

IDEAS

THE END OF RULE OF LAW IN AMERICA

The 47th president seems to wish he were king—and he is willing to destroy what is precious about this country to get what he wants.

By J. Michael Luttig



Photo-illustration by Alma Haser. Source: Chip Somodevilla / Getty.

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THE PRESIDENT OF THE UNITED STATES appears to have long ago forgotten that Americans fought the Revolutionary War not merely to secure their independence from the British monarchy but to establish a government of laws, not of men, so that they and future generations of Americans would never again be subject to the whims of a tyrannical king. As Thomas Paine wrote in *Common Sense* in 1776, “For as in absolute governments the king is law, so in free countries the law ought to be king; and there ought to be no other.”

Donald Trump seems also not to understand John Adams’s fundamental observation about the new nation that came into the world that same year. Just last month, an interviewer from *Time* magazine asked the president in the Oval Office, “Mr. President, you were showing us the new paintings you have behind us. You put all these new portraits. One of them includes John Adams. John Adams said we’re a government ruled by laws, not by men. Do you agree with that?” To which the president replied: “John Adams said that? Where was the painting?”

When the interviewer pointed to the portrait, Trump asked: “We’re a government ruled by laws, not by men? Well, I think we’re a government ruled by law, but you know, somebody has to administer the law. So therefore men, certainly, men and women, certainly play a role in it. I wouldn’t agree with it 100 percent. We are a government where men are involved in the process of law, and ideally, you’re going to have honest men like me.”

And earlier this month, a television journalist asked Trump the simple question “Don’t you need to uphold the Constitution of the United States as president?” Astonishingly, the president answered, “I don’t know.” The interviewer then asked, “Don’t you agree that every person in the United States is entitled to due process?” The president again replied, “I don’t know.”

This is not a man who respects the rule of law, nor one who seeks to understand it.

Thus far, Trump’s presidency has been a reign of lawless aggression by a tyrannical wannabe king, a rampage of presidential lawlessness in which Trump has proudly

wielded the powers of the office and the federal government to persecute his enemies, while at the same time pardoning, glorifying, and favoring his political allies and friends—among them those who attacked the U.S. Capitol during the insurrection that Trump fomented on January 6, 2021. The president's utter contempt for the Constitution and laws of the United States has been on spectacular display since Inauguration Day.

For the almost 250 years since the founding of this nation, America has been the beacon of freedom to the world because of its democracy and rule of law. Our system of checks and balances has been strained before, but democracy—government by the people—and the rule of law have always won the day. Until now, that is. America will never again be that same beacon to the world, because the president of the United States has subverted America's democracy and corrupted its rule of law.

Tom Nichols: The judiciary's last stand

Until Trump exits public life altogether, it cannot be said either that America is a thriving democracy or that it has a government “of laws, not of men.”

History has already documented Trump's subversion of America's democracy through his attempt to overturn the results of the 2020 election, his emphatic and steadfast repudiation of the fact that he tried to steal the presidency from the American people, and his perverted denial that January 6 was one of the darkest days in American history.

Now, in the first few months of his second administration, Trump has proved himself an existential threat to the rule of law in America.

When Trump again assumed the presidency in January, he—like every American president before him—swore an oath to faithfully execute the laws of this nation, as commanded by the Constitution. In the short time since, Trump hasn't just refused to faithfully execute the laws; he has angrily defied the Constitution and laws of the

United States. In America, where no man is above the law, Trump has shown the nation that he believes he *is* the law, even proclaiming on social media soon after assuming office that “He who saves his Country does not violate any Law.”

From the moment he entered the White House on January 20, 2025, Trump has waged war against the rule of law. He not only instigated a worldwide economic crisis with his hotheaded, unlawful tariffs leveled against our global trading partners and our enemies alike; he deliberately provoked a constitutional crisis with his frontal assault on the federal judiciary, the third and co-equal branch of government and guardian of the rule of law—grabbing more and more power for nothing but power’s sake.

