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The current populist wave presents an existential challenge to democracy. Populism claims to be the true expositor of the will of the people, enabled where it can through the electoral conquest of government office. An engaged electoral majority claiming its due appears as both the realization of democratic aspirations and its demise. It is a short step from the will of the people to the tyranny of the majority.

Undoubtedly, the rise of elected governments is the historic legacy of the period after the fall of the Soviet Union. Using a relatively austere metric of whether the head of state and legislature are elected, Freedom House captures the dramatic transformations at the end of the twentieth century. In 1987, there were only 66 countries that were considered electoral democracies. By 2003, there were 121 electoral democracies, a number that has remained more or less stable, with the most recent figure being 123 countries that can claim a head of state and legislature elected through substantially free and fair elections.¹

The first cut inquiry is consistent with a parsimonious account of democracy as being governance by an elected head of government, chosen by at least a plurality of the population under stable rules of selection and broad eligibility for the franchise. Such a definition would embrace both parliamentary and presidential systems, it would allow for (p. 446) plebiscitary powers as in Switzerland, it would tolerate requirements for plurality versus majority vote for officeholding, and it would accept a host of limitations of the franchise based on citizenship, age, incarceration, and so forth. Such a definition would even allow for a nominal head of state that is not elected, as with the Queen's authority in Australia.

For the most part, such a standard account of democracy is not necessarily incompatible with populism. There is an authoritarian streak to both left- and right-wing populist movements, which, with alarming frequency, threatens some of the preconditions of democratic governance. Populists tend not to tolerate opposition parties; they tend to use police and prosecutorial power against adversaries; they tend toward suppression of...
dissident speech, either through curtailment of access to the media or through legal retaliation; they tend to push the boundaries of executive unilateral authority.\textsuperscript{2} Certainly, questions of intensity and degree may take the Venezuela of Nicolás Maduro or the Hungary of Viktor Orbán outside the boundaries of democracy. But elements of aggressive use of incumbent power are seen in many regimes that still function as democracies, even if beleaguered ones at times.

Thus, unfortunately, the formal processes of governmental selection tell only part of the story. While the number of electoral democracies has nominally remained high, the number of countries that afford relatively free political rights to opposition groups, rival political parties, minorities, and others seeking to dislodge the incumbent regime is much smaller. Only eighty-seven countries are deemed “Free” by Freedom House in affording the political rights associated with democracy and ensuring acceptable levels of transparency and noncorruption in government.

The Freedom House data present a simplified picture of elections as a matter of form in terms of elected heads of state and as a matter of substance in terms of the institutional attributes of democratic governance. The focus on political freedoms and transparency of government hearkens to the basic Schumpeterian notion of democracy as fundamentally a system of retrospective accountability by which an informed populace can remove from office those who have lost the confidence of the voters.\textsuperscript{3} The measure of political freedom is an important point of demarcation for liberal democracy from illiberal regimes in which opposition electoral prospects are compromised, if not totally illusory.

But the populist challenge to democracy is not simply a matter of illiberalism. Certainly there are xenophobic streaks to current populism, together with overt antagonisms on racial and religious grounds. And there is a manifest lack of commitment to civil liberties, starting with freedom of the press and continuing on to freedom of expression and worship. The interplay of these factors is the subject of extensive definitional inquiry, as well addressed by Jan-Werner Müller and taken up in many current debates. But populism also responds to the perceived failure of democratic regimes to protect the laboring classes (p. 447) from economic dislocation. The combination of the economic downturn after 2008 and the impact of globalized trade on wages in the advanced industrial countries tarnished the legitimacy of democratic regimes as an insider’s game, a means of institutionalizing elite prerogatives.

Rather than attempt another comprehensive account of populism, I want to shift the focus to the engagement between populism and democratic governance as an institutional account of how democracies function. Post-2008 anti-elitism as a social commitment translated to a robust anti-institutionalism in terms of state authority. The aim is not so much to provide definitions of either populism or democracy as to call attention to the features of democratic rule that have commanded attention for the era of democratic ascendancy over the past two centuries and that now seem subject to deep challenge. Without claiming apocalyptically that this era of democratic ascendancy has come to a close, it is nonetheless worth examining how it operated to see the sources of contemporary disrepair. Here the suggestion is that there may be more inherent conflict with populism, turning not so much on the ultimate issue of an elected head of government but on the limits on the exercise of power.

