Election Board legally stripped them of their status, after which the legislature passed laws making it harder to register a new party.⁶⁹

Fujimori tried for a third term and finally faced pushback. Though Congress, the courts, and political parties were too weak to act, opposition in civil society organized and collected over 1.4 million signatures to hold a referendum against the extension, which Congress refused.⁷⁰ Nationwide protests ensued, but with no organized opposition party to attach themselves to, it soon fizzled.⁷¹ After Fujimori won a third term, however, a videotape of Vladimiro Montesinos, the head of Fujimori's National Intelligence Directorate, bribing a legislator surfaced. Soon, the press unraveled the massive corruption that had underpinned Fujimori's regime, under which Montesinos had used the Intelligence Directorate to bribe, harass, and intimidate journalists, legislators, and businessmen to achieve Fujimori's agenda. The breathtaking extent of the corruption and malfeasance led Fujimori to resign and flee to Japan to avoid prosecution, while his regime collapsed, and the legislature appointed a caretaker government.

The transition team immediately put people of integrity in charge of the electoral commission and increased media and judicial independence. A fair election in 2001 was won by Alejandro Toledo. Toledo continued to undo the democratic decline. He closed the Presidential Ministry, decentralized power, and set up a national truth commission to investigate human rights abuses in the prosecution of the guerrilla war.⁷² However, he failed to tackle the web of corruption and elite capture that Montesinos and Fujimori had woven among business and media leaders. Toledo decreased the personalization of government by ensuring that

unelected technocrats were in charge of key policy areas, so Toledo could take little credit for successes.⁷³ Voters felt that their democracy was less responsive than under the popular, charismatic Fujimori.⁷⁴ The media, which remained connected to pro-Fujimori business elites, exacerbated voter discontent by running unrelenting attacks on the new president. While Peru's democratic institutions are almost unrecognizably stronger after the level of decline inflicted by the Fujimori administration, the public's perceptions of increased petty corruption, crime, and an out-of-touch political class have grown.⁷⁵ Voters express massive discontent with democracy.⁷⁶ Worrying trends have thus reappeared. From 2006 to 2012, only 12 percent of legislators were reelected – with so many first timers, Congress is less effective in checking the executive.⁷⁷ In 2016, Fujimori's daughter came within a quarter of a percentage point of winning the presidency.⁷⁸

INDIA, 1980–1989

As with Peru's self-coup, the events around India's Emergency Rule period are such a massive democratic break that it is hard to imagine anything similar in the United States. Moreover, India is a parliamentary, not presidential, system, which has helped it avoid a polarized population; its many cleavages have been able to coalesce around multiple personal identities and political parties, rather than the population dividing into two large political identity groups. Our case instead focuses on the post-Emergency Rule period, from 1980 through 1989, and on the structural similarities between the United States and India, both large, diverse democracies with federalism, highly esteemed judiciaries and strong civil service traditions, that elected a charismatic, populist leader.

While India had multiple strong political parties by August 15, 1947, it was led solely by the Congress Party from that day of independence until 1977. In 1966, Indira Gandhi became Prime Minister and, as head of the Congress Party, began to centralize power in herself. What had once been a broad tent with close ties to the regions and internal democracy that percolated decisions up became a top-down organization controlled through loyalty to Gandhi herself.⁷⁹ A hero to many Indians for her anti-poverty programs and credited with helping split arch-rival Pakistan into two parts during the war that created Bangladesh, she soon used her popularity to do to the country what she had done to her party.

After using government agencies to abet her reelection in 1971, she was sued and banned from parliament by the courts. As the case progressed through appeals, she refused to abandon power, instead using the legislature to overturn court orders and interfering with the hiring and promotion practices of the judiciary.⁸⁰ When the Supreme Court upheld the parliamentary expulsion, Gandhi convinced the president of the Republic to declare an emergency. The emergency powers she gained allowed her to immediately suspend the constitution, delay elections, censor the media, and undertake mass arrests of political opponents and other protestors.⁸¹ After two years of such authoritarian rule by decree from 1975–1977, she called snap elections, assuming she would win, and instead lost – ending the Congress Party's governance for the first time in India's history.

Yet after just two years of an opposition government unused to governing, voters brought Indira Gandhi back to power. While maintaining the contours of India's restored democracy, she continued to govern through a centralized party and a cowed parliament. She demanded personal loyalty from the civil service and police, and she passed campaign finance "reform" that opened the door to campaign contributions from organized crime.⁸² Assassinated by her bodyguards in 1984, Gandhi's legacy continued under her son, Rajiv, who won elections and then governed in a similar vein. Less charismatic than his mother, Rajiv watched the Congress Party begin to lose voters to more identity-based parties such as the Bharatiya Janata Party. To regain votes, he pandered to Hindu chauvinists while attacking opposition parties as traitorous, unpatriotic forces, until he lost elections in 1989.⁸³

While the Gandhis lost power, the damage they had done to democracy from 1980 to 1989 remained.⁸⁴ India's civil service and police remain politicized to this day, while campaign finance has not recovered from its turn to illicit sources.⁸⁵ The chief interest of the India case is the story of what occurred within India's political parties. Gandhi's centralization of her party apparatus, ironically, caused it to lose touch with voters. Federalism allowed regional parties to take advantage of voter discontent and become skilled at governing at the state level, until some grew into national parties that have successfully won elections.⁸⁶

**Table 1: Institutions undermined by executive action
(or already highly politicized)**

	Cases of Democratic Decline and Renewal or Repair							Cases of Decline without Renewal			
	Italy	Colombia	Louisiana	South Korea	Peru	Argentina	India	Hungary	Poland	Turkey	Venezuela
Institutions of Horizontal Accountability											
Judiciary	●	●	●	●	●	●	●	●	●	●	●
Prosecutors	●		●	●	●	●	●		●	●	●
Legislature	●	●	●		●	●	●	●		●	●
Intelligence or Security Services		●	●	●	●		●	○ ¹		●	●
Civil Service			●		●	●	●	●	●	●	●
Parties	●	●	○ ²	●	●	●	○ ³	○	●	○	●
Institutions of Vertical Accountability											
Media	●		●	○	●		○	●	●	●	●
Electoral Manipulation		●	● ⁴	○	●	○	○	●	●	●	●
Civil Society								●	●	●	●

● Undermined ● Mixed Impact ○ Slight Undermining

1. Some of Hungary's domestic security services have been accused of abuses, but not all.
2. Huey Long achieved power in a one-party state; however, after his time in office, the Democratic party's factions became ideologically clearer and their control of the nomination process became less rigid.
3. India's long-leading Congress Party was weakened, but regional parties were able to gain a foothold.
4. As with many abuses of the Long era in Louisiana, the full impact of election manipulations did not play out because Long was assassinated at the height of his consolidation of power and successors were not able to exert the same level of influence.

**Table 2: Institutions that played important roles in
undoing executive degradation**

	Italy	Colombia	Louisiana	South Korea	Peru	Argentina	India
Institutions of Horizontal Accountability							
Judiciary	●	●	●	●	●		
Prosecutors	●	●	●		●	●	
Legislatures							
Intelligence & Security Services							
Civil Service							
Parties							
Institutions of Vertical Accountability							
Media		●	●	●	●	●	
Voters (via successor)	●	●	●	●	●	● ¹	
Civil Society		●	●	●		●	

1. President Macri's election and successful reform efforts are a significant development. If the second half of his term continues on the trajectory of the first, Argentina will have come a long way toward democratic renewal. His reelection could prove a real marker of progress.

Damage to Institutions of Horizontal Accountability

JUDICIARY

Attacks on the judiciary are universal across our cases; executives committed to populist, authoritarian, or self-dealing governing styles consistently erode the one institution that could most reliably rein them in. In Italy and Colombia, where legal protections are strong, politicians politicized the judiciary in the eyes of the people so that decisions were seen as partisan. In places with weaker institutions, such as Argentina, Louisiana under Huey Long, Peru, and India, there was outright manipulation of the judiciary through hiring, firing, and career interference. (Multiple cases also involved judicial bribery, which both manipulated the courts and lowered their public stature when disclosed.)

U.S. structures fall into a middle ground, allowing for politicized appointment of judges, after which legal protections and norms of independence are strong. We thus see a mixed method of judicial degradation in the United States. Since the 1987 nomination of Robert Bork, judicial appointments have grown more political. Congressional norms of bipartisanship have also eroded, such as the refusal to hold a nomination hearing for a Supreme Court nominee in 2016; allowing the minority to filibuster judicial nominees, a rule whose degradation began under Democratic Majority Leader Harry Reid and was furthered under the Republican Congress; and the current congressional Judiciary Committee's potential abandonment of the longstanding practice of "blue slipping," or requiring the approval of both of a nominee's state senators to approve of a judicial nominee before a committee vote.

“Attacks on the judiciary are universal across our cases.”

Meanwhile, the popular prestige of the courts is at risk from politicization – both intentionally caused by political actors and inadvertently exacerbated by poor court reporting. Opinion polling shows that the Supreme Court is increasingly viewed through a partisan lens.⁸⁷ Senior members of the judiciary are involved with organizations such as the Federalist Society, which have transformed from ideological to more partisan bodies. President Trump has built on this trend through criticisms of the judiciary and its decisions, positioning the institution as simply another (illegitimate) political actor, rather than an arbiter of impartial law. This norm erosion has been abetted by the quiescence of other institutions in defending the judiciary, from Congress, to organizations such as the Federalist Society that have not spoken regarding public legal discussion on issues such as the president's claim of a right to self-pardon. Across our cases, courts were among the institutions that ultimately unraveled executive degradation of democratic institutions. However, they often emerged with a legacy that increased their politicization and reduced their status afterward.

POTENTIAL WARNING SIGNS:

- devaluation of the American Bar Association (ABA) as the lead impartial arbiter of judicial quality based on peer and legal assessment, and the elevation of more political organizations such as the Federalist Society and American Constitutionalist Society as co-equals to the ABA in assessing judicial quality;
- continued attempts to appoint less qualified individuals to judgeships,⁸⁸ including people considered political operatives with law degrees, eroding the status of the judiciary and further politicizing it;
- attempts to split the 9th Circuit, a body whose split has been discussed for decades given its immense size and the common belief that its rulings are liberal. A split would limit the reach of the circuit's rulings while potentially enabling the president to legally appoint many new judges;
- continued confirmation of a large number of new judges, over the objection of the Senate minority party, to fill over one hundred vacancies left after the Senate refused to consider Obama appointees;⁸⁹ and
- current discussion of whether to rethink and reduce judicial review, which has percolated among legal scholars for a decade, become politicized and used as a method to reduce judicial review of possible executive malfeasance.

POTENTIAL SOLUTIONS AND RESPONSES:

- training programs for journalists to reduce the politicization of the judiciary in their press coverage;
- development and codification of a new set of procedural rules for the consideration of judicial nominees that addresses minority party rights and judicial qualifications;
- expansion of ethics rules that prohibit political activity by judges and limited application of them to spouses;
- conferences within law schools, particularly bringing together left-leaning and right-leaning law schools and faculty, on methods to depoliticize the courts;
- support champions within the Federalist Society who seek to return the institution to its conservative roots over its current partisan positioning; and
- a set of philosophical discussions within the evangelical community to consider the importance of impartial courts within a democracy, and the tensions between majoritarianism and liberalism.