On his first day back, foreshadowing his all-out assault on the rule of law, Trump pardoned or commuted the sentences of 1,200 January 6 rioters. Soon, he began to persecute his political enemies—of whom there are now countless numbers—and to fire the prosecutors for the United States who attempted to hold him accountable for the grave crimes against the Constitution that he committed after losing the 2020 election.

Also within those first 100 days, the FBI arrested the Wisconsin state judge Hannah Dugan in her Milwaukee courthouse on federal criminal charges that she was “obstructing or impeding a proceeding before a department or agency of the United States” and “concealing an individual to prevent his discovery and arrest,” because she invited an undocumented immigrant appearing before her on misdemeanor charges to exit her courtroom by way of the jury door rather than the front door of the courtroom. The evidence, at least as revealed so far, does not come close to supporting these charges.

The arrest and prosecution of judges on such specious charges is where rule by law ends and tyranny begins. The independent judiciary is the only constraint of law on a president. It is the last obstacle to a president with designs on tyrannical rule.

Appearing on Fox News, the attorney general of the United States, Pam Bondi,

defended the evidently unlawful arrest: “What has happened to our judiciary is beyond me,” she said. The judges “are deranged, is all I can think of. I think some of these judges think that they are beyond and above the law. They are not, and we are sending a very strong message today if you are harboring a fugitive ... we will come after you and we will prosecute you. We will find you.”

No, Ms. Bondi, our judges do not think they are above the law, and no, judges are not deranged. They are simply upholding their oath to support and defend the Constitution of the United States—the same oath you took.

It is now entirely foreseeable that arrests of judges will occur in the federal courts across the country as well. To read the criminal complaint and related FBI affidavit that led to Judge Dugan’s arrest is to understand at once that neither the state courts nor the federal courts could ever hope to administer justice if the spectacle that took place in Judge Dugan’s courthouse on April 18 was to occur in state and federal courthouses across the country.

Stephen I. Vladeck: What the courts can still do to constrain Trump

It’s impossible to imagine that the federal government could ever prove the charges against Judge Dugan. But that was not the point of the FBI’s arrest.

Only hours after Dugan’s arrest, the public learned that the Trump administration had deported a 2-year-old American and the child’s mother and sister to Honduras, as the child’s father frantically tried to stop the unlawful deportation. The detention and deportation of the child “is without any basis in law and violates her fundamental due process rights,” a petition filed on her behalf said. Federal Judge Terry A. Dougherty, who was appointed by Trump, ruled that “it is illegal and unconstitutional to deport” a U.S. citizen, and set a hearing for May 16 because of his “strong suspicion that the government just deported a U.S. citizen with no meaningful process.”

The rule-of-law casualties of these presidentially provoked national crises are

mounting by the day. America cannot withstand three-and-a-half more years of this president if his first few months are a harbinger of what lies ahead.

Trump has spoiled for this war against the federal judiciary, the Constitution, and the rule of law since January 6, 2021. He has repeatedly vowed to exact retribution against America's justice system for what he falsely maintains was the partisan "weaponization" of the federal government against him.

No one other than Trump and his most sycophantic supporters believes that the government's attempts to hold him and others accountable for their actions that day amount to "weaponization." With the world as witness, Trump attempted to thwart the peaceful transfer of power—committing perhaps the gravest constitutional crime that a president could ever commit. The United States had no choice but to prosecute him for those crimes, lest he be allowed to make a mockery of the Constitution of the United States.

It is Trump who is actually weaponizing the federal government against both his political enemies and countless other American citizens today.

Consider his attempts to ruin Chris Krebs, the former Cybersecurity and Infrastructure Security Agency chief who in November 2020 refused to endorse the president's lies that the election had been rigged against him. Trump has now directed the Department of Justice to investigate Krebs—for what, who knows?

