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Singh, Robert S. (2017) 'I, the People': a deflationary interpretation of populism, Trump and the United States Constitution. *Economy and Society* 46 (1), pp. 20-42. ISSN 0308-5147.

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‘I, the People’: A Deflationary Interpretation of Populism, Trump and the United States Constitution

Robert Singh

Abstract

This essay advances a deflationary interpretation of populism, Donald Trump and the United States Constitution. It accepts that Trump utilises a populist pose but rejects populism as too reductive for understanding his ascension and constitutional challenge. First, it argues that although he merits the designation, Trump reveals more about populism than populism does about him. Trump illustrates populism’s conceptual elasticity but employing it as a frame to understand him imposes coherence upon a figure whose monetised politics are chaotic, shallow and unanchored by principle. Second, populism provides a necessary but insufficient condition for critically explaining Trump’s ascension, either in terms of electoral populism or populism in power. Third, while democratic deconsolidation under Trump’s presidency cannot be discounted, the Constitution remains resilient in most important respects. A dispassionate constitutional sociology counsels a deflationary understanding rather than an uncritical alarmism that too frequently reproduces and reinforces the darker aspects of Trump’s populist political logic.

Keywords: populism; Donald Trump; conservatism; Constitution; presidency.

Introduction

On 20 January 2017, Donald J. Trump swore to ‘preserve, protect, and defend the Constitution of the United States’ to become its 45th president. Trepidation at despotism and national peril featured prominently in reactions to Trump’s ascension: ‘an existential moment’ posing ‘a genuine threat to the well-being of our country and the sustainability of our democracy’ (Mann, 2016); a ‘dangerous threat to human rights’ (Ross, 2017); and confirmation that the ‘...Constitution is gravely, perhaps terminally, ill. Trumpism is the symptom, not the cause, of the malaise’ (Epps, 2016). Echoing Plato’s *Republic*, Andrew Sullivan (2016) lamented Americans having ‘jumped off a constitutional cliff’:

A country designed to resist tyranny has now embraced it. A constitution designed to prevent democracy taking over everything has now succumbed to it. A country once defined by self-government has openly, clearly, enthusiastically delivered its fate into the hands of one man to do as he sees fit. After 240 years, an idea that once inspired the world has finally repealed itself. We the people did it.

Disquiet was understandable. As Henry Kissinger noted with diplomatic tact, Trump ‘... is a personality for whom there is no precedent in modern American

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history. And his campaign included rhetorical elements challenging patterns heretofore considered traditional' (Hains, 2016). Trump's insurgency upended conventional wisdoms but, as Sullivan's contradictory elegy attested - 'democracy' 'taking over everything' under 'one man' - a false dichotomy juxtaposes a 'populist' Trump against a 'liberal' Constitution. As Muller (2016, p. 101) argues, populism is 'neither the authentic part of modern democratic politics nor a kind of pathology caused by irrational citizens. It is the permanent shadow of representative politics.' Trump's presidency suggests the shadow is doing the casting but, as a latent element periodically made manifest, populism represents an endemic presence within democratic space. US democracy, with formal equality co-existing alongside massive material and social inequality, is especially vulnerable to populist temptations. The Founders would recognise the seductive power of a dilettante digital demagogue but the failure of their design to prevent Trump's rise does not imply its inability to contain a disruptive presidency.

To advance this 'deflationary' interpretation, I make three arguments.

First, populism's conceptual basis is sufficiently elastic to include Trump, but Trump confirms more about populism than populism reveals about him. Less the prototypical populist than one version of a kaleidoscopic disposition, Trump illustrates its capacious adaptability and thinly fluid normative content that functions as an artefact of whatever ideological prefix is attached. But understanding him requires separating the singular signal from the raucous populist noise. It is a 'post-truth' universally acknowledged that the media took Trump literally but not seriously while his supporters did the obverse. But overcompensating by reproducing his every Tweet, over-theorising his bluster and treating Trumpism as 'post-ideological,' corporate statism or 'fascism' - a 'combination of strong government and strong corporations should run the nation and the world' (Kinsley, 2016) - validates the artifice of his 'authenticity,' imposing coherence upon constant improvisation.

Second, populism is a necessary but insufficient condition for critically engaging Trump, in terms both of populism in elections and in power. Structural accounts exaggerating Trump's significance as vanguard of a transnational awakening misinterpret surface similarities and temporal coincidences for more contingent, agency-centred explanations. 2016 saw no US populist revolution but rather a continuing collision of two mutually parasitic phenomena: the irresistible force of popular discontent and immovable object of partisan polarisation. Invoking populism occludes more synchronistic influences: a Republican Party that rarely nominates the most conservative candidate; the Electoral College; and hyper-partisanship. Moreover, while populism is an attractive electoral tactic, post-WWII populism has rarely survived governing encounters (outside Latin America). Trump's is unlikely to be different, not least since conservatism and populism exist in an orthogonal tension that governing a deeply polarised US can only exacerbate.

Third, the constitutional threat of Trump in power is less than meets his ubiquitous 'I.' Democratic deconsolidation cannot be discounted. The presidency has acquired power that the Framers never intended and would likely disapprove as doing violence to limited government. That accretion has been bipartisan but the presidency has never been occupied by a comparably demagogic and potentially

corrupt figure, with minimal policy grasp and disdain for institutions, elemental facts, Enlightenment values and the democratic disposition.

However, while constitutionally sanctioned illiberalism is hardly alien to America, qualified optimism about the resilient constitutional order remains appropriate. Through referenda, initiatives and recalls, populist scepticism about representative institutions and an impetus to localise power among the people has long informed American constitutionalism. Moreover, the typical governing strategems of populists in power – state colonisation, mass clientelism and systematic repression – confront powerful obstacles. Liberal values and institutions – a co-equal legislature, independent judiciary and free press – would need to acquiesce or collapse for a genuinely populist presidency to succeed. Though not inconceivable, such a reading privileges executive power over continuities in constitutional authority and accountability.

Ultimately, extra-constitutional influences condition how fully the Constitution exposes Trumpism as the pure monetisation of political ambition. Although a politics of nostalgia suggests otherwise, neither a constitutional nor US ‘golden age’ existed. But in a formally Madisonian system featuring an empowered but imperfectly legitimated executive, political checks exert greater force than legalism. Unless Trump governs in consensual ways that eluded his recent predecessors, his populist credentials face evisceration amid the heterodox positions in which the administration and Congress cooperate and compete. If a liberal state is representative democracy constrained by the rule of law, populism challenges both. But among liberal democracies under populist pressure, a comparatively robust constitutional order counsels a deflationary understanding: that Trumpism is unlikely to survive the reality checks and balances rendering it more political tremor than earthquake.