ADMINISTRATION OF JUSTICE AND SECURITY

Every case we considered also involved obstruction of the administration of justice and the politicization of security services – particularly the domestic intelligence agency.

Berlusconi, again the closest case to the United States, passed over forty laws designed to reduce the ability of law enforcement to prosecute him for various crimes, from reducing the statute of limitations, to increasing political leaders' immunity from prosecution and decriminalizing activities for which he was already under investigation.⁹⁰

Instead of serving as a bulwark against executive overreach, domestic intelligence and prosecutorial bodies were usually co-opted by executives to prevent investigations from proceeding against them while simultaneously directing justice investigations against opponents. In Colombia and Peru, the internal intelligence services were put entirely in the service of Presidents Uribe and Fujimori.⁹¹ In Argentina, prosecutors were hamstrung by the executive. In South Korea, when the head of the prosecutorial service attempted to indict the head of the intelligence service for electoral manipulation, a media campaign hounded the prosecutor out of his job and the already politicized prosecutorial agency was thereafter fully subordinate to the executive. In Italy, where prosecutors had shared a career path with judges that gave them significant insulation, Berlusconi passed a law in 2005 that separated their careers and placed prosecutors under the control of the executive Ministry of Justice.⁹² In this light, the targeting of the FBI in the United States should come as no surprise.

South Korea illustrates another problem that befalls some intelligence agencies: becoming political actors in their own right. In South Korea, the intelligence service had been a conservative political actor prior to the Park administration and had interfered in the election to assist her campaign.⁹³ In Peru, Fujimori in effect governed in coalition with Montesinos, the head of the intelligence services.

In the United States, Hoover's FBI had also become an independent actor. When the full extent of its malfeasance came to light, the FBI was professionalized by subjecting it to oversight from other branches. The American experience of the 1970s is instructive here. President Nixon used the CIA and FBI to spy on his political opponents and engage in the cover-up of illegal activities. The Watergate burglars themselves had CIA ties. The Watergate and Church Committee investigations led to an overhaul of intelligence oversight that functioned effectively until recently.

In the United States, civil servants and political appointees within the Department of Justice have clearly resisted interference and are proving resilient in the face of attempted politicization. Fujimori fought similar actions in Peru's military by elevating a faction willing to be politicized over the faction determined to uphold apolitical norms.⁹⁴ U.S. Department of Justice internal rules against political interference were developed in the aftermath of the Watergate scandal and limit White House communications with the Department and the president's access to information about investigations and prosecutions. However, these are rules, not laws; the insulation of the DOJ and FBI from executive interference is more

“Domestic intelligence and prosecutorial bodies were usually co-opted by executives to prevent investigations.”

normative than legal, and these norms have eroded over time. In this context, statements by the president calling political opponents criminals and suggesting they be investigated by the DOJ are worrisome, as are attempts to influence ongoing investigations. The legal ambiguity that surrounds any president's ability to direct prosecution and end investigations is a fundamental weakness in the American constitutional system when seen in this comparative context.

Co-option of security services was a less consistent means of degradation in our cases. Police were politicized in India and Louisiana – Huey Long led what could only be described as a secret personal police force. In Peru, Fujimori made the military a virtual campaign arm and used an ongoing war against a terrorist group to erect new, less accountable, military and civilian tribunals.⁹⁵ In Colombia, Uribe prosecuted his war against guerrillas with the assistance of compromised military units willing to work with paramilitaries.

In America, local control over policing and strong military norms insulate these bodies. However, President Trump's and Jeff Sessions' speeches at the National Sheriff's Association, a membership organization of rural law enforcement, coupled with the declaration by a subset of sheriffs that they would not enforce state law, is a concerning sign.⁹⁶ Moreover, America's military is far and away the most popular institution of government. Trump's campaign donations from his charitable foundation to veterans' organizations, references to "my generals," appointments of generals into civilian leadership roles, and his lavish defense budget may be attempts to co-opt that popularity in a subtler manner.

In countries where prosecutors could avoid or escape politicization, they were imperative in eventually rolling back executive overreach after executives had left power – a role they played in Colombia, Peru, Italy, and Louisiana.⁹⁷

POTENTIAL WARNING SIGNS:

- presidential pardons that erode norms against activities also engaged in by the president, cabinet members, and campaign aides;
- presidential self-pardon;
- more sophisticated means of self-exculpation than pardons, such as passing laws that legalize currently illegal or questionable classes of actions engaged in by the president, cabinet members, and campaign aides;
- continued executive accusations that law enforcement or intelligence agencies are biased or politically motivated;
- firing or removing individuals investigating executive branch actions, using congressional leaders to shut down investigations on budgetary or other pretexts, or interfering with Inspector General investigations;
- creation of pro-administration factions within otherwise apolitical institutions through hiring, firing, and moving of civil servants and political appointees;
- continued claims that political opponents are criminals, are involved in anti-government conspiracies, or otherwise deserve to be imprisoned for claimed crimes;

- opening of investigations and prosecutions of political opponents, their campaigns, or staff;
- intimidation of opponents through tax harassment, sheriff harassment, or frivolous and politicized cases;
- wiretapping of political opponents through rogue factions of intelligence services, sheriffs, or military intelligence;
- greater use of the military at pseudo-governmental campaign events such as the planned Veterans Day military parade in Washington, D.C.; and
- using rhetoric and funding to create a wedge between urban police departments and rural sheriffs in differential enforcement of the law.

POTENTIAL SOLUTIONS AND RESPONSES:

- insulate the administration of justice from executive interference;
- strengthening of civil service protections in general, with particular regard for justice institutions;
- funding for investigative journalists to understand the FBI and DOJ, so that they can report comprehensively on the emergence of politicized factions;
- increase independence of congressional committee staff, as was proposed post-Watergate, and create an independent professional congressional investigative staff that is insulated from political influence;
- reforms to the intelligence community oversight system that reduces the partisan nature of membership and staffing to repair the loss of trust caused by the Democratic Congress's release of the "torture memos" and Rep. Devin Nunes's disclosures of sources and methods;
- expanded restrictions, such as increasing time that must elapse, before former senior military officers can serve in civilian government roles;
- increased education for military officers and enlisted personnel on the limits of "lawful orders," even under civilian control; and
- support for security scholars, legal scholars, and advocacy organizations focused on apolitical administration of justice in order to build a bipartisan intellectual architecture and vocal constituencies.

CIVIL SERVICE

The civil service (with the exception of prosecutors, who were often part of the judiciary, itself a civil service institution in some countries) did not play a role in overcoming executive degradation in any of our cases. However, once a civil service had been undermined, the ability of democracies to right themselves was significantly impaired.

In the closest cases of Italy and Colombia, the civil service did not come under attack. However, the United States is unique in having a weaker civil service than peer democracies.

Unlike Europe and Japan, where strong centralized states built technocratic civil service functions before they expanded the franchise, the United States was unique in simultaneously building its state and a relatively broad democracy (for the time) for all white males with no property qualifications. The result was a much deeper and more entrenched spoils system of political appointments that for the country's first 150 years had more in common with the modern politicized machine politics of Argentina than most European states. The spoils system was largely curbed by early twentieth century reforms. Yet in recent decades, political control over the federal civil service has expanded significantly. President Trump has 1,200 political appointee slots, up from 268 under President Kennedy. Meanwhile, although the federal civil service is protected by law, the institution has been disparaged for years under the general rubric of shrinking government.

In India, Louisiana, and Argentina, the civil service was politicized to force loyalty and used to build patronage-based political machines that could deliver votes and campaign financing, while ensuring an executive agenda could reach down to the village level. In Peru, in contrast, the civil service was drastically cut and reshaped to enable efficiency and fight corruption. Rather than creating a political patronage machine, Fujimori carried out his agenda through new, specific agencies tied to his individual brand, building massive popularity by delivering on his promise to create a more effective and functioning government while taking personal credit for goods formerly delivered through faceless government programs.⁹⁸

In the United States, President Trump has repeatedly maligned the entire civil service as a “deep state” trying to undermine him and consistently fails to involve subject-matter experts from the bureaucracy in policymaking. Yet this strategy of spreading fear and cowing dissent, while encouraging resignation of those unwilling to bend, coupled with the degradation of State Department capacity, and politicization of the Department of Interior, appear more akin to Fujimori's strategy of delivering on a campaign promise. The U.S. civil service does not face Peru's petty corruption problem. Instead, by reducing the size of government and disabling or triggering the resignation of portions of the civil service that stand against a more traditional conservative agenda in areas of environmental regulation, energy policy, business regulation, and foreign policy, President Trump increases his popularity with base voters and donors, solidifying his control over the party and his chances of reelection.

POTENTIAL WARNING SIGNS:

- continued use of “purgatory” assignments, forced moving of particular civil servants to undesired geographies or menial jobs, to cause general demoralization and encourage undesired civil servants to resign;
- creation of lists of “disloyal” civil servants to be sidelined, as has been reported to be occurring in the Department of State;⁹⁹
- manipulation of the civil service to promote factions willing to be more political and firing of political appointees attempting to maintain apolitical norms;
- incentive packages encouraging early retirement of federal civil servants;

- “reforms” that propose civil service downsizing and which ease regulations on firing, in the name of government efficiency and effectiveness;
- further regulatory action to weaken civil service unions and limit their reach, capacity, fundraising ability, etc.; and
- attempts to weaken or narrow already-poor whistleblower protections.

POTENTIAL SOLUTIONS AND RESPONSES:

- establishing civil service reforms that ensure both legal protections against firing and purgatory assignments for political or discriminatory causes;
- enhancing bureaucratic effectiveness, reducing negative popular perceptions that weaken support for the civil service, and improving methods to remove civil servants for serious, well-documented, repeated, and clear work-related cause, such as poor performance and malfeasance;
- reducing the proliferation of political appointments to enhance the responsibility of civil servants and attract the highest-quality individuals;
- providing additional paths of horizontal entry into the civil service at mid-career, including fast-track programs for highly qualified individuals akin to the Presidential Management Fellowship;
- creating specialized services (such as the Digital Service program that brought significant Silicon Valley talent into government) for highly qualified workers, to enhance the effectiveness of the civil service while spreading greater knowledge of its democratic role among opinion makers; and
- engaging the media in increasing balanced coverage of the civil service and highlighting its role in society, for instance, through support for “solutions” journalism.

LEGISLATURES

Legislatures often had the power to be at the front lines of democracy’s defense. However, in the cases we examined, legislatures played very little role in pushing back against executive overreach or originating repair of the problems left behind. In the one exception, Colombia, the legislature fought back in the first year of Uribe’s presidency after he attempted to reduce the number of legislators and create a unicameral body as part of an effort aimed at reducing corruption.¹⁰⁰ Although the pushback was an attempt to protect their own jobs and prerogatives rather than rein in the executive, it did create a precedent that limited Uribe’s sense of total executive control. The challenge for legislatures is that the political environment and their incentives rarely aligned to support aggressive action to rein in the executive. Without organized support from horizontal institutions of accountability, the hill is extremely steep.

Parliamentary systems, of course, are less likely to act against an executive from their party, which hinders comparison across some of our cases. Yet even in systems with direct presidential election like Argentina, executive co-option and legislative delegation of undue power to the president was frequent. Even when an opposition party was in control of the

legislature – as in South Korea after 2016 – legislatures were generally the last institution to act after executive popularity had solidified and rose to the occasion only after other institutions or popular pressure made action unavoidable.

