



A REPUBLIC, If We Can Keep It

Trump Wields the Imperial Presidency: The Legacy of Bipartisan Support for Presidential Power

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Prepared for the “A Republic, If We Can Keep It” Conference, April 12-13, 2018. New America, Washington DC.

The election of Donald Trump has provoked dire fears that American democracy will die. In the areas of national security and foreign policy, constitutional accountability died a long time ago at the hands of Democratic and Republican elites in Washington. President Trump is capitalizing on the imperial presidency erected by presidents since World War II.

Without the restrictions on presidential power established by the US Constitution and present for most of US history, President Donald Trump will be able to make national security and foreign policy without the checks that he has faced with regard to domestic affairs. The consequences of Trump’s unilateral actions on national security have already been destabilizing and may be catastrophic before his term concludes. The culprit is not only the President’s aberrant personality and governing style, but also the institutional changes championed by both political parties.

I. The False Narrative of the “System Work”: Nixon’s Imperial Presidency Survived

In 1973, Arthur Schlesinger Jr. published *The Imperial Presidency* to spotlight the accretion of unaccountable power by presidents that culminated with Richard Nixon. “Watergate” is shorthand for a cluster of crises that rattled the constitutional order: his secret, unilateral assertion of war powers to expand the Vietnam War into Cambodia and Laos, which mobilized a mammoth protest movement and eventually provoked Congress to cut off spending; it also encompassed Nixon’s norm-busting impoundment of congressionally-authorized funds that were signed into law and his participation in criminal abuses of power before and after the Watergate break-ins.¹

Some commentators fit Nixon’s “imperial presidency” and his forced departure into a reassuring narrative of the “system working.” James Sundquist approvingly charted a congressional resurgence marked by the passage of the War Powers Resolution (1973) that was aimed at reinserting Congress into war making and by the creation of a new budget process and a new set of institutions (including the Congressional Budget Office) to equip lawmakers to battle the executive.² Congress also launched the Church Committee to investigate illegal activities by the CIA and FBI that violated American values and the constitutional rights of Americans. A bipartisan coalition that included Senator and later Vice President Mondale implemented the

Church Committee's recommendations to establish House and Senate Intelligence Committees as watchdogs of the law enforcement agencies and a new quasi-judicial system for reviewing intelligence agency requests for warrants to conduct electronic surveillance of foreign nationals – the Foreign Intelligence Surveillance Act.³ In addition to congressional activism, a Supreme Court consisting of Nixon appointees unanimously rejected his claims of executive privilege to retain private control over White House tapes as a pretense to engage in a criminal cover-up.⁴ Commentators and scholars portray these steps as amounting to a new era of legislative and judicial activism to hold the executive accountable and end the imperial presidency.⁵

The “system worked” narrative that portrays Nixon as an aberration who was checked is comforting but wrong when it comes to national security and foreign policy. The imperial presidency never died. This is partly because of the ineffectiveness of congressional actions. The War Powers Resolution is Exhibit A: all presidents since its passage four decades ago have routinely circumvented its provisions and pursued their desired policies.

The fatal flaw in the complacent conclusion that the imperial presidency ended with Nixon's departure is the pattern of behavior by subsequent presidents: they routinely act alone, they have methodically increased the institutional capacity of the national security apparatus, and legislative and judicial engagement has been infrequent and feeble when it has occurred.

If the resurgent institutional accountability of the 1970s had been sustained, Trump's capacity and powers would be restricted and conditional. Instead, **Donald Trump inherited an institutional legacy on national security with limited democratic accountability and ample prerogatives and institutional capacity. In contrast to domestic affairs (where Trump is violating democratic norms and practices), many of his unilateral actions in national security and foreign policy have been legitimated and institutionally enabled by the actions and inactions of his predecessors as well as by the long-time acquiescence of the legislature and judiciary.** This pattern of institutional practice – former Vice President Walter Mondale explains – “put a loaded gun on the table;” Donald Trump picked up what his predecessors left.

II. Today's Imperial Presidency

Four factors sustained and fueled the imperial presidency: structural changes in the institutions that govern national security and foreign policy and a bipartisan accord favoring presidential prerogative among national security experts and senior government officials. Each has taken hold as responses to what are portrayed as dire national security threats – the Soviet Union during the Cold War and cyberwarfare and transnational networks of terrorists today.

