
American Institutional Exceptionalism and the Trump Presidency

— ◆ —

JENNIFER BRICK MURTAZASHVILI,
ILIA MURTAZASHVILI, AND TYMOFIY MYLOVANOV

After Donald Trump’s election in November 2016, scholars decried the death of democracy (Levitsky and Ziblatt 2018), democratic backsliding (Slater 2018), and the rise of authoritarian tendencies in American politics (Mounk 2018; Snyder 2018). Daron Acemoglu (2017) claimed that American political institutions are incapable of defending against a modern “strongman” like Trump and that civil society is “our last defense” against Trump. Others offered more nuanced insight into how the populist Right’s policies portend the expansion of the government’s coercive authority (Trantidis and Cowen 2020). In the moments up to Trump’s loss in November 2020 (and his subsequent failed legal challenges to certify votes), scholars and commentators too numerous to mention raised the specter of a “coup,” election violence, and state failure. The Capitol riot on January 6, 2021, was dubbed a “coup” by many in the media, though the term insurrection seems to be more appropriate.

Trump’s election raised many reasonable fears, especially regarding populist pressure on civil liberties, economic freedom, and openness to immigrants. Despite those fears and the chaotic scene on January 6 that left one police officer dead, an

Jennifer Brick Murtazashvili is associate professor of international affairs in the Graduate School of Public and International Affairs at the University of Pittsburgh. **Ilia Murtazashvili** is associate professor of public policy in the Graduate School of Public and International Affairs at the University of Pittsburgh. **Tymofiy Mylovanov** is associate professor of economics at the University of Pittsburgh and honorary president of the Kyiv School of Economics.

The Independent Review, v. 26, n. 1, Summer 2021, ISSN 1086–1653, Copyright © 2021, pp. 97–114.

inescapable conclusion is that predictions of the death of democracy, fascism, and coups were off the mark by a large margin. Our argument here is that this is because American institutions are robust—exceptional even—in dealing with populists. Our argument consists of three interrelated points. First, Trumpism and the policies we associate with it are an expected feature of majoritarian democracy. One of the reasons why Trump seemed like such an outlier is that scholars and pundits alike ignored or forgot what we know about voters in majoritarian democracies. Second, Trump did almost nothing to expand the institutional powers of the presidency and, given his more limited use of executive orders than previous presidents, arguably reduced them. Third, American exceptionalism still holds, though in our view what is exceptional about the United States is its formal and informal institutions.

One of the most significant aspects of American institutional exceptionalism is the robust set of constraints on majoritarian democracy. Trumpism illustrates the prescience of the Framers' preoccupation with political constraints to attain *liberal* democracy, which is an argument that resonates with the theories of populism advanced by James Buchanan (1975) and William Riker (1982). Of special significance is the role of federalism and self-governance articulated by Vincent Ostrom (2008) as a constraint on populist pressure in national politics, an underappreciated constraint given the tremendous focus on what Republicans in the Senate were doing (or not doing, as the case may be) to counterbalance Trump's policies. Nevertheless, a focus on formal institutions is not enough: America's exceptional institutions include a robust tradition of private-property rights and social rules that encourage individualism, each of which provide additional constraints on populist pressure on civil rights and liberties. In addition, wealth contributes to democratic stability, a point made by W. H. Hutt (1964), who argues that constraints on majoritarian democracy are especially significant in troubled economic times—a situation that provides insight into the much-discussed behavior of voters in America's Rust Belt region. The latter is significant insofar as there is a strong case to be made that economic anxiety fueled anti-immigrant sentiments, thus making constraints on political majorities an even more significant safeguard on electoral democracy.

Illiberalism Is a Feature of Majoritarianism

One of the central ideas in classical liberalism is that the tyranny of the majority is an inherent feature of democratic policy making. It is this recognition that gives rise to classical liberals' concern regarding constraints on political majorities as well as the reason for their defenses of markets and self-governance as ordering principles of economics and politics (Pennington 2011). Because democracy and government are considered a necessary evil, public-choice scholars have argued for constraints on majoritarian democracy to ensure protection of individual liberties, both political and economic (Buchanan and Tullock 1962; Brennan and Buchanan 1985). Thus, although Nancy Maclean (2017) has advanced a well-known argument that public choice is an antidemocratic research agenda, it is more accurately described as a principled

approach to constitutional design whose overarching objective is to design constitutional rules to ensure liberal democracy: elections, in other words, cannot come at the cost of our political and economic liberties (Fleury and Marciano 2018; Munger 2018).

There are legitimate reasons to question majoritarianism, and they have to do with voters. Bryan Caplan (2006) offers one of the clearest explanations. According to Caplan's theory of democracy, voters have irrational beliefs that they cling to because the psychic costs of changing their minds (and admitting they might have been wrong) are substantial. Voters also face few direct penalties for expressing their irrational beliefs at the ballot box. Thus, there are few self-enforcing mechanisms to compel voters to behave rationally. Caplan provides many examples, including voters' beliefs about protectionism. Although it is widely accepted that protectionism benefits special interests (Magee, Brock, and Young 1989), nearly half of American voters support protectionism. The standard economic analysis of protectionism shows that it harms most of them, but because voters do not easily see or feel the costs of protectionist policies and feel immediate discomfort when they abandon their deeply held political views, they continue supporting these policies that end up hurting their pocketbooks.

Caplan's theory is a simple and powerful one that rationalizes much of the support for Trump, including for his controversial steel policies (as well as why one of Joe Biden's first executive orders was to "buy American" in federal contracts). Trump won in 2016 because he won the Rust Belt states of Pennsylvania, Ohio, Michigan, and Wisconsin—something no Republican had done since 1988. Even though steel has been on the decline for decades, Trump promised to bring back steel and, more importantly, to bring back jobs. Of course, the entire steel industry is a rather small part of the U.S. economy. The largest steel producer in the United States, Nucor, has revenues of about \$20 billion a year and employs only around twenty-five thousand workers. Many voters who supported Trump for his promises about steel were clearly unlikely to benefit, but they supported him anyway. Indeed, protectionist policies, many of which are inherently based on an antforeign bias, have long been considered a central (and socially costly) feature of democratic policy making (Olson 1982). These policies are illiberal, but there is nothing antidemocratic about them.