The U.S. system accords Congress an equal role to the presidency. Yet Senate Majority Leaders and Speakers of the House have transformed the role of legislators so that they have acted in recent years more like a parliament in support of a same-party president, rather than an independent institutional check – what has been called a separation of parties, rather than powers. The institution began to denude itself of strength with its refusal to use war powers after 1941 and has subsequently delegated significant institutional responsibility to the executive on a range of issues, with an uptick of such delegation after 9/11 now codified into the Patriot Act. In the mid-1990s, Speaker Newt Gingrich's reforms of the House reduced staffing and expertise in that body.¹⁰¹ Yet the more significant challenge appears to be rooted in parties, rather than institutional structure. The changing nature of America's parties – more internally coherent, geographic, and identity driven – has altered congressional norms and the possibilities for passing legislation with bipartisan support, more than institutional changes to Congress. We therefore address this problem in the section on parties.

“Senate Majority Leaders and Speakers of the House have transformed the role of legislators so that they have acted in recent years more like a parliament in support of a same-party president.”

Unlike many of the parliaments in our cases, the United States is lucky to have a fairly robust legislature and some long-term members with national reputations who could serve as a check on presidential popularity. Yet these individuals are endangered, and it is notable that the president's strongest critics from within his party are those who are stepping down. This buttresses our belief that a prime reason for a cowed legislature is not institutional structure and weakness, but the power of primary voters. Given that 95 percent of members are running in safe districts, the fear of primary challengers is their greatest concern, even as Congress has record-low approval ratings. The support for Trump among the Republican base is a central reason for choices such as the repeated stymying of attempts to counter Russian interference, Majority Leader Mitch McConnell's refusal to consider legislation to protect Robert Mueller III's investigation, and Devin Nunes's release of damaging intelligence information.

PARTIES

Executive degradation and populism tend to occur when parties are weak or are facing voter discontent by failing to represent citizens, as they were in all of our cases except for India (which had always been ruled by a single party). South Korea had always had weak political parties that served as personal vehicles for individual politicians.¹⁰² In Italy, Colombia, and Peru, leaders built their personal power in opposition to or at the expense of parties, creating a cycle that set the stage for more populism.

In Louisiana, Argentina, and India, populist leaders built party machines that continued degradation for decades. India was the only case in which an executive, by weakening her formerly strong party, enabled positive change by creating space for the rise of new parties in a democracy that had previously always been ruled by one party. It is thus the only case that offers some potential lessons for renewing parties after executive degradation.

Why do strong parties matter for democracies? When parties weaken and become personal vehicles, it harms democracy in multiple ways. Opposition cannot easily organize around an agenda between election cycles, because there are no longstanding organizations built to mobilize voters. Protest movements can force a leader out, but often fail to coalesce around a positive agenda or pass effective policy. When parties are embodied in individuals rather than organizations, there is no room to attack policies – attacks become personal and inherently about identity, deepening voter polarization.

Thus, in Italy, Berlusconi took power after a judicially discovered bribery scandal undermined the existing parties. His creation of a popular mass media, personality-driven party further weakened existing parties, which couldn't compete.¹⁰³ The inability of traditional parties to modernize and regain market share led to the 2018 election, in which far-right and far-left populist parties have formed a coalition government that marries illiberal neo-fascism with an anti-corruption/anti-elite platform – somewhat similar to a Trump and Sanders coalition. While this appears improbable, it is in fact the winning platform of many Middle Eastern Islamist parties that combine social conservatism with promises of cleaner, less self-serving government – positioning that (ironically) has echoes of Louisiana as well. In Colombia, weak parties have led to battles between competing personalities, throwing politics to extremist candidates: In the recent elections, an Uribe follower who wants to unravel the peace deal with the FARC is in a runoff with a former guerrilla fighter, while stronger, less flamboyant leaders fail to get media attention. In Louisiana and Peru, weak parties allowed for dynastic continuation of the Long family and a near-win for Fujimori's daughter in 2016 (she lost by a quarter of a percentage point), while in Argentina it enabled populist leaders to govern the country and continue degrading democracy with only brief interruptions from 1983 through 2015.

In the United States, independents now form 44 percent of the electorate and are the fastest growing “party.” Since 2013, a majority of voters have demanded a third party, marking voter discontent with existing options and party weakness. In addition, changes to campaign finance law that empowered 501(c)4 organizations and so-called “super PACs,” have decreased the relative power of parties. It is worth considering the fact that President

Trump – a candidate with no elective experience, a history of support for Democratic candidates, a poorly funded campaign, and numerous well-established challengers – was able to win the Republican nomination while eschewing both business community conservative orthodoxies and religious conservative moral views. At the same time, the second-place candidate for the Democratic nomination was a man who is, to this day, not a registered Democrat. It is difficult to escape the conclusion that America's political parties are weak.¹⁰⁴

President Trump positioned himself against the Republican establishment, but he did not run against parties per se. His candidacy is most similar to the Louisiana and India cases in which a popular leader takes over a strong party or builds a strong faction. As with Huey Long in Louisiana, Trump's popularity (with base Republican voters who vote in primaries, rather than the electorate as a whole) has allowed him to reshape the party's policy commitments, ideology, and the style of its campaigns. Long-serving Republican leaders out of step with these changes are leaving elected office or changing their positions, while influential conservatives who opposed Trump find themselves locked out of federal jobs and have found their positions in conservative media and organizations threatened.

POTENTIAL WARNING SIGNS:

- attempts to consolidate control of state and local parties by the national party;
- more attempts by well-known, wealthy individuals to co-opt an existing party structure for a personality-driven campaign; and
- factionalist struggles within state and local Republican parties if President Trump proves a drag on Republican candidates.

POTENTIAL SOLUTIONS AND RESPONSES:

- commissioning research into sources of voter alienation from parties;
- supporting research into new party models working in other countries
- supporting ranked choice voting as a method to allow existing parties to remain, while offering sources of renewal and greater representation through third and fourth party challengers who do not serve as “spoilers”;¹⁰⁵
- supporting efforts at the state or municipal level to open ballot systems skewed against new entrants so that new parties to build regional constituencies;¹⁰⁶
- supporting voting reform measures such as enhanced ranked choice voting or the use of fusion parties that would help new state parties of varied ideology form and build national strength over time, the method that enabled strong parties to grow in India; and
- identify and support innovative ways for parties to reach and represent voters.

Damage to Institutions of Vertical Accountability

THE MEDIA

In Colombia, South Korea, and Peru, the press played a crucial role in exposing and thus ending executive degradation of democracy – in the latter two cases, a few courageous outlets (that also saw a business opportunity) were able to play this essential function even though many outlets were cowed by self-censorship.¹⁰⁷ In Italy, the growth of the internet as a means of communication was an enabling factor in the rise of the more internet-savvy Five Star Movement, which would have been the first real challenger to Berlusconi had he not been caught by the courts first.

In all our cases except for Italy, where Berlusconi already owned most television outlets, executives attempted to curb the freedom of the press. Outright censorship, such as that used by India under Emergency Rule, was exceptional. In Colombia, Louisiana, South Korea, Peru, India, and Argentina, executives used a variety of more subtle means, from undermining media revenue by manipulating government subsidies, taxes, and advertising, to surveillance and threats.

In Italy and Louisiana, the closest cases, leaders also used their mastery of a medium (Berlusconi's control over television and Long's use of radio and the direct-mail innovations of his party machine) to bypass traditional media and speak straight to voters without intervening questions or commentary.

The toolkit used by President Trump is thus very much in keeping with the majority of cases of executive degradation. Floating the idea of altering a U.S. postal service contract with Amazon to harm Jeff Bezos, owner of the *Washington Post*, is a familiar technique from more authoritarian-leaning regimes. Speaking directly to the people through his mastery of Twitter and campaign rallies that are covered as earned media are akin to other populist tactics, such as starting new media outlets or relying on partisan media for most interviews, as Trump does. Constant rhetorical attacks on the press are more unusual – though they were used by Huey Long in Louisiana, they do not appear in our other cases.

“The toolkit used by President Trump is thus very much in keeping with the majority of cases of executive degradation.”

The combination of anti-press rhetoric, accusations of bias, claims to “alternative facts,” false stories spread through online bot networks, and other disinformation tactics bears more resemblance to Russia-backed influence campaigns in Eastern Europe than the cases we considered. In a country like the United States where censorship, threats, intimidation, and wiretaps (the types of harassment used in Peru and South Korea), and the monetary pressure used in poorer countries are less possible, rhetorical attacks can reduce trust in the media, sow confusion, and increase polarization.

The U.S. press is a source of resilience. U.S. media forms a broad market with myriad outlets that are far less economically precarious than the press in most other countries we studied. Rhetoric alone will do little to curb valiant efforts by investigative journalists. However, media intimidation could cause greater harm to their efforts, especially in the form of increasingly aggressive leak-related prosecutions. This trend did not begin under President Trump. In fact, George W. Bush started a Department of Justice task force to pursue leakers through the courts, particularly those who uncovered that administration's warrantless wiretapping program. President Obama then increased the use of courts to pursue leak prosecutions as a tool of information control rather than revoking security clearances or firing staff, the techniques previously used for addressing this problem. While the Obama Department of Justice reversed course at the end of his presidency and crafted policies intended to preserve press freedom, these tactics are bipartisan and nearly fifteen years old.

POTENTIAL WARNING SIGNS:

- expanded attacks both online and physical that imperil the safety of reporters;
- attempts to pressure media outlets' corporate parent companies, an action made easier as content, distribution, and infrastructure companies merge and interact with an increasing number of regulatory frameworks and bodies;
- continued and increased government favoritism toward partisan media, while simultaneously cutting less biased media out of important events and other opportunities;
- increased direct delivery of messages through partisan press and social media;
- frequent distribution of government-produced media, such as pre-packaged video and audio, designed to look like independent journalism;
- the effective end of the daily White House press briefing, an institution with important symbolic value as a place in which the press are expected to question the president, or a significant decrease in other on-the-record communications;
- attempts to narrow the scope of the Freedom of Information Act, a law strengthened after Watergate in 1974 and 1976.
- aggressive prosecution of leaks to news outlets, especially those that are tied to investigations of the president's activities;
- jailing of reporters on broader and broader grounds that move further afield from national security;
- attempts to use Federal Communications Commission (FCC) rules to limit the reach of outlets, revoke licenses, or favor partisan outlets; and
- wiretapping of media outlets or the collection of reporter's third-party meta data to identify sources.

POTENTIAL SOLUTIONS AND RESPONSES:

- investments in innovative media business models and approaches, such as public benefit corporations, nonprofit outlets, and “engaged journalism” that reflects in its sources, stories, and staff the diversity of the American public and can act in a way that generates renewed legitimacy for the media;
- change media consolidation rules implemented by the FCC to ensure greater diversity of outlet ownership in any given geographic area;
- Developing public interest media obligations that incentivize the large platforms to address mis and disinformation issues;
- implementation of higher standards for broadband deployment across the country especially in rural areas;
- reinstatement of “net neutrality” rules so that integrated information infrastructure, distribution and content production companies cannot limit access to outlets because they are owned by competitors;
- federal “press shield” policies that protect reporters’ sources; and
- increase whistleblower protections.

VOTERS AND ELECTIONS

After problematic executives left the scene, their first successor proved essential to unraveling democratic degradation in Italy, Colombia, South Korea, Argentina, and Peru. However, in Louisiana and India, dynastic succession allowed a family to maintain control for decades, and successors were unable to undo more longstanding damage.

