

# IS PRESIDENT TRUMP MORE LIKE VIKTOR ORBÁN OR FRANKLIN PIERCE?

THOMAS M. KECK<sup>1</sup>

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## ABSTRACT

Perhaps the most pressing question facing U.S. political science today is how best to understand the Donald Trump presidency. In helping us along toward this goal, I draw on two styles of contemporary political science research—historical analysis of cycles of American political development and interpretive analysis of constitutional politics—as well as my own direct participation in local grassroots organizing since November 2016. The two bodies of existing literature run far wide of the central current of mainstream political science, and drawing directly on my own first-hand experience is even more atypical, but important lessons can be gleaned from each of these three perspectives.

KEYWORDS: *Donald Trump, Viktor Orbán, Franklin Pierce, American political development, U.S. presidency, authoritarian constitutionalism, illiberal democracy*

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Perhaps the most pressing question facing U.S. political science today is how best to understand the Donald Trump presidency. Here, I draw on two styles of contemporary political science research—historical analysis of cycles of American political development and interpretive analysis of constitutional politics—as well as my own direct participation in local grassroots organizing since November 2016.

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1. Michael O. Sawyer Chair of Constitutional Law and Politics, Maxwell School of Citizenship and Public Affairs, Syracuse University.

The two bodies of existing literature run far wide of the central current of mainstream political science, and I am grateful to Ronald Kahn for first introducing me to both. Drawing directly on my first-hand political experience is even more atypical in contemporary political science, and I am grateful to Oberlin College for introducing me to its importance.

## I. THE TRUMP PRESIDENCY IN AMERICAN POLITICAL DEVELOPMENT

The Trump presidency is not normal. The combination of Trump's exclusionary rhetoric and policies, his repeated attacks on core democratic institutions, and his utter lack of relevant experience in governance marks his presidency as sharply out of the ordinary. Still, in some ways, it fits with broader patterns. Trump's racism, nativism, and misogyny have deep roots in American political culture, and his is not the first presidency to embody them (see generally Smith 1997). His place in partisan political history may have precursors as well.

American political development has long been described in terms of cycles of partisan alignment and realignment (Burnham 1971; cf. Mayhew 2004). In the hue and cry of the present, most elections seem like hotly contested and contingent political events. But looking backward across a sweep of past elections, cyclical patterns emerge. Franklin D. Roosevelt's 1932 election ushered in a sustained period of Democratic Party dominance in national politics, and Ronald Reagan's 1980 election did likewise for the Republican Party.

Stephen Skowronek has taught us that much can be understood about the exercise of presidential authority if we attend to two dimensions of each president's relationship to these cycles of "political time."<sup>2</sup> First, we want to know each president's relationship to the then-governing partisan regime. After all, no party wins every election. Even during the midst of sustained Democratic Party dominance, Republican candidates sometimes win, and vice versa. So we want to know whether each president is allied with or opposed to the governing regime. Second, we want to know whether that regime is itself resilient or crumbling. It is often hard to make this distinction in the moment, but looking backward, we can sometimes discern evidence that a once-dominant governing coalition had begun to fall apart.

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2. My account here draws on Skowronek's *The Politics Presidents Make* (1993), which celebrated its twenty-fifth anniversary in 2018, along with several subsequent iterations of his argument.

**TABLE 1.** Skowronek's Typology of Presidential Leadership

Status of Governing Regime	President's Relationship to Governing Regime	
	Opposed	Affiliated
Vulnerable	Reconstructive (Jefferson, Jackson, Lincoln, FDR, Reagan)	Disjunctive (J. Q. Adams, Pierce, Hoover, Carter, Trump?)
Resilient	Preemptive (Eisenhower, Nixon, Clinton, Obama)	Articulative (Truman, LBJ, Bush I & II)

Note: Adapted from Skowronek (1993, 36).

Arranging these dimensions in a 2×2 table, which I have presented in Table 1, Skowronek describes four kinds of presidencies (1993, 36). Franklin D. Roosevelt and Reagan ran in opposition to then-governing regimes, but in both cases, those regimes were quite weak at the time, and both leaders were able to usher in new partisan regimes of their own. These “reconstructive” presidents typically are remembered as among our greatest national leaders—before FDR and Reagan, they included Thomas Jefferson, Andrew Jackson, and Abraham Lincoln—because they challenge the fundamental precepts of the existing political order, successfully organize a newly configured electoral coalition, and then succeed in enacting sweeping policy change.

Reconstructive presidents are often followed by partisan allies who seek to carry forward and fulfill the promise of the reconstructive mission—Harry Truman and Lyndon B. Johnson to FDR, or the two George Bushes to Reagan. These “articulative” presidents come to office allied with a resilient governing regime. As compared with reconstructive presidents, they have no similar mandate for sweeping change; instead, they work within the terms of the existing order, seeking to perfect it as best they can.

Some presidents manage to come to office even though opposed to a then-resilient partisan regime. Invariably skilled politicians, these “preemptive” presidents prove able to exploit weaknesses in the existing governing order and achieve some key policy victories, often by “triangulating” and adopting policy positions that previously belonged to their opponents. Nonetheless, their capacity to reshape the existing regime remains constrained. Democratic Presidents Bill Clinton and Barack Obama were both masters of policy detail, and they each won a handful of major legislative victories. In Clinton's case, however, those victories tended to be on policies with more support on the right than the left (e.g., welfare reform, the 1994 crime bill, and the North American Free Trade Agreement), and in Obama's case, the biggest victory was progress toward a left-liberal policy goal (i.e., universal

health coverage) via a policy vehicle that had been developed on the right.<sup>3</sup> Beyond those key policy victories, both Clinton and Obama regularly found their pragmatic, problem-solving ambitions thwarted by movement conservatives in Congress. During the prior regime, Republican Presidents Dwight Eisenhower and Richard Nixon likewise had been able to win significant policy victories on occasion, but serving in a Democratic era, they were unable to dislodge key components of the New Deal–Great Society order.