With the rise of new democracies, much attention was given to the elements necessary for these new regimes to stabilize in oftentimes foreboding national settings. The necessary institutional arrangements, including the increasingly robust presence of constitutional courts restraining the political branches, was the focus of my monograph, \textit{Fragile Democracies}.\textsuperscript{4} What the current populist surge invites is applying the same tools of analysis in reverse. Rather than asking how the preconditions for democratic governance can be
established, the question becomes the stability of established democracies in the face of populist challenges to these same institutional buttresses of democratic governance.

While the potential list is extensive, a few points are worth considering as key:

**The Temporal Dimension of Democracy.**

At the heart of any conception of democracy is the simple ability “to throw the bums out.” Whether termed “rotation in office,” as advanced by Adam Przeworski and his collaborators, or as a renewal of consent, as framed by Bernard Manin, there is a requirement of repeat play necessary for democratic governance. Indeed the central challenge in any new democracy is the ability to convince the losers of today that they might indeed be the winners of tomorrow, made critical by the fact that in any new democracy there will by definition have been no evidence of a successful electoral surrender of power to future challengers. It is well worth recalling the lack of historical precedents for the American election of 1800, the first time an incumbent head of state was removed electorally by a challenger.

Stable democracies require an internalization of politics as repeat play. Populist elections claim a mandate from the people beyond choosing officeholders. The mandate does not hearken back to the successes in office of past partisan affiliates but to an indictment of a system that is claimed to be rigged or captured by enemies of the people. Elections over mandates risk the same repudiation of institutional accommodation of divisions as do plebiscites. It is not that populism is plebiscitary as such; rather, neither is well suited to institutionalized politics that presume deliberation, procedural order, and accommodation. For both plebiscites and populism, the election defines the agenda. Period.

In each case, there is an up/down choice as to policy outcomes, without intermediation of legislative trade-offs, measures of the intensity of preferences, negotiated accommodation, and all the mechanisms that elicit cooperation from those in dissent and moderation from those in power. Recognition of the temporal dimension of democratic governance draws back at least as far as Tocqueville’s famous account of pre-Civil War America. Among his many observations, Tocqueville focused on the prospect of deep mistakes in elections that could promote men of unknown capacities or unproven temperament. The famous warning about the “tyranny of the majority” was penned in observations about America under President Andrew Jackson, a wealthy and rapacious real estate speculator, elected on the crest of popular hatred of the “elites” represented by John Quincy Adams and the established politics after the Revolution. For Tocqueville, a central question in the survival of the republican experiment was the chance to make what he termed “retrievable mistakes,” the capacity to allow time to correct missteps.

The concept of intertemporal trade-offs is key to the design of many democratic institutions. One theory for the acceptance of judicial review is precisely the desire—in the face of uncertainty about future electoral prospects—of all parties to hedge their bets. In new democracies with strong constitutional courts this is the process that I have termed “democratic hedging” and that Tom Ginsburg addresses as an “insurance” theory of limits on the exercise of political power. Many of the institutional features of healthy democracies incorporate structures that serve as a check on the majority, ranging from the Shadow Cabinet in Britain to the use of the American filibuster to force supermajority legislation on issues of deep contestation.

(p. 449) Impetuous populism rejects temporal restraints in the name of the will of the people. As a result there is an urgency to overcoming all such restraints so as to maximize the power of angry incumbency. The forms vary, but the need to unleash the power of the moment persists. If the Venezuelan Congress is an impediment to the increasingly tyrannical rule of President Nicolás Maduro, then the captive Supreme Court can declare the Congress disbanded and a new constituent assembly created. At the other end of the spectrum, if the North Carolina Republicans lose the governorship, they too can rewrite the
rules of government by neutering gubernatorial power and curtailing voter access to the polls. In each case, the institutions that cool off politics prove vulnerable to a one-time power grab.

Fractionated Power.

In *Fragile Democracies*, I devote considerable attention to the distinct frailties of new democracies as they emerge from conflict or an autocratic past. One of the defining characteristics is that the complete package of democratic institutions rarely mature together, or quickly. Democracy proves to be a complicated interaction among popular sovereignty, political competition, stable institutions of state, vibrant organs of civil society, meaningful political intermediaries, and a commitment to the idea that the losers of today have a credible chance to reorganize and perhaps emerge as the winners of tomorrow. Few if any of these criteria are likely to be satisfied amid the birth pangs of a new democratic order. In circumstances of duress and uncertainty, power gravitates to the first organized entity to consolidate. Almost invariably that will be the executive, and with it comes the pathologies associated with unilateral executive rule: corruption, cronyism, and clientelism. A hypertrophied executive in turn resists efforts to limit its authority and has every incentive not to allow other sources of constitutional authority to realize their mandate.