Trump is supremely confident, though deludedly so, that he can win this war against the judiciary and the rule of law, just as he was deludedly confident that he could win the war he instigated against America's democracy after the 2020 election.

The Declaration of Independence, referencing King George III of Britain, reads, "A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people." Order after order issued by this tyrannical president has been blatantly unconstitutional or otherwise illegal. Trump has provoked a global economic crisis with his usurious tariffs, for which he does not have authority under

the Constitution and laws of the United States, and he has provoked a constitutional crisis with his defiance of a direct order from the Supreme Court—to return Kilmar Abrego Garcia to America—and orders from other lower federal courts that he is bound by the Constitution to follow and enforce. He has viciously attacked judges, putting their safety and that of their families at risk, and he has already called for the impeachment of a federal judge who ruled against him and his administration, drawing rebuke from the chief justice of the United States (Trump's sidekick, Elon Musk, has called for the impeachment of many more).

Tying the nation's judiciary up in Gordian knots, Trump has gleefully stymied the federal courts with the sheer volume of his unlawful actions. To date, more than 200 legal challenges have been filed against the administration since he returned to the White House, most of which have already been preliminarily, if not finally, successful.

As Trump continues to ravage and usurp the constitutional powers of the Congress of the United States, his adoring Republican Congress has predictably been conspicuously absent.

Only the Supreme Court is left now to rein in this president's lawlessness, and although the Court is making some limited efforts in that direction, it is already apparent that not even that institution can stop Donald Trump. He will ignore even the Supreme Court whenever he wants.

As Trump turns the federal government of the United States against Americans and America itself, the bill of particulars against him is already longer than the Declaration of Independence's bill of particulars against King George III and the British empire.

Paul Rosenzweig: The destruction of the Department of Justice



Anna Moneymaker / Getty

For not one of his signature initiatives during his first 100 days in office does Trump have the authority under the Constitution and laws of the United States that he claims. Not for the crippling global tariffs he ordered unilaterally; not for his unlawful deportations of hundreds of immigrants to the Terrorism Confinement Center (CECOT), El Salvador's squalid maximum-security prison; not for his deportation of U.S. citizens to Honduras; not for his defiantly corrupt order from the Great Hall of the Department of Justice to weaponize the department against his political enemies; not for his evil executive orders against the nation's law firms for their representation of his political enemies and clients of whom he personally disapproves; not for his corrupt executive orders against honorable American citizens and former officials of his own administration, Chris Krebs and Miles Taylor, a former Homeland Security chief of staff who dared to criticize Trump anonymously during his first term; not for his unlawful bludgeoning of the nation's colleges and universities with unconstitutional demands that they surrender their governance and curricula to his wholly owned federal government; not for his threatened revocation of Harvard University's tax-exempt status; not for his impoundment of billions of dollars of congressionally approved funds or his politically motivated threats to revoke tax exemptions; not for his attempt to alter the rules for federal elections; not for his direct assault on the Fourteenth Amendment's birthright-citizenship guarantee; not for his mass firings of federal employees; not for his empowerment of Musk and DOGE to ravage the federal government; not for his threats to fire Federal Reserve Board Chairman Jerome Powell; not for his unconstitutional attacks on press freedoms; and finally, not for his appalling arrest of Judge Dugan.

AMID THE OCEAN OF UNCONSTITUTIONAL ORDERS, Donald Trump's executive orders targeting some of the most prestigious law firms in the country because these firms represented or employed Trump's personal enemies in the past are the most sinister and corrupt, which is saying something.

Some of the firms—Paul Weiss; Latham & Watkins; Skadden, Arps, Slate, Meagher & Flom; Kirkland & Ellis; and Simpson Thacher & Bartlett—cut “deals” to avoid the president's persecution. In doing so, they shamefully sold out their own lawyers, clients, and the entire legal profession, including the handful of courageous law firms—such as WilmerHale, Perkins Coie, Jenner & Block, and Susman Godfrey—that rightly and righteously decided to fight the president instead. It is the sworn duty of all American lawyers to denounce the president's lawlessness, not to ingratiate themselves to him.