Finally, some presidents come to office allied with a governing regime that is itself on the verge of falling apart. Often dark-horse candidates or even political outsiders, these “disjunctive” presidents tend to face extraordinarily difficult governing environments. Their copartisans may well have captured all the institutions of national government, but they have done so in pursuit of an agenda that the public has already turned against. If the president and his party abandon that agenda, they will face outraged revolt within their own ranks. But if they seek to push it through, the people at large may rise up in resistance. Twentieth-century examples include Herbert Hoover and Jimmy Carter, who each presided over the end of their own party’s dominant role in national politics. Skowronek teaches us that these internal partisan disjunctions always precede a reconstruction.

Writing in December 2016, shortly after Trump’s election, Skowronek cautiously reminded readers that he had no crystal ball, but indicated that if political time holds, Trump will be remembered as “the Jimmy Carter of [the] conservative order” (2016, 21). Like Carter and Hoover,

Trump comes to power as a late-regime affiliate only tangentially related to his own allies and touting a convoluted, nearly-unrecognizable version of their orthodoxy. . . . Now, with his nominal affiliates in control of the entire government, conservatism is on the line, and there will be no excuse for not delivering. (2016, 21).

If “pushed to choose the most likely outcome,” Skowronek’s December 2016 “guess [was] that political time is closing in on [the] conservative order ushered in by Ronald Reagan, and that the Trump administration will foment a decisive, if wrenching, crack up” (23).

I think this assessment is right; that is, I agree with Skowronek that an end to the Reagan era is the most likely outcome of the Trump presidency, although other

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3. The Affordable Care Act’s combination of tighter regulations on private insurance providers, an individual mandate to purchase insurance, and government subsidies to make such insurance affordable was conceived in the Heritage Foundation in the 1980s and first enacted by Republican Governor Mitt Romney in Massachusetts (Klein 2012).

possibilities are visible, too. To draw out the claim, I want to reach further back in time for a more obscure case, the presidency of Franklin Pierce:

A late-regime affiliate, tenuously attached to a political regime which was itself vulnerable on its most basic commitments of ideology and interest, [Pierce's] warrants for leadership were elusive in the extreme, and the actions he took on his own behalf were instantly subject to devastatingly simple interpretations from others as to the real state of national affairs. Perhaps the most colossal failure in presidential history, Pierce's impulse to lead would catalyze one of the most profound transformations of the American political landscape. (Skowronek 1993, 177)

It is too soon to say, but those words may come to describe the Trump presidency as well.

Elected as a dark-horse Democratic candidate in 1852, Pierce became “the steward of an enervated regime” (Skowronek 1993, 181). His Jacksonian Democratic Party had achieved a sweeping electoral victory—Pierce won 250 electoral votes (out of 296), and the party captured large majorities in both houses of Congress—but public “support for Pierce was more apparent than real, and his victory anything but a mandate for action” (181).

In the letter agreeing to have his name put forward at the Democratic Convention, Pierce made a single campaign pledge—to uphold the terms of the Compromise of 1850, which he characterized as a full and final settlement of the sectional conflict over slavery (Skowronek 1993, 180–81). The 1850 bill had endorsed “popular sovereignty” in the territories seized following the Mexican War. That is, in each territory carved out of the Mexican Cession, the white settlers who arrived in the territory would determine whether slavery was legalized or banned. This arrangement marked a departure from the Missouri Compromise of 1820, which remained in effect for the Louisiana Territory and had drawn a horizontal line on the map, with slavery allowed south of the line but banned north of it.

The 1850 “compromise” was already a dramatically proslavery settlement, famously denounced by Frederick Douglass for nationalizing slavery

in its most horrible and revolting form. By that act, Mason and Dixon's line has been obliterated; New York has become as Virginia; and the power to hold, hunt, and sell men, women, and children as slaves remains no longer a mere state institution, but is now an institution of the whole United States. (Douglass 1852)

Following Pierce's election, however, Illinois Senator Stephen Douglas and the white South united in an effort to push even further by repealing the still-existing Missouri Compromise. This new legislative push reflected ever-more-extreme proslavery sentiment on the part of white southerners, as well as Senator Douglas's effort to secure a northern transcontinental railroad route through Chicago. In 1854, when Congress considered Douglas's Kansas–Nebraska Bill, which extended the popular sovereignty principle of 1850 throughout the federal territories, Pierce was forced to backtrack on his pledge not to reopen the slavery issue. In other words, he sided with his party leaders, against his promise to the American people (Skowronek 1993, 190–1).

As a result, “the entire Washington establishment became vulnerable in an instant to broadside charges of systemic corruption and moral bankruptcy” (Skowronek 1993, 191). In particular, the Kansas–Nebraska Bill led Free Soil Senator Salmon Chase of Ohio to denounce the “slave-power conspiracy” that had captured the federal government, a charge that quickly took hold nationwide. In one of Congress's most bitter contests, lasting months, Pierce and Douglas pushed the bill through, but their legislative victory “shattered” the Jacksonian coalition “beyond repair” (Skowronek 1993, 192–3). The Democrats lost 74 seats in the House later that year, almost half their total of 157. As a result, they squandered the 67.1 percent majority they held in the Thirty-Third Congress, finding themselves holding only 35.5 percent of the seats in the Thirty-Fourth. Around the same time as the midterm elections, the Kansas territory erupted into civil war, as pro- and antislavery settlers sought to create facts on the ground that would shape the future course of slavery in the state. In the face of both electoral defeat and chaotic violence, Pierce refused to back down, declaring the Kansas–Nebraska Act an expression of fundamental constitutional principle and denouncing its opponents as uncompromising zealots. But his own party repudiated his leadership, with the 1856 Democratic National Convention rejecting his bid for renomination and choosing instead Pierce's own minister to the United Kingdom, James Buchanan. Buchanan managed to win one more term for the Jacksonian Democrats, but in 1860, reconstructive President Abraham Lincoln ushered in a new political era.