Another example is Trump's immigration nationalism. Among his justifications for building a wall on the U.S.–Mexico border was that immigrants who enter the country illegally increase crime and even terrorism. In reality, there is no evidence that immigrants who entered the country illegally commit more crime than any other group in the country or that they increase the risk of terrorism in any meaningful way (Nowrasteh 2016). In fact, migrants who arrived here by crossing the U.S.–Mexico border have never committed a terrorist attack in the country. Trump even took a page from John Maynard Keynes in arguing that the border wall would create jobs. Even Keynesians, though, argue that it is critical to assess the return on public investments (Stiglitz 2010): a border wall has almost no economic return beyond some temporary construction work, but the bigger issue with any such analysis of a border wall is that immigration, whether through the legal route or by individual initiative outside of legal channels, arguably has positive benefits to the U.S. economy, including the strengthening of local economies (Powell 2015).

But the economics of immigration is not necessarily clear, despite recent efforts by Alex Nowrasteh and Benjamin Powell (2020) to demolish intellectual arguments against immigration. Much of the conversation depicts Trump’s immigration policy as xenophobic or racist. Perhaps it is. The available evidence suggests that for some groups in the United States, the economic fear is rational. As George Borjas (2018) explains, though social scientists often present immigration as good for everyone, research tends to exaggerate the benefits and minimize the costs. And economic assimilation occurs for only *some* waves of immigrants. Measured by wage improvement, the native–immigrant wage gap often persists (Abramitzky, Boustan, and Eriksson 2020). It is also clear that for some groups, labor-market impacts are harmful. Immigrants are sometimes depicted as doing the jobs natives don’t want, but a more precise description would be that natives do not want to do those jobs at the prevailing wage.¹ Aggregating impacts also “hide away” specific groups hurt by immigration. This much is clear from the Mariel Boatlift in 1980. A majority of the Marielitos were high school dropouts, resulting in a dramatic nosedive in low-skill wages in Miami in the 1980s (Borjas 2016). Immigrants are also people, not simply labor-market inputs, so they come with positive and negative externalities,² and their arrival has consequences for fiscal policy given the nature of the American welfare state.

All of this suggests that Trump’s base and its fear of migrants could be motivated by rational economic fears or the desire to have higher wages because constraints on immigration have basically the same effect of any policy to increase native wages. Regardless, what is clear enough is that all of this is clearly not a feature specifically of Trumpism but a majoritarian response to what are often rational fears that a policy will harm natives’ wages. Nor was the drop in immigration during the Trump’s administration as precipitous as it seemed to be from media accounts. Although Trump brought immigration to its lowest levels this century, between 2018 and 2019 new international migration added half a million people, down from the decade’s high of slightly more than a million people between 2015 and 2016—a drop, but not as extreme as is often depicted for Trump’s immigration policy.

Even though Trump’s immigration policies may have a rational basis, there is also some evidence that his policies may have contributed to greater support for immigration: more Americans support increasing immigration than to decrease it; support for decreasing immigration dropped 50 percent in 2009 to 28 percent in 2020; support for increasing immigration increased from 14 to 34 percent in that same period; and 77 percent of Americans called immigration a “good thing” for the country (Nowrasteh

1. Importantly, the same logic applies to raising the minimum wage, which can be evaluated for its impact on economic assimilation: there is no economic reason to expect that a raise in the minimum wage is good for everyone because it would disproportionately harm workers who are willing to work for lower wages, including immigrants. Thus, for some local economies, native workers will benefit from such policies at the expense of immigrants.

2. For example, immigrants may bring cultural values supportive of economic freedom, thus strengthening the economy (Clark et al. 2015). Such studies, however, are based on identifying cultural features associated with wealth creation of the migrant community, and so nothing about them implies that migration has only positive effects on institutions.

and Bier 2020). Thus, although millions of voters buy into Trump's policies, there is in fact no consensus on the immigration issue.

Trump portrayed himself as a "law and order" leader who was "tougher" on crime than his predecessors. Despite this claim, his policies were not an extreme departure from the expansive policing policies that predate him. Trump's use of federal police in places such as Portland's quasi-anarchist Autonomous Zone (city government still functioned and provided public services to protestors) led the media and some pundits to raise the specter of fascism and autocracy. It is also clear that most of the perceived problems with policing (as least from a classical liberal perspective)—such as militarization of police (Coyne and Hall 2018), the explosive increase in the prison-industrial complex (Surprenant and Brennan 2019), police violence (Balko 2013), and lack of accountability of police to their communities as a result of the unbridled power of police unions (Fegley 2020)—are outcomes voters are willing to accept and often support, even if these problems have substantial social costs. The Capitol riot provides further evidence of this, as Twitter exploded with demands for the use of facial-recognition technology to identify the rioters but failed to consider how the Chinese government has used such technology in Hong Kong in its efforts to suppress democracy. Indeed, even before the riot, there were calls from both sides to weaken Section 230 of the Community Decency Act (the "internet Bill of Rights") as well as calls for powers to combat extremism despite expansive authority given to government through the creation of the Department of Homeland Security, expansion of the Transportation Safety Administration's authority, and the existence of the Foreign Intelligence Surveillance Act of 1978. The events of January 6, 2021, exacerbated these calls as well as calls for defenses of liberties in times of crisis (Tuccille 2021). All of this suggests that Trump's policies were well within the mainstream, reminding us that the rule of law rather than the political process is typically how we ensure freedom from an expansive police state.