1. Reinterpreting the Constitution to Favor Executive Prerogatives

The Constitution's framers were determined to check presidential prerogative: they departed from the custom among European countries of leaving war powers to the executive, and instead, limited and narrowed its scope. Without stringent checks, the Framers anticipated that presidents would take America to war in search of fame and glory; their solution was to equip the legislature with a host of specific, potent powers in Article I, Sec. 8 to declare war and to control the formation and use of military forces.

Supreme Court Justice Robert Jackson famously attempted to anchor presidential power in congressional action. Jackson's tripartite classification placed presidential power at its apex when Congress expressed support for the White House's proposed action (Category 1); it was at its lowest ebb when faced with expressed legislative opposition (Category 3) and resided in a "twilight zone" of uncertainty in the face of congressional inaction (Category 2). Presidents and sympathetic lawyers, however, circumvented Jackson's elegant framework and expanded executive power by summoning a highly selective portrayal of American history and Court decisions.

Debates over disconnected policy issues and scattered legal rulings were mashed together by presidents and their supporters to bypass the clearly specified powers of Congress and to manufacture "inherent" executive powers that exceeded anything laid out in the US Constitution. Presidents and their advocates Alexander Hamilton's localized defense of President George Washington's 1793 declaration of neutrality in the French and British war into a general claim that all of the "Executive Power of the Union is completely lodged in the President" unless specifically barred by the Constitution. They also hold aloft an obscure historical case from eight decades ago that involved arms dealers to single out presidents as the "sole organ" in foreign affairs and set aside the Constitution's clear provisions for legislative powers in national security.⁶ Dick Cheney was a critical link in this historical lineage of presidential power making. Congressman Cheney used the minority report in the Iran-Contra investigation in 1988 to assert that "the Constitution mandates [that] the President be the country's foreign policy leader."⁷ Vice President Cheney would take the next step by insisting that statutes passed by Congress and signed by the president "do not... alter a presidential constitutional power [in national security]... [and] is, in fact, a violation of the Constitution [because] it's an infringement on the president's authority as the commander in chief."⁸

In effect, there has been a cabal to reinterpret the US Constitution. It converted mere descriptions of presidential roles as "commander in chief," holder of "executive power," or receiver of ambassadors into massive grants of unilateral power to control national security and foreign policy. The disciples of Hamilton empowered presidents to routinely disregard both the legislature's authority in national security and the clearly stated requirements that presidents "take care that the laws be faithfully executed." President Trump wields the imperial presidency when he unilaterally uses military forces and covert operations and when he acts alone to terminate international agreements.

The normative structure of legitimacy for executive power that the Hamiltonians have constructed is fortified by the Supreme Court, which is responsible for reviewing the actions of the lawmaking branches. With only a few notable exceptions, the Court tends to tolerate the White House's Hamiltonian view of expansive executive power: it often rules in favor of executive prerogative in national security or, more often, looks the other way by refusing to engage in "political questions" that it assigns to the lawmaking branches or ducking cases with technical claims about legal standing.⁹

The vast scope of the executive's unilateral power was starkly exhibited by President Obama's order to use pilotless drones in 2011 to kill the US-born Muslim cleric Anwar Al-Awlaki, his 16-

year-old American son, and another American. Obama administration officials argued that Al-Awlaki planned and ordered attacks on Americans but Rand Paul (R- KY) -- with the support of Ron Wyden (D-OR) and others – insisted that “no American should be killed by a drone without first being charged with a crime.... The Constitution’s Fifth Amendment applies to all Americans; there are no exceptions.”¹⁰ The Al-Awlaki family sued in federal court on the grounds that Obama’s claim of “unilateral authority to carry out the targeted killing of Americans” runs against “our constitutional system [where] the right to life is not entrusted to Executive alone....”¹¹ A Federal Court followed the familiar pattern of executive deference: it dismissed the Al-Awlaki case in April 2014 for lacking legal standing and raising “political questions.”¹²

A still more chilling extension of presidential power: Donald Trump alone controls the launching of nuclear weapons. More than a few members of Congress and national security experts have voiced concern about such power in his hands. The revealing truth after decades of proselytizing by Hamiltonians: Trump’s singular control over America’s nukes is legitimate and probably beyond the reach of any check.

2. Building the Executive Capacity to Act Alone

Presidents have institutionalized their Hamiltonian view of executive power by building an increasingly large, effective, and independent national security apparatus. The National Security Act in 1947 initiated the institutional development of an apparatus to serve at the beck-and-call of the president as he directed US foreign and military policy. This included the National Security Council (NSC), CIA, Defense Intelligence Agency, and National Security Agency. Each of these grew over time in capacity and independence.