As I write this article, Trump has been in office for just thirteen months, but his presidency already recalls Pierce's in several respects. Like those of John Quincy Adams beforehand and Hoover and Carter afterward, the lesson of the Pierce presidency is that “old orders disintegrate first from within, indicting themselves in the exercise of power” (Skowronek 2016, 11). With regard to the post-1980 Reagan era, the regime's “core message . . . —that government is not the solution to our problems; that government *is* the problem—never squared with the

realities of governing in a fully developed policy state” (2016, 16). In other words, the constant cry that “government doesn’t work” can be an effective message in opposition, but it is more difficult to heed when you yourselves are the leaders of a state that reaches into nearly every corner of social and economic life. Small-government conservatives have railed for years about federal overreach, but when they have controlled the levers of federal power, they have used those levers in expansive ways on multiple fronts—dramatically increasing federal deficit spending, launching wars of choice, imposing lengthy minimum sentences for nonviolent drug crimes, detaining and deporting undocumented immigrants, enforcing nationwide bans on controversial abortion procedures, and the like. Despite their own such efforts, they have continued to batter away at the very legitimacy of governance in the public interest, and the Trump presidency seems the apotheosis of such developments.

From his opening days in office, Trump appointed a Cabinet that is an impossible-to-caricature collection of people opposed to the very missions of the agencies they have been tasked with leading—an attorney general opposed to civil rights, an education secretary opposed to public schools, a secretary of housing opposed to public housing, an energy secretary who famously proposed abolishing the Department of Energy, and a climate-change denier as head of the Environmental Protection Agency. Indeed, senior White House advisor Steve Bannon publicly proclaimed in February 2017 that what these nominees had in common was their commitment to “deconstructing” the administrative state (Morris 2017).

In addition to antigovernment ideology, the Trump administration has carried other aspects of Reagan dogma to extremes as well. To name just three:

- **Racist dog-whistling:** Reagan famously announced his presidential campaign in Philadelphia, Mississippi, but he did not actually utter support for the white supremacists whose murder of three civil rights workers there in 1964 had made the town famous. Trump launched his political career by repeatedly alleging that Barack Obama had not been born in the United States and hence was not a legitimate president, and he announced his presidential campaign in a speech that described Mexican immigrants as rapists and drug dealers.<sup>4</sup> During his first year in office, he famously responded to white supremacist

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4. Trump’s June 2015 presidential announcement speech is available online, <http://time.com/3923128/donald-trump-announcement-speech/>.

violence in Charlottesville, Virginia, by claiming that “very fine people” were at the rally and blaming “both sides” for the outbreak of violence.<sup>5</sup>

- **Social conservatism:** Reagan famously united the religious right with the Republican Party’s conventional probusiness wing, and the GOP maintained the support of Christian conservatives despite longstanding accusations that party leaders failed to prioritize—and frankly, did not really care about—the religious right agenda (Frank 2005). Trump himself is a twice-divorced serial philanderer who has faced multiple credible allegations of sexual harassment and assault. Throughout his career as a New York City real estate developer and reality television star, he displayed no evident support for any of the religious right’s conventional policy goals. Nevertheless, he selected Christian conservative hero Mike Pence as his running mate, endorsed Christian conservative hero Roy Moore in Alabama’s 2017 Senate contest, and appointed Christian conservative hero Neil Gorsuch to the Supreme Court. As such, Trump has to date maintained solid support on the religious right.<sup>6</sup> To the extent that this component of Reagan-era conservatism consists not just of conservative positions on issues of sex and gender, but a broader cultural conservatism, gun rights has perhaps displaced opposition to abortion at the top of the list. On this issue, Trump has again endorsed Reagan-era tenets more forcefully than any of his predecessors, remarking in an August 2016 speech that maybe “the Second Amendment people” could do something about Hillary Clinton’s effort to confiscate their guns, which many listeners heard as a veiled reference to assassination (Corasaniti and Haberman 2016). In the immediate wake of the February 2018 school shooting at Marjory Stoneman Douglas High School in Parkland, Florida, Trump flirted with supporting some gun control policies, but he emphasized his support for the NRA’s preferred solution to mass school shootings (i.e., arming teachers).
- **Law and order:** Reagan famously escalated Nixon’s War on Drugs, ushering in an era of draconian mandatory minimum sentences for nonviolent drug crimes and appointing federal judges who would scale back the Warren Court’s expansive protections of the constitutional rights of criminal defendants. Trump carried this legacy to extremes with his regular public denunciations of immigrants

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5. See “Full Text: Trump’s comments on white supremacists, ‘alt-left’ in Charlottesville” (August 15, 2017), available online, <https://www.politico.com/story/2017/08/15/full-text-trump-comments-white-supremacists-alt-left-transcript-241662>.