Trump's mendacity is well documented, as are his anti-intellectualism and penchant for conspiracy theories. For better or worse, anti-intellectualism and a belief in conspiracies have long been viewed as a feature of American democratic culture (Hofstadter 1963). Americans are also more likely to reject expertise when it does not conform with American views, leading them to protect their egos by rejecting information that contradicts their worldview (Nichols 2017). Psychologists have documented that "incompetent" people overestimate their abilities, but so does almost everyone else. The "incompetent" are still less sure of themselves than the "competent" (Kruger and Dunning 1999). Indeed, one potent criticism of democracy is that voters often have very little knowledge of the politicians and policies that they choose at the ballot box and that these behavioral features do not simply disappear with participation in elections (J. Brennan 2017). In addition, because failure by experts is more common than we might think (Koppl 2018), and because experts often disagree even when presented with the *same* factual information (Andreoni and Mylovanov 2012), some of the questioning of expertise in a democracy is arguably healthy.

All of this suggests that even though some of Trump's policies may offend our sensibilities, they are expected in a democracy and even have a rational basis, such as fear of immigration as imposing costs on *some* groups. And if this position is correct, then the real threat to democracy comes from presidential imperialism—expanded use of presidential power. If there is a solution to illiberalism, it comes from institutions. Trump's term shows he did little to increase presidential authority, and the institutions of U.S. government worked as well as can be expected in constraining populism.

Presidential Imperialism?

Ivan Eland (2020) observes that although Trump did not invent the imperial presidency, he was blatant about exercising its raw power for political gain and that it is important to take measures to constrain presidential authority. Although this perspective is reasonable, Trump was not an imperial president, at least in historical perspective. Examples of imperialism include John Adams's jailing of opponents under the Alien and Sedition Acts of 1798 and his appointment of new judges at the end of his term; Abraham Lincoln's suspension of habeas corpus and subsequent ignoring of Chief Justice Roger B. Taney's ruling that he could not do so; Woodrow Wilson's seizure of railroads to support the war effort; Franklin Roosevelt's serving of two extra terms beyond the norm and his promise to pack the Supreme Court if it continued ruling against his New Deal policies; Harry Truman's nationalization of eighty-eight steel mills to prevent strikes; George W. Bush's secret tribunals in the war on terror; and so on.

Robert Higgs (1987) explains these changes in authority as part of the ratchet effect: imperialism is a response to crises, both real and imagined. But to see why shifts in power have favored the presidency, it is necessary to consider Congress. The logic of collective action suggests that the smaller the group, the more likely it is able to act in its institutional interest (Olson 1965). Congress is hundreds of people, and the presidency just one person, which offers an institutional explanation for the imperial presidency. Voters also tend to reward and blame the president for economic performance as if there are levers that guide the economy, and so presidents—despite there being few effective levers to guide the economy—have aspired to expand presidential authorities over time (Moe and Howell 1999). Presidents figured out that they can get what they want by unilaterally making policy rather than by persuading (Howell 2003), including by issuing executive orders, memos that have the force of law (Lowande 2014), and by wielding the veto to make the president a *de facto* lawmaker (Cameron 2000).

Trump was by no means out of step with recent presidents in using these powers. He issued 220 executive orders during his presidency, which was lower than the rate at which Jimmy Carter, Ronald Reagan, and Barack Obama used executive orders. By comparison, Wilson issued more than 1,800, and Franklin Roosevelt issued more than 3,700 (see table 1). Trump was in this sense a “normal” president as far as imperialism is concerned. Another measure is the number of pages added to the *Federal Register*,

Table 1
Number of Executive Orders Issued by U.S. Presidents (Selected)

President	Party	Years in Office	No. of Executive Orders
Theodore Roosevelt	Republican	1901–09	1,081
Woodrow Wilson	Democrat	1913–21	1,803
Franklin Roosevelt	Democrat	1933–45	3,721
Jimmy Carter	Democrat	1977–81	320
Ronald Reagan	Republican	1981–89	381
Barack Obama	Democrat	2009–17	276
Donald Trump	Republican	2017–20	220

Source: Data from “Executive Orders,” American Presidency Project, University of California, Santa Barbara, updated March 8, 2021, at <https://www.presidency.ucsb.edu/statistics/data/executive-orders>.

which contains government agency rules, proposed rules, and public notices. On this measure, Trump clearly ranks below other presidents. Another measure of presidential activity is economically significant final rules, which are defined by Executive Order 12866 as having an annual effect on the economy of \$100 million or more. Trump was clearly restrained compared to Obama and even less active than George W. Bush. Because fascism is an economic system as much as anything else defined by the government’s active role in the economy, by this standard Trump leaned toward markets over government intervention.³

Nor did Trump use the COVID-19 pandemic to assert expansive presidential authority at the expense of the states. In fact, Trump was often criticized for not asserting greater authority.⁴ In contrast, Joe Biden, on his first day in office, invoked the Defense Production Act to ramp up vaccine production, which incidentally is a Korean War-era policy that is associated with presidential imperialism because President Truman used it to impose wage-and-price controls and heavily regulate steel and coal production through executive fiat. According to this factor, Trump was not much of an imperial president and not one who used the powers all that much compared to past presidents.

Now that Biden is in office, we can also see that he is willing to use the executive order liberally—he signed thirty in his first three days in office. Trump’s activity to undo Obama’s policies in his first one hundred days in office met with questions about democratic legitimacy. It remains to be seen what will be made of Biden’s activities. We

3. See the website of the Regulatory Studies Center, George Washington University, at <https://regulatorystudies.columbian.gwu.edu/reg-stats>.

4. Some of the criticisms of Trump tend to ignore the institutional constraints on any American president in responding to pandemics, a point made regarding historical disease prevention in Troesken 2015 and recently applied to COVID-19 in Geloso and Murtazashvili forthcoming.

cannot predict the future, but what seems clear enough is that presidents view themselves as lawmakers and have done so for a long time, thus calling into question any notion that Trump alone has expanded the institutional authority of the president.