The utter unconstitutionality of these executive orders is perfectly captured by the following remarkable paragraph from Perkins Coie's brief filed against the Trump administration by the legendary Washington law firm Williams & Connolly. I would venture to say there has never been a paragraph like this written in a brief before a federal court in the 235 years of the federal courts' existence, every word of the paragraph indisputably correct.

Because the Order in effect adjudicates and punishes alleged misconduct by Perkins Coie, it is an unconstitutional violation of the separation of powers. Because it does so without notice and an opportunity to be heard, and because it punishes the entire firm for the purported misconduct of a handful of lawyers who are not employees of the firm, it is an unconstitutional violation of procedural due process and of the substantive due process right to practice one's professional livelihood. Because the Order singles out Perkins Coie, it denies the firm the equal protection of the laws guaranteed by the due process clause of the Fifth Amendment. Because the Order punishes the firm for the clients with which it has been associated and the legal positions it has taken on matters of election law, the Order constitutes retaliatory viewpoint discrimination and, therefore, violates the First Amendment rights of free expression and association, and the right to petition the government for redress. Because the Order compels disclosure of confidential information revealing the firm's relationships with its clients, it violates the First Amendment. Because the Order retaliates against Perkins Coie for its diversity-related speech, it violates the First Amendment. Because the Order is vague in proscribing what is

prohibited “diversity, equity and inclusion,” it violates the Due Process Clause of the Fifth Amendment. Because the Order works to brand Perkins Coie as *persona non grata* and bar it from federal buildings, deny it the ability to communicate with federal employees, and terminate the government contracts of its clients, the Order violates the right to counsel afforded by the Fifth and Sixth Amendments.

And the same can be said for all of Trump’s executive orders targeting the nation’s law firms, lawyers, and legal profession. They are manifestly unconstitutional, and every single federal court to consider them has immediately stayed their implementation over the defiant, contemptuous arguments made by Department of Justice lawyers.

Paul Rosenzweig: The pathetic, cowardly collapse of Big Law

Last month, a federal judge blocked Trump from punishing Susman Godfrey, calling the retribution campaign Trump has waged from the White House against the nation’s top law firms “a shocking abuse of power.” The judge said the order was nothing but a “personal vendetta.” Other federal judges have blocked Trump’s executive orders targeting Jenner & Block and WilmerHale.

The federal judge who initially heard the challenge to the Perkins Coie executive order said at the time that Trump’s order sent “chills down my spine.” Earlier this month, the judge finally ruled that the order is unconstitutional and permanently enjoined its enforcement, admonishing Trump and reminding the country that “eliminating lawyers as the guardians of the rule of law removes a major impediment to the path to more power” for the president. The judge praised Perkins Coie and the other firms that have challenged Trump’s corrupt abuse of power: “If the founding history of this country is any guide, those who stood up in court to vindicate constitutional rights and, by so doing, served to promote the rule of law, will be the models lauded when this period of American history is written.” In blistering criticism for the firms that sold out to Trump rather than fight him, she wrote, quoting an amicus brief from the case, that when lawyers “are apprehensive about retribution simply for filing a brief adverse to the government, there is no other choice but to do so.”

No court in the land will ever uphold any of these executive orders, and Trump knows that. He knows he need not win any of these cases in court to achieve what he wants. He will ruin the lives and livelihoods of lawyers and other American citizens and upend these institutions long before the courts render their final decisions on these orders. That’s his whole point.

THE PRESIDENT HAS PROVOKED a constitutional crisis by defying orders of the federal courts in his efforts to send undocumented immigrants overseas.