In addition to large and growing government agencies, the executive spearheaded the development of a private national security apparatus that was largely free of public accountability. This far-flung structure to gather intelligence and conduct counter-terrorism operations encompasses about 10,000 locations within the US and employs a vast private army that includes 854,000 people with top-secret security clearances.¹³ (Edward Snowden was one.)

3. Legislative Acquiescence

It may be tempting to cast the growing practice of presidential unilateralism as a sordid tale of a White House grab for power, but the truth is that Congress cooperated.

In 2014, President Obama requested Congressional engagement in America’s response to the expansion of ISIS into Syria. Congress did not respond and Obama unilaterally committed US military forces without congressional consent. Obama justified his unilateral actions by pointing to the Hamiltonian reservoir of power – the description in the Constitution to the president as “commander in chief” and the authorization to respond to the 9/11 attackers 11 years earlier.

More recently, Senator Lindsey Graham and other legislators responded with surprise that Presidents Obama and Trump had committed thousands of US troops to Niger – a fact that only came to light because of US casualties. Graham is a leading senate figure on military affairs, but

confessed to Chuck Todd on "Meet the Press:" "I didn't know there was 1,000 troops in Niger." Few members of Congress proceeded to ask the larger constitutional question: "When did Congress authorize fighting in Niger?"¹⁴

The failure of congress to act as well as the executive's decision to proceed without its involvement or knowledge is a symptom of congressional somnolence. First, presidents preempt congress. Instead of treating congressional inaction as a form of decision making, President Trump proceeds on the president's independent authority (as did Obama on Syria) and Congress is left to consider radical responses – from using its power of the purse to cut off spending, an explicit repudiation of administration policy, or to threaten the president with impeachment. Second, Congress rarely – if ever – pursues these options because of the collective action problem of forming a supportive coalition in a factious legislature of 535 individuals split into two rival chambers. Congressional inaction is reinforced by myopia and the focus of legislators on the next election, which invites risk aversion and an acceptance of presidential action – and the political blowback that may accompany it. These institutional dynamics help to explain the breakdown in vigorous congressional oversight by the intelligence committees that the Church Committee recommended; they have become advocates of the agencies more than a force of rigorous accountability that was anticipated.¹⁵

It's neither surprising nor uncommon that President Trump unilaterally ordered missile attacks in 2017 against Syrian forces in retaliation for using chemical weapons against civilians. Commentators decried the lack of congressional authorization but Trump's action was in keeping with the recurrent pattern of the imperial presidency.

4. Elite Accord Muted Partisan Divide

Even as historic levels of partisan polarization grips Washington, experts in the realms of national security and foreign policy have reached an intellectual and policy accord in favor of a Hamiltonian view of the Constitution. This convergence produces an anomaly in Washington: steady support for expanding executive power even as partisan control of the White House alternates.

Hugh Heclo (1978) distinguishes between "interest networks" based on the bargaining associated with pressure group politics (as analyzed by Ted Lowi)¹⁶ and "knowledge networks" in which expertise is required to enter the network and exercise influence.¹⁷ The national security experts for both major political parties operate within a shared "knowledge network" and common frame of reference: most abide by a realist's demand that policy promotes America's economic and political power and position in a competitive international system.¹⁸ Within this broad mindset, liberal internationalists emphasize the rule-based international system with strong multilateral organizations and commitments; neo-conservatives insist on asserting American power to promote American democracy as well as economic and security interests; and humanitarian interventionists favor the use of US might to prevent atrocities and advance human rights.

The intellectual accord on realist assumptions fuels a shared policy commitment to defend and expand executive prerogatives. Realists have reached a radical conclusion about the US constitutional process: it doesn't work and needs to be by-passed. Congress's large, fractious,

and slow institutional features were, in the view of realists, grounds for exclusion from the making of national security and foreign policy – not as necessary checks on precipitous and ill-considered action as James Madison argued. The realists in both political parties see the presidency through the eyes of Hamilton as a unitary actor who is uniquely equipped for “decision, activity, secrecy, and dispatch” to serve the national interest.¹⁹ Even as Democrats and Republicans alternated control over the White House, government officials across those administrations doggedly carved out, promoted, and defended a large and expanding area of unilateral presidential power over foreign policy and national security.