American (Institutional) Exceptionalism

Theorists of populism such as James Buchanan and William Riker clarify the political rules that can alleviate populist pressure, though, as we explain, Vincent Ostrom’s work on polycentricity and W. H. Hutt’s insight into relationship between property rights and populism are also significant in understanding the robustness of American institutions in response to a “strongman” such as Trump. American institutional exceptionalism also includes informal institutions that constrain populism.

Electoral Institutions

In *Polyarchy* (1971), Robert Dahl defines democracy as a regime in which those seeking political office have some reasonable chance of winning. Electoral manipulation that constitutes a move toward autocracy includes disregarding valid election results, suspending elections, and meddling with elections to win or maintain political power. The Trump administration featured several instances of alleged meddling with elections. The Mueller Report considered but ultimately found no evidence that Trump colluded with Russia to acquire information on Hillary Clinton in the lead-up to the election of 2016. In December 2019, the House approved articles of impeachment against Trump on charges of abuse of power and obstruction of Congress, but the Senate acquitted him in February 2020. Trump allegedly withheld military aid to Ukrainian president Volodymyr Zelensky to pressure Ukraine to investigate Joe Biden’s Ukrainian business dealings and to promote a theory that Ukraine, not Russia, was behind interference in the 2016 presidential election. Every Senate Democrat voted to impeach Trump on both articles, whereas all of the Republicans voted to acquit, save Mitt Romney, who voted to impeach Trump on one count. The votes (52–48 and 53–47 to acquit) fell well short of the two-thirds required to impeach the president.

After Trump lost the presidential election in 2020, he challenged the official vote counts, but with remarkably little success—only two of fifty legal cases were a Trump win. Headlines poured in proclaiming after the election that this challenge was damaging America: “Donald Trump’s Refusal to Concede Is Harming America” (*Economist* 2020); “How to Cover a Coup—or Whatever Trump Is Attempting” (Sullivan 2020); “William Barr Can Stop Donald Trump’s Attempted Coup” (Rohde 2020). Others were more nuanced: “Whatever Trump Is Doing, It Isn’t a ‘Coup’: But the Long-Term Effect Could Be Similarly Damaging” (Keating 2020).

The political scientists Steven Levitsky and Lucan Way (2010) conceptualize democracy by four criteria: (1) politicians chosen through free and fair elections; (2) virtually all adults possessing the right to vote; (3) political and economic liberties,

including freedom of the press; and (4) elected authorities possessing real authority to govern (free of military or clergy). In competitive authoritarian regimes, violations of these criteria are both frequent and serious enough to create an uneven playing field between government and opposition; incumbents abuse state resources, deny opposition adequate media coverage, manipulate election results, spy on, threaten, and harass opponents and journalists, and jail, exile, assault, or even murder opponents despite elections.

Perhaps the challenge eroded democratic norms, but what is clear is that Trump was not pursuing extralegal methods to win the election or disregarding the outcome in that he did agree to concede after the recounts and after courts heard the cases. For all the concern, the elections worked, there was no election-night violence, and there was no coup (we know this now because Trump is out, and Biden is actively implementing his own agenda). There was a riot, which has been roundly criticized (Somin 2021). Though there was no shortage of political scientists who invoked the notion of competitive authoritarianism in America to describe Trump's challenge of the election results, a reasonable reading of this notion's definition shows that Trump's activities did not meet those criteria.

We should also call what happened on January 6 what it was—a riot. John Avalon's opinion piece on CNN was headlined, "Donald Trump's American Carnage Ends with a Coup Attempt" (January 6, 2021), while the headline of Amanda Taub's *New York Times* article on January 7 was a bit more nuanced: "It Wasn't Strictly a Coup Attempt, but It Wasn't Not One Either." More commentators called it an "insurrection." All, however, abuse the notion of what constitutes a coup if we are going to use the definitions that social scientists use. And what term to use should not be an issue because rioting is wrong. Calling what happened on January 6 a coup also loses focus on what is an ordinary function of policing—riot control—and on an important failure of public administration. The day before the riot, the mayor of Washington, D.C., said the police presence was more than adequate and made no argument for a larger National Guard presence, but in the next few days she was calling for an inquiry into why the National Guard and more police were not present, and the police called for resignations of their supervisors (Niedzwiadek 2021). There was, of course, a much greater police presence for the inauguration, but also only a handful of protestors showed up, which illustrates that the event on January 6 was less a coup than a failure of public administration, specifically riot control.

Courts and the Rule of Law

The most obvious example of the rule of law constraining Trump is his string of defeats in challenging the election results. But courts did much more than that to hold Trump in check, for reasons that reflect the institutional authority of courts. In some instances, courts can be bullied by presidents, though that usually occurs when the president is

popular and the courts have something to fear, as might have been the case with the New Deal policies and Franklin Roosevelt's threat to pack the Supreme Court.

The courts' behavior suggests they did not fear Trump. The border wall got tied up in court over issues of harm related to property, thus making building it impossible (Somin 2020). Trump attempted to end the Deferred Action for Childhood Arrivals policy, though the Supreme Court rejected his actions in a five-to-four decision. The Supreme Court did not extend any protections to illegal immigrants, but it did rebuff Trump's efforts to simply do away with the policy. Together, these cases illustrate that the rule of law held even as Trump's policies reduced immigration substantially, though not entirely, and courts overturned many of his policies in any event, further illustrating the ongoing constraints on his presidency.