To justify his mass deportations, the president has invoked the Alien Enemies Act. But he does not have the authority under that law to deport immigrants. He has done so nonetheless, and without even a thought of providing the deportees the due process to which they are constitutionally entitled. We already know that some of the immigrants were deported unlawfully.

Originally part of the Alien and Sedition Acts of 1798, the Alien Enemies Act authorizes a president to deport foreign nationals from countries with which the United States is at war or that have invaded (or threatened to invade) the United States. The president claims that the U.S. has been “invaded” by undocumented immigrants, justifying their immediate deportation without due process of law.

Nearly every lower federal court to address this wartime law’s applicability has rejected Trump’s reliance on this law for his illegal deportations. Recently, a federal court in Texas roundly rejected Trump’s argument that alleged members of the Venezuelan gang Tren de Aragua could be deported on the authority of the Alien Enemies Act, finding that the “plain, ordinary meaning” of the law’s requirement of an “invasion” or a “predatory incursion” into the United States refers to an invasion or incursion by military forces. Tren de Aragua is obviously not a military power or force, the court said.

Earlier this month, two other federal courts, in Colorado and New York, also stopped the administration from deporting immigrants under the Alien Enemies Act. The federal court in Colorado said there was no foreign nation or government invasion or predatory incursion to justify the administration’s deportations. “Respondents’ arguments are threadbare costumes for their core contention: ‘As for whether the Act’s preconditions are satisfied, that is the President’s call alone; the federal courts do not have a role to play.’” Said the judge, “This sentence staggers. It is wrong as a matter of law and attempts to read” Article III “out of the Constitution.”

Katherine Yon Ebricht and Elizabeth Goitein: Trump is attempting to use wartime powers in the United States

The Supreme Court was highly unlikely ever to uphold Trump’s deportations under the Alien Enemies Act, even before the White House Deputy Chief of Staff Stephen Miller last Friday announced in a blatantly anti-constitutional statement that Trump is “actively looking at” suspending the Constitution’s writ of habeas corpus.

The very purpose of the “privilege” of the writ of habeas corpus is to provide these deportees and detainees the right to challenge their deportations and detentions. Trump doesn’t have the power to suspend habeas corpus. Article I of the Constitution provides that the writ of habeas corpus “shall not be suspended, unless ... in Cases of

Rebellion or Invasion.” Illegal immigration to the U.S. is not even arguably an “invasion” that would justify suspension of the writ of habeas corpus. The Supreme Court is now on clear notice of Trump’s definition of rebellions and invasions—and will have to take this into account when he uses the same logic to justify his patently unconstitutional deportations.

The case of Kilmar Abrego Garcia illustrates perfectly why Trump’s deportations run afoul of the Constitution. In March, Abrego Garcia was arrested, mistakenly deported to El Salvador, and imprisoned. He remains imprisoned in El Salvador to this day, despite a direct order from the Supreme Court that Trump “facilitate” his release and return him to the United States. As a Maryland federal judge, Paula Xinis, put it five days after the Court’s ruling, “To date, what the record shows is that nothing has been done. Nothing.”

Late last month, in an interview with ABC News, the president acknowledged that he “could” get Abrego Garcia back. He just refuses to do so. Abrego Garcia could well spend the remainder of his life unconstitutionally imprisoned in El Salvador because of Trump’s defiance of the Supreme Court and the Constitution.

Trump continues to lambaste the federal courts for enforcing the Constitution, pronouncing that he should be able to deport all undocumented immigrants without any trial to determine whether their deportation would be in violation of the Constitution. “I hope we get cooperation from the courts, because you know we have thousands of people that are ready to go out, and you can’t have a trial for all of these people,” Trump told reporters in the Oval Office. “It wasn’t meant. The system wasn’t meant. And we don’t think there’s anything that says that.”

“We’re getting them out, and a judge can’t say, ‘No, you have to have a trial. The trial is going to take two years,’” Trump went on. “We’re going to have a very dangerous country if we’re not allowed to do what we’re entitled to do.”