The importance of successors suggests the value of parties, a strong supply of good candidates, well-functioning electoral systems in which voters have a real ability to choose their leaders, enough faith in the system that they turn out to vote, and confidence that even a polarized electorate will accept the legitimacy of the outcome.

Executives interested in self-dealing and degrading democracy generally want to maintain power, and so they often try to manipulate electoral systems to their benefit. In Italy, Berlusconi altered electoral rules in an attempt to maintain his coalition’s control over parliament, though the effort backfired.¹⁰⁸ In Colombia and Peru, leaders extended term limits with methods of dubious legality and outright illegality. In Louisiana, Huey Long put the governor in charge of most appointments to the bodies that counted votes. In India, Indira Gandhi politicized the electoral commission. And in Argentina, the primary process was changed to keep opposition parties out of the general election. Only South Korea’s leader did not attempt to manipulate elections, although the intelligence agency engaged in manipulation on her behalf, though possibly without her request.

The United States has a history of electoral manipulation in the states of the former confederacy, starting with Jim Crow restrictions that shaped the district to the candidate, rather than the other way around. Today, gerrymandering, new electoral restrictions, and credible allegations that foreign hackers are able to gain access to voter rolls in 21 states are all developments that diminish voter confidence in democracy.

However, while Trump may have gained control over his party, he seems largely disinterested in institutional changes designed to ensure power through party control. And while during the campaign he suggested any loss would be the result of a “rigged election,” there are few tools available for him to directly manipulate election processes, given their control at the state level and strong state pushback that has already manifested in response to the now-defunct Presidential Advisory Commission on Election Integrity.

Instead, the most likely path for Trump is that followed by Louisiana, Argentina, and India. In each of these countries, direct electoral manipulation was minimal. Instead, leaders extended their influence on government through the dynastic succession of family members or hand-chosen successors, making policy through informal networks rather than extralegal office holding. In Louisiana, twelve members of the Long family have held elected office, maintaining staying power in the Senate through 1987 and three terms in the governorship. Nestor Kirchner’s wife followed his two terms with two of her own. The Gandhi dynasty continues to control India’s Congress Party. Indira and Rajiv Gandhi served as prime ministers, from 1966 to 1989, with only a two-year interlude immediately following her failed Emergency Rule from 1977-1980. In Peru, Fujimori not only gained two additional terms for himself, but his daughter ran for president in 2016 and barely lost.

POTENTIAL WARNING SIGNS:

- Ivanka Trump, Jared Kushner, Donald Trump, Jr., or other family members positioning themselves for elected positions;
- cuts to federal funding that assists states with voting system upgrades;
- attempts by partisan state legislatures to use their constitutional power to appoint presidential electors directly, rather than by statewide popular vote;
- attempts or consideration by Congress to refuse to seat presidential electors pledged to the opposing party’s presidential candidate, particularly, for example, if President Trump claims that 2020 election results are illegitimate; and
- attempts by state legislatures of the same party to call a constitutional convention, a never-used provision of the constitution that requires two-thirds of the states and would send proposed constitutional amendments directly to the states for ratification, bypassing Congress.

POTENTIAL SOLUTIONS AND RESPONSES:

- strengthen rules against nepotism in federal office to avoid positioning family members for political campaigns;
- external support to assist state election system-hardening efforts;
- set national cybersecurity standards for election systems in the context of the Obama administration’s designation of them as critical infrastructure; and
- support secretaries of state and electoral official visits to Europe and other countries that have been more effective at hardening their systems against interference and educating their public on voter fraud.

CIVIL SOCIETY ORGANIZATIONS AND PROTEST MOVEMENTS

In none of our primary cases, including that of the United States, was civil society particularly constrained by executive degradation of democracy. Curbs on very small slices of civil society occurred in South Korea, Colombia, and Peru, each of which faced security threats and used national security laws to arrest a broader range of opponents than was necessary, a similar tactic used by India during the Emergency Rule period that is not part of our case. While intelligence services in multiple countries placed some community leaders under surveillance, in every country that recovered from degradation, civil society had the freedom to organize, protest, and push back.

Popular protest combined with media coverage played an essential role in ending South Korea's executive degradation.¹⁰⁹ Civil society organizations and media that documented and exposed scandals were also useful in Colombia, where opponents of degrading policies could add heft or bring cases within functioning institutions of accountability – in that case, the courts. In Argentina, civil society was instrumental in preventing police abuse of government opponents and violence against protestors.

Yet in nearly all cases, opposition parties were too weak for civil society to rally around (Korea, Italy, Argentina, Colombia, Peru, Louisiana) and popular protest movements were no substitute for the long-term institutional role played by parties. Thus, protests by civil society actors could force out a particular leader, but movements without parties could not alter the populist trend of charismatic leaders creating dynastic succession models. Nor could they alter policies, which required voting in sensible successors. In the cases of renewal we reviewed, successors were existing politicians or appointees, not protest or civil society leaders.

We do not intend to denigrate the importance of civil society to democracy; protest and pushback were essential in South Korea and in ending authoritarian regimes around the world. They perform essential watchdog, information distribution, policy analysis, mobilization, and popular legitimacy functions and give crucial support to political out-groups of people who are targeted by the policies of authoritarian and populist leaders. This important palliative role that mitigates the harm done by these leaders and helps maintain the social bonds of diverse societies. In all the democracies that failed to recover, civil society was more deeply curbed. In those that did recover, civil society was most effective when working in tandem with a free press to identify, publicize, and motivate opposition to particular instances of corruption or abuse.

In the United States, little has been done to criminalize opposition to government policy. There have, however, been well-funded efforts to drive particular organizations out of business through bad faith “sting operations” and the spreading of conspiracy theories

“In all the democracies that failed to recover, civil society was more deeply curbed.”

about them. It is also worth noting that President Trump's promotion of ethnic nationalism has brought new, fringe voices into the public square – as seen in Charlottesville in 2017 and several other white supremacist events. In many cases, these protestors are violent and/or show up heavily armed, wearing military-style uniforms and equipment. These groups have cultivated connections with the modern offshoots of the militia and “Patriot” movements and others identified by independent organizations like the Southern Poverty Law Center. The trend of encouraging violence among community groups could then open the door to curtailing organizing under the rubric of law and order.

POTENTIAL WARNING SIGNS:

- the presence of armed counter-protestors used as a tool to intimidate and stifle public protest;
- regulation of protests and spaces where protests typically occur, such as national landmarks in Washington DC; and
- coordinated attacks on particular civil society organizations that oppose government policies through partisan media and/or selective prosecution.

POTENTIAL SOLUTIONS AND RESPONSES:

- creating bipartisan support networks around civil society groups doing the most crucial work in investigating executive malfeasance;
- improve legal protections for advocacy organizations so they are difficult for executive officials to selectively target for enforcement;
- providing financial and systems support to harden the cyber and communications networks of groups doing the most crucial work in holding the executive to account; and
- supporting groups tracking violent nationalist organizations and their funding and support structures.

Personalization of State Power, Elite Capture, and Corrupt Gain

PERSONALIZATION OF STATE POWER AND ELITE CAPTURE

A universal feature of our cases is the tendency of the executive to take actions and engage in behaviors that personalize state power, erasing the distinction between the individual serving as chief executive and the institution of the executive. This pattern is largely a result of the failure of institutions of horizontal accountability to exercise their legal and normative prerogatives. But that failure is often enabled by institutions of vertical accountability such as parties and the press, which can be overwhelmed by popular sentiment seeking a strong leader in times of crisis.

In Argentina, presidents have consistently positioned themselves as the only source of stability in crisis, echoing the tactics of Juan Perón and his wife by warning of a return to the chaos of the dirty war period of the late 1970s through early 80s and the economic and political crises of the early 2000s, in an attempt to be viewed as indispensable. In Colombia, Uribe was the vanquisher of terrorists. In Peru, only Fujimori could save the country from hyperinflation and terrorism. In Louisiana, Huey Long came to power as the champion of poor people during the Great Depression.

The logical outcome of personalizing power in the executive is centralization of authority away from other institutions. And in nearly every case, other institutions were willing to delegate power to the executive or give the executive unusual leeway in the exercise of power. Argentina's Congress granted the president budgetary authority that, when added to existing emergency decree powers, made the legislative branch superfluous. Much the same happened in Louisiana. In Peru and Colombia, the security institutions ceded power to the executive. Each of these executives used their increasingly central position to create new institutions or co-opt existing ones to gain more direct control over people and policy. Argentina's president used decrees and reduced the independence of a judicial selection body; Huey Long used his influence over the legislature to create gubernatorially appointed state boards to oversee all state employment, including local police, teachers, and election overseers. Fujimori funneled significant parts of the budget through his Presidential Ministry and the new institutions he created to deliver personally branded largesse to particular regions.¹¹⁰

President Trump has sought to personalize state power both in rhetoric and practice. During the campaign, he repeatedly insisted that the dire problems he outlined could only be solved by him – not his policies or his party, but him personally – “I alone can fix it.” President Trump consistently refers to tools of state power as things he owns – “my

generals,” “my military,” etc. He demands personal loyalty from subordinates (the most famous example being former FBI Director James Comey), has said he expects the Attorney General to protect him personally, and has repeatedly threatened his political opponents with investigations and prosecution – all actions with direct analogues in our cases. While any one of these behaviors would, on their own, be relevant to individual institutions, taken together they tell an important story about the political approach taken by populist authoritarian leaders.

Three pathologies are abetted by the personalization of state power. First, policies can become the result of executive whim rather than well-thought through programs. Second, the personalization of power abets elite capture, and third, it reduces budgetary oversight, which opens the door for greater personal corruption.

The demise of the presumption of regularity. In the United States, the presidency has – for decades – become an increasingly powerful institution at the expense of Congress. In both international issues, such as war powers and trade, and domestic issues, such as immigration policy or environmental protection, the executive has been given wide leeway to make policy choices. Yet in most cases, the powers Congress has ceded are left to the agencies and departments that make policy choices as part of a process or inform policy choices made in the White House by preparing and vetting options. This means that courts presume, as a matter of legal doctrine, that decisions made by the executive have been through a normal process of review and consideration by subject-matter experts and policymakers; that they are considered rather than arbitrary. In the Trump administration, this *presumption of regularity* has run into a policymaking process that is often far from carefully considered and in fact reportedly animated by the illiberal personal biases of the president.¹³¹ Gabriel García Márquez’s novel *The Autumn of the Patriarch* is perhaps the best description of what occurs when a country is governed by whim rather than normalized processes, and it is not a pretty picture.

“In the United States, the presidency has – for decades – become an increasingly powerful institution at the expense of Congress.”

Elite capture. Elite capture occurs when state financial wealth flows to private businesses with privileged access or ties to politicians, and state policies favor these businesses. The intertwining of business and political interests creates an elite that crosses public and private boundaries and usually spans parties, turning the state into a means of enriching a small, well-connected group at the expense of the broader citizenry. While democratic elections and institutions continue, their meaning is hollowed out as voters realize that no matter who wins elections, certain businesses and political leaders always manage to use state policy for personal benefit in ways that harm citizens and consumers. Elite capture is thus highly corrosive for democratic legitimacy.