Meanwhile, the accord among practitioners was reinforced by scholars of the presidency who championed the need for executive initiative. Terry Moe is the latest in a string of academics since World War II who elevated presidents – they alone “think in grander terms about social problems and the public interest.” “Presidents are the ones,” Moe insists, who “pus[h] for [the] leadership, control, responsibility, and effectiveness... that is needed if government is to work at all well.”²⁰ Although persistently promoted, the glowing promotion of presidential power rests, in the view of Louis Fisher, on “imaginary and idealistic... [and] highly romantic qualities of integrity, honesty, and competence rarely seen in those who sit in the Oval Office.”²¹

III. Imperial Presidency at Work – Iraq War

Democratic accountability over national security and foreign policy died well before Donald Trump was inaugurated. Executive power and the corresponding pattern of legislative and elite permissiveness is well-ensconced after decades of developing – a reality that is revealed by Obama’s surprising continuation of Bush’s national security policies following the 2008 election. After all, Obama was a constitutional law professor who took a strong public stand against Bush’s counter-terrorism policies. After his inauguration, however, Obama “continued almost all of [Bush’s] counterterrorism policies,” according to Jack Goldsmith (Bush Justice Department official).²² Despite his pre-White House criticism of Hamiltonian interpretations of executive power, President Obama justified his unilateral decision to launch or support air strikes in Libya, Syria, and Iraq by claiming a “sacred duty.... as commander in chief to protect the American people.” Obama also prolonged a host of discrete policies (including extraordinary rendition) and substantially expanded the use of pilotless drones to conduct targeted killings off the traditional battlefield – including of American citizens.

Realists stress the benefits of toppling Madison’s constitutional balance over the past half century in favor of a go-it-alone president: protecting US national interests. Left out of this calculation are the costs that have been imposed on US prestige and power as well as durable domestic support for US international diplomacy and security. Critics of the US killings via drones and aircraft point to the backlash in Pakistan and other countries as well as the international blowback.

The Hamiltonian approach has also been self-defeating in terms of sustaining domestic support, as exemplified by the Iraq War. Fifteen years after the invasion in March 2003, a majority of Americans (53%) have concluded that it failed. Even with the partisan divide, only a plurality of Republicans now believe it succeeded (48%) – more than a 30 percentage point drop. (Less than a third of Democrats register it as a triumph.)²³

The public's negative reaction to the Iraq War is solidly anchored in the reality on the ground. Far from the quick invasion that brought celebrating Iraqis into the streets, the war has dragged on and inflicted enormous sacrifice – nearly 4,500 dead and more than \$2 trillion spent with considerably more likely to be expended in the future. The war has also become a realist's nightmare: Iraq is unstable and Iran stepped into the vacuum by establishing an arc of Shia power that has alarmed the Sunni powerhouse in Saudi Arabia and prompted it to expand its regional military incursions and prepare for war with Iran.

The institutional and constitutional edifice of the imperial presidency obstructs efforts to stop the 15-year-old war in Iraq and its companion incursions into Afghanistan and Syria, where 26,000 US troops are deployed.²⁴ While there were initial congressional resolutions for both interventions, congress acquiesced to the conduct of these wars by the president and his phalanx of national security services, including covert operations and pilotless drones.

The cost of an imperial presidency is also being born by American democracy in the backlash of voters against both establishment parties. Candidate Trump built his campaign, in part, on exploiting the public's disdain for run-away wars that both political parties supported and tolerated as they dragged out (including Senator Hillary Clinton with her 2002 vote authorizing President Bush). Candidate Trump blasted Bush prior to the February 2016 primary in South Carolina (a state with a high concentration of current or former US service personnel) for his "mistake." Trump insisted that "We should have never been in Iraq," charging (perhaps falsely) that Bush and Cheney "lied [that]... there were weapons of mass destruction. There were none and they knew that there were none."²⁵ Trump also went after Clinton as a "trigger-happy" warmonger. Military families and conservatives welcomed Trump's unvarnished attacks on Bush and Hillary Clinton for the costs of war, welcoming a full-throated candor that neither party's national security elites offered.²⁶

IV. Trump in Context

In an era of historic partisan polarization, there is remarkably broad agreement in Washington that Donald Trump is not suited to be president because he is "witless," emotionally mercurial, and psychologically insecure. The consequences are dire: he has put the US "on the path to World War III" (Senator Bob Corker, R-TN) and launched "the greatest presidential onslaught on international law and international institutions in American history" (former senior Bush official).²⁷

It is simplistic and inaccurate, however, to attribute to Donald Trump alone the intense uncertainty generated by his conduct of US national security and foreign policy. His power and position is a product of an entrenched imperial presidency; the institutional edifice that both parties created now enables his uninformed, precipitous, and reckless actions.