He couldn’t be more wrong. The system actually was “meant” to provide due process, and it is of course the Constitution of the United States that says so. It is for that reason that judges can indeed say, “You have to have a trial,” and presidents are supposed to listen. That’s what rule by law, not by men, means.



Samuel Corum / Getty

TRUMP'S UNILATERAL ORDERING OF MASSIVE TARIFFS on our global trade allies and enemies alike has been his most stupendous initiative and his most colossal failure.

By presidential edict on April 2, the president declared that foreign trade and economic practices have created a national emergency, and he imposed tariffs ostensibly under the authority of the International Emergency Economic Powers Act of 1977. No previous president has ever invoked this national-emergency law to order tariffs, let alone the kind of massive, sweeping global tariffs of unlimited duration that Trump has attempted.

Nick Miroff: How the Trump Administration flipped on Kilmar Abrego Garcia

His unconscionable tariffs immediately roiled the markets of the world, slowing growth and hastening inflation and recession domestically and around the globe. The United States is now weeks into a global trade war with no end in sight as the world's economies languish.

The Constitution grants Congress the sole authority to regulate foreign commerce and levy taxes, including import tariffs. Congress has delegated to the president the power to impose limited tariffs unilaterally and adjust them in limited instances when such tariffs are urgently necessary to protect the nation's security. But the present circumstances do not even arguably qualify as an "emergency" under the IEEPA.

As the Stanford law professor and former U.S. Court of Appeals Judge Michael McConnell has said, "No statute expressly authorizes the president to impose tariffs for the nonemergency purposes of raising revenue, improving our long-term balance

of trade or winning unrelated concessions on miscellaneous issues.”

The president is already facing a plethora of lawsuits from states, businesses, and conservative political groups challenging his sweeping tariffs, correctly arguing that the president has usurped Congress’s power to levy taxes and tariffs. These lawsuits will almost certainly prevail, if for no other reason than the Supreme Court recently held that, as to “major questions,” a law must explicitly authorize a president’s actions. The IEEPA, which never mentions the word *tariff*, does not even begin to explicitly authorize the president’s tariffs.

When Powell, the Federal Reserve chair, predicted that Trump’s unlawful tariffs would cause “higher inflation and slower growth,” Trump needed a scapegoat as always and threatened to fire him. Trump knows he is forbidden by statute and by the Supreme Court’s 1935 decision in *Humphrey’s Executor* from firing Powell except for cause.

“Powell’s termination cannot come fast enough!” Trump posted on Truth Social. Later that day, he repeated his view from the Oval Office. “If I want him out, he’ll be out of there real fast, believe me,” the president said.

On the heels of this presidential outburst, White House Deputy Chief of Staff Stephen Miller’s America First Legal Foundation was even so brazen as to sue Chief Justice John Roberts, the Judicial Conference of the United States, and the Administrative Office of the United States Courts in a shocking attempt to seize control of the coordinate branch of government. America First Legal Foundation is arguing that the Judicial Conference and the Administrative Office are executive-branch agencies that “must be overseen by the President, not the courts.”

The Judicial Conference is the policy-making arm of the federal judiciary, and the Administrative Office runs the federal court system. Neither executes anything nor supports any executive function. Neither is even arguably an executive-branch agency controllable by the president. This lawsuit, like so many actions taken by this president, is just one more reprehensible attempt to threaten and intimidate the federal judiciary.

The Framers of the Constitution of the United States may never have foreseen the multitudinous independent agencies and departments of today’s federal government, let alone the Judicial Conference or the Administrative Office, but I am certain of this: If they had, they would have forbidden that any of these governmental organizations, and especially the Federal Reserve, the Judicial Conference, and the Administrative Office of the Courts, would ever come under the control of any president as irresponsible as this one.