6. A January 2018 Pew Research Center poll reported 72 percent job approval for President Trump among white evangelicals. Available online, <http://www.people-press.org/2018/01/18/1-trump-at-year-one-job-approval-confidence-on-issues-personal-traits/>.



allegedly participating in gangs and other violent criminal activity; his July 2017 speech to a group of law enforcement officials in Long Island, in which he urged them to physically mistreat arrested suspects (“Please don’t be too nice”; Bump 2017); and his August 2017 pardon of former Maricopa County Sheriff Joe Arpaio, who had been convicted of criminal contempt for defying a court order to cease racial profiling and unlawful detention of suspected undocumented immigrants.

On the legislative front, much of Trump’s first year in office was devoted to health-care reform. Congressional Republicans had been trying to repeal the Patient Protection and Affordable Care Act (aka Obamacare) since its enactment in 2010, and President Trump promised to replace it with something that covered more people (“insurance for everybody”) at a lower cost (Jackson 2017). The actual Republican health-care proposals throughout 2017, however, all would have led to dramatically reduced coverage. Most of these proposals were defeated in Congress—more on that below—but in December 2017, President Trump signed a major tax overhaul that included a repeal of one of Obamacare’s central provisions. The Congressional Budget Office projects that this repeal of the Affordable Care Act’s so-called individual mandate will increase the uninsured population by 13 million by 2027.<sup>7</sup>

To return to the Franklin Pierce comparison, Trump’s tax and budgetary policies may well prove to be his Kansas–Nebraska Act. In the immediate wake of the November 2016 elections, much speculation focused on whether President Trump would defend key New Deal–Great Society entitlement programs, on which his own working-class supporters depend, against the longstanding efforts of congressional Republicans to dismantle them. Before the election, Trump had repeatedly promised not to cut Social Security, Medicare, or Medicaid, famously tweeting on May 7, 2015, “I was the first & only potential GOP candidate to state there will be no cuts to Social Security, Medicare & Medicaid.”<sup>8</sup> Shortly after the election, however, Republican House Speaker Paul Ryan announced his intention to seek massive cuts to all three popular programs. In May 2017, Speaker Ryan led the House in adopting the American Health Care Act, which included \$839 billion in cuts to Medicaid. President Trump endorsed the bill, and three weeks later, his budget

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7. “Repealing the Individual Health Insurance Mandate: An Updated Estimate,” Congressional Budget Office Report (November 8, 2017), available online, <https://www.cbo.gov/publication/53300>.

8. Trump’s tweet from May 7, 2015, is available at <https://twitter.com/realdonaldtrump/status/596338364187602944>.

director, Mick Mulvaney, introduced a proposed 2018 budget that included \$627 billion in additional Medicaid cuts, along with \$72 billion in cuts to Social Security disability benefits (Davis 2017; Hellmann and Weixel 2017).

None of these policies became law, but the December 2017 tax bill, enacted solely with Republican votes and signed by President Trump, is projected to increase federal deficits by \$1.5 trillion over ten years, a budgetary impact that predictably led to immediate Republican calls for additional cuts to Social Security, Medicare, and Medicaid. In February 2018, the Trump administration released a proposed budget that included \$72 billion in cuts to Social Security, \$266 billion to Medicare, and \$1.1 trillion to Medicaid (Koronowski 2018). It is too soon to say how many of these budget changes will be enacted, but it remains possible that a Ryan-authored bill privatizing Medicare and block-granting Medicaid will prove to be the moment at which President Trump indisputably sides with his party leaders and abandons his contrary promises to the American people.

In Pierce's case, recall that the controversial bill led the governing party to lose 47 percent of its House seats in the midterm elections. With American political history as our guide, then, the 2018 midterm elections loom large. The Republican Party currently has firm control of the nation's political institutions, but it is committed to a sweeping antigovernment agenda that the American public does not support. In the thirteen months of the Trump era to date, this agenda has led to significant electoral defeats at the state level, including widely noted state legislative and gubernatorial races in Virginia. If this trend continues through November 2018, it seems possible that the coming years will witness the end of the Reagan-era regime.

## II. THE TRUMP PRESIDENCY AND THE RISE OF AUTHORITARIAN CONSTITUTIONALISM

With an eye beyond U.S. borders—to the global present rather than the American past—a more sobering story emerges. Trump's election was part and parcel of a global rise in populist authoritarianism since the 2008 financial crisis. Hungary, Poland, Turkey, the Philippines, and Russia currently are led by authoritarian leaders who were democratically elected. These presidents and prime ministers used the institutions of constitutional democracy to come to power, but once elected, they launched sustained attacks on those institutions in an effort to cripple their political opponents. Some of President Trump's leading advisers have indicated a willingness to borrow from this authoritarian playbook, and Trump himself has openly praised each of these nationalist leaders by name—Viktor Orbán, Andrzej

Duda, Recep Tayyip Erdoğan, Rodrigo Duterte, and, of course, Vladimir Putin—while simultaneously exhibiting ignorance of and disdain for fair elections, a free press, independent courts, government transparency, religious freedom, the freedom of assembly, and other core democratic commitments himself.

Since the November 2016 election—and in some prescient cases, even beforehand—the scholars who have sounded the loudest alarms about the Trump presidency have been comparativists, not Americanists. The comparativists have seen democracies collapse before, and they have been warning Americans (and Europeans) against complacency (Foa and Mounk 2016; Isiksel 2016; Levitsky and Ziblatt 2018). Through this scholarly lens, the story of the Trump presidency breaks sharply from the conventional cyclical patterns of American politics.