Even Trump's wild last chance, the Texas case joined by seventeen states and signed by 106 Republican members of the House, had no chance, for reasons we should have expected. As the law professor Ilya Somin puts it, Trump had no chance in front of a conservative Supreme Court: "They [the justices] don't have the same need to cater to a political base or the whims of Donald Trump. And they have stronger incentives to care about the precedent they are establishing" (qtd. in Wolf 2020). Even so, some in the media questioned the rule of law, as in Jay Willis's *Atlantic* headline on December 13, 2020: "Liberals Were Right to Fear the Supreme Court's Election Intervention." The point of Willis's article is that the justices not wading into a "sloppy coup attempt" is *not* a victory for the rule of law. This argument, of course, requires redefining the rule of law to something other than fifty defeats of Trump lawsuits

Polycentric Governance

Vincent Ostrom (2008) understands federalism as the most innovative feature of the American political system and the ultimate reason why self-governance is possible. Ostrom's classical liberal perspective on public administration prioritizes local autonomy in public-sector governance (Aligica, Boettke, and Tarko 2019). The most significant feature of polycentrism is autonomy of local governments to adopt and implement public policies (Aligica 2017).

The autonomy of federalism is also an important constraint on populism. From an institutional perspective, it is less likely that populism can influence public policies because state and local governments have institutional incentives to defend the autonomy that they have enjoyed. Because populism typically occurs and is associated with national politics and involves the aggrandizement of federal power, especially the presidency, these state and local institutional incentives are significant. An example is the issue of a national mask mandate. A populist president who wants to assert autonomy over this area of health or safety would be likely to run into challenges from state governments, which ultimately exercise authority over the health, safety, and welfare of their citizens.

There is also a mechanical reason why federalism frustrates populism. A robust tradition in public administration highlights the challenges of implementing public policies, including in a federal system (Bardach 1977). Local governance provides for autonomy, but at the potential cost of holdups for policies considered beneficial. It can also serve to hold up illiberal policies. For example, cities provided a robust defense against Trump's illiberal Immigration and Customs Enforcement (ICE) policies. Sanctuary cities asserted a robust constraint on federal policies.

Civil society resides in the autonomy created by federalism. In the classical liberal tradition, polycentrism cannot be separated from civil society: a polycentric order is what creates the opportunities for civil society organizations, including the voluntary and nonprofit sector, to participate in governance (Aligica 2016). Civil society, without a political institution to encourage participation, may be less effective as a constraint on arbitrary decision making. Returning to the ICE example, we can see evidence of civil society as a response to Trump's policies, such as when members of a community in Tennessee came together to form a human chain to prevent apprehension of a man by ICE agents. Still, the Metro Nashville Police Department was present, raising questions that led the department to issue a statement that it has no authority in immigration enforcement, although many local police departments did sign such agreements with ICE.

Private-Property Rights and Individualism

W. H. Hutt offers insight into economic freedoms, especially private-property rights, as a source of political stability and a countervailing force against populism. One of his chief insights led him to oppose both apartheid and "one person, one vote": for Hutt, the presence of inequities and grievances meant that majoritarian democracy, without requisite institutional protections of property, would result in political instability that would make many black South Africans worse off with majoritarian democracy than they would be with institutional protections of the white minority.

Much of the discussion of Trumpism and the conservative movement focuses on economic anxiety (Cramer 2016). What dampens this pressure? The United States scores high on measures of protections on private-property rights (Gwartney et al. 2020). Those rights also contribute to the wealth of nations (Berggren 2003). Research on metropolitan economic freedom finds that societies of both cities (Stansel 2019) and states (Ruger and Sorens 2009) that are freer are wealthier and encourage migration. Economic freedom, by contributing to economic well-being, is one source that reduced incentives to support Trump's populist policies.

Another benefit of private property is that it strengthens social institutions that oppose expansion of government, thus dampening populist movements that seek to aggrandize presidential power. One of the bedrocks of American political economy historically has been providing people with property in fee simple, most famously

through homesteads. Recent research finds that the creation of property rights contributed to a belief in rugged individualism and that a long-run consequence has been support for smaller government (Bazzi, Fiszbein, and Gebresilasse 2020). Economic freedom has thus contributed to a system of beliefs and values that opposes the growth of the federal government. Because many of Trump’s policies represented an increase in federal authority—such as ICE actions and use of the federal government for policing—these social rules provided an additional constraint on the expansion of government.

Civil Society and Legitimacy

The centrality of social capital and associational life in the health of democracy was made famous by the “bowling alone” argument (Putnam 2000, 2016; Murray 2013). Although social capital may be on the decline, protest is also an example of associational life. Trump sparked a massive protest movement against his administration. Part of the reason for this movement was the legitimate fear that Trump’s policies might result in more hate (Paluck and Chwe 2017). Many believed that all of Trump’s policies required resistance (#resist on social media). The protest movement is an example that social norms of opposition remain alive and well in the United States, as is the large increase in volunteerism after Trump’s election (O’Neil 2017).

The expansion of executive authority also depends to an extent on legitimacy. Strong states that penetrate people’s lives depend on the government’s ability to achieve some legitimacy even if it violates core notions of the rules of law (Migdal 2001). Questionable processes can influence the costs of policy implementation (Tyler 2003, 2006). One way to measure legitimacy is through popularity. Trump was impeached twice and was not considered a popular president, though it is worth noting that his approval rating at its lowest level turns out to have been higher than the lowest levels for Harry Truman, Lyndon Johnson, Richard Nixon, Jimmy Carter, and both Bush presidents. Trump was thus not quite as popular as the presidents who dramatically increased presidential authority, but he was also popular enough to win over 74 million votes, which refers us back to the earlier point: Trump is not very unusual for what we see in a majoritarian democracy and by some measures was more popular than many presidents (had forty thousand votes in the right places gone for Trump, he would be in his second term).

Conclusion

Many of Donald Trump’s policies threatened collective well-being: opposition to immigration, protectionism, and increasing support for use of the federal government in policing have little to do with liberalism. They are inconsistent with liberal policies that make countries such as the United States rich (McCloskey and Carden 2020).