‘I alone can fix it’: Vulgar Populism in the People’s House

Trump’s populist triumph was the greatest in US history. The celebrity tycoon, nominated by the party of Lincoln over sixteen established Republicans, won election against a Democratic Party candidate widely considered the most ‘well-qualified’ to run for the presidency in decades. Post-election, Trump confirmed his reliably problematic relationship with ‘class’: ‘What amazes a lot of people is that I’m sitting in an apartment the like of which nobody’s ever seen ... And yet I represent the workers of the world.’ To US workers surprised by his Marxian internationalism, Trump affirmed a rare reciprocity: ‘I’m representing them, and they love me and I love them’ (Scherer, 2016).

But is Trump a populist? No definitive verdict is possible until his presidential record is fully established, but the construct’s very malleability grants him admission.

Conventional narratives claim that in the Great Recession’s aftershock, the negative consequences of globalisation, de-industrialisation, and demographic change caused voters to abandon liberal compacts. In an era of pronounced economic inequality when western societies no longer deliver consistently rising prosperity, grievance is the outgrowth. Neither inherently anti-capitalist nor anti-market, populist animus targets ‘chumocracy’ and ‘cronyism’ - those conspiring through political and financial power for sectional advantage. Its plasticity transcends left-right divides. Eschewing ideology, populists assemble eclectic

platforms by articulating grievances allegedly neglected by established politics. Rejecting pluralism, populists threaten democracy, subverting the notion of the 'people' to discrete ambitions. More a negative disposition than positive ideology, a taxonomy suggests varieties of populism that assume distinct forms accommodating national conditions; confirming Tolstoy's timeless wisdom about unhappy families each exhibiting their particular form of unhappiness.

Lacking a bespoke catechism, populism resists homogenisation, but core tendencies remain: moralistic anti-pluralism, Manicheanism and romanticising of the crowd. Favouring the people against privileged elites, populists reject specific prescriptions for a general framework to assess policies, in terms of assisting 'working' people. But populist logic promises more than an echo chamber of oppositional discontent. Offering heterodox forms of populist chic for the un-chic masses, positive features emphasising the nation's integrative properties parallel derogatory aspects (ethnic, racial and xenophobic prejudices, reactionary intolerance). Judis (2016, p. 15) identifies a bifurcated populism, with 'dyadic' leftist versions arraying the bottom and middle against the top and 'triadic' right-wing populisms that look 'upwards but also down upon an out group.' However, while a positive 'tolerant' populist tradition exists (Nugent, 2013), the dyadic and triadic cousins increasingly resemble each other in the polarised US family, encompassing not only antipathy towards selective elites but also *oikophobia* (from the Greek *oikos*, for 'home') towards their fellow citizens.

Trump powerfully confirms populism's conceptual fluidity. From his campaign launch on June 16 2015, Trump voiced widely-held anxieties in ways previously unseen by a major party candidate. In 'Trumpworld,' a malign ('rigged') nexus of stupid politicians and smart foreign nations account for America no longer 'winning.' Evoking a prelapsarian nationalism (the 'great' nation to whose Eden-like innocence he would return a grateful people), a binary 'us-versus-them' division (comprising Wall Street, Washington, the media, Democratic and Republican elites), displacing blame for current and historic woes on a continuum ranging from rational grievance (NATO allies contributing insufficiently to collective security) to paranoid conspiracy (Syrian refugees and Mexican criminals 'flooding' the US), Trump touted an anti-intellectualism ('I love the poorly educated!') and situational ethics that boasted unique credentials to govern in the people's interest ('I can't be bought'). His monochrome rallies bespoke a strident white nationalism marked by nativism, 'othering' and nostalgic idealising of a less than idyllic past.

But Trump's triadic populist *noir* conformed with and departed from US traditions dating back to Andrew Jackson, nemesis of the 'aristocracy of the few.' Negative national prognoses, animated by moral panic, were especially forceful in the 1890s. Demanding economic redress of the agricultural depression, the populist platform – mostly shorn of nativism – denounced 'the verge of moral, political, and material ruin. Corruption dominates the ballot-box, the Legislatures, the Congress, and touches even the ermine of the bench' (Congressional Quarterly, 1997, p. 59). The progressive Populist Party won 8.5 percent of the vote in 1892. Populists united with radical Democrats in southern and western states, losing to the Republicans with William Jennings Bryan's defeat in 1896. But from Huey Long and Charles Lindbergh through George Wallace to Ross Perot, populists – more nationalist than progressive – periodically echoed themes of venal elites ruining virtuous peoples.

Where Trump departed was five-fold.

First was his unconventional success. No populist after Bryan captured a major party nomination. As third party candidates, Wallace won five states' Electoral College votes on his segregationist platform in 1968 and Perot achieved 19 percent of the popular vote – but no electoral votes – in 1992. Trump mounted a hostile Republican Party takeover and won through a politics of retrenchment and resentment that depicted the most rich and powerful nation-state as in self-inflicted decline. Populism commonly enlists resentment to projects of national renewal aspiring to project power but Trump's 'America First' revivalism relied on a miasma of pristine sovereignty, economic nationalism and unilateralism married to a dystopian vision. Trump's 'overarching worldview is that America is in economic decline because other nations are taking advantage of it ... Trump's frustration is that the United States gets little for protecting other countries or securing the global order, which he sees as a tradable asset that America can use as a bargaining chip with friend and foe alike' (Wright, 2016).

Second, Trump made for a singular populist: the opulent 'outsider' at the apex of intersecting commercial, celebrity and political elites. Many run for Washington by running 'against' it; no-one had previously campaigned successfully against the establishment as one of its most obsessively narcissistic and hucksterish members. As he told the Republican National Convention, 'Nobody knows the system better than me, which is why I alone can fix it.'¹

Third, Trump understood the nexus of material and cultural inequalities - job losses to automation and outsourcing coinciding with a sense of society disrespecting working class occupations - when anomie meets cupidity: rootlessness and dysfunction accompany the breakdown of work and family, but the white working class reliably resents professionals while admiring the rich. In a personalised politics epoch, celebrity, wealth and gaming the system offered sufficient proof that a poacher could turn gamekeeper to champion *Gemeinschaft* (community) against *Gesellschaft* (market society). What David Axelrod said of Obama in 2007 applied to Trump: 'he is his own vision' (Wallace-Wells, 2007). In different ways, both attracted a personal vote and pursued relentlessly self-referential careers, campaigns and presidencies, preoccupied as much by their own singularity as their nation's.

Fourth, Trump's campaign was enabled by changing technology. Exploiting established media whose business models thrive on ratings and controversy, Trump's deftness on social media that viscerally reflect and reinforce societal atomisation targeted Democrats at their supposed strength: identity politics. In the 'Othering' of Obama's presidency as illegal, illegitimate and ineffective, Nixonian invocations of a 'silent majority' and abusive references to most demographic groups other than white men, Trump constructed for his 'deplorables' the illusion of direct access with their *Duce*: Mussolini with a 3am Trump Tower Tweet.