As my primary point of reference here, I shift from Franklin Pierce to Viktor Orbán. Through the early years of the twenty-first century, Hungary's constitutional politics was a story of a relatively successful post-1989 transition to democracy (Scheppele 1999, 2005). The story turned darker in 2010, when Orbán was elected prime minister. Since then, the coalition led by his Fidesz Party has ushered in a series of illiberal and antidemocratic constitutional reforms that have made it extraordinarily difficult for opposition parties to compete. Despite winning only 53 percent of the popular vote in 2010, Orbán's coalition controlled more than two-thirds of the seats in Parliament, which allowed it to enact twelve constitutional amendments during its first year in power, affecting more than fifty provisions of the 1989 Constitution. The government then adopted a wholly new Constitution in 2011, which was itself amended five times in its first twenty months of existence. All of these constitutional changes were enacted solely with parliamentary support from Fidesz and its party list partner, the Christian Democrats (Scheppele 2015; Sólyom 2015; Sonnevend, Jakab, and Csink 2015).

The amendments and the new Constitution enabled the government to reduce the independence of the Constitutional Court, the ordinary courts, the Electoral Commission, the state audit office, the ombudsmen's offices, and the independent press. For example, under the amended Constitution, the size of the Constitutional Court was increased, creating new vacancies for the Fidesz regime to fill; the judicial selection procedures were modified such that the governing coalition could now name Constitutional Court judges with no support from other parties in parliament; the Court's jurisdiction over important fiscal and tax matters was curtailed; the *actio popularis* writ was abolished, thus removing the key avenue by which ordinary Hungarians were able to call on the Court; and the precedential authority of all Constitutional Court holdings issued before 2012 was repealed (Sonnevend et al. 2015, 88–96; International Federation for

Human Rights [FIDH] 2016, 10–15). As a result, a Court that had served as the primary check on abuses of power in the post-1989 regime is now likely to toe the governing party's line. By means of such constitutional changes, the Fidesz government succeeded in removing virtually all institutional checks on its own power (Scheppele 2015).

Fidesz also adopted a new voter registration law and redrew existing electoral districts in an effort to suppress or dilute opposition votes (Scheppele 2015, 120–1; Sonnevend et al. 2015; FIDH 2016). And it packed or reorganized multiple state institutions that would be in a position to pursue the regime's goals even if it does lose its parliamentary majority—including the Electoral Commission, which exercises veto authority over proposed national referenda; the Media Council, which awards broadcast licenses and may impose fines on media organizations that lack adequate political “balance”; the ombudsman's offices, which had been tasked with initiating constitutional challenges to government policies; and a new Budget Council, which can veto any budget proposed by parliament that adds to the national debt (Polyák 2015, 140–2; Scheppele 2015). As Scheppele (2015) emphasizes, all of these institutions have terms of office that overlap multiple election cycles, thus virtually guaranteeing that Fidesz loyalists will remain well-ensconced throughout the government regardless of the next round of election results.

On Scheppele's account, the substance of the new constitution violated core principles of the previous one (regarding the protection of human dignity, the preservation of a multiparty republic, and limited government), and the procedures by which it was adopted did not amount to a legitimate constitutional expression of the popular will. On the procedural front, Scheppele (2015) documents at some length the multiple ways in which the Fidesz government rigged the process to make it virtually impossible for opposition parties or the broader public to weigh in on the proposed constitutional changes. To note just one example, in March 2011, when the constitutional committee of the parliament first reported a set of principles that, in the committee's view, any new constitution should include, the Fidesz majority voted on that same day that any member of parliament was free to submit a full draft of a new constitution within the next week. With no advance notice, it was extraordinarily difficult for government outsiders to produce a fully drafted constitution that quickly. When they succeeded in producing such a draft despite these barriers, the Fidesz majority declined to discuss it. The lesson of this Hungarian story is that “a government that has no limits on what it can do and that concentrates all powers in a single party will soon cease to be either constitutional or democratic” (Scheppele 2015, 113).

In the United States, the Republican Party has engaged in trench warfare against core institutions of constitutional democracy for years, and the Trump administration has threatened to escalate these attacks to Fidesz-style levels. To note just a handful of key developments before the Trump era: When the presidential election of 2000 deadlocked because of an exceedingly tight outcome and a disputed vote count in Florida, Republican lawyers persuaded a bare majority of the U.S. Supreme Court to order Florida elections officials to cease their ongoing recount of disputed ballots, thus awarding the election to Republican George W. Bush (see Gillman 2001).<sup>9</sup> Ten years later, a Court that now included two George W. Bush appointees held for the first time, again by a 5–4 vote, that for-profit corporations were constitutionally free to engage in unlimited spending to advocate for the election or defeat of political candidates.<sup>10</sup> Meanwhile, in 2008, the Court held that state legislatures were free to impose photo identification requirements on voters, despite clear evidence that the principal purpose and effect of such requirements was to suppress turnout among the poor, the elderly, students, and racial minorities.<sup>11</sup> Even after this decision, many state and local governments were barred from enacting such requirements by the 1965 Voting Rights Act, which required jurisdictions with a documented history of race-based voter suppression to receive “preclearance” from the federal Department of Justice before making any changes to their election laws. In 2013, however, the Court struck down that provision, again by a polarized 5–4 judicial vote.<sup>12</sup> This decision was followed by a new wave of state legislation enacted with the purpose and effect of suppressing minority voting.<sup>13</sup>

In addition, each of the last two Republican presidents was first elected despite receiving fewer votes than his Democratic opponent. In 2000, Democrat Al Gore beat Bush by roughly 540,000 votes, and in 2016, Hillary Clinton beat Trump by 2.8 million. Each time, the Republican candidate won by virtue of the electoral college, whose indirect vote-counting system was first conceived at the insistence of

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9. *Bush v. Gore*, 531 U.S. 98 (2000).

10. *Citizens United v. Federal Election Commission*, 558 U.S. 310 (2000).

11. *Crawford v. Marion County Election Board*, 553 U.S. 181 (2008). On the substantial evidence that voter identification requirements would disproportionately suppress voter turnout, see Justice David Souter’s dissenting opinion at pp. 211–223.