1. The Wrecking Ball

In domestic affairs, Trump faces institutional and political resistance when he has attempted to disrupt long-standing, bipartisan policies on immigration as well as norms related to the rule of

law and a free press. Trump's immigration policies have been scrutinized and watered down by the courts; businesses and members of Congress are mobilizing against tariffs, which are now narrowing; his budget's draconian reductions in domestic programs were dropped or scaled back in the congressional budget that was signed into law; the President's attacks on the media have generated new audiences for CNN, Washington Post and other outlets; and his threats against the Justice Department and the judiciary have not stopped the Independent Prosecutor Robert Mueller from conducting his investigation to this point; federal courts continue to overrule or pause administration policies; and state attorneys general have not been bullied from launching an attack on Trump's agenda with regard to immigration, education policy, net neutrality, marijuana enforcement, offshore oil and gas drilling and more.

But the countervailing pressures in domestic affairs are fewer and less effective in the domains of national security and foreign policy because of the bipartisan embrace of the imperial presidency. The result is that Trump is a radical and often chaotic disruptor of longstanding and bipartisan regional and US policies.

On traditional national security issues, he has adopted a passivity with regard to Russia that is unprecedented over the past six decades: he has yet to speak out against Russia's interference in the 2016 elections nor rallied the country against the anticipated Russian attacks on November's elections; he also made little effort to implement the sanctions passed by Congress and develop a counter-strategy. Current and former national security officials characterize Trump's docile reaction as "shockingly weak."²⁸

In contrast to Trump's indifference toward Russia, he has acted with abandon on military matters. "No practical limitation on presidential power" is how Jack Goldsmith (former Bush Department of Justice official) characterizes Trump's rationale for both retaliating against Syria after its use of chemical weapons and launching additional military actions.²⁹ **The palpable fear about Trump's judgment spikes when it comes to his ability to launch nuclear weapons against North Korea. Trump put the world on edge when he threatened to unleash "fire and fury" against the "short and fat" "rocket man" who controls North Korea. Anything short of denuclearization, he threatened, will result in a "very rough thing – may be very, very unfortunate for the world." The bipartisan recoiling led to Senate hearings on steps to prevent Trump from starting a nuclear war. Senator Chris Murphy spoke for members of both parties about the concern that Trump is "so unstable [and]...volatile...that he might order a nuclear strike that is wildly out of step with U.S. interests."**

Trump has also acted unilaterally on diplomatic and foreign economic policy, delivering what one observer described as a "wrecking ball to some of America's traditional foreign policies."³⁰ He asserted his office's prerogative to impose stiff tariffs on imports of steel and aluminum despite the opposition of the business community and congressional Republicans fearful of a trade war.³¹ Asserting the prerogative to terminate international agreements against broad opposition, Trump pulled out of the climate change accord and the transpacific treaty; he appears ready to do the same with regards to the Iran agreement.³² He has also dropped longstanding US commitments by recognizing Jerusalem as the capital of Israel and going silent on international

human rights, as well as undercutting the US support for NATO and our previously close allies in Western Europe.

2. The Limits of Agency

Trump's unnerving and disruptive conduct and policies have propelled political mobilization. While this surge may well fuel Democratic electoral wins in November, dislodging the institutional edifice of the imperial presidency faces significant barriers. It is certainly not as simple as requesting – as a recent *New York Times* editorial did – that “Congress... speak out... and reassert its responsibilities under the Constitution to authorize when the nation goes to war.”³³

Short of a constitutional crisis or an historic social movement, five political pathologies obstruct efforts to dismantle the imperial presidency and restore meaningful checks on Trump's conduct of national security and foreign policy.