What remained in place are the institutions that dampen these populist pressures in American democracy. What Trump's term illustrates is the ongoing significance of James Buchanan (1975) and William Riker (1982), who argue that constraints on majoritarian democracy are critical for liberal democracy. They recognize there is nothing inherently liberal about democracy. Rather, political constraints are necessary for a liberal political order. And if Daron Acemoglu (2020) is correct that Trump won't be our last populist president (we believe he is correct), Buchanan's and Riker's insights will continue to be relevant to understanding why our institutions are enough to withstand a "modern strongman," as Trump has been called.

The nature of the constraints extends beyond the rules for selecting politicians. Vincent Ostrom's (2008) consideration of the importance of local autonomy and self-governance has significant implications for understanding why populism in the national government does not translate into major policy change. And as W. H. Hutt understood, constraints—including those arising from protection of property rights, a clear strength of American institutions—become more significant in economic hard times. Property-rights protection and economic freedom are a free-market solution to populism: robust freedoms contribute to wealth, which reduces the economic anxieties that are often behind populist politicians such as Trump.

On balance, institutions worked. Writing for the *New York Times*, the law professor Tim Wu asked, "What really saved the republic from Trump?" (2020). For Wu, it was not separation of powers and checks and balances but the "unwritten constitution": informal and unofficial institutional norms upheld by federal prosecutors, military officers, and state elected officials. But Trump's defeats in court are also significant, as is his rather ordinary use of executive orders and the countervailing effects of robust federalism. American institutional exceptionalism remains, but it is necessary to consider as part of that institutional matrix property rights and other economic freedoms that by their nature work against populist pressures once they are in place.

The constraints established by the Framers (especially federalism) as well as a long history of property-rights protection and economic freedom contribute to the self-enforcing features of American democracy. As much as some of Trump's policies deserve criticism, especially from a classical liberal perspective, American institutional exceptionalism deserves credit. What we are left with is a failure of public administration, easily remediable, that led to a breakdown of riot control, but by any reasonable account that breakdown fell far short of some of the predicted violence associated with Trump and his presidency. In this regard, Trump's presidency and why Trumpism did not result in democratic backsliding illustrate why putting democracy in chains is necessary to realize the vision of *liberal* democracy.

References

- Abramitzky, Ran, Leah Boustan, and Katherine Eriksson. 2020. Do Immigrants Assimilate More Slowly Today Than in the Past? *American Economic Review: Insights* 2, no. 1: 125–41.

- Acemoglu, Daron. 2017. We Are the Last Defense against Trump. *Foreign Policy*, January 18. At <https://foreignpolicy.com/2017/01/18/we-are-the-last-defense-against-trump-institutions/>.
- . 2020. Trump Won't Be the Last American Populist. *Foreign Affairs*, November 6. At <https://www.foreignaffairs.com/articles/united-states/2020-11-06/trump-wont-be-last-american-populist>.
- Aligica, Paul Dragos. 2016. Neither Market nor State Domain: Nonprofits from the Ostroms' Theoretical Perspective. *Nonprofit and Voluntary Sector Quarterly* 45, no. 4: 43S–60S.
- . 2017. *Institutional Diversity and Political Economy: The Ostroms and Beyond*. New York: Oxford University Press.
- Aligica, Paul Dragos, Peter J. Boettke, and Vlad Tarko. 2019. *Public Governance and the Classical-Liberal Perspective: Political Economy Foundations*. New York: Oxford University Press.
- Andreoni, James, and Tymofiy Mylovanov. 2012. Diverging Opinions. *American Economic Journal: Microeconomics* 4, no. 1: 209–32.
- Avalon, John. 2021. Donald Trump's American Carnage Ends with a Coup Attempt. CNN, January 6.
- Balko, Radley. 2013. *Rise of the Warrior Cop: The Militarization of America's Police Forces*. New York: PublicAffairs.
- Bardach, Eugene. 1977. *The Implementation Game: What Happens After a Bill Becomes a Law?* Cambridge, Mass.: MIT Press.
- Bazzi, Samuel, Martin Fiszbein, and Mesay Gebresilasie. 2020. Frontier Culture: The Roots and Persistence of “Rugged Individualism” in the United States. *Econometrica* 88, no. 6: 2329–368.
- Berggren, Niclas. 2003. The Benefits of Economic Freedom: A Survey. *The Independent Review* 8, no. 2 (Fall): 193–211.
- Borjas, George J. 2016. *We Wanted Workers: Unraveling the Immigration Narrative*. New York: Norton.
- . 2018. Lessons from Immigration Economics. *The Independent Review* 22, no. 3 (Winter): 329–40.
- Brennan, Geoffrey, and James M. Buchanan. 1985. *The Reason of Rules: Constitutional Political Economy*. New York: Cambridge University Press.
- Brennan, Jason. 2017. *Against Democracy*. Princeton, N.J.: Princeton University Press.
- Buchanan, James M. 1975. *The Limits of Liberty: Between Anarchy and Leviathan*. Chicago: University of Chicago Press.
- Buchanan, James M., and Gordon Tullock. 1962. *The Calculus of Consent: Logical Foundations of Constitutional Democracy*. Ann Arbor: University of Michigan Press.
- Cameron, Charles M. 2000. *Veto Bargaining: Presidents and the Politics of Negative Power*. Cambridge, U.K.: Cambridge University Press.
- Caplan, Bryan. 2006. *The Myth of the Rational Voter: Why Democracies Choose Bad Policies*. Princeton, N.J.: Princeton University Press.