Populism runs this account in reverse. Populism takes issue with obstacles to immediate returns to electoral success, in which case all separation of powers fail a legitimacy test before the mandate of the national leader. What James Madison hailed as the virtues of “filtration” of popular sentiment through institutional intermediation becomes the frustration of the will of the people. The hostility to cross-institutional constraints flows from the same impulse as the narrowing of the time frame for political rewards. As Jan-Werner Müller addresses in his book on the subject, the new populism begins with hostility to pluralism. There is a claim to speak for a unified people, fighting against elites whose illegitimacy is a source of great anger. The impulse toward what Nancy Rosenblum terms “holism” challenges the concept of institutional accommodation that underlies constitutional democracy. A monist commitment to an abiding truth that captures the interests of all the people (save the unredeemable outliers) cannot commit to separation of powers any more than it can to rotation in office.

Part of this phenomenon is kicking in an open door; the dysfunctionality of the legislative branches is a plague upon almost all the houses of democracy. As I address more fully in an article on *Democracy's Deficits*, the premise of modern constitutional democracies is the primacy of the legislative branch, denominated the Article I power in the US setting. Legislative weakness furthers the trend, as regulatory authority grows, for expanded executive authority. No one rises to the level of chief executive without a desire to act, and legislative inaction invites executive circumvention. But legislative inaction can result from sheer legislative dysfunction, political disagreement with the agenda of the executive, or the inability to cohere on a policy initiative in the face of internal political disagreement. An executive riding a populist wave would not distinguish among the sources of legislative inaction, and would instead see each as a rejection of the electoral mandate.

Also vulnerable to populist attack is the judiciary. In the face of legislative lack of capacity to govern, a strong executive increasingly finds the judiciary to be a major obstacle to its immediate designs. Part of this is structural, especially in recent democracies that followed the German example of creating a powerful constitutional court. Such apex courts stand apart from the ordinary judiciary in being tasked with restraint of anti-democratic excesses of the state and frequently find themselves in pitched battles with consolidating political power. Part as well is that judicial appointment typically marches to a different beat than
political election. Judicial terms do not dovetail with legislative or executive elections and thus serve to retard the immediate realization of the popular will—by design.

Around the world, populist regimes attempt to curtail any challenge to executive authority. In Poland the current form includes an attack on judicial independence, in Hungary it even includes the attempt to expel the entire Central European University, and in South Africa it includes President Zuma’s efforts to handpick government officials (p. 451) ranging from ministers to chief justice of the Constitutional Court, to anticorruption enforcers. In each case, the overweening executive appeals to the plebiscitary authority of his own election.

Not surprisingly, the courts are a frequent irritant to the populist agenda. No less surprising, the courts become the targets for political attack, most clearly in countries such as Poland and Hungary where curtailing the power of the courts is a central plank of the populist agenda. But in numerous other countries, such as Israel, South Africa, and Argentina, to name but a few, a plebiscitary executive tries to use his or her political wave of support to overwhelm the judiciary. When Donald Trump rails against “so-called judges” or the “Mexican judge” he joins a well-orchestrated chorus of attacks on judicial independence as a division of power that thwarts the demand for immediacy of the populist surge.

The institutional capacity for judicial resistance is limited. Depending on the form of judicial appointment, the executive is restrained for varying time periods in dismantling judicial frustration of a populist agenda. In Israel, for example, the self-selection of Supreme Court justices was overcome by nomination reforms. In Argentina, the Kirchner government repeatedly sought to make any federal judge removable by a majority vote in the Congress, a threat that only ended with the defeat of the Peronists in national elections. In Poland, the government limited the ability of the Constitutional Tribunal to publish opinions and imposed lowered age limits to remove many from office—a tactic borrowed from the Orbán assaults on the Hungarian Constitutional Court.

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In the United States, the primary legislative success of the Trump administration has been the rapid appointment of young, ideologically-tinged judges who will alter the political valence of the federal judiciary.

Intermediary Organizations.

In separate works, David Cole and Jack Goldsmith argue that the risk of executive unilateralism is held in check, even in an era of legislative dysfunction, by the soft power of civil society institutions. These take many forms, from the formal organizations of trade unions or churches, to the volunteer missions of groups such as the American Civil Liberties Union, to the systemic review offered by an independent media. By and large, modern populism eschews the hard edge of state repression as such. While there are some regimes—Recep Tayyip Erdoğan’s Turkey comes immediately to mind—that have used the police power to jail journalists and selected political opponents, that is more the exception than the rule.