Jonathan Chait: A loophole that would swallow the Constitution

Knowingly or not, Trump has staked much of his presidency on the so-called unitary

executive theory, which would give him absolute control over these institutions and the entire federal government, including the independent departments and agencies, a stake that is entirely dependent upon the Supreme Court overruling *Humphrey's Executor*. By insisting that he has the power to fire Powell and in his reckless threats to do so, and through Miller's threatening lawsuit, Trump has already made the most compelling argument possible that the Supreme Court should never overrule *Humphrey's Executor*.

O THER PRIORITY INITIATIVES OF THIS ADMINISTRATION—Trump's attacks on existing federal programs, federal elections, colleges and universities, birthright citizenship, and press freedoms—are just as unlawful.

On January 20, the president signed executive orders freezing foreign aid and funding for energy programs. Since then, he has prevented billions of dollars of congressionally appropriated funds from being disbursed in violation of the Impoundment Control Act of 1974, which limits the president's power to hold back (that is, impound) appropriated funds. The president once called the Impoundment Control Act "clearly unconstitutional" and "a blatant violation of the separation of powers" but has now impounded billions upon billions of dollars in appropriated funds on the authority of that law.

Presidents can't just declare laws unconstitutional and refuse to enforce them. It is Trump's impoundment of these appropriated funds that is clearly unconstitutional, not the Impoundment Control Act. It is his impoundments that are a blatant violation of the separation of powers.

Trump's DOGE wrecking ball suffers from the same constitutional infirmities. As Alan Charles Raul, a former White House associate counsel for President Ronald Reagan, wrote in *The Washington Post*, "Congress has not authorized this radical overhaul, and the protocols of the Constitution do not permit statutorily mandated agencies and programs to be transformed—or reorganized out of existence—without congressional authorization." He went on, "The DOGE process, if that is what it is, mocks two basic tenets of our government: that we are a nation of laws, not men, and that it is Congress which controls spending and passes legislation. The president must faithfully execute Congress's laws and manage the executive agencies consistent with the Constitution and lawmakers' appropriations—not by any divine right or absolute power."

Nothing else need be said.

Consonant with this understanding that Trump's executive order gutting much of the federal government is unconstitutional and otherwise in circumvention of the laws preventing a president from unilaterally reorganizing the federal government, last Friday a federal court ruled that Trump may broadly restructure the federal government in the way he wishes only if Congress authorizes him to do so.

The judge quoted from the earlier landmark case, *Youngstown Sheet & Tube Company v. Sawyer*: “In the framework of our Constitution, the President’s power to see that the laws are faithfully executed refutes the idea that he is to be a lawmaker. The Constitution limits his functions in the lawmaking process to the recommending of laws he thinks wise and the vetoing of laws he thinks bad. And the Constitution is neither silent nor equivocal about who shall make laws which the President is to execute.”

Anne Applebaum: This is why dictatorships fail

The court said that the plaintiffs challenging Trump’s executive order and the Office of Management and Budget and DOGE’s implementation of that order are likely to succeed on their claims that Trump’s executive order is beyond his powers and authority, as he “has neither constitutional nor, at this time, statutory authority to reorganize the executive branch,” and temporarily blocked implementation of Trump’s order until further proceedings.

Perhaps most worrying of all is Trump’s unlawful assertion of power over federal elections, power that is constitutionally committed to the states in the first instance and reserved to Congress in the second. Where he has no authority at all, Trump has claimed extraordinary unilateral authority to regulate federal elections, usurping the powers of not only the 50 states but also Congress. Trump’s March 25 executive order flips the constitutional structure on its head.

The federal courts will never allow this unconstitutional power grab. To give the president any power over federal elections would allow a president to change election rules to serve his self-interest and his party. Indeed, the very first federal court to address the matter temporarily blocked key parts of the order in an opinion that is destined to be upheld on appeal. “Our Constitution entrusts Congress and the States—not the President—with the authority to regulate federal elections,” the federal judge Colleen Kollar-Kotelly wrote.