The personalization of the state sets the stage for elite capture. An executive can use personalized powers to intimidate businesses into loyalty and can extend state largesse to favored companies, providing a powerful incentive for the private sector to support the presidential agenda in the hopes of receiving favorable regulatory treatment, merger approval, tax law, etc. Companies may also refrain from criticizing the executive to avoid presidential comments and threats of regulation that can send stock prices falling or

harm brand image and to evade tax harassment or regulatory actions that would reduce profitability. In South Korea, Choi Soon-sil had begun to erect such a system for her enrichment, building upon a long tradition of self-dealing among the South Korean chaebol businesses and politicians. Italy's organized crime has benefited from a long tradition of elite capture in that country's south, and Berlusconi's entry into politics likely began via similar illicit networks centered on former senator Marcello Dell'Utri, now convicted for mafia association.¹¹² In Nicaragua, Daniel Ortega's destruction of democracy was undertaken in a pact with the business elite, who supported Ortega's centralization of power in exchange for his business-friendly policies.

Once companies become used to toeing the presidential line, they can also normalize the rewards of doing so. State policy becomes more regularized in captured states than in fully-functioning democracies, in that companies can expect to be rewarded in their dealings with the state so long as they remain loyal. The attraction is enough that once a system of elite capture begins, private-sector institutions benefiting the most seek to perpetuate it by building similar ties with subsequent regimes. As norms against self-dealing erode and the money on offer becomes vast, businesses can corrupt future politicians who need campaign contributions or want to enrich themselves.

POTENTIAL WARNING SIGNS:

- formalized loyalty pledges to the president – as opposed to the constitution – required for government positions or more systematic attempts to identify and purge “disloyal” civil servants;
- increasing reliance on political events and imagery that associate the president with the military;
- continued claims by the president that criticism of him is a treasonous attack upon the state;
- creation of bodies within the White House intended to centralize personnel control from agencies and departments;
- creation of budgetary authorities providing funds for direct use by the president;
- presidential interference in regulatory and agency decision making formerly undertaken by agency leaders or bureaucrats;
- increased presidential use of public comments to help or harm particular businesses and media outlets;
- increased presidential involvement in congressional decisions that would help or harm particular businesses and media outlets; and
- use of the presidential pardon and other executive authorities to assist particular businesses.

POTENTIAL SOLUTIONS AND RESPONSES:

- tightening Department of Defense regulations regarding what role uniformed service members can play in White House events to avoid the appearance of military endorsement of political campaign issues;
- reviewing budget reprogramming and transfer authorities that are ripe for abuse; and
- require enacting legislation that mandates the regular release of White House compound visitor logs and logs of contacts between senior government officials and C-suite employees of large businesses.

EXECUTIVE CORRUPTION AND SELF-DEALING

A final aspect of the personalization of state power is that self-dealing executives fail to distinguish between their personal financial interests and those of the state, leading to systematic personal corruption – and corruption to fund political machines.

Personal corruption undermines government legitimacy and breaks norms that are hard to rebuild. Berlusconi's Italy is the clearest among our cases. Operating through his media business empire, he repeatedly engaged in extortion for favorable treatment, falsified accounting to hide income, and evaded taxes through offshore entities.¹¹³ In Argentina, the Kirchners were able to dramatically increase their personal wealth while in office, moving state funds to offshore accounts, laundering money through existing businesses, and increasing the president's salary by decree.¹¹⁴

In both cases, the executive's control over the administration of justice and the court system enabled these practices. Corruption was common in Italy and Berlusconi used his control of the legislature to make it difficult to prosecute him. He accomplished this by various means, such as changing the statute of limitations, simply changing the technical definition of what was illegal, or changing who had standing to bring the case.¹¹⁵ In the end, however, he no longer exercised strong enough control over parliament to prevent his 2013 final conviction for tax fraud concerning \$62 million in gains.¹¹⁶ Cristina Kirchner has been held to less account, using the immunity that comes from her position as a senator – won after her presidential term – to avoid prosecution.

Modern U.S. presidents have voluntarily divested of any business holdings and put their finances into blind trusts. Since Richard Nixon, every major party nominee for president has publicly released their tax returns. President Trump refused to do both and has never released the details of his financial or real estate holdings, ending practices that had been purely normative but essential to oversight.

By refusing to abide by the norm that presidents divest from business holdings, the president has created situations by which he is able to personally profit from his public office. He regularly travels to his golf courses and hotels and the government has paid millions to his businesses for office space, staff accommodations, food, and additional security.¹¹⁷ The fee to be a member of Trump's Florida golf resort, Mar-a-Lago, doubled after Trump was elected; members often have regular access to him when he is there.

Organizations that are interested in currying favor with the president hold fundraisers at his hotel in Washington, D.C., and diplomats from foreign countries stay there when in D.C. for business. The constitution explicitly forbids the president from receiving financial benefits

from foreign governments without congressional approval, but Congress has been unwilling to act on the issue and litigation has been difficult; few parties have standing on the question. The Trump Organization says it has donated corporate profits from foreign clients to the U.S. treasury, but refuses to say how much.¹¹⁸

Also worrisome are reports that Ivanka Trump has gained intellectual property protection for her business products in China, a decision that came during U.S.-China trade negotiations. In 2017, a business owned by Jared Kushner, Ivanka's husband, was shown to be using his family ties to the president to raise investment capital. Both Ivanka Trump and her husband hold senior White House positions despite having little or no background in national policy. Any one of these activities might well be considered an isolated incident. Taken together, however, they are illustrative of forms of abuse that are common across our cases.

Most of this activity – such as maintaining separate sources of income – is illegal for federal employees under ethics laws passed in the 1970s. However, those laws often exempt the Executive Office of the President because presidents have argued they would interfere with their ability to exercise their power to appoint staff.

POTENTIAL WARNING SIGNS:

- attempts by foreign governments to influence U.S. policy through bribes, promises, or extortion of Trump-owned businesses – this may include granting permission for overseas investments, matching Trump business with capital, or more subtle actions, such as additional grants of trademarks;
- expectations on behalf of the president that foreign governments or domestic interest groups patronize Trump properties to gain policy preferences; and
- Ivanka Trump or Jared Kushner using their White House roles to access capital for businesses.

POTENTIAL SOLUTIONS AND RESPONSES:

- extending federal ethics rules to the White House staff, including closing the loophole that permits family members to work for the president and avoid nepotism rules if they do not receive pay;
- expanding financial disclosure requirements on the president to include tax returns, details on business holdings, and other sources of income;
- expanding the powers of the Office of Government Ethics to conduct investigations, subpoena witnesses, compel document production, etc.;
- supporting state-level efforts to require financial transparency as a condition of ballot access; and
- prohibiting U.S. government funds from being spent at business entities owned by the president or other senior government officials and clearly delineating the costs government will pay for presidents who travel to business properties they own.

Takeaways for the American Context

THE INSTITUTIONS OF JUSTICE ARE A CONSISTENT SOURCE OF RESILIENCE

Looking across cases, the judiciaries in tandem with prosecutors, and generally enabled by the successor administration, played prime roles in rolling back executive degradation. In many cases, judiciaries and successor regimes suffered for their efforts, however, with successors generally serving one unpopular term and judiciaries suffering from greater politicization and loss of public approval (although in multiple cases, their fall from grace was augmented by internal corruption scandals unconnected to the executive).

Any effort by the president to constrain or reduce the political independence of the judiciary or interfere with the role of prosecutors and investigators is therefore of critical concern. Legal and political efforts to protect these institutions from manipulation, and internal reform, where necessary, to reduce the chance they are the subject of their own scandals, should be a priority.

CIVIL SOCIETY AND AN INDEPENDENT MEDIA ARE ESSENTIAL SOURCES OF RESILIENCE

Taken together, the press and civil society organizations played a leading role in protecting democratic governance from populist authoritarian executives. Where executives did not fall by their own overreach, the media played a crucial role in bringing scandals to the attention of the public. Public reaction, when massive enough, could galvanize institutions to act.

In every case where democracy was renewed, except India during its brief Emergency Rule, civil society and at least some press outlets remained free. Yet in each case where democracy has not yet returned, the press has been the focus of much greater censorship and control, while civil society has faced executive harassment, closure, funding cuts, and intimidation. This may have something to do with the timing of cases – more than 100 states have begun reducing the freedom of their civil societies over the past five years. Yet it also suggests that these two institutions likely play a definitive role in fighting for democratic renewal after an executive has degraded institutions of horizontal accountability.

While the media and civil society can highlight abuse and galvanize public anger, they can't exact accountability alone. Only where a strong opposition candidate exists can civil society rally supporters to vote for a successor with integrity. And a responsive court system is necessary to address lawbreaking with a modicum of partisan independence.

PARTIES AND LEGISLATURES ARE HANDICAPPED IN PROTECTING DEMOCRACY

Some of the deepest problems with the democracies we studied began in their political parties. This reality made it particularly hard for legislatures to serve their function of checking the executive. Parliaments, of course, could not be expected to play this role. But in our cases, legislatures consistently failed to check the abuses of populist executives when their party benefited from those abuses. When opposition parties were able to gain power in legislative bodies, they were often disorganized and ineffective in efforts to constrain executives who had already begun the process of centralizing power. Well-functioning institutions of horizontal accountability seem necessary to empower legislatures to stand up to executive overreach – when these and parties are both damaged, legislatures face high hurdles to action.

The American context, with just two mainstream parties, is different than most of our cases, which are multi-party systems (with the exception of Huey Long’s Louisiana). However, an opposition party that weakens by dividing into factions is certainly a potential outcome post-Trump, and the cleavage lines among Democrats are already obvious.

It is likely that institutional damage from norm violations will not be repaired if Democrats take control of Congress. Rather, once empowered, the opposition is more likely to engage in similar anti-democratic tactics in furtherance of their political goals. Thus, the spiraling escalation of norms violation in the U.S. Senate regarding judicial nominees is the likely model for the near future. Reform of legislative procedures and return or redefinition of norms is unlikely while President Trump remains in office and just as unlikely after he leaves – barring bipartisan support for a departure before the end of his term.

Just as legislators failed to oppose populists of their parties, political parties themselves did not force such leaders out until they had already lost all public support. Executives faced with crises in our cases did not change their political course; they doubled-down on their base of supporters and attempted to increase polarization as a bulwark against the opposition. In India, for example, as Indira and Rajiv Gandhi felt increasing competition from the Bharatiya Janata Party and other nationalist parties, they co-opted the language of Hindu chauvinism and campaigned on a Hindu nationalist message at odds with the long tradition of the Congress Party as a broad tent.¹¹⁹

The impact of this doubling-down, polarizing tendency in the United States is to reinforce the power of party primary voters. As long as Republican primary voters remain galvanized by President Trump and his style, candidates are likely to replicate his rhetoric and style, and party leaders are likely to support those candidates, who are most likely to win nomination fights. This dynamic may well long outlast Trump’s presidency itself and spread across parties. As is shown in the personalization and populism of candidates in many of our cases, the style continued long after the original executive had departed, and tended to characterize political discourse across parties regardless of ideology once it had taken hold.

FEDERALISM IS A SOURCE OF RESILIENCE THAT CREATES BUFFERS AGAINST CENTRALIZATION OF CONTROL ACROSS MULTIPLE INSTITUTIONS

The countries we considered, even when federalist, all began with more powerful national governments than that of the United States. In most of our cases, a national government formed and wrote a constitution that created local or provincial governments (Italy is a more complex case). The U.S. context is opposite: The federal government is in many ways, by history and function, a creation of the states. The result is a system that limits national government activities and permits robust state-level power structures.