While these intermediary institutions play an invaluable checking function against anti-governance excess, they are also perceived to be the rearguard fighters for the established order against which the populist wave rebels.

The easiest example is the press. The parcelization of information is an increasing feature of the high-tech era. The loss of a common core of observed facts in face of social media networks facilitates polarized politics and fuels the paranoid streak that invariably accompanies populism. The desire to retrench amid the familiar is a commonplace reaction to social and economic insecurity, something that new information sources can nurture and insulate from challenge. Thus is born the cry of “fake news” as part of the rallying cry against the established order. And as Hollywood sets the cultural norms for the arts,
Washington has inspired every tyrant in the making to accede to the fake news claim, invariably to obscure misdeeds ranging from corruption to human rights violations.

But the issue cuts deeper. Embedded within the populist impulse is, in Müller’s words, the desire “to cut out the middleman . . . and to rely as little as possible on complex party organizations as intermediaries between citizens and politicians.”25 The classic intermediary institutions of modern democracy are the political parties. Indeed, as famously formulated by E.E. Schattschneider, “political parties created democracy and modern democracy is unthinkable save in terms of the parties.”26 But as democratic governance is hollowed out by the failing legislative branch, the parties and the party leaders become perceived as what Robert Dahl in 1965 already identified as the “new democratic Leviathan,” a self-perpetuating form of governance that is “welfare-oriented, centralized, bureaucratic, tamed and controlled by competition among highly (p. 453) organized elites, and in the perspective of the ordinary citizen, somewhat remote, distant and impersonal.”27

The hollowing out of customary democratic politics, to borrow Peter Mair’s formulation, is most vivid in Europe and results in part from the expansion of European-level bureaucratic command in which “there is little scope for input-oriented legitimacy and decision-makers can only rarely be mandated by voters.”28 In exaggerated form, this means that Belgium and Spain can withstand many months without a national government and yet continue most functions relatively unimpeded. The traditional political parties become not so much organized forms of policy debate as rival administrators of the same bureaucratic enterprise that largely exists outside the sphere of democratic accountability. Nor is this simply a European disorder. Substitute Beltway for Brussels and the demand for starving the beast for Brexit and the same phenomenon is observable in the United States as well.

Without intermediary institutions capable of transmitting interests into governance, the executive strongman appears as the only hope for the ill-defined populist agenda. Intermediary institutions cease serving as the glue that ties the population to the project of self-governance. Instead, like the press and political parties, their utility is only in fidelity to executive commands. The advent of social media and targeted broadcasting allows direct engagement to bypass the organizational structures formerly necessary for populism. Even a comparison of Donald Trump and Silvio Berlusconi shows the difference in impulse. Whereas Berlusconi carefully built a party apparatus of Forza Italia, with local committees adjacent to every parish in Italy, Trump used Twitter and other forms of direct outreach to communicate directly to disengaged partisans.29

Transparent Governance.

With few exceptions, where the full range of institutions of democratic governance fail to take hold, what emerges is executive rule. It is far easier to elect the national savior than it is to forge political parties and legislative competence. Such rulers have a propensity to identify themselves with the struggle of the people, often with justification when a despot has been toppled, and an unfortunate identification of their continued rule with the fruition of the popular will. Not for nothing the cynical British account of postcolonial rule: “one man, one vote, one time.”30 The engorged executive stands as the key to any claim to government benefits, contracts, or favors. In turn, (p. 454) much of economic life becomes impossible without increased engagement with state regulatory authority, further collapsing the prospect of democratic contestation.

In newly minted democracies, the risk is that the first party in office will use the soft forms of power to cement rule. Concentrated state authority means that prospects for employment and government contracts depend on contacts to the ruling elite, oftentimes the ruler himself. From the post-revolutionary PRI in Mexico to the legacy of Robert Mugabe in Zimbabwe, unfractionated power in the hands of a dominant leader or party translates to a kleptocratic network that reinforces the pivotal role of the central leader. South Africa’s painful descent into corruption is an object lesson here. The South African
constitution makes the president the head of state and head of government, and his selection is by the National Assembly, meaning that there is no separation of powers anywhere in the federal government except for the independent Constitutional Court.\textsuperscript{31} No opposition party has matured in South Africa, and there is no experience of rotation in office post-apartheid. The dominance of the ANC beyond the political realm is captured in the derisive term of “tenderpreneurs” which denotes wealthy so-called business venturers whose primary capital is lucrative government contracts.\textsuperscript{32}