Fifth, Trumpism's comparative hollowness was distinctive. Populist figures such as Marine Le Pen and Geert Wilders espouse conservative nationalist convictions with relative consistency. But id, not ideology, drives Trump. Trade politics aside, neither core nor consistency exist. Although late in the campaign he touted a 'Contract with the American People' (recalling 1994's 'Contract with America'), Trumpism remained unanchored by systematic beliefs, prioritising instead a results orientation (relegating his nativism, misogyny, and historic sexual

assault as secondary to ‘what matters’). Assertions that Trump is ‘post-ideological’ ironically overlap with the decidedly un-populist ‘Third Way’ centrism that Bill Clinton and Tony Blair marketed in the 1990s. ‘What works’ is preferable to ideological consistency; Trump merely has yet to find his Anthony Giddens.

Populism and pragmatism inhabit proximate space. For Crabb (1989, p. 57):

If a political leader is described as pragmatic, this might mean one or more of the following: (1) he lacks clear ideological goals; (2) his actions do not appear to be guided by adherence to clearly defined moral-ethical principles; (3) he is motivated by immediate, here-and-now considerations, as distinct from long-term goals and strategies; (4) he is ‘opportunistic’ and seeks to achieve the maximum benefit or gain from opportunities available to him; (5) he is skilled in compromise and gaining agreement among divergent positions; (6) he is flexible, capable of learning from experience, and of adapting his position to changing realities; (7) he is prudent, judicious, tends to avoid extremist solutions and understands that politics is ‘the art of the possible.’

Regarding Trump, only (7) is problematic. Therein lies Trumpism’s elasticity. If no necessary or coherent ideological content informs populism, it lacks political valence and can accommodate any ideology while disputing the possibility of grounding ideologies on anything firmer than results and expedience: the ‘art of the deal.’ Avowedly democratic in championing majoritarianism, Trumpism rejects unfavourable outcomes; the quintessential expression of which was Trump’s avowal that the electoral process would not be ‘rigged’ provided that he won.

But Trump secured neither a popular vote majority nor plurality. His amoral transactionalism merits the term plebeianism, as in ancient Rome:

... fighting for the interest of the *plebs*, ‘the common people,’ is *not* populism, but saying that only the *plebs* (as opposed to the patrician class, never mind the slaves) is the *populus Romanus* – and that only a particular kind of *populares* properly represents the authentic people - is populism (Muller 2016, p. 23).

Trump’s plebeian credentials were fully displayed in revealingly confused remarks that ‘the only important thing is the unification of the people – because the other people don’t mean anything.’² The Trumpian idiom, supposedly of the average American, silenced ‘others’ - Mexicans, Muslims, media, women – to pledge a divisible nation with liberty and justice for some. Moreover, Trump’s personal history was the antithesis of someone from whom humane empathy even for the chosen *volk* was a minimally credible animating motivation. The artifice of his authenticity and infantilisation of discourse were integral to his appeal. The very characteristics attracting obloquy – insults, assaults on ‘politically correct’ taboos, genitalia references, violent language – testified to his outspoken credentials as credibly effecting ‘change’ to an ossified politics-as-usual. To his base, cosmopolitan elites’ moral indignation was merely, as H G Wells termed it, ‘jealousy with a halo.’ Populism requires performative elements and ‘reality’ showmanship was inseparable from anathematising the condescending cognoscenti, which in turn relied on the construct of speaking an accessibly plain language eluding the political class. Trump - pugilist avatar of ‘real America’ - articulated a Primal Scream of ‘flyover country’

rage against ‘those who control the levers of power in Washington and for the global special interests... who don’t have your good in mind.’³

Hegel claimed ‘the great man is the man who actualises his age.’ In his democratic coarseness, celebrity, and Twitter bond, Trump did precisely that. But taking Trump seriously as a consequential figure does not entail regarding him as serious in his worldview. For Trumpism to become a programme for governing requires a coherence that is absent. Since delivering real and timely economic uplift to those suffering from automation is problematic, the identity politics may prove more enduring. But it is populism’s accommodation with conservatism – limited government, scepticism towards grand designs, anti-statism - that will shape Trumpism’s encounter with the Constitution.

Plebeians in the Country Club: Republicans as the Workers’ Party?

Populism is a necessary but insufficient condition of explaining Trump’s ascension. Supporters and opponents cast Trump as the paradigmatic case of transnational populism and deep forces more significant than a single individual. Yet only 1 in 4 Americans voted for him. Substantially more voted against than for him in the primaries and general election, when many casting pro-Trump ballots did so to vote against Hillary Clinton. Moreover, had Trump’s ambition not propelled him to appropriate the Republican Party as his vehicle of choice, where would these deep forces have found expression? Admirers championed Trump’s rejecting small-government conservatism for populism: ‘This is called the Republican Party. It’s not called the Conservative Party.’⁴ But the party *is* ideologically conservative. 2016 had a *Rashomon*-like quality and, having switched parties seven times, Trump is untroubled by principles. But heralding a syncretic conservative populism and the Republicans’ implausible osmosis into the ‘Party of Workers’ (Lowry, 2016) misreads both.

Admittedly, of seventeen candidates, only Trump offered a populist appeal and more whites without college degrees voted for him than for prior Republicans. But Trump eschewed a third party or independent candidacy, which would have forfeited the party base. Moreover, the notion of a populist surge cannot explain why ‘establishment’ Senate Republicans - Charles Grassley (Iowa), Ron Johnson (Wisconsin), Rob Portman (Ohio), John McCain (Arizona), Marco Rubio (Florida) - some of whom repudiated Trump, won election by greater margins; as did almost all House Republicans. Moreover, it is probable that another Republican would also have beaten Clinton, by larger margins. Trump referred to a ‘movement’ but this was groundless, unless defined as mass merchandising ‘Make America Great Again.’

Trump is better understood as brand marketing via opportunistic entryism.

To gain a presence, populism needs a porous political infrastructure and the open US system of primaries and caucuses - like proportional systems and direct democracy devices - facilitates populist appeals. (Canada’s relatively closed system, by contrast, has yet to succumb, despite religious and ethno-racial tensions.) Although defying ‘the party decides’ logic that officeholders and donors determine

nominees, Trump reaffirmed that the conservative party rarely nominates the most conservative candidate. Republican voters divide into four factions: moderate/liberal; somewhat conservative; very conservative evangelicals; and very conservative seculars (Olsen and Scalia, 2016). Successful candidates combine 'somewhat conservatives' with others and Trump, a heterodox moderate, cut across all four. Despite high negatives, the fragmented field assisted by dissuading rivals from frontal attacks on a figure for whom there existed no precedent. (No populist ran after Pat Buchanan in 1992 and 1996, though social conservatives – Mike Huckabee in 2008, Rick Santorum in 2012 – crafted 'blue collar' appeals.) Equally notable was the foreign policy dimension: no modern nominee had previously won by combining nationalists and non-interventionists while leaving conservative internationalists adrift. But much of Trump's serendipitous appeal was stylistic, for conservatives disaffected at how – to them - congressional Republicans had accommodated rather than challenged Obama.