Federalism was a source of strength in Louisiana, where federal law enforcement helped overturn Huey Long's corrupt political machine. In Argentina, while provincial governments have less power than U.S. states, their governors and mayors were at times able to influence legislators and constrain the president. In India, states with a strong sense of identity and real governing power incubated new political parties that eventually challenged the ruling Congress Party at the state and national levels.

Many of the means by which populists and authoritarians centralize power are therefore more difficult – though still possible – in the United States. State political parties, for instance, are independent legal entities and operate with significant ideological and financial independence from the national party. National parties do assist with funding, data access, and other shared services, but each state's parties maintain their own leadership, membership, and funding streams. In India, regional provincial political parties were able to build a local base of support before expanding nationally. But in general, our case countries did not have the same amount of local party independence, and as a result national executives were able to exercise top-to-bottom control of party governance, finances, and patronage.

State and local governments administer elections in the U.S and the rules for candidacy, ballot access, primary elections, voter registration, and vote process and tallying, which all vary across the country. In our case countries, these areas of policy were often abused to limit opposition party access, such as in Argentina where primary election rules were changed, or Louisiana where vote-counting personnel were centrally chosen. Of course, the United States has a history of systematic abuse of minority voting rights, particularly in the states of the former confederacy. But it would be particularly challenging for a federal executive to implement nationwide changes to vote-tallying processes, for example, across a patchwork of jurisdictions, some of which are controlled by the opposition party.

Governance at the state level is also significantly more independent of national influence than in most of our case countries. The same is true for police forces, which are state and local, and state government employment. Though it is worth pointing out that for many

states, federal pass-through funding for social services and transportation can make up a significant percentage of the state budget, a frequent tool used by national leaders to enforce nationwide policies and a means of abuse in many of our cases.

These practical buffers against centralized power and abuse by the executive have few parallels in other countries. Attempts to undermine them should be viewed with significant suspicion. For example, attempts to co-opt state political parties via funding or reforms to voting that take practical control over tallying out of the hands of state officials should be serious red flags.

FOR SCANDALS, SOCIO-POLITICAL CONTEXT CAN BE MORE IMPORTANT THAN LEGALITY

An interesting finding across cases is the role that the political framing of scandals played in leaders' downfall. In Peru, where Fujimori had built his reputation on delivering effective governance, a corruption scandal was able to cause his resignation. However, in Italy, Colombia, and South Korea, corruption and abuse of office did not cause any significant loss of public trust. South Korea is a case in point: President Park was renowned for having a "concrete floor" of 30 percent voter support, no matter the accusations against her.¹²⁰ A scandal involving her indifference to the plight of hundreds of high school students killed in a ferry disaster turned much of the electorate against her - but not that concrete floor. Her support, however, disintegrated in just three weeks when her close confidant was discovered to have manipulated the university system to help her daughter get into a competitive school and maintain good grades despite not attending class. In a country facing employment stagnation in which university entrance is perhaps the most important life bottleneck, this scandal hit home, particularly for Park's upper-middle-class voter base.¹²¹ Similarly, Berlusconi was reelected prime minister despite facing ongoing charges of bribery, corruption, mafia collusion, tax evasion, and accounting fraud. Ultimately, Berlusconi's base wavered over his sex with an underage prostitute, coming at the same time as economic weakness undermined his ability to deliver.

In general, voters who support a candidate with serious flaws will "price in" the leader's problem as the cost of achieving their political and policy goals. In many of our cases, it seems that voters were "pricing in" corruption as either worthwhile because it was offset by some gain or simply, cynically, considered business as usual. In addition, leaders are able to cast doubt on complex cases of fraud and financial dealing through false statements, partisan media, rhetorical attacks that undermine trust in the relevant institution, and general obfuscation.

In the context of President Trump, where the violation of norms of official and personal behavior is widespread, his supporters are likely to have priced in significant costs to democratic institutions. Opponents will likely need to demonstrate that the cumulative costs have risen too high, find more emotionally compelling ways to communicate about democratic decline, or focus on scandals that evade politicization by packing greater emotional resonance.

AMERICA'S BROAD RELIANCE ON NORMS MAKES IT MORE DIFFICULT TO CHALLENGE ABUSIVE EXECUTIVES ONCE NORMS ARE VIOLATED

The United States is unique in sharing problems with new and old democracies. While its polarization and ensuing institutional weakness stem from social fissures of the late 1960s and 1970s, it functions under a constitution that is two hundred years old – a document that was not written with the hindsight of modern constitutions. Unlike modern democracies, the U.S. constitution has fewer explicit means of limiting executive power. The United States has done quite well, before now, by relying on norms of constraint. When norms were violated, as with FDR's extra terms and Supreme Court packing, JFK's appointment of his brother as Attorney General, or Richard Nixon's multiple violations alongside his law breaking, the system reasserted itself through culture and legislation. The power of what Montesquieu called "the Spirit of the Laws" is frequently stronger than law itself. Yet when these begin to fail in the face of a far more polarized electorate today than in these past cases, the United States has few laws to fall back on, less experience with legislating structural solutions than other new democracies, and a long history of Supreme Court precedents that could complicate efforts to rein in executive overreach.

This makes the growing violation of norms by President Trump and the spread of that deviance into the body politic a far more concerning phenomenon in the United States than it would be in other countries. Policymakers have a number of sources of potential inspiration to consider as they respond to these challenges. After Watergate, a number of reforms were attempted to reinforce the guardrails of democracy. Some were successful and some were not – and their trajectory and outcome provide useful precedent.

From 1974 to 1978, Congress created the Federal Election Commission, limited campaign donations, created the public campaign finance system, required disclosures of campaign donations, outlawed the use of campaign funds for personal use, passed federal ethics laws on self-dealing and conflicts of interest, created financial disclosure requirements for senior government employees, created the independent prosecutor, and overhauled oversight of the intelligence community.

In the 45 years since Watergate, a number of these reforms have been undermined or were not updated to address challenges such as a president who maintains significant business interests. Where Supreme Court precedent has made them less tenable, the legal community should consider whether these are precedents that should be rethought, as occurred when *Brown v. Board of Education* overturned prior precedent. Meanwhile, strengthening oaths to the constitution and other methods to deepen and re-entrench norms of moderation are important, particularly where legal precedent bars legislative recourse.

“The United States has few laws to fall back on, less experience with legislating structural solutions...and a long history of Supreme Court precedents that could complicate efforts to rein in executive overreach.”

INSTITUTIONAL ROT CANNOT BE REPAIRED QUICKLY

It is a mistake to be sanguine about the interaction of polarization and the forms of institutional degradation we are seeing in the United States. Renewal in our cases often took decades; the effects of populist leaders on democracy can be very long lasting. Italy is still grappling with the aftermath of Berlusconi and the damage his governance did to political parties, the rebirth of corruption, and institutional legitimacy. In Louisiana, Huey Long's brother continued a form of Longism-lite through 1960 and Long's son remained in the U.S. Senate until 1987. In Argentina, no non-Peronist president has completed a full term, and Macri's reform efforts remain incomplete.

In many of our cases, successors were crucial to institutional renewal. Yet these cases remain too recent to predict long-term effects: If Keiko Fujimori had won a quarter of a percentage point more of the vote in Peru, or if Mauricio Macri of Argentina lost the next election to Peronists, the pendulum may well have swung back in those cases.

In the United States, simply electing the opposition party to power is not necessarily the clearest route to renewal. Given the level of affective polarization, it may simply encourage a cycle of retaliatory norm breaking. Alternatively, if a Democratic president or Democratically controlled Congress tries to strengthen democratic institutions, it may make reform of democratic institutions appear partisan. Highly polarized Colombia was probably lucky that Uribe's successor was a man viewed as an "Uribe third term," who nevertheless chose to undo his predecessor's democratic harm and allow justice to take its course. Supporting integrity on both sides of the aisle might at least create a greater likelihood of such an outcome in the United States.

Few countries are directly comparable to the United States. Nevertheless, the findings from our cases are sobering. The difficult truth is that renewal in our case countries often took decades and even then remained incomplete. While the United States has deep and unique sources of resilience, the particularly bimodal nature of U.S. polarization may exacerbate that time requirement. U.S. democracy has, however, faced many turbulent periods. During each era, individuals committed to their country's foundational principals found a means to renew the promise of America to its citizens. Another such era is dawning - we hope many will heed the call to service.

Author Biographies

Rachel Kleinfeld advises governments, philanthropists, and activists on how democracies make major social change. As a senior fellow at the Carnegie Endowment for International Peace, she focuses on countries facing violence, corruption and other rule of law challenges, and poor governance. *Time* magazine named her one of the top 40 political leaders under 40 in America in 2010 for her decade of work as the founding CEO of the Truman National Security Project, which assisted scores of national, state, and local political campaigns, advocated for legislation, and fostered a new generation of military veterans and national security leaders to advance policies that would enhance global security, democracy, and human dignity. From 2011-2014 she served on the State Department's Foreign Affairs Policy Board, which advised the Secretary of State quarterly. In 2015, she was named a Young Global Leader of the World Economic Forum. Kleinfeld is the author of three books, including the upcoming *A Savage Order: How the World's Deadliest Countries Can Forge a Path to Security* (Pantheon, 2018). Her previous book, *Advancing the Rule of Law Abroad*, was chosen by *Foreign Affairs* magazine as one of the best books of 2012. She appears frequently in the media, from the *Wall Street Journal* and the *New York Times*, to the BBC, Fox & Friends, and numerous radio stations. Kleinfeld received her B.A. from Yale University and her M.Phil. and D.Phil. from Oxford University, where she was a Rhodes scholar. She lives with her husband and two daughters in New Mexico and works in Washington, D.C., but hearkens often to the log house on a dirt road where she was raised in her beloved Fairbanks, Alaska.

David Solimini has spent fifteen years at the intersection of politics, foreign policy, and communications. As co-owner and Principal of ADco, he provides strategic advice, issue expertise, and translates policy nuance into persuasive communications to achieve policy goals. He is also the host and creator of *The Secure Line*, a podcast on the policy and politics of America's role in the world. In 2017, he advised on policy and led communications for ICAN's Nobel Peace Prize-winning effort to create a treaty-based prohibition on nuclear weapons. Previously, as vice president at the Truman National Security Project, he crafted messaging for candidates, policy leaders, and media across the country, while serving as a senior leader in organizational strategy and program development. He was the founding executive director of the Virginia Redistricting Coalition and co-founder of Virginia21, the country's first organization devoted to generational advocacy for young voters. He has also worked as a speechwriter and ghostwriter for numerous candidates, elected officials, and public figures. Solimini received his B.A. from the College of William and Mary and his master's degree from Johns Hopkins SAIS. He lives with his family in Washington, D.C.