- Clark, Jeff Ray, Robert Lawson, Alex Nowrasteh, Benjamin Powell, and Ryan Murphy. 2015. Does Immigration Impact Institutions? *Public Choice* 163, nos. 3–4: 321–35.
- Coyne, Christopher J., and Abigail R. Hall. 2018. *Tyranny Comes Home: The Domestic Fate of U.S. Militarism*. Stanford, Calif.: Stanford University Press.
- Cramer, Katherine J. 2016. *The Politics of Resentment: Rural Consciousness in Wisconsin and the Rise of Scott Walker*. Chicago: University of Chicago Press.
- Dahl, Robert Alan. 1971. *Polyarchy: Participation and Opposition*. New Haven, Conn.: Yale University Press.
- Economist*. 2020. Donald Trump’s Refusal to Concede Is Harming America. November 21.
- Eland, Ivan. 2020. We Must Put an End to the Imperial Presidency. Independent Institute, commentary, November 25. At <https://www.independent.org/news/article.asp?id=13343>.
- Fegley, Tate. 2020. Police Unions and Officer Privileges. *The Independent Review* 25, no. 1 (Summer): 165–86.
- Fleury, Jean-Baptiste, and Alain Marciano. 2018. The Sound of Silence: A Review Essay of Nancy MacLean’s *Democracy in Chains: The Deep History of the Radical Right’s Stealth Plan for America*. *Journal of Economic Literature* 56, no. 4: 1492–537.
- Geloso, Vincent, and Ilia Murtazashvili. Forthcoming. Can Governments Deal with Pandemics? *Cosmos + Taxis*. At <https://ssrn.com/abstract=3671634>.
- Gwartney, James, Robert Lawson, Joshua Hall, and Ryan Murphy. 2020. *Economic Freedom of the World: 2020 Annual Report*. Toronto: Fraser Institute.
- Higgs, Robert. [1987] 2012. *Crisis and Leviathan: Critical Episodes in the Growth of American Government*. Oakland, Calif.: Independent Institute.
- Hofstadter, Richard. 1963. *Anti-intellectualism in American Life*. New York: Vintage.
- Howell, William G. 2003. *Power without Persuasion: The Politics of Direct Presidential Action*. Princeton, N.J.: Princeton University Press.
- Hutt, William Harold. 1964. *The Economics of the Colour Bar*. London: Institute of Economic Affairs.
- Keating, Joshua. 2020. Whatever Trump Is Doing, It Isn’t a “Coup”: But the Long-Term Effect Could Be Similarly Damaging. *Slate*, November 13.
- Koppl, Roger. 2018. *Expert Failure*. Cambridge, U.K.: Cambridge University Press.
- Kruger, Justin, and David Dunning. 1999. Unskilled and Unaware of It: How Difficulties in Recognizing One’s Own Incompetence Lead to Inflated Self-Assessments. *Journal of Personality and Social Psychology* 77, no. 6: 1121–134.
- Levitsky, Steven, and Lucan A. Way. 2010. *Competitive Authoritarianism: Hybrid Regimes after the Cold War*. Cambridge, U.K.: Cambridge University Press.
- Levitsky, Steven, and Daniel Ziblatt. 2018. *How Democracies Die*. New York: Crown.
- Lowande, Kenneth S. 2014. The Contemporary Presidency after the Orders: Presidential Memoranda and Unilateral Action. *Presidential Studies Quarterly* 44, no. 4: 724–41.
- MacLean, Nancy. 2017. *Democracy in Chains: The Deep History of the Radical Right’s Stealth Plan for America*. New York: Penguin.

- Magee, Stephen P., William A. Brock, and Leslie Young. 1989. *Black Hole Tariffs and Endogenous Policy Theory: Political Economy in General Equilibrium*. Cambridge: Cambridge University Press.
- McCloskey, Deirdre Nansen, and Art Carden. 2020. *Leave Me Alone and I'll Make You Rich: How the Bourgeois Deal Enriched the World*. Chicago: University of Chicago Press.
- Migdal, Joel S. 2001. *State in Society: Studying How States and Societies Transform and Constitute One Another*. New York: Cambridge University Press.
- Moe, Terry M., and William G. Howell. 1999. The Presidential Power of Unilateral Action. *Journal of Law, Economics, and Organization* 15, no. 1: 132–79.
- Mounk, Yascha. 2018. *The People vs. Democracy: Why Our Freedom Is in Danger and How to Save It*. Illustrated ed. Cambridge, Mass.: Harvard University Press.
- Munger, Michael C. 2018. On the Origins and Goals of Public Choice: Constitutional Conspiracy? *The Independent Review* 22, no. 3 (Winter): 359–82.
- Murray, Charles. 2013. *Coming Apart: The State of White America, 1960–2010*. New York: Three Rivers Press.
- Nichols, Tom. 2017. *The Death of Expertise: The Campaign against Established Knowledge and Why It Matters*. New York: Oxford University Press.
- Niedzwiadek, Nick. 2021. D.C. Mayor: “Clearly There Was a Failure” with Capitol Security. *Politico*, January 7. At <https://www.politico.com/news/2021/01/07/dc-mayor-capitol-security-riot-455877>.
- Nowrasteh, Alex. 2016. *Terrorism and Immigration: A Risk Analysis*. Cato Institute Policy Analysis, no. 798. Washington, D.C.: Cato Institute.
- Nowrasteh, Alex, and David J. Bier. 2020. A Pro-immigration Agenda for the Biden Administration. Cato Institute, November–December. At <https://www.cato.org/policy-report/november/december-2020/pro-immigration-agenda-biden-administration>.
- Nowrasteh, Alex, and Benjamin Powell. 2020. *Wretched Refuse? The Political Economy of Immigration and Institutions*. Cambridge: Cambridge University Press.
- Olson, Mancur. 1965. *The Logic of Collective Action: Public Goods and the Theory of Groups*. Cambridge, Mass.: Harvard University Press.
- . 1982. *The Rise and Decline of Nations: Economic Growth, Stagflation, and Economic Rigidities*. New Haven, Conn.: Yale University Press.
- O’Neil, Megan. 2017. Volunteer Numbers Surge after Trump Election. *Chronicle of Philanthropy*, February 2. At <https://www.philanthropy.com/article/volunteer-numbers-surge-after-trump-election/>.
- Ostrom, Vincent. 2008. *The Political Theory of a Compound Republic: Designing the American Experiment*. Lanham, Md.: Lexington Books.
- Paluck, Elizabeth Levy, and Michael Suk-Young Chwe. 2017. Confronting Hate Collectively. *PS: Political Science & Politics* 50, no. 4: 990–92.
- Pennington, Mark. 2011. *Robust Political Economy: Classic Liberalism and the Future of Public Policy*. Cheltenham, U.K.: Edward Elgar.