Trump built on Tea Party populism. But the hybrid Tea Party was divided between national elites leveraging activist energies to further tax cuts, business deregulation, and privatisation of programmes on which many grassroots Tea Partiers depended, and the latter (approving of entitlements and veterans' benefits), for whom opposition to 'big government' comprised reluctance to pay taxes to help undeserving 'freeloaders': immigrants, minorities, low income earners, and the young (Skocpol and Williamson, 2012). Moreover, although both groups viscerally opposed Obama, the Tea Party zenith was brief. Its impact was confined to congressional and state races, rather than the presidency – where 'severely conservative' Mitt Romney prevailed in 2012 – and spurred an establishment counter-reaction in 2014-16. Where Trump excelled was articulating the message animating middle income grassroots: not that government was too big but certain beneficiaries were unentitled ('Redistribute My Work Ethic!'). Not without coincidence, 95 per cent of Trump's donors were white, 64 per cent were white men and 27 per cent of Trump's money came from millionaires (McElwee, Schaffner and Rhodes, 2016).

The shallow 'populist insurgency' was echoed in the general election. Trump secured 306 electoral votes to Clinton's 232. Clinton won the popular vote by 2.8 million votes, winning 48.2 per cent to 46.1 for Trump. Had 77,000 (less than 1 per cent of) Michigan, Pennsylvania and Wisconsin voters switched or abstained, Clinton would have won. Between public discontent and partisan polarisation, the latter prevailed. 89 per cent of Republicans voted for Trump, 88 per cent of Democrats for Clinton (Independents preferred Trump, 46-42). Trump received approximately the same vote as Romney in 2012, albeit more efficiently distributed. In some states, an increase in white working class rural and urban voters tipped him over but Trump received a *lower* share of the overall white vote (58 to Romney's 59 per cent). Higher percentages of Latinos and African Americans voted for him while fewer black voters turned out for Clinton than Obama (129,000 fewer in Michigan and Wisconsin, more than Trump's combined margin of victory). Exit polls showed 18 per cent of voters identified themselves as negative towards both candidates, but 78 per cent of these voted nonetheless: 49 per cent for Trump and 29 per cent for Clinton; voters who *disapproved* of Trump provided his victory.

Trump undoubtedly exploited a politics of fear animating partisan conflict but this was long in gestation. In 1976, only 27 per cent of Americans lived in 'landslide

counties' where one candidate won by more than 20 percentage points. By 2016, 60 per cent did and, for the first time, every Senate race was won by the party that won that state's Electoral College votes. 'Affectively polarized' Americans fear the other party more than they like their own, not merely disagreeing with but actively disliking each other. Trump benefited from this Brechtian desire to dissolve the people and elect another and the geographic, informational, behavioural and consumer silos inhabited by politically attentive Americans. But the delegitimising charge 'he's not *my* president' originated in the 1990s, not 2016/17.

Trumpism also lacked extensive popular support. Studies documented approval of Obama's job performance and stable public attitudes, even on international affairs:

his views on important issues garner only minority support from the overall American public. While they are divided on expanding a wall on the US border with Mexico, Americans overall support continued immigration into the United States and favour reform to address the large population of unauthorized immigrants already in the country. Americans overall think globalization is mostly good for the United States, and they see many benefits to free trade. And the American public as a whole – including the core supporters of Donald Trump – still favours the country's traditional alliances, a shared leadership role for the United States abroad, and the preservation of US military superiority (Chicago Council, 2016).

Perhaps reflecting this, after the election, Trump equivocated over several promises and staffed his administration with billionaires favouring the free market, deregulation, and privatisation, from whom Wall Street had little to fear. In the populist family, Podemos, Syriza and others claim to pursue transformed political economies. Trump has no such ambition. If one credits his convictions, Trumpism aims at reviving, not remodelling, capitalism to benefit working Americans. Plutocratic populism is oxymoronic, but Republican presidents from Eisenhower to Bush also intervened in the market to pick 'winners.'

An alternative reading might posit a 'bait-and-switch.' US politics is triply 'asymmetric.' *Culturally*, the parties constitute distinct organisations, Democrats representing a coalition of group interests while Republicans advance an ideological cause (Grossman and Hopkins, 2016). *Spatially*, while both have departed the 'centre' ground, Republicans have moved further to the right than Democrats have leftward. *Ideologically*, although more consistent than 40 years ago, Republicans are especially so. The overwhelming majority are conservative in identifying with the party, knowing how positions relate, and being more than twice as likely as Democrats to cite ideological reasons for endorsement. With greater consistency and commitment, the party maintains support even on issues where the Democrats' position is popular, to punch above its weight (Lelkes and Sniderman, 2016).

This explains why Republicans - favouring reductions - tend to prosper in states most reliant on federal spending and why Trump squared a circle defeating prior candidates: how to win when the structure of public opinion boasts 'two majorities', simultaneously endorsing philosophical conservatism (anti-statism) and operational progressivism (pro-social welfare programmes). Utilising resentment

politics persuaded ‘the forgotten men and women of our country, people who work hard but no longer have a voice’ that their grievances were heard. That Trumpism’s appeal should threaten fiscal conservatism, include LGBT Americans (whom Trump vowed to protect) and attract more evangelical Christian votes than George W. Bush bespeaks the absence of an irreducible ideational core (Trende, 2016). ‘What truly matters is not which party controls our government but whether our government is controlled by the people,’ Trump declared in his 2017 inaugural address. If so, only governing can determine whose identity crisis – Trump’s or the Republicans’ – proves more fatal to their respective authenticities.

Mr Trump Goes to Washington: It’s Mourning Again in America

Populists in power employ claims of a unique legitimacy and distinct governing strategies to advance the ‘authentic’ people’s interests. In terms of the former, the institutionalised presidency offers a powerful base for Trump’s grandiosity. But another co-equal expression of popular sovereignty - the most racially diverse Congress in history - undercuts his monopoly claim to morally legitimate representation. On the latter, although the three practices typifying populists in power – state colonisation, mass clientelism, and systematic repression (Muller, 2016, pp. 44-49) – are conceivable, the Constitution presents major barriers to their exercise.