12. *Shelby County v. Holder*, 570 U.S. 2 (2013).

13. In *N.C. State Conf. of the NAACP v. McCrory*, 831 F.3d 204 (4th Cir. 2016), a Fourth Circuit panel found that North Carolina’s 2013 voter ID law had been enacted with racially discriminatory intent. Hajnal, Lajevardi, and Nielson (2017) have shown that voter ID laws have the effect of suppressing minority votes in practice.

slave states in 1787 and that continues to disproportionately benefit small states to this day (Amar 2010).

During the sixteen years in which Democrats held the White House during the Reagan era—the eight-year tenures of Bill Clinton and Barack Obama, respectively—Republican congressional leaders engaged in a remarkable level of obstruction, impeaching Clinton in December 1998, repeatedly forcing shutdowns of the federal government by failing to enact budget bills, threatening to default on U.S. government obligations by refusing to raise the statutory debt limit, and rendering some government institutions virtually inoperable by reason of forced vacancies. This obstruction culminated during the final year of Obama’s term with the Senate’s refusal even to consider D.C. Circuit Judge Merrick Garland’s nomination as associate justice of the United States.

Despite Trump receiving only 45.9 percent of the popular vote in November 2016, the Republican Party now has firm control of the presidency, the House, and Senate at least through 2018. Despite the Democrats winning the popular vote in six of the last seven presidential elections, the Republicans are likely to have a majority on the Supreme Court at least until 2030. Most notably, the legitimacy of the 2016 election result has been called into question by credible allegations that Trump campaign officials colluded with the Russian government to influence the outcome via illegal foreign spending (particularly on social media platforms) and the criminal theft of thousands of Democratic Party e-mails. And President Trump pressured both Federal Bureau of Investigation Director James Comey and senior intelligence officials to obstruct an ongoing investigation of his campaign’s ties with Russia.

Orbán was the first Western leader to endorse Trump for president (Kingsley 2018), and Russian President Vladimir Putin may well have aided Trump’s election more directly. Like the Orbán and Putin regimes, the Trump administration may try to use its current hold on government power to entrench itself by further undermining democratic institutions. Before the election, candidate Trump repeatedly refused to pledge to abide by the election results if he lost. Since the election, President Trump has repeatedly voiced uncorroborated conspiracy theories regarding illegal Democratic votes, and early in his term, he appointed a Presidential Advisory Commission on Election Integrity that appeared from the outset to be tasked with furthering the Republican voter suppression agenda (Tackett and Wines 2018). The Commission was subsequently disbanded in the face of legal challenges. Like Kris Kobach, vice chair of the Election Integrity Commission, Attorney General Jeff Sessions is a longstanding opponent of voting rights. As attorney general, one of his first significant policy changes was to reverse the

federal government's position in a key voting rights case in Texas.<sup>14</sup> The Obama administration had argued in court that a recent voter identification law had been enacted to suppress the minority vote; Attorney General Sessions dropped this claim (Fernandez and Lichtblau 2017). Conservative litigators are likely to wage additional attacks on the 1965 Voting Rights Act, and this time, the federal Justice Department is unlikely even to defend the law.

President Trump and other administration figures have repeatedly attacked the free and independent press, with Trump famously describing journalists as “enemies of the people” and threatening to change the nation’s libel laws to make it easier for public officials to sue for defamation (Grynbaum 2017). Those presidential threats may be idle, but both Press Secretary Sean Spicer and Secretary of State Rex Tillerson have drawn First Amendment fire for selectively excluding journalists from events they ordinarily would be entitled to access (Gold 2017a, 2017b). President Trump has verbally attacked independent judges as well as journalists, and during the initial controversy over implementation of his ban on immigration from seven Muslim-majority countries, multiple public reports cited federal immigration officers ignoring court orders.<sup>15</sup>

Setting aside the Russian interference with the 2016 election, for which Trump’s complicity has not been proven, these efforts have not yet reached Orbán-level attacks on constitutional democracy. But one of the tactics for which the Orbán regime has been infamous is ushering in a series of incremental changes to democratic institutions, no one of which, standing alone, is unarguably illegitimate, but all of which, taken together, have rendered Hungary no longer a functioning multiparty democracy. This tactic has effectively staved off meaningful intervention by the European Union and the Council of Europe in Hungary, and it is not inconceivable that it could work in the United States as well. If White House attacks on the independent press start to cow the mainstream media, if the Department of Justice launches wide-scale voter suppression efforts, if the president uses the

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14. On Sessions’s longstanding record of opposition to voting rights, note that his nomination for a federal judgeship was rejected by a Republican Senate in 1986, in part because of his racially motivated prosecution of African American voting rights advocates in Alabama.

15. In a widely noted February 4, 2017, tweet, Trump denounced the so-called judge who had enjoined Trump’s executive order banning immigration from seven Muslim-majority countries. The tweet is available online, <https://twitter.com/realDonaldTrump/status/827867311054974976>. On government agents ignoring court orders while implementing the travel ban, see “DHS Implementation of Executive Order No. 13769 ‘Protecting the Nation From Foreign Terrorist Entry Into the United States’ (January 27, 2017),” Department of Homeland Security, Office of Inspector General, OIG-18-37 (January 18, 2018), available online, <https://www.oig.dhs.gov/sites/default/files/assets/2018-01/OIG-18-37-Jan18.pdf>.

surveillance and coercive capacities of federal law enforcement and intelligence agencies to target domestic dissenters, then we have no guarantee that the midterm elections in 2018 or the presidential election in 2020 will be free and fair. Students of authoritarian regimes have warned against complacency on this front, with N. Turkuler Isiksel (2016) observing that

[i]f the tactics of Putin, Orbán, Erdoğan, and other populists are any guide, we can expect Trump to do everything he has either threatened to do or baselessly accused the Democrats of doing: fomenting violence and voter intimidation, rigging elections, spying on, prosecuting, and imprisoning his opponents, silencing the press, and more.