Endnotes

- 1 We use this term from Larry Diamond's book *In Search of Democracy*, where he defines it to refer to the degradation of the civil and political rights of citizens by a country's executive.
- 2 A number of organizations have created indicators on U.S. democratic strength. See, for example, Bright Line Watch, The Economist Intelligence Unit, and International IDEA.
- 3 Lydia Saad, "Perceived Need for Third Major Party Remains High in U.S.," Gallup, September 27, 2017, accessed October 19, 2018, <https://news.gallup.com/poll/219953/perceived-need-third-major-party-remains-high.aspx>.
- 4 Rachel Kleinfeld, "We Are Already in a State of Emergency," Just Security, July 28, 2017, Accessed July 16, 2018. Available at <https://www.justsecurity.org/43628/state-emergency/>.
- 5 According to International IDEA, defining democracy in the broadest manner. Polity IV counts fewer than three dozen.
- 6 In 1949, V.O. Key described Southern politics under Democratic Party control in authoritarian terms, showing how the Democrats undermined competition between parties and exhibited manifold trends seen in other one-party states. *Southern Politics in State and Nation*, Knoxville, TN: The University of Tennessee Press, original printing, Alfred A. Knopf, 1949. Today, the idea of "authoritarian enclaves" is well accepted in democratization literature to explain pockets of authoritarian practices that are at odds with the regime's political norms and explicit rules. It connotes both geographic regions – such as caudillo-run states in Southern Mexico or parts of the Philippines where elite families rule by force – as well as institutional enclaves, such as the extrajudicial rights that continued for the Chilean military after the end of the Pinochet dictatorship. Mickey Edwards, in *Paths Out of Dixie: The Democratization of Authoritarian Enclaves in America's Deep South*, first discussed the concept with regards to U.S. democratic development.
- 7 Alan I. Abramowitz and Kyle L. Saunders, "Ideological Realignment in the U.S. Electorate," *The Journal of Politics* 60, no. 3 (1998): 634-652.
- 8 Drew DeSilver, "The Polarized Congress of Today Has Its Roots in the 1970s," Pew Research Center, June 12, 2014, Accessed July 16, 2018. Available at: <http://pewrsr.ch/SCAUr3>.
- 9 The Partisan Divide on Political Values Grows Even Wider," Pew Research Center, April 25, 2018, accessed October 19, 2018, <http://www.people-press.org/2017/10/05/the-partisan-divide-on-political-values-grows-even-wider/>.
- 10 Brendan Quigley, "Immunity, Italian Style: Silvio Berlusconi Versus the Italian Legal System," *Hastings International and Comparative Law Review* 435 (2011); "Who Trusts Berlusconi? An Econometric Analysis of the Role of Television in the Political Arena," *Kyklos*, 65:1 (February 2012) 111-131.
- 11 Cristian Vaccari, "The Features, Impact, and Legacy of Berlusconi's Campaigning Techniques, Language and Style," *Modern Italy*, 20:1, (2015) 25-39; Salvatore Sberna and Alberto Vannucci, "'It's the Politics, stupid!' The Politicization of Anti-Corruption in Italy," *Crime Law and Social Change* 60 (2013): 565-593, p. 585 for his control of 90% of Italian television.
- 12 Paul Furlong, "Silvio Berlusconi and the Italian Presidency: Accordions, Triangles, and Constitutional Change," *Modern Italy* 20:1 (2015) 77-90; Gianfranco Pasquino, James L. Newll and Paolo Mancini, "The Future of the Western Liberal Order; The Case of Italy," Transatlantic Academy, January 2013.
- 13 Cristina Dallara, "Powerful Resistance against a Long-Running Personal Crusade: The Impact of Silvio Berlusconi on the Italian Judicial System," *Modern Italy*, 20, no. 1, (2015): 59-76.
- 14 Ibid.
- 15 Salvatore Sberna and Alberto Vannucci, "'It's the Politics, Stupid!' The Politicization of Anti-Corruption in Italy," *Crime Law and Social Change* 60 (2013): 565-593.
- 16 Mark Donovan, "Berlusconi's Impact and Legacy: Political Parties and the Party System," *Modern Italy*, 20, no.1, (2015): 11-24.
- 17 Chris J. Bickerton and Carlo Invernizzi Accetti, "Democracy without Parties? Italy After Berlusconi," *The Political Quarterly*, 85, no. 1 (January-March 2014): 23-28; Fabio Bordignon, "Matteo Renzi, A; Leftist Berlusconi' for the Italian Democratic Party?" *South European Society and Politics*, 19, no. 1 (2014): 1-23.

- 18 Eduardo Posada-Carbo, "Colombia after Uribe," *Journal of Democracy*, 22, no. 1 (January 2011): 137-151.
- 19 Ibid.
- 20 "Delegative Democracy: The Case of Colombia," Council on Hemispheric Affairs, September 28, 2007.
- 21 Sebastian Chaskel and Michael J. Bustamante, "Can Santos's Colombia Turn the Page?" *Current History*, February 2012, 67-74.
- 22 "The Rise and Fall of 'False Positive' Killings in Colombia: The Role of U.S. Military Assistance, 2000-2010, Fellowship of Reconciliation and Colombia-Europe-U.S. Human Rights Observatory", May 2014.
- 23 Anita Breuer, "Policymaking by Referendum in presidential Systems: Evidence from the Bolivian and Colombian Cases," *Latin American Politics and Society*, 59, no. 4 (Winter 2008): 79.
- 24 Samuel Issacharoff, "Constitutional Courts and Consolidated Power," *The American Journal of Comparative Law*, 62, no.3 (Summer 2014): 585-612; Daron Acemoglu, James A Robinson, and Rafael J Santos. 2013. "The Monopoly of Violence: Evidence from Colombia." *Journal of the European Economic Association*, 11 (S1): 5-44.
- 25 Holly K. Sonneland, "Colombia's 2018 Legislative Elections," Americas Society/Council of the Americans, March 8, 2018, citing "Corte Suprema Adelanta 28 Procesos Contro Alvaro Uribe," RCN Radio.
- 26 Stephen Gill, "Colombia to Seek Major Justice Overhaul through Popular Vote," *Colombia Reports*, September 18, 2017.
- 27 V. O. Key, *Southern Politics in State and Nation* (Knoxville: University of Tennessee Press, 2006).
- 28 Richard C. Cortner, *The Kingfish and the Constitution: Huey Long, the First Amendment, and the Emergence of Modern Press Freedom in America* (Westport, CT: Greenwood Press, 1996).
- 29 Elizabeth Kolbert, "The Big Sleazy," *The New Yorker*, June 20, 2017, accessed October 22, 2018, <https://www.newyorker.com/magazine/2006/06/12/the-big-sleazy>.
- 30 Edward F. Haas, "New Orleans on the Half-Shell: The Maestri Era, 1936-1946," *Louisiana History: The Journal of the Louisiana Historical Association* 13, no. 3 (Summer, 1972): 238-310.
- 31 "Huey Long's Forty-Four Laws," *New Republic* 81, no. 1043 (November 28, 1934): 63-63.
- 32 Herman B. Deutsch, "Huey Long-the Last Phase," *Saturday Evening Post* 208, no. 15 (October 12, 1935): 88; Elizabeth Kolbert, "The Big Sleazy."
- 33 Courtney Vaughn, "The Legacy of Huey Long," *Louisiana History: The Journal of the Louisiana Historical Association* 20, no. 1 (1979): 93-101.
- 34 Popularity and assassination: Ernest G. Bormann, "Huey Long: Analysis of a Demagogue," *Today's Speech* 2, no. 3 (September 1954): 19.
- 35 Key, *Southern Politics in State and Nation*.
- 36 Jerry P. Sanson, "Reflections of Reform, Shadows of War, and a Portent of Things to Come: The Louisiana 1940 Congressional Elections," *Louisiana History: The Journal of the Louisiana Historical Association* 33, no. 4 (1992): 341-61.
- 37 Errol Laborde, "Leche Knew Reality of a Governor Imprisoned," *New Orleans City Business (1994 to 2008)* 20, no. 47 (May 15, 2000): 29.
- 38 Key, *Southern Politics in State and Nation*, 158-160, 168-180.
- 39 Noam Lupu and Susan C. Stokes, "The Social Bases of Political Parties in Argentina, 1912-2003," *Latin American Research Review*, 44, no. 1 (2009): 58-87.
- 40 Lee J. Alston and Andres A. Gallo, "Electoral Fraud, the Rise of Peron and Demise of Checks and Balances in Argentina," NBER Working Paper 15209, (July 2009).
- 41 Leslie E. Anderson, "The Problem of Single-Party Predominance in an Unconsolidated democracy: The Example of Argentina," *Perspectives on Politics*, 7, no. 4, (December 2009): 767-784.
- 42 Alston and Gallo.

- 43 Though Menem's conviction was recently and controversially overturned, see: Associated Press, "Former Argentine President Acquitted of Arms Smuggling," *New York Times*, October 4, 2018.
- 44 Marcela Valente, "Argentina: Corruption Cases Pick Up Speed," *Global Issues*, September 16, 2009.
- 45 Benedict Mander, "Argentina Counts on Credible Statistics," *Financial Times*, June 16, 2016.
- 46 "Mauricio Macri fights Argentina's Tradition of Handouts for Votes," *The Economist*, May 18, 2018.
- 47 Uk Hep and Sung Deuk Hahm, "Political Culture and Democratic Consolidation in South Korea," *Asian Survey* 54, no. 5 (September/October 2014): 925.
- 48 Paul Y. Chang, "Candlelight Protests in South Korea: The Legacies of Authoritarianism and Democratization," *Ewha Journal of Social Sciences* 34, no. 1 (April 30, 2018).
- 49 Ibid; Choe Sang-Hun, "Ex-Dictator's Daughter Elected President as South Korea Rejects Sharp Change," *New York Times*, December 20, 2012.
- 50 Dylan Stent, "Social Media Manipulation of Public Opinion in Korean Elections," *The Diplomat*, August 31, 2018.
- 51 Justin Fendos, "The History of a Scandal: How South Korea's President Was Impeached," *The Diplomat*, January 24, 2017.
- 52 Choe Sang-Hun, "6 Ex-Officials in South Korea Are Sentenced for Blacklisting Artists," *New York Times*, July 27, 2017.
- 53 Fendos, "The History of a Scandal: How South Korea's President Was Impeached."
- 54 S. Nathan Park, "South Korea's Nostalgia for Dictatorship Has (Mostly) Predictable Results," *Foreign Policy* November 15, 2016.
- 55 Ju-min Park, "The Fall of Choi Soon-sil: From Blue House Confidant to Incarceration," Reuters, November 1, 2016.
- 56 Fendos, "The History of a Scandal: How South Korea's President Was Impeached."
- 57 Kleinfeld interview with Paul Yunsik Chang, Harvard University, June 8, 2018.
- 58 Fendos, "The History of a Scandal: How South Korea's President Was Impeached."
- 59 Charlie Campbell, "Huge Numbers Demand the Ouster of South Korea's President in a Fifth Week of Protests," *Time Magazine*, November 28, 2016.
- 60 Shim Kyu-Seok, "Police Gain Powers while Prosecutors Lose," *Korea Joongang Daily*, June 22, 2018.
- 61 Soo Yeon, "Spy Agency to Investigate 13 Cases of Agents' Suspected Involvement in Politics," Yonhap News Agency, July 11, 2017.
- 62 John Crabtree, "Democracy Without Parties? Some Lessons from Peru" *Journal of Latin American Studies* 42 (2010): 357-382.
- 63 Bruce H. Kay, "'Fujipopulism' and the Liberal State in Peru, 1990-1995," *Journal of Interamerican Studies and World Affairs*, (Winter 1996-1997), 55-98.
- 64 Steven Levitsky and Maxwell A. Cameron, "Democracy without Parties? Political Parties and Regime Change in Fujimori's Peru," *Latin American Politics and Society*, 45, no.3 (Autumn, 2003): 8.
- 65 Bruce H. Kay, "'Fujipopulism' and the Liberal State in Peru, 1990-1995," *Journal of Interamerican Studies and World Affairs*, (Winter 1996-1997): 55-98.
- 66 Stephanie Rousseau, "Women's Citizenship and Neopoulism: Peru Under the Fujimori Regime," *Latin American Politics and Society* 48, no.1 (Spring 2006): 117-141.
- 67 Coletta A. Youngers, 'Human Rights and Politics in Peru Today,' Remarks at the 2000 meeting of the Latin American Studies Association, March 16-18, 2000, 22.
- 68 Ibid., 14.