Trump is a *sui generis* president but in a polity where no secular text enjoys greater authority than the Constitution, piety towards the Founders and fear of tyranny form reliable dyads of constitutional discourse. Claims that an ‘imperial presidency’ is endangering Madisonian equilibrium, Congress causing ‘gridlock’ and the courts usurping democracy punctuate every era. The Constitution established elaborate checks and balances to frustrate would-be despots, and norms giving these effect, but illiberal outcomes transpired under multiple presidencies. Impropriety is frequently in the eye of the beholder and partisan lenses have often enjoined equanimity to the erosion of constitutional equipoise. Trump nonetheless animates ‘tyrannophobia’ on multiple fronts: ignorance interwoven with belief in an exclusive legitimacy; an extraordinarily powerful presidency; and a constellation of private interests and public positions testing the letter and spirit of the rule of law. A measured assessment nonetheless suggests that it is the scope, not nature, of the challenge that is distinctive.

The Constitution admittedly failed its first examination, adding new dimensions to claims that the Electoral College is an anachronism. The Framers feared that a pure democracy could elect a demagogue, charismatic autocrat, or agent of a foreign power. The College was designed to preclude selection of dangerously unsuitable candidates. In *Federalist 68*, Alexander Hamilton claimed, ‘The process of election affords a moral certainty that the office of President will never fall to the lot of any man who is not in an eminent degree endowed with the requisite qualifications.’ Electors would prevent ‘tumult and disorder’ resulting from candidates exploiting ‘talents for low intrigue, and the little arts of popularity.’

So much for that.

At the Democrats' 2016 national convention, Khizr Khan asked of Trump 'Have you even read the US Constitution? I will gladly lend you my copy.' It is doubtful. Trump promised to be the 'best constitutional president ever,' defend 'Article XII' – bold, given only seven articles - and proposed an immigration policy of 'extreme vetting' to ensure those '... who support bigotry and hatred will not be admitted for immigration into our country' (DeYoung, 2016). But in a second failing, the Constitution stipulates only that presidents be 35, born in the US and a citizen; wisdom, knowledge and irony are not formal prerequisites.

Constitutional angst was experiencing a periodic return to intellectual fashion prior to alarmism about Trump, which cannot be separated from concerns about the massive expansion in the regulatory state over which he presides. For some, constitutional malpractice is a bipartisan and co-institutional matter. For others, partisan and ideological polarisation have collapsed the 'centre' and precluded the compromises necessary for effective governing. Still others see sterile polarisation as less the cause than symptom of a collapse in trust of public institutions and social capital. Whichever applies, recent critiques – *It's Even Worse Than It Looks* (Mann and Ornstein, 2012), *America's Failing Experiment* (Goidel, 2015) – suggest broad consensus that the system is 'broken.'

Yet the 'sky is falling' notion that the Constitution is awry features contrasting prescriptions, pointing to dual reasons for relative sanguinity about Trumpism.

One is the 'post-Madisonian' argument (Posner and Vermeule, 2010). The tripartite federal system reflects a conservative disposition against concentrated power: each branch, dedicated to the common good, remains jealous of its own power. But the greater complexity of modernity concentrates power in the executive, and especially the White House, which is why the rise of executive power has transcended partisan changes in control and rarely entertained successful challenge. (The only concerted attempt at congressional reassertion – against Nixon - mostly failed.) The executive-centred state tends to generate political, cultural and social checks on presidential action that substitute for, and are more effective than, the carapace of constitutional law.

By contrast, a second case - in a script Trump might have written - argues for a *more* powerful presidency as the only solution to an outmoded Constitution (Howell and Moe, 2016). In this view, a framework that made Congress central vests excessive power in a parochial legislature protecting particularistic interests, rendering government ill-equipped to remedy the social problems of a complex, post-industrial nation. The key to effective governance requires forcing Congress and its pathologies to the periphery of the law-making process by bringing presidents – whose national constituency and legacy driven ambition cause them to seek coherent policy solutions - to the decision-making centre.

Although markedly divergent analyses and prescriptions, read together these illustrate a Trump presidency distinguished by familiar dynamics: an executive hamstrung by statute, struggling against a bicameral Congress possessing the power of the purse but divided between its representative and law-making roles, rarely

exercising effective oversight and consistently the most unpopular branch of government – but impossible fully or legitimately to circumvent. In a purely majoritarian democracy, it is conceivable that Trump’s more authoritarian aspects could find expression in law. In America’s separated system, three paths instead loom large.

In the first, Trump governs as a conventional Republican espousing conservative orthodoxy with few, albeit important, exceptions, advancing the ‘southernisation’ of public policy: low wage, de-unionised, deregulatory, weakly permissive on civil rights but strongly restrictive on reproductive rights. A second sees Trump as a pragmatic centrist, challenging totemic policies of the right (entitlement reform, defence spending) and left (combatting climate change, foreign aid). The third has Trump channel his plebiscitary populism in a nationalist, authoritarian guise, part *caudillo*/part mobster, using the instruments of presidential unilateralism to rule through by-passing Congress and defying the courts. Which template emerges is less a matter of formal processes than self-interested actors’ political calculations.

Least troubling, constitutionally, are the first two options. The 115th Congress (2017-18) has measures ‘to go,’ drafted since 2010 but impossible to pass into law with a Democratic president. A conservative presidency, repudiating Obama policies, would pose familiar constitutional challenges. Eliminating federal agencies, repealing executive orders and issuing new ones, and selectively weakening enforcement of existing laws, while politically contentious, is not *per se* unconstitutional. It would also be politically difficult for Democrats, having supported Obama in responding to congressional obstructionism by making maximal use of executive authority, to castigate Trump for doing so. Equally, given Republican reservations over Trumpism, presidential disdain for GOP panjandrums, and intra-conservative divisions, shrewd Democrats might drive a maximal wedge between the White House and Congress. Such an outcome could deliver more ‘centrist’ outcomes while allowing Trump to claim an ‘above politics’ bi- or post-partisan mantle.

More problematic is the authoritarian path – a recrudescence of the Nixonian belief that ‘if the president does it, it’s legal’ - enabled by vastly expanded executive power. ‘We, the People’ previously found expression in presidential inclinations to identify as ‘I, the People,’ assume prerogative powers and execute un- or extra-constitutional actions. But these were typically in crisis situations or hidden from public view. No president claimed a comparably intimate, reliable and immediate (social media) connection with the *demos*. For once, the bully pulpit merits its nomenclature. In terms of leadership, foreign affairs and civil rights, a personalised presidency bypassing institutions and norms would prove disturbing in the extreme.

Although presidents in the legislative arena can rarely ‘lead’ by persuasion, the rise of the administrative state has expanded the realm of presidential unilateralism, or ‘power without persuasion’, through executive orders, agreements, directives, findings, memoranda and more. By temperament, Trump may be inclined more to invoke inherent Article II authority and revive theories of a unitary executive than - like Obama - to claim aggressive compliance through expansive readings of congressional statutes. Although he needs Congress to do ‘big things,’ disavowing authority to autonomously determine policy would be out of character – not least

since presidents acting first typically determine outcomes, with Congress unwilling or unable to take collective action to overrule them and courts, lacking democratic legitimacy, disinclined to do so. As Bush and Obama demonstrated, a determined White House can resist hostile opposition congressional majorities to advance prized goals (the Iraq ‘surge’ of 2007, the Iran nuclear deal of 2015).