The Madisonian system of constitutional checks and balances may forestall these developments, but Isiksel warns us not to count on it.

### III. THE TRUMP PRESIDENCY AND MASS DEMOCRATIC MOBILIZATION

Attending to cycles of presidential history reminds us that presidents before Trump have led their party to full control of the White House and Congress, despite the party's commitment to a program that popular majorities have come to reject. These disjunctive presidents tend to face extraordinarily difficult governance challenges, and they typically are remembered as failures. They sometimes wreak havoc on fundamental principles of democracy and justice during their time in office, but the voters resoundingly reject their programs in short order, and American democracy self-corrects. Attending to the global rise of illiberal democracy in the twenty-first century draws our gaze toward more sobering possibilities. Orbán, Erdoğan, Duda, Duterte, and Putin came to office via democratic elections and have preserved many of the forms of constitutional democracy, but they have had significant success in subverting its core principles from within.

Which of these two stories will bear out? As I write this article in February 2018, it is too soon to say, but the answer will turn in significant part on a third key feature of the Trump presidency that some early accounts have neglected—that is, the collective actions of the American people from 2016 to 2020 and beyond.<sup>16</sup> Indeed, the single most remarkable thing about the Trump presidency to date is the

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16. The role of mass popular resistance to the Trump agenda goes unmentioned in Robert Lieberman and his coauthors' otherwise comprehensive account (2017).



extraordinary degree of popular mobilization that emerged seemingly overnight to oppose the president's agenda. For this third vantage, I draw less directly on existing scholarly literature and more on my own experience as a participant in this mass mobilization since November 2016.

The day after Trump's inauguration, January 21, 2017, was the single largest day of mass protest in American history, with an estimated 4 million people marching for women's rights in Washington, D.C. and throughout the country (Chenoweth and Pressman 2017). The Women's Marches were the result of two months of planning, but just one week later, an estimated 175,000 people showed up at airports nationwide for almost spontaneous demonstrations against President Trump's first executive order banning most of the world's Muslims from immigrating to the United States (Graff 2017). Over the next few months, more than 150,000 people attended congressional town halls (with or without their members of Congress in attendance) and "Resist Trump Tuesday" protests outside congressional offices—popular mobilization efforts that played a key role in preventing the enactment of the American Health Care Act, which was the initial Republican legislative vehicle for repealing Obamacare (Graff 2017). When Republican congressional leaders regrouped later in the year, similar mobilization again blocked Obamacare repeal in the summer and fall of 2017. As a result, despite full Republican control of all institutions of the federal government, President Trump's first ten months in office passed without him signing a single significant legislative victory into law.

One year after Trump's inauguration, this opposition energy remained robust. In early 2018, the Women's March marked its first anniversary with an estimated 1.8 to 2.6 million marchers nationwide (Chenoweth and Pressman 2018b). The following month, a horrific school shooting at Marjory Stoneman Douglas High School in Florida led to the immediate emergence of a massive nationwide student movement demanding legislative action to reduce gun violence (Witt 2018). Building on all the successful tactics of the anti-Trump resistance movement over the previous year—televised town halls, legislative office visits, and mass protest marches—the Stoneman Douglas students and their compatriots nationwide appear to have disrupted the entrenched policy consensus by which the NRA has long prevented Congress from enacting even wildly popular gun control measures.

It may be too soon to tell, but the anti-Trump resistance appears to have coalesced into a sustainable mass movement. The resistance includes many streams, one of the most notable of which is the Indivisible movement. On December 14, 2016—just a month after Trump's election—several former Democratic congressional staffers

posted a publicly shared Google Doc with a road map for engaging in locally focused congressional advocacy to resist the Trump agenda. They called it the Indivisible Guide. It has since been viewed or downloaded more than 2 million times, and more than 5,800 grassroots organizations (many of them brand new, and including at least two in every congressional district) have registered on the Indivisible website, pledging to use the guide's principles and tactics to hold their own members of Congress accountable.<sup>17</sup>

In Central New York, where I live, early 2017 witnessed Women's March events with more than two thousand people in Syracuse and more than five thousand in Seneca Falls; an airport demonstration the following week with more than one thousand (organized in eighteen hours); multiple protests outside all four district offices of Republican Representative John Katko (some featuring hundreds of people); multiple protests outside the district offices of New York Democratic Senators Chuck Schumer and Kirsten Gillibrand, particularly early on when it was not yet clear how robustly Democratic senators would resist the Trump agenda; a March for Education Justice featuring a racially diverse crowd of hundreds, in single-digit temperatures, opposed to Education Secretary Betsy DeVos's agenda; and multiple teach-ins and town-halls attended by hundreds of community members seeking substantive discussion of complex policy issues.

Early 2018 witnessed a women's march in Seneca Falls that was even larger than the previous one—this time with an estimated ten thousand marchers (Finnerty 2018); an immigrant rights march with hundreds of people marking the anniversary of the airport protests; continued demonstrations at Representative Katko's offices, plus weekly anti-Katko protests along a public sidewalk outside the largest grocery store in town; and plans for a March 24 March for Our Lives in downtown Syracuse, organized by local high school students in solidarity with the Stoneman Douglas students in Florida, which quickly drew interest from more than 2,500 people on Facebook.