- Powell, Benjamin. 2015. *The Economics of Immigration: Market-Based Approaches, Social Science, and Public Policy*. Oxford: Oxford University Press.
- Putnam, Robert D. 2000. *Bowling Alone: The Collapse and Revival of American Community*. New York: Simon and Schuster.
- . 2016. *Our Kids: The American Dream in Crisis*. New York: Simon and Schuster.
- Riker, William H. 1982. *Liberalism against Populism: A Confrontation between the Theory of Democracy and the Theory of Social Choice*. San Francisco: Freeman.
- Rohde, David. 2020. William Barr Can Stop Donald Trump's Attempted Coup. *New Yorker*, November 11.
- Ruger, William, and Jason Sorens. 2009. Freedom in the 50 States (map). Mercatus Center. At <https://www.freedominthe50states.org/>.
- Slater, Dan. 2018. After Democracy: What Happens When Freedom Erodes? *Foreign Affairs*, November 6.
- Snyder, Timothy. 2018. *The Road to Unfreedom: Russia, Europe, America*. New York: Tim Duggan Books.
- Somin, Ilya. 2020. Why Trump's Emergency Declaration Is Illegal. *Reason*, February 23. At <https://reason.com/volokh/2019/02/23/why-trumps-emergency-declaration-is-ille/>.
- . 2021. Rioting Is Wrong. *Reason*, January 6. At <https://reason.com/volokh/2021/01/06/rioting-is-wrong/>.
- Stansel, Dean. 2019. Ranking U.S. Metropolitan Areas on the Economic Freedom Index. *Reason*, January 31. At <https://reason.org/policy-study/us-metropolitan-area-economic-freedom-index/>.
- Stiglitz, Joseph E. 2010. *Freefall: America, Free Markets, and the Sinking of the World Economy*. New York: Norton.
- Sullivan, Margaret. 2020. How to Cover a Coup—or Whatever Trump Is Attempting. *Washington Post*, November 12.
- Surprenant, Chris W., and Jason Brennan. 2019. *Injustice for All: How Financial Incentives Corrupted and Can Fix the US Criminal Justice System*. New York: Routledge.
- Taub, Amanda. 2021. It Wasn't Strictly a Coup Attempt, but It Wasn't Not One Either. *New York Times*, January 7.
- Trantidis, Aris, and Nick Cowen. 2020. Hayek versus Trump: The Radical Right's Road to Serfdom. *Polity* 52, no. 2: 159–88.
- Troesken, Werner. 2015. *The Pox of Liberty: How the Constitution Left Americans Rich, Free, and Prone to Infection*. Chicago: University of Chicago Press.
- Tuccille, J. D. 2021. Don't Let the Capitol Riot Become a 9/11-Style Excuse for Authoritarianism. *Reason*, January 15. At <https://reason.com/2021/01/15/dont-let-the-capitol-riot-become-a-9-11-style-excuse-for-authoritarianism/>.
- Tyler, Tom R. 2003. Procedural Justice, Legitimacy, and the Effective Rule of Law. *Crime and Justice* 30:283–357.

- . 2006. Psychological Perspectives on Legitimacy and Legitimation. *Annual Review of Psychology* 57:375–400.
- Willis, Jay. 2020. Liberals Were Right to Fear the Supreme Court’s Election Intervention. *Atlantic*, December 13.
- Wolf, Richard. 2020. Donald Trump Stood No Chance in Front of a Conservative Supreme Court. *USA Today*, December 12. At <https://www.usatoday.com/story/news/politics/2020/12/12/donald-trump-stood-no-chance-front-conservative-supreme-court/6509869002/>.
- Wu, Tim. 2020. What Really Saved the Republic from Trump? *New York Times*, December 10.

SUBSCRIBE NOW AND RECEIVE A FREE BOOK!



“*The Independent Review* does not accept pronouncements of government officials nor the conventional wisdom at face value.”

—**JOHN R. MACARTHUR**, Publisher, *Harper’s*

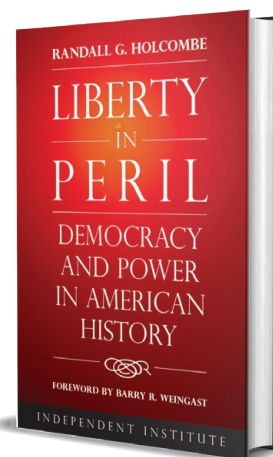
“*The Independent Review* is excellent.”

—**GARY BECKER**, Nobel Laureate in Economic Sciences

Subscribe to [The Independent Review](#) and receive a free book of your choice such as *Liberty in Peril: Democracy and Power in American History*, by Randall G. Holcombe.

Thought-provoking and educational, [The Independent Review](#) is blazing the way toward informed debate. This quarterly journal offers leading-edge insights on today’s most critical issues in economics, healthcare, education, the environment, energy, defense, law, history, political science, philosophy, and sociology.

Student? Educator? Journalist? Business or civic leader? Engaged citizen? This journal is for YOU!



Order today for more **FREE** book options

SUBSCRIBE

The Independent Review is now available digitally on mobile devices and tablets via the Apple/Android App Stores and Magzter. Subscriptions and single issues start at \$2.99. [Learn More.](#)