The crucial variable is political. Congress retains constitutional authority to rein in wayward presidents but the new era of ‘insecure majorities’ - when both parties can feasibly win control – militates against its exercise (Lee, 2016). With parties acting as quasi-parliamentary armies in a system not designed for parliamentary politics, a ‘new politics of extremism’ is ‘colliding’ with antique order (Mann and Ornstein, 2012). A partisan presidency sees half of America perceive an enemy rather than opponent in the White House. A partisan Congress more at loggerheads than log-rolling, hobbled by intense inter-party rivalry and fractious intra-party divisions, sees the absence of bipartisanship empower the fringes. In a closely competitive era where three-fifths or two-thirds supermajorities rarely exist, lawmakers’ ability to overcome presidential vetoes and check asserted prerogatives is curtailed (the 2016 congressional veto override of the Justice Against Sponsors of Terrorism Act was the single instance under Obama). Incentives to prioritise partisan over institutional loyalty are heightened under unified control of government.

Of even more concern is foreign policy. Trump inherits a national security state of immense power and reach, operating mostly without strong judicial or legislative oversight, upon thin legal underpinnings on matters from extra-judicial assassinations to domestic and foreign surveillance. *What* Trump seeks to do will partly condition whether he enjoys support for *how* he does so but a destabilising Jacksonian statecraft is eminently feasible since, as Wright (2016) notes:

the inescapable fact is that American national security policy is a hierarchical enterprise. There are some checks and balances, but they are fewer than in the domestic space. No one can make the commander in chief do something he does not want to do. They can’t make him threaten force or use it to uphold an alliance. They cannot make him sign a trade agreement or a treaty. And they cannot make him support democracy and human rights around the world. Trump’s worldview is to reduce America’s role in the world, and there is no foolproof check or balance to that ... The United States has built and led a liberal international order for the past 70 years. For the first time, America will have a president who rejects that strategy. Trump is not unchallenged, and there are few who share his vision. But he is poised to revolutionize US foreign policy nevertheless.

On civil rights, too, Trump’s draconian instincts – especially if ‘black swan’ events (financial crisis, terrorism) encourage a ‘strong’ response - raise profound constitutional problems. Would mass deportation of 11 million undocumented immigrants violate the Fourth Amendment’s prohibition on unreasonable searches and seizures? Would non-citizens be able to exercise their Fifth Amendment guarantee of due process? Would a ban on Muslim entry transgress the Equal Protection and Due Process clauses? Would a Muslim registry and enhanced surveillance of mosques infringe the First and Fifth Amendments? Would revived

‘waterboarding’ violate the Fifth and Eighth? A Trump Solicitor General and Justice Department would conceivably argue otherwise, while attempts to suppress voter registration, weaken the Voting Rights Act, and adopt lax civil rights enforcement could advance rapidly. They might also build on the Obama’s administration’s aggression - employing the Espionage Act to prosecute leakers and demand phone records from Associated Press reporters – to intimidate the press.

Pro-Trump panegyrics dignify him as the antidote to ‘moralistic conservatives’ and possessor of greater legitimacy than the institutions meant to restrain him. Some even employ a Straussian distinction between ‘tyranny’ and ‘Caesarism’, wherein a tyrant takes absolute power by overthrowing a constitutional republic while a Caesar does so only after a republic’s collapse - Caesar Trump as redemptive saviour of republican order, reasserting popular sovereignty and natural right (Sanneh, 2017). Even on a less hyperbolic, Schumpeterian conception of democracy as a competition for power through regular elections, though, Trump could tilt the rules away from fairness. The question remains how far such populism in power might succeed.

Illiberal Constitutionalism: Weimar America?

Although Trump’s constitutional illiteracy and populist disdain for pluralism prompt foreboding, there is reason to doubt the republic’s collapse and anticipate his more egregious proposals’ obstruction, abandonment or striking down. This is less Panglossian than prosaic history: a Constitution that concretises stable deliberation and precludes radical change lacking broad support. America’s fractured republic is neither inherently frozen nor illiberal and destabilising policy discontinuity is not unconstitutional. Critics despairing of a conservative constitutional edifice may not experience a change of heart but long-derided features – separation of powers, judicial review, hyper-legalism, federalism, hyper-pluralism and constant elections - inhibit populist techniques of state colonisation, mass clientelism and repression. Each, however, is necessary; none alone is sufficient.

Even with ‘unified’ party control, presidents possess no blank cheque. Simply managing intra-executive branch conflict and expending limited political capital judiciously represent all-consuming tasks, even for gifted, disciplined and emotionally intelligent presidents. The separation of powers makes the system highly resistant to change lacking broad support, ensuring institutional interests collide as much as coalesce, not only between executive and legislature but House and Senate. Trump won no mandate, lacks large legislative majorities, and faces a highly-polarised, distrustful public. Securing major policy change (1933, 1965 and 1981) in these conditions is formidably difficult. While instruments of executive power are extensive, they remain modest compared to the transformative requirement of Congress enacting legislation, itself complicated by Republican fissures, a narrow 52-48 Senate majority, Democratic opposition, and normal electoral cycle dynamics.

The Bush (2001, 2003-07) and Obama presidencies (2009-10) demonstrated that even with unified control, familiar features – bicameralism and Senate supermajorities - make legislative action slow and difficult. ‘The Senate has a rich, bipartisan tradition of being a constitutional check on presidents of both parties ... That sacred constitutional duty of holding the president accountable to the law must

continue,' Senate Minority Leader, Chuck Schumer (D-NY) declared (Kane, 2017). Determined opposition hinders legislative majorities, though Democratic initiatives – ending the filibuster for administrative and judicial positions lower than the Supreme Court in 2014 and using 'budget reconciliation' procedures to pass the Affordable Care Act (2010) with a filibuster free 51 votes – assisted Republicans to advance the most ambitious conservative policy agenda since the 1920s. Moreover, laws allowing votes to disapprove or block executive regulations (the 1996 Congressional Review Act, Regulations from the Executive in Need of Scrutiny Act 2017) offer harbingers of congressional reassertion.

The coalition of convenience between a populist president and conservative Congress is also an unfamiliar model occupying a twilight zone between unified and divided government. Trump is no unifying Reagan and, insofar as his agenda extends beyond 'winning', does not share the same one as Republicans. Almost two-thirds of House Republicans – experienced in reflexive opposition, not responsible governing - never previously served with a Republican president. The threat of being 'primaried' looms but residual anti-Trumpism remains well represented. How far Trump reshapes conservatism when he confronts substantive choices between, for instance, budget and defence hawks, remains questionable. Similarly, the 'deep state' is a resource but potentially powerful source of opposition and a president acting against the national interest would forfeit limited reservoirs of goodwill. Trump aroused suspicion among military and intelligence communities in claiming he would order illegal activities, deriding their capabilities, and advancing a Russian rapprochement to which both expressed clear opposition. Central though its civilian control is to the Constitution, the military – retaining rare public trust – is one institution Trump should especially avoid antagonising.