In addition to one-time protests, the year of organizing in Central New York witnessed the emergence of multiple social movement organizations that appear to be sustainable, including the following:

- **CNY Solidarity Coalition:** Grassroots resistance organization formed within a week of November 2016 election. Sunday afternoon meetings regularly drew hundreds of attendees in early 2017 and continue to draw forty to eighty

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17. This information is drawn from <https://www.indivisibleguide.com/about-us/> (accessed May 25, 2017).

attendees in early 2018. Its e-mail list includes more than two thousand subscribers. Lead early organizers included Dana Balter, who announced a campaign for Congress in September 2017.

- **Indivisible NY24:** Early local affiliate of the national movement, with a Twitter account launched in January 2017 that quickly reached more than two thousand followers.
- **Knit the 24th:** A district-wide coalition of Indivisible groups, with six to eight organizational members at any given time. Formed in Summer 2017 to unite efforts to unseat Representative Katko. Endorsed Dana Balter for Congress in January 2018.
- **Uplift Syracuse:** Grassroots organization with more than seven hundred followers on Facebook, dedicated to issue advocacy and support for progressive Democratic candidates, principally at state and local level. Holds regular public meetings focused on school funding equity, public broadband access, just and sustainable redevelopment of Interstate I-81 (a longstanding and intractable issue locally), and lead paint safety. Lead early organizers included Joe Driscoll, who was elected to the Syracuse Common Council in November 2017.
- **True Blue NY-53:** Local branch of a statewide network dedicated to unseating eight state senators who were elected as Democrats but caucus separately and support the Republican leadership of the chamber. Lead early organizers included Rachel May, who announced a primary challenge to incumbent State Senator Dave Valesky in January 2018.

None of these organizations existed before November 2016, and several aspects of this grassroots mobilization seem new and distinctive: (1) lots of first-time activists; (2) a minimum of infighting on the left, perhaps because the Trump administration so clearly threatens every left-liberal constituency (see Graff 2017); and (3) a sharp electoral and policy focus. Central New York has a deeply rooted tradition of grassroots organizing—from abolition to women’s suffrage to environmental justice. The Syracuse Peace Council, in operation since 1936, has long claimed to be “the oldest local, autonomous, grassroots peace and social justice organization in the United States.”<sup>18</sup> But historically, much of this organizing has focused on direct action protest (e.g., antiwar demonstrations and civil disobedience). That protest aspect is still present, but it has been supplemented with mass demands for congressional town halls, mass phone-calling actions to elected legislators, and frequent protest actions targeted directly at such legislators—in short, the Indivisible playbook.

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18. The quoted text is from the Syracuse Peace Council’s website, <http://www.peacecouncil.net/history>.

During the first thirteen months of the Trump era, I had countless conversations with folks who were attending teach-ins, town halls, and protests for the first time, and who had been moved to call or visit their elected representatives for the first time as well. During this same period, Dana Balter, Rachel May, and Joe Driscoll all became first-time candidates for office. I have considered myself an active and engaged democratic citizen for decades, and I have never seen anything like this.

I have no systematic data to indicate the scale and scope of this grassroots resistance nationwide, but some early reports appear to confirm its size, strength, and staying power (Chenoweth and Pressman 2018a; Putnam and Skocpol 2018). From January 2017 through February 2018, thirty-nine state legislative seats flipped from Republican to Democratic hands. This list includes the remarkable and widely noted Democratic gains in Virginia's November 2017 state legislative elections as well as special election results in Connecticut, Florida, Georgia, Kentucky, Missouri, New Hampshire, Oklahoma, Washington, Wisconsin, and elsewhere—across the full time that Trump has been in office to date. Run for Something (another organization formed since Trump's election) endorsed seventy-two candidates for state and local office in 2017, thirty-five of whom were elected. The group is planning to endorse one thousand candidates in 2018.<sup>19</sup>

#### IV. LOOKING AHEAD

This year of organizing gives me confidence that the American people will do the right thing—perhaps, as Winston Churchill said, after first having tried all the alternatives. But we the people's capacity to right our government's course will turn in part on the emergence of effective leadership to steer the popular defense of our democratic institutions. RussiaGate has the makings of a political scandal that might tar today's Republican Party with illegitimacy, as Pierce's Democratic Party became synonymous with the slave-power conspiracy. Americans living in the 1850s experienced

a genuine sense of crisis. . . . Many feared that the existence of republican self-government itself stood in danger. . . . Malignant distrust of politicians as self-centered and corrupt wirepullers out of touch with the people spread like an epidemic

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19. Information available online, <https://medium.com/@runforsomething/our-2018-strategic-plan-lad149e48a73>.

during the 1850s. So, too, did dissatisfaction with political parties as unresponsive and beyond popular control. (Holt 1978, ix, 4)

During this troubled decade in our past, political leaders increasingly charged, and voters increasingly believed, “that powerful conspiracies, contemptuous of the law and abetted by corrupt politicians, had usurped government from the people and were menacing the most cherished values of Americans, their liberty and sense of equality” (1978, 5).

Holt’s account of the political crisis of the 1850s brings me to my final unanswered question: Can today’s Democratic Party produce a modern-day Salmon Chase to lead the charge for democratic renewal? Senator Chase did not bring down the Jacksonian coalition by himself, but his denunciations of the slave-power conspiracy that had captured the federal government gave voice to a mass national movement that did so collectively. On Skowronek’s account, presidential reconstructions typically have unfolded on the backs of social movements that questioned the legitimacy of the existing order. Pierce’s coalition was defeated in part by the antebellum abolitionist movement, Hoover’s by the rising labor movement, and Carter’s by the antitax and religious right movements that emerged in the 1970s. A left-liberal movement of similar size and scale may well be taking shape today.

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