As with the problem of fractionated power, the experience of new democracies illustrates the risk for the established ones. Populism tends to unwind internal norms of compliance that help keep self-interest within tolerable bounds. In some ideal fashion, government decision-making should be transparent, the rules should be well established ex ante, and there should be independent ombudsmen to check temptations to graft and a host of institutional practices that smooth transitions in governance. The problem is that no democracy ever satisfies all of these conditions all the time. Incumbents are always eager to do more than they should before ceding office. Partisans are always rewarded with an extra dollop of government jobs or contracts. There is always a temptation to alter the rules so as to stymie the prospects of the opposition. Even as a formal matter, rules may be bent; Britain still allows the government the power to call elections when it perceives it most suitable to its prospects for re-election.

What sets apart the populist regimes is the systematic assault on all of these structures of governance. One result is a propensity to govern through one-off arrangements that take on the forms of clientelism that plague despotic regimes. An obvious rhetorical example is President Trump, who champions himself as mastering the art of the deal. President Trump rejects institutional forms of doing business, with examples from NAFTA to every multilateral treaty in the international domain. This translates into attacks on the State Department, the intelligence services, and any institutional byway that does not turn on idiosyncratic personal assessments. All new presidents resent the constraining role of the administrative state, which has all the dexterity of an overloaded cruise ship in changing direction. But (p. 455) that bureaucratic constraint allows government to function predictably across changes in administration and helps order the lives of the dependent citizenry. In populist times, however, those ordinary workings become a challenge to immediate returns.

Consider the most recent US tax bill, not so much for its paradoxical redistribution toward corporate earnings as for the process of its implementation. There were no committee hearings, no attempt to reconcile the likely impact on the deficit with the scoring of the fiscal impact of the congressional budget estimates, no attempt to cohere a policy that justified disparate treatment of similarly situated taxpayers. The previous institutional checks on budget impacts, the requirement of scoring spending and tax bills through the Congressional Budget Office and the Joint Committee on Taxation, were jettisoned. Indeed, when the Congressional Budget Office issued a caustic report on the proposed Trump repeal of Obamacare, the Republican response was a proposed dismantling of the office. Similarly, any mechanism of public debate was removed from adoption of the tax bill by the Senate, the so-called world’s greatest deliberative body. Power not policy is the leitmotif of populist governance, even if few of the benefits are likely to benefit the populist electorate. The dismantling of independent checks on command-center politics bears special attention. Again South Africa provides a cautionary note. As President Zuma consolidated power and plunged the country into the deeper and deeper recesses of cronyist corruption, there was little if any opposition from within government itself. The exceptional checking function came from the National Prosecuting Authority and its Directorate of Special Operations, an independent anticorruption watchdog agency. In 2009, at the instigation of President Zuma, the Congress abolished these organizations and placed their power within the national police, which were in turn accountable to the Security ministry and, by extension, to
President Zuma himself. Only the intervention of the South African Constitutional Court in *Glenister v. President of the Republic of South Africa* saved this last bastion of independent accountability.

Using the history of fragile democracies as a warning for mature ones suggests a discomfiting parallel to the United States. The corruption scandals that swirl around the Trump candidacy and presidency also sparked investigations by independent authorities. The response to date from the administration has been the firing of a non-subservient FBI director and the increasingly vitriolic attacks on the independent prosecutor Robert Mueller. The United States is not South Africa, but the warning signs are there.

Norms of Governance.

A constitutional democracy is defined by more than the formal allocations of power, the parchment barriers of last resort. As Steven Levitsky and Daniel Ziblatt note, “Democracies work best—and survive longer—when constitutions are reinforced by norms of mutual toleration and restraint in the exercise of power.”

Whether in the unwritten British model, or in the norms that give life to the spare American text, constitutional governance requires fidelity to norms that are understood to constrain the exercise of power, even if never reduced to formal commands. American constitutional law tends to overvalue Supreme Court decisions, particularly on matters of contested definitions of individual rights, at the expense of the less celebrated and less litigated experienced-based forms of governance. Only rarely do such institutional matters present themselves for litigated resolution. And even then, as often as not, they are treated as political questions not proper for judicial resolution.