- First, debates over constitutional accountability are often derailed by the White House's redirection to terrorist threats. Former Supreme Court Justice Robert Jackson warned judges, lawmakers, and political observers against “confusing the issue of a power's validity with the cause it is invoked to promote.” Nonetheless, both George W. Bush and Barack Obama heralded chilling details of terrorist threats in order to distract legislators and the judiciary from enduring impacts on constitutional accountability.
- Second, partisan loyalty creates (selective) situational attention to the US Constitution. Presidents find rival congressional partisans discovering the Constitution when in the minority but falling silent when their party controls the White House and party activists and donors insist on loyalty.
- Third, “institutional partisanship.”³⁴ Leaders of both parties refrain from a full-on assault on executive power in anticipation of wielding that power in the future. A former Obama Defense Department official made just this argument for leaving presidential control over nuclear missiles untouched: “If we were to change the decision-making process because of a distrust of this president, that would be an unfortunate decision for the next president.”³⁵
- Fourth, institutions are sticky and the imperial presidency is anchored in a sprawling and largely unaccountable private and government national security apparatus. A legislative habit of deferring to presidents is reinforced by its risk aversion with regard to upcoming elections and its vulnerability due to its dependence on the executive for intelligence to judge presidential policy – a weakness that agencies can use to induce support for presidents.
- Fifth, the elite accord offers a compelling rationale for executive prerogatives on national security (including president control over the launching of nuclear weapons). Beginning with the Constitution's framers, a unitary presidency was justified on the grounds that it was essential to repel sudden attacks and for deterring them.

The fundamental obstacle to dislodging Trump's imperial presidency is that it would mean toppling the presidency's institutional power and position on national security and foreign policy that has been established by both parties over the past half century. As much

antipathy as Trump has generated, neither party is prepared to cede this entrenched institutional power to restore democratic accountability under Trump or his successors.

3. Targeted Disruption

While the imperial presidency is entrenched, it is vulnerable to a strategy of targeted disruption that takes aim at discrete elements of executive power. This measured strategy may not threaten the institutional and normative structures of executive power but it may introduce points of resistance.

The massive protests against Vietnam and the Watergate crisis shook the imperial presidency and produced – for a brief period – congressional resurgence. But this is a singular pause in the rise of executive power and required a rare occurrence. In the absence of extraordinary mobilization, **David Cole points to the more targeted effects of civic organizing by lawyers and community groups in reaction to President Bush’s dragnet surveillance, use of torture in violation of national and international law and norms, and suspension of legal standards in the detention of designated “enemy combatants.”** Cole credits this civic organization with both prompting the Supreme Court to chip away at the Bush administration’s counter-terrorism policies and convincing President Bush to retreat from some of his policies during his second term in office.³⁶

A second prong of a targeted disruption strategy is to undercut the normative structure of executive power. A starting place is calling out egregious cases of Trump acting alone – such as deploying troops without congressional knowledge (as Senator Graham discovered) or using airstrikes that produce significant civilian casualties. Challenging the normative foundation of executive power also requires a direct effort to undercut the Hamiltonian distortion of the Constitution. For nearly six decades, US scholars of the presidency and the Constitution have heralded the need for presidents to act alone and “trumpeted the need for bold and unchecked presidential leadership” – a chorus that was amplified after the terrorist attacks of 9/11. But the claims of constitutional grounding are tenuous at best. “Little in the history from George Washington to Harry Truman,” Louis Fisher explains, “supports a grandiose theory of presidential power” but it has produced an “outsized trust in executive power.”³⁷

The effective pursuit of this targeted strategy of disruption might produce several discrete effects. It could raise public awareness of executive power and elevate the electoral cost of congressional inaction. In addition, it might prod the Supreme Court to follow the lead of former Justice Sandra Day O’Connor, who objected to the Bush administration’s handling of enemy combatants because a “state of war is not a blank check for the President when it comes to the rights of the Nation’s citizens.”³⁸ Civil mobilizing later convinced Justice Kennedy to challenge another Bush policy: “The laws and Constitution are designed to survive, and remain in force, in extraordinary times. Liberty and security can be reconciled; and in our system they are reconciled within the framework of the law.”³⁹

There are several tangible starting points for a targeted strategy. Congress responded to 9/11 by quickly passing an authorization for the use of military force (AUMF) to track down and punish those who attacked the Trade Center and Pentagon. The problem is that the AUMF has been

used by three successive presidents to justify actions 18 years after the 9/11 attack, which extend beyond Afghanistan and the Taliban. Revoking the AUMF is a worthwhile first step in ratcheting back the imperial presidency. Another worthwhile step is revitalizing intelligence committees to conduct demanding oversight of the executive's national security apparatus. A more aggressive step for Congress would be to use its control over the budget to restrict spending on military operations that the president orders.

Sustaining democracy under Trump requires disrupting the national security structure established well before his election. Getting there requires patience, a focus on institutions, and a commitment to a more thorough-going effort to restore constitutional accountability.

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