- 69 Bruce H. Kay, "'Fujipopulism' and the Liberal State in Peru, 1990-1995," *Journal of Interamerican Studies and World Affairs*, (Winter 1996-1997): 88-89.
- 70 Steven Levitsky and Maxwell A. Cameron, "Democracy without Parties? Political Parties and Regime Change in Fujimori's Peru."
- 71 Ibid.; John Crabtree, "Democracy Without Parties? Some Lessons from Peru," 357-382.
- 72 Moises Arce, "The Persistence of the Two Perus," *Current History*, (February 2014): 70-75.
- 73 Alberto Vergara and Daniel Encinas, "Continuity by Surprise: Explaining Institutional Stability in Contemporary Peru," *Latin American Research Review*, 51, no. 1 (2016): 159-180.
- 74 Alberto Vergara and Aaron Watanabe, "Delegative Democracy Revisited: Peru Since Fujimori," *Journal of Democracy*, 27, no. 3 (July 2016): 148-157.
- 75 Eduardo Dargent and Paula Munoz, "Peru: A Close Win for Continuity," *Journal of Democracy* 27, no. 4 (October 2016): 147; Cynthia McClintock, "A 'Left Turn' in Latin America An unlikely Comeback in Peru," *Journal of Democracy* 17, no.4 (October 2006): 95-109.
- 76 Vergara and Encinas, "Continuity by Surprise: Explaining Institutional Stability in Contemporary Peru," 148.
- 77 Ibid., 170.
- 78 Eduardo Dargent and Paula Munoz, "Peru: A Close Win for Continuity," 145.
- 79 James Manor, "Indira and After: The Decay of Party Organisation in India," *The Commonwealth Journal of International Affairs*, 68, no. 272 (1978): 315-324.
- 80 R.V.R. Chandrasekhara, "Mrs. Indira Gandhi and India's Constitutional Structures: An Era of Erosion," in India: The Years of Indira Gandhi, Eds. Yogendra K. Malik and Dharendra K. Vajpeyi (New York: E. J. Brill, 1988), 22-39.
- 81 Arvind Rajagopal, "The Emergency as Prehistory of the New Indian Middle Class," *Modern Asian Studies* 45, no. 5 (2011): 1003-1049.
- 82 W.H. Morris-Jones, "India after Indira: A Tale of Two Legacies," *Third World Quarterly* 7, no. 2 (April 1985): 242-255.
- 83 James Manor, "Parties and the Party System" in India's Democracy: An Analysis of Changing State-Society Relations, Ed. Atul Kohli (Princeton: Princeton University Press, 1988).
- 84 Morris-Jones, "India after Indira: A Tale of Two Legacies," 242-255.
- 85 For police, see David Bayley, "the Police and Political Order in India," *Asian Survey* 23:4 (April 1983) 484-496; for civil service, see Diego Maiorano, "Indian Institutions in the Early 1980s: The Pre-History of the Great Transformation," *Modern Asian Studies* 48:5 (2014) 1389-1434; for campaign finance, see Milan Vaishnav, *When Crime Pays: Money and Muscle in Indian Politics*, (New Haven: Yale University Press 2017).
- 86 Manor.
- 87 Trust among Republicans increased from 48 percent to 79 percent between 2016 and 2017 after the confirmation of Neil Gorsuch, while for Democrats it declined from 74 percent to 62 percent. In 2009, after the appointment of Sonya Sotomayor, Democratic trust in the court grew from 59 percent to 87 percent, while Republican trust declined from 86 percent to 68 percent. "Trust in Judicial Branch Up, Trust in Legislative Branch Down," Gallup Polling, September 20, 2017, Accessed July 16, 2018. Available at: <https://news.gallup.com/poll/219674/trust-judicial-branch-executive-branch-down.aspx>.
- 88 In two years, President Trump has nominated more judges rated "Not Qualified" by the American Bar Association than happened in the decade prior.
- 89 Judicial vacancies are a longstanding problem in the federal courts. Since President Bill Clinton, federal court vacancies have hovered at between 50 and 67 at the end of each presidency (during the George H.W. and George W. Bush Presidencies, vacancies were often lower at the end of intermediary Congresses). At the end of the Obama Presidency, vacancies stood at 103 despite higher than usual nomination rates, due to the refusal of the 114th Congress to consider nominees. See *Status of Federal Judicial Vacancies, Nominations and Confirmations, 103rd-114th Congress*, American Bar Association, Accessed July 16, 2018. Available at: <https://www.americanbar.org/content/dam/aba/unacategorized/GAO/statusofvacsnomscons.authcheckdam.pdf>.

- 90 Dallara, 64.
- 91 "Colombian President Dissolves Intelligence Service," Associated Press, November 1, 2011; for Peru, see Kay.
- 92 Dallara, 66-71.
- 93 Choe Sang-Hun, "Former South Korean Spy Chief Sentenced for Trying to Sway Election," *The New York Times*, August 30, 2017; "National Intelligence Service-Scandals," GlobalSecurity.
- 94 Kay, 74-77.
- 95 Kay, 74-77.
- 96 Rachel Kleinfeld, "The Politicization of Our Security Institutions," *Just Security*, April 25, 2018, Accessed July 16, 2018. Available at: <https://www.justsecurity.org/55383/politicization-security-institutions/>.
- 97 Different justice systems mean that the prosecutorial role is sometimes played by individual judges or is part of the court system rather than the executive, especially in countries whose legal traditions descend from Rome rather than Britain.
- 98 Kay.
- 99 Colum Lynch and Robbie Gramer, "Trump Appointee Compiles Loyalty List of U.S. Employees at U.N., State," *Foreign Policy*, June 13, 2018, Accessed July 16, 2018. Available at: <http://foreignpolicy.com/2018/06/13/trumps-vino-vixen-compiles-loyalty-list-of-u-s-employees-at-u-n-state-mari-stull-political-appointee-state-department-international-organization-united-nations-political-retribution-chaos-dysfunction/>.
- 100 Breuer.
- 101 Institutional weakness may be the cause of other problems with U.S. democracy, such as the influence of lobbyists in crafting laws, and the subsequent sense of many Americans that their representatives are more beholden to "special interests" than to voters. These are serious problems, but are not problems of executive degradation.
- 102 Nae Young Lee, "Party Polarization and Political Consequences in South Korea," Paper prepared for the 2016 24th IPSA World Congress, July 23-28, Poznan, Poland.
- 103 Donovan; Bickerton and Invernizzi Accetti.
- 104 For more on party weakness, see Rachel Kleinfeld, Richard Youngs, and Jonah Besler, "Renewing U.S. Political Representation: Lessons From Europe and U.S History," Paper, Carnegie Endowment for International Peace, March 12, 2018, Accessed July 16, 2018. Available at: <https://carnegieendowment.org/2018/03/12/renewing-u.s.-political-representation-lessons-from-europe-and-u.s-history-pub-75758>.
- 105 Ibid.; Frank Fukuyama, "A Few Steps to Overcome American 'Vetocracy,'" *San Francisco Chronicle*, September 14, 2016, Accessed July 16, 2018. Available at: <https://www.sfchronicle.com/opinion/article/A-few-steps-to-overcome-American-vetocracy-9222920.php>; Larry Diamond, "Maine Can Bring Out the 'Better Angels' of Our Democracy with Ranked-Choice Voting," *Bangor Daily News*, October 6, 2016, Accessed July 16, 2018. Available at: <https://bangordailynews.com/2016/10/06/opinion/contributors/maine-can-bring-out-the-better-angels-of-our-democracy-with-ranked-choice-voting/>.
- 106 Lee Drutman, "The Case for Proportional Voting," *National Affairs* no. 35, (Winter 2018), accessed July 16, 2018. Available at: <https://www.nationalaffairs.com/publications/detail/the-case-for-proportional-voting>.
- 107 Soomin Seo, "South Korea's Watergate Moment: How a MediaCoalition Brought Down the Park Geun-Hye Government" Unpublished Paper prepared for the 2018 AAS Annual Meeting, March 18, 2017.
- 108 Donovan, 16.
- 109 Chang.
- 110 Kay.
- 111 This challenge is demonstrated in the policy history of the executive order banning travel to the United States from certain Muslim majority countries – a policy which began as an illiberal campaign pledge, was drafted without subject-matter expert or bureaucratic engagement and put through three rounds of court-mandated revision before it was able to pass constitutional muster.

- 112 Letizia Paoli, "The Decline of the Italian Mafia," *In Organized Crime: Culture, Markets and Policies*, D. Siegel and Nelen H. (eds) Springer, 2008, 24.
- 113 Salvatore Sberna and Alberto Vannucci, "'It's the Politics, stupid!' The Politicization of Anti-Corruption in Italy," *Crime Law and Social Change* Vol. 60 (2013) 565-593.
- 114 Luigi Manzetti, "Accountability and Corruption in Argentina During the Kirchner's Era," *Latin American Research Review*, 49, no. 2 (2014): 173-195.
- 115 Sberna and Vannucci; Dallara; and Quigley.
- 116 Lizzy Davies, "Silvio Berlusconi Ousted from Italian Parliament after Tax Fraud Conviction," *The Guardian*, November 27, 2013.
- 117 See, e.g., Paul Sonne, "U.S. Military's Space in Trump Tower Costs \$130,000 a Month," *The Wall Street Journal*, July 19, 2017, Accessed July 16, 2018. Available at: <https://www.wsj.com/articles/u-s-militarys-space-in-trump-tower-costs-130-000-a-month-1500428508>; David A. Fahrenthold and Jonathan O'Connell, "Nine Questions about President Trump's Businesses and Possible Conflicts of Interest," *The Washington Post*, March 28, 2018, Accessed July 16, 2018. Available at: https://www.washingtonpost.com/politics/nine-questions-about-president-trumps-businesses-and-possible-conflicts-of-interest/2018/01/29/f8b2a3a8-014f-11e8-9d31-d72cf78dbeee_story.html?noredirect=on; Erin Kelly, "How Much Does the Government Spend at Trump Properties? New Bill Would Require Disclosure," *USA Today*, May 18, 2018, Accessed July 16, 2018. Available at: <https://www.usatoday.com/story/news/politics/onpolitics/2018/05/18/bill-mandates-disclosure-government-spending-trump-properties/622999002/>; and see the NBC News tracker of how many times Trump visits properties he owns: Liz Johnstone, "Tracking President Trump's Visits to Trump Properties," *NBC News*, June 11, 2018, Accessed July 16, 2018. Available at: <https://www.nbcnews.com/politics/donald-trump/how-much-time-trump-spending-trump-properties-n753366>.
- 118 It is worth noting that this action is without legal basis; the donation of profits from foreign governments has not been ruled to absolve Emolument Clause violations.
- 119 Manor, 80.
- 120 Park.
- 121 Kleinfeld interview with Paul Yunsik Chang, Harvard University, June 8, 2018.