Two examples illustrate this point. The first grows out of the presumption of legitimacy of the political opposition in a system that accepts rotation in office as a historic norm. Invariably, the shift in power means that one side has control of the police power, which includes the power to prosecute. Successful democracies avoid criminalizing the opposition or, put another way, democracies that use the criminal law to retaliate politically do not long remain democracies. Despite arguable violations of law during the Bush War on Terror, the Obama administration wisely resisted calls for initiating criminal prosecutions of the prior administration. Similarly, despite the power of a Congress to initiate impeachment proceedings against an opposition party president, such examples are rare in American history. The three historic examples highlight the importance of restraint. The impeachment of Andrew Johnson was the highpoint of Republican congressional efforts to more aggressively prosecute the Civil War, and yet the particulars for which Johnson was impeached involved political choices of the executive, and Johnson was ultimately absolved in the Senate. By contrast, Richard Nixon was charged with an offense against his office and was forced to resign. But the impeachment of Bill Clinton bore neither the historic decisiveness of the Civil War nor the clear criminality of the Nixon obstruction of justice. Rather, it signaled a descent from principle into the demonization of the opposition and tarnished politics.

No greater departure from the presumption of democratic legitimacy of the opposition can be found than the ongoing fixation of the current administration with “crooked Hillary.” The crowd incitement to “lock her up” is unheard of in American history. History looks well upon the pardon of Richard Nixon by Gerald Ford, preferring the political repudiation of official misconduct to the criminal justice system. But populist impatience allows none of these niceties. To the campaign chorus of locking up Clinton is added the persistent berating of the Department of Justice for not turning on Trump’s political opponents.

There is no constitutional principle that prohibits prosecution of the nominee of one major political party by her victorious opponent, assuming the norms of indictment and trial are followed. Nor is there any textual restraint on a president’s efforts to direct the investigative powers

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of federal law enforcement authorities. But constitutional culture is to the contrary. Quite simply, there has never been anything like this in American history.

Similarly under attack is the presumed legitimacy of the civil service. The post-New Deal United States has functioned with a narrow strata of political appointees overseeing a large and cumbersome career bureaucracy. The sheer size of the federal government and its pervasive role in American society require no less. Yet there is no constitutional mandate for the civil service, which operates under a series of statutory restrictions on appointment and political engagements. Indeed, the Supreme Court has read into the First Amendment a constitutional protection of incumbent nonpolitical civil servants against politically-motivated removal and replacement.

Many are the presidents frustrated by an administrative life of its own. But none has acted to rid the federal government of the personnel needed to function. The first example came at the Department of State. The career focus on regional expertise and the demands of diplomacy fit poorly with the freewheeling style of government by decree. So State stands depleted of appointments not only at the agency level but also across crucial ambassadorial posts. The historically accepted need for state-to-state relations proves also vulnerable.

More striking are the reported efforts at the Environmental Protection Agency to investigate and weed out employees deemed hostile to the political agenda of the agency administrator, Scott Pruitt. One of the characteristic court interventions in new democracies in sharply divided countries is the prevention of wholesale removal of disfavored groups from public employment and public activity. State policies aimed at lustration are met with stringent constitutional review from skeptical courts. Certainly in the United States there have been periods of fear of antagonistic penetration of the government apparatus. But the general conclusion that the McCarthy period was a constitutional embarrassment has yielded strong efforts to avoid repetition. Until now.

Successful democratic governance has a soft underbelly. Success depends on an acceptance of both assumptions about power and institutional limitations with recognized boundaries, yet few hard constitutional walls for protection. In countries emerging from autocratic rule, the habits of incremental power and the legitimacy of the opposition are hard to inculcate. Populism puts these values as much at risk in mature democracies. From the beginning of the Madisonian experiment, the challenge has been how to allow the electoral victors to prevail, but not too much. That challenge persists.

Footnotes:


9 Issacharoff, Fragile Democracies, 223–225.


17 My thanks to Donald Verrilli for this helpful formulation.


36 None bang the drum louder than the president himself. Donald J. Trump (@realDonaldTrump), “Everybody is asking why the Justice Department (and FBI) isn’t looking into all of the dishonesty going on with Crooked Hillary & the Dems...,” Twitter, November 3, 2017, https://twitter.com/realdonaldtrump/status/92640323861141504.

37 As of this writing, 70 of 156 appointed positions in the Department of State (including political ambassadorships) lack even nominees. Only 61 positions at State have been filled. “Tracking How Many Key Positions Trump Has Filled So Far,” *Washington Post*, updated