Executive actions and legislation also remain subject to review and the meaning of constitutional law upon an independent judiciary. Historically, the Supreme Court has been an unreliable protector of minorities and acted as much to enforce as challenge dominant political coalitions. Alarm about Trump appointees completing a conservative 'revolution Jacobin in its disdain for tradition and precedent' by Justices who 'follow Fox News' reflects and reinforces judicial politicisation (Dworkin, 2007). Appointing the unfilled Scalia seat and probably replacing at least one of the liberal/moderate Stephen Breyer (78), Ruth Bader Ginsburg (83) and Anthony Kennedy (80), Trump will also inherit some 103 federal circuit and district court vacancies (Obama faced 54 in 2009). The least constitutionally minded president reshaping constitutional law for a generation would constitute a poignant irony.

But if Trump wishes to reshape the Court, it will take several years. Appointments remain subject to filibuster (currently), hence Democrats can veto unacceptable nominees. Moreover, while the Court hears about 75 cases annually, tens of thousands are decided at the 13 circuit courts, where nine have a majority of Democratic-nominated judges (compared to one in 2009). Senate leaders traditionally consider circuit and district nominees only if supported by both senators representing their state, and 28 states are represented by at least one Democrat. Judicial independence also remains a reliable thorn in presidential sides. On healthcare and marriage equality, Chief Justice John Roberts disappointed his

conservative peers to join the ‘liberal’ quartet. Dworkin’s ‘revolution’ has been reformist:

... most of the landmark Warren Court decisions, in areas such as criminal procedure, legislative apportionment, freedom of speech and religion, racial discrimination, prisoner rights, substantive due process, and constitutional rights, and the Warrenesque decisions of the Burger Court, such as *Roe v. Wade*, have remained largely or entirely intact, even though most would have been decided differently by the present Court had they been given to it to decide. The expansion of rights brought about by the Warren Court, and to a more limited extent by the Burger Court, has ceased; retrenchment is in the air. But there is no indication of a wholesale rejection of precedents that most of the current Justices may wish had never been created (Posner, 2008, pp. 55-6).

In addition, courts have proven willing to enter thickets – such as war powers – once deemed ‘political’ matters reserved to elected branches. It is doubtful that Justices who proved unpliant to Bush will bend to Trump. The ‘rule of four’ also means that direct legal challenges to Trump can gain a hearing.

That prospect may prove more than abstract. If one comparative advantage of democracy is ensuring governmental stability and constraining rulers’ proclivities to enrich themselves to public detriment, the republic confronts a chronic ethics test. The Emoluments Clause of Article I, Section 9 prohibits any person ‘holding any Office of Profit or Trust’ from accepting ‘any present, Emolument, Office, or title, of any kind whatsoever, from any King, Prince, or foreign State.’ Until and unless the details of what Trump owns, owes, and his creditors’ identities is transparent, the extensive scope of his business interests poses on-going dilemmas about violating the prohibition while his targeting specific individuals and companies for censure raises issues of basic probity. Even if the White House is not for sale, tailoring policies to private interests suggests its availability for rent, providing sonorous echoes of a prior incumbent. As Bill Clinton discovered, however, the president can be sued in office by private individuals or impeached for ‘treason, bribery or other high crimes and misdemeanours.’

As this suggests, fundamental rights and liberties have become sufficiently institutionalised that their reversal through discriminatory legalism, though possible, is extraordinarily difficult in a hyper-litigious republic. Judges’ narrow or expansive readings of clauses, and relative deference to elected branches, shape outcomes, but reversing constitutional precedent is rare. It is therefore conceivable, for example, that *Roe v Wade* could be overturned after two or more new Supreme Court appointees but inconceivable that a nationwide ban on abortion could be enacted by the Court or Congress. While the former would return regulation to the states in a victory for restrictive forces, it would not achieve the results sought by the most zealous opponents of reproductive rights. Similarly, while Trump described marriage equality as settled law, his endorsement of the First Amendment Defence Act – prohibiting federal agencies from punishing individuals who discriminate against LGBT people on religious grounds – would invite strict scrutiny by the judiciary. Unless the Republicans secure improbable supermajorities in Congress, legislation,

nominations and constitutional amendments remain subject to Democratic opposition. The Bill of Rights is not unsafe.

Federalism provides additional safeguards preserving extensive power for states and cities, whose interests frequently collide with Washington. Admittedly, nationalised elections and increased party voting have yielded a plurality of unified Republican state governments. Republicans control 32 of 50 governorships, 68 of 98 state legislative chambers, 33 state legislatures, 4,171 of 7,383 state legislative seats, and all state government — legislature and governor — in 24 states (Democrats have 12); all historic highs. But pragmatic Republican governors such as John Kasich (Ohio) have generally been less doctrinaire than their congressional counterparts. Moreover, 'blue' states such as California, and numerous metropolitan locales, still vindicate the 'laboratories of democracy' model, developing policy alternatives and resistance to the nation's capital, and precluding state colonisation and mass clientelism.

Systematic repression also confronts a vibrant hyper-pluralism in the mass media, interest groups and civil society. A digital age of instantaneous information flows, routinised fake news, and silos reinforcing confirmation bias assists a presidency that treats as accurate only sympathetic coverage. Trump is also an expert news manipulator. Press freedom faces a president who persistently targets the media, intimidates journalists, and prefers Tweets and rallies to press conferences to communicate. Nonetheless, the fragmentation that assisted Trump's rise limits his reach. If a more centralised media ownership environment existed — or had Trump been shrewder in his purchases — a one-sided Berlusconi-style media would prove far more Orwellian. Fragmented media make factual politics difficult but centralisation guarantees disaster. Moreover, the Trump administration offers a target-rich environment for journalism. 20 million Twitter followers is impressive but dwarfed by the ranks of Americans disinclined to 'follow' Trump's *sturm und drang*.

Tocqueville's civil society 'associations' also remain a cacophonous preserve of liberty. On multiple measures, Americans remain inclusive, tolerant and cultural pluralism is more resilient than critics concede. From undocumented immigrants to LGBT rights, majority opinion is antipathetic to Trump. An irreducible plurality of goals and preferences exists within a diverse, morally heterogeneous US whose demographics are inexorably departing a monochrome era. From NGOs to community groups, multiple forces embracing democratic norms influence agendas, attitudes and public policy. In utilising numerous devices of popular accountability to resist authoritarian encroachment, the US has no peer in societal fusion of a uniquely porous state. For all the attention accorded the presidency as governing focal point, the institution remains peripheral to most Americans' daily existence.