Trump’s attacks on colleges and universities, the free press, and the Fourteenth Amendment’s birthright-citizenship guarantee all likewise contradict the Constitution and laws of the land.

Trump has mercilessly and unlawfully bludgeoned the nation’s colleges, universities, and law schools with lawless order after lawless order. His federal government cannot commandeer higher education’s governance and dictate the viewpoints that are taught at the country’s colleges and universities. The First Amendment zealously guards such decisions from the federal government.

The Constitution categorically forbids the president from wielding the power of the purse (which is not even his to wield) to punish the nation’s institutions of higher education for exercising their First Amendment rights.

When Harvard University called Trump's hand on his blatantly unconstitutional attack on the nation's oldest institute of higher education, Trump characteristically doubled down on his lawlessness, withholding billions of dollars more in federal funding from Harvard. Incensed by Harvard's refusal to submit to his unconstitutional attack, Trump later said the government was going to take away Harvard's tax-exempt status. "It's what they deserve!," he announced on Truth Social.

A federal statute forbids the president from "directly or indirectly" requesting the IRS to "conduct or terminate an audit or other investigation of any particular taxpayer." Violation of the statute is a crime punishable by fine and imprisonment.

No other president would ever have launched the broadside on the plain command of the Fourteenth Amendment's birthright-citizenship right that Trump relished launching on his first day in office. Contradicting the clear language of the Fourteenth Amendment, controlling federal statute, and Supreme Court precedent, the president's order does not simply deny citizenship to children of undocumented immigrants; it denies citizenship to children whose parents are legally present in the United States if they don't have permanent status when their children are born.

[Jonathan Chait: The constitutional crisis is here](#)

There is not a chance in the world that the Supreme Court will agree with Trump's assault on the Fourteenth Amendment. Only through a constitutional amendment could the president's invidious aim be wrought.

Finally, for years now, Trump has pronounced the free press in America "the enemy of the people." So it was no surprise that the media would be among the first he would target with his unconstitutional edicts. As he has crushed every institution, organization, and U.S. citizen on his road to absolute power, the president's onslaught against the First Amendment-protected free press has been particularly vile. But as with most else, the federal courts have slapped down Trump in every free-press challenge that has made its way to them. Trump's vindictive response was to have his Department of Justice announce that it would not hesitate in the future to subpoena reporters' telephone records and compel their testimony to ferret out and prosecute the leakers in the administration, which unsurprisingly is already leaking like a sieve.

THE 47TH PRESIDENT OF THE UNITED STATES may wish he were a king. But in America, the law is king, not the president.

Donald Trump may wish he could dictate his unconscionable global tariffs; dispense with due process and deport whomever he pleases, citizen and not; and vanish away huge swaths of the federal government without check or rebuke. He may wish he did not have to contend with the First and Fourteenth Amendments, the free press, or the Constitution's birthright-citizenship guarantee. He may wish he could ignore the Constitution's elections clauses and run America's elections from the White House.

And he may wish he could intimidate the nation's lawyers and law firms from challenging his abuse of power and commandeer them to do his personal bidding.

But it is these constitutional obstacles to a tyrannical president that have made America the greatest nation on Earth for almost 250 years, not the fallen America that Trump delusionally thinks he's going to make great again tomorrow.

After these first three tyrannical, lawless months of this presidency, surely Americans can understand now that Donald Trump is going to continue to decimate America for the next three-plus years. He will continue his assault on America, its democracy, and rule of law until the American people finally rise up and say, "No more."

From across the ages, Frederick Douglass is crying out that we Americans never forget: "The limits of tyrants are prescribed by the endurance of those whom they oppress."

This piece has been updated to clarify the attribution of a quote from the Perkins Coie ruling.

ABOUT THE AUTHOR

J. Michael Luttig

J. Michael Luttig is a former federal judge on the U.S. Court of Appeals for the Fourth Circuit.

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