Finally, there are elections, which have occurred without interruption every two years since 1788. Admittedly, in the short-term, this offers limited solace to Democrats, one-third of whose House conference represent districts from three states: California, New York and Massachusetts. Democrats will need to net 24 seats in 2018 to regain the House. The party *not* holding the White House has gained seats in 18 of the past 20 midterm elections — since 1938 — and the out-party has won at least 24 seats eleven times. In 2018, however, there will be few competitive seats to

contest, with fewer than two dozen Republicans representing districts won by Obama in 2012. In the Senate, 25 Democrats and just 8 Republicans are up for re-election in 2018. Of the former, ten are running in states Trump won in 2016. The normal loss of midterm seats for a president's party may be another rule awaiting Trump's revision.

What all this confirms is that the operationalisation of parchment barriers requires an explicitly political interpretation. Machiavelli and Nietzsche cautioned that in democracies the many crush the rich, elite few, whom they fear and envy; under populist tyranny, a majority of one. 'Democracy' appears nowhere in the Constitution, mirrored by the Constitution's absence from Trump's inaugural address. Posner (2003, p. 154) argues the Preamble's 'We, the People' was more an assertion of adoption by democratic choice than a claim it established a democracy, which 'is better described as elite democracy than as either deliberative or populist democracy.' The public's principals are not drawn randomly but are more wealthy, educated, and ambitious: 'The members of the US Senate, regardless of party, have more in common with each other than with the majority of their constituents' (Posner, 2003, p. 154). Trump's Cabinet shares even less. But the US now represents an epistocratic republic. Trump's paradox is that, while not an obvious exponent of epistemic humility, his unprecedentedly wealthy administration aspires to a Socratic notion of appointing 'the best people' while embracing kakistocracy (government by the least qualified). *Contra* Trump, the perennial question invariably humbling populists is not whether, but which, elites govern. The irony for those diagnosing 'we, the people' as 'we, the problem' – elected officials overly responsive to poorly informed mass opinion – is that their solution of greater discretion for political elites comports with Trump's kakistocratic establishment. Following Pareto, it is not the people, but a new Trumpian elite, that circulates Washington's corridors of power.

Conclusion: My country, 'tis of me

Channelling Rousseau, Trump declared, 'The script is not yet written ... (but) the page will be authored by each and every one of you. You, the incredible American people, will be in charge' (Rucker, 2016). To understate, that requires a willing suspension of disbelief difficult to reconcile with the stirring call to a more perfect union concluding his campaign book: 'I don't just want to bring golfers to America' (Trump, 2015, p. 169).

A deflationary interpretation confirms Trump as an unpopular populist but - despite its conceptual utility - rejects populism as too reductive a mode for understanding his ascension, convictions or challenge. Trump confirms populism's plasticity and the essentially political character of liberal constitutional order. Trump's alchemy exploited popular discontent but his polarising triadic populism divides more than unites as campaigning device and governing strategy. Although media frenzies reinforce the artifice of his authenticity through regular reproduction of his rhetoric, a dispassionate constitutional sociology suggests that Trumpism's darker aspects can be obstructed and overcome.

The US order is uncongenial to decisive action and any Trump threat bears no comparison to slavery, segregation, Japanese internment and multiple denials of formally enshrined protections. Trump exercises power because the system enables minority rule but presidents habitually discover that Washington is more apt to diminish them than the opposite. The very appeals that attracted support combine with complex governing exigencies to reduce the erstwhile change agent into a rather smaller than life figure, relying on PR to persuade citizens and Heads of State that muddle represents calculated ambiguity. At worst, liberalism can temper the excesses. At best, through inducing accommodation or defeat, its normative bedrock can confirm the inarticulacy of Trump's voice. Populism requires polarisation to thrive, but since getting 'results' is easier than 'fixing' Washington – alone or otherwise – hyper-polarised politics remains a safe bet to outlast its populist cousin. The same forces that overcame more capable Chief Executives' ambitions are unlikely to yield to the Donald.

Populists in office typically continue conducting themselves as victims rather than victors, polarising opinion, treating governing as a permanent campaign and politics as a perpetual state of crisis and constant siege. Trump is unlikely to be troubled by metrics measuring whether working class lives improve - not least since symbolic actions frequently assume greater significance than results – while scapegoating minorities and 'elites' for policy failures. Reconciling his outer Ann Coulter and inner Ayn Rand poses a harder challenge. For Trump to tack too closely to conservative orthodoxy and a redistributive politics benefitting the wealthy would feed the distrust that catalysed his rise. But for Republicans to embrace Trumpism would require their donors, intellectuals and activists not to modify but reject conservatism. U-turns and Faustian bargains are the warp and woof of politics but such syncretism would resemble transgressive identity politics of a different order entirely.

The Constitution remains more than a noble piece of paper, and US democracy more mature and liberal than President Trump. Despite presidential unilateralism, inhospitable conditions for authoritarian rule exist. Liberal values remain deeply embedded and enshrined in law and institutions. Rights are institutionalized. Congress jealously guards its prerogatives when seriously threatened and can impose order upon even unpredictable presidents, on domestic matters if not statecraft. The regulatory state's bureaucratic behemoth empowers and impedes executive action while path dependency in the political economy and constitutional law inhibits choice through countless accumulated regulations, decisions and precedents.

In *Federalist 22*, Hamilton wrote that, 'The fundamental maxim of republican government ... requires that the sense of the majority should prevail.' But Trump represents no popular majority and the Constitution hedged against majoritarianism by institutionalising Madison's conviction that 'ambition must counter ambition.' In Trump's monetised ambition, the design for ordered liberty is tested anew. Future histories might record Trump's populist presidency as the destabilising inflection point in US democracy's decline and deconsolidation. But they may more plausibly detail once more 'one of the great unexplained phenomena of modern astronomy:

namely that the dark night of fascism is always descending in America and yet lands only in Europe' (Wolfe, 1993, pp. 302-3).

Acknowledgements

Generous thanks to Sam Ashenden, Nigel Bowles, Rhodri Jeffreys-Jones, Robert Lieber, Maxine Molyneaux, Michael O'Neal, Tom Osbourne and Andrew Wroe for commenting on an earlier draft of this essay.

Notes

¹ <http://www.politico.com/story/2016/07/full-transcript-donald-trump-nomination-acceptance-speech-at-rnc-225974>

² http://archive.org/details/KPIX_20160508_003000_CBS_Weekend_News#start/540/end/600

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http://www.realclearpolitics.com/video/2016/11/04/ad_donald_trumps_argument_for_america.html

⁴ <http://abcnews.go.com/Politics/note-trump-takes-gop-establishment/story?id=38977148>

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<https://blog.oup.com/2017/01/diverse-pluralist-populism-trump/>