



Jackie McDermott: [00:00:00] Welcome to Live at the National Constitution Center. I'm Jackie McDermott, the show's producer. Following the 2020 election, NCC president Jeffrey Rosen was joined in a live online program by four experts from across the ideological spectrum. They considered what the election and its aftermath shows us about the state of American democracy today and where we're headed. Here's Jeff to get the conversation started.

Jeffrey Rosen: [00:00:26] Ladies and gentlemen, welcome to the National Constitution Center and to today's edition of America's Town Hall. I am Jeffrey Rosen, the president and CEO of this wonderful institution. And we'll begin the program as we begin all Constitution Center programs: by reciting the inspiring mission statement of the Constitution Center to gird ourselves for the discussion ahead.

The National Constitution Center is the only institution in America chartered by Congress to increase awareness and understanding of the Constitution among the American people on a nonpartisan basis. Before we begin, I want to plug a series of great programs that are coming up on November 19th. We will discuss religious freedom and the Constitution. On November 23rd, Shakespeare and the Constitution, what a rich program that will be. And on December 3rd, this will be such an exciting program, the founders and the classics. How were the founders inspired by the Greeks and Romans? You can register for all those programs at constitutioncenter.org/debate.

I'm thrilled that today's program is presented in partnership with the SF Agora Institute at Johns Hopkins University. I'd like to thank Steven Ruckman and his team for this great collaboration. This is the second in what we all hope will be an ongoing series exploring the future of American democracy. Please put your questions in the chat box as we talk, and I will introduce them as we go along.

And now it is a great pleasure to introduce our dream team of panelists. Anne Applebaum is a staff writer for the Atlantic and a Pulitzer Prize winning historian. She is an SNF Agora senior fellow and Associate Professor of the practice at the Johns Hopkins school of advanced international studies where she co-directs LSE arena. She's the author of many books, including most recently, "Twilight of Democracy: the seductive lure of authoritarianism". David French is senior editor for the Dispatch and was formerly a senior writer for National Review. His newest book is "Divided We Fall: America's succession threat and how to restore our nation."

Charles Kessler is the Dengler-Dykema distinguished Professor of Government at Claremont McKenna college and a senior fellow at the Claremont Institute. His forthcoming book is "Crisis of the two constitutions: the rise, decline, and recovery of American greatness," which will be out in January. And Yascha Mounk is Associate Professor of the practice of International Affairs at Johns Hopkins University, where he holds appointments in both the school of Advanced International Studies and the Agora Institute.

He is the author of, most recently, "The People vs Democracy: why our freedom is in danger and how to save it." Welcome all of our panelists. Anne, let's begin with you. You describe in your book about the "Twilight of Democracy," the scene of the last inauguration of President



Trump, and you express your amazement at his misrepresenting, the size of the inaugural speech. But you said that by the point was to encourage his followers to engage, or at least part of the time, with an alternative reality and make them complicit in a sort of conspiracy against facts. I'd love your thoughts about the current refusal of the president to concede the election and his determination to challenge the election results in court.

Is this an example of a normal resort to the legal process? Or is it an example of the authoritarian turn that you described in your book?

Anne Applebaum: [00:04:13] Thanks, Jeff, for that question. I would actually begin my explanation of what Trump is doing right now a little bit, even further back, which is remember how he first entered the political arena.

That was as an advocate of birtherism. Namely, the view that Barack Obama was an illegitimate president. He has been, from the very beginning of his political career, both using America's lack of faith in its institutions and its democratic systems, and also expanding that lack of faith and increasing that distrust further.

What's really remarkable about what's going on right now is the degree to which it was so carefully planned in advance. I mean, in fact, the president has been telling us for months now that he won't respect the result of the election, unless he's the victor. He had been planning for months. He'd been working with the Pennsylvania Republican party to make sure that counting of votes began not in advance, so that we would have a result on the Tuesday of election day, but rather so that it would take much time so that it would give him time to seek to undermine the result.

What he's doing is I think, you know, we're missing on the one hand to kind of Hail Mary pass. You know, I do believe it is a last attempt to try and reverse the result and find a way to stay in power. But I think in the second, is even if that fails, which I do think it will right now, unless something else changes.

I think what we're watching is him seeking to create an alternative political movement, a grouping of people, who have a profound grievance who believes that the election was stolen, who will continue to follow him and respond to him, a group that he can use for commercial political, psychological purposes. He can continue to exploit them.

He can continue to raise money off of them, and above all, he can continue to use them as a tool in American politics, to continue to undermine the Joe Biden presidency, to try and illustrate -- to make it a failed presidency, and to use that political power in support of people people or causes.

So while this range of frivolous lawsuits is not illegal, it is profoundly damaging. It is profoundly damaging to the trust that Americans have in their political system and in their voting system. And that's not an accident.

Jeffrey Rosen: [00:06:28] Charles, in your piece, in the New York Times, "Breaking norms will renew democracy, not ruin it," you argued that although hardly a day goes by without President Trump being accused of breaking a presidential norm are two, most of these



alleged transgressions are picayune. For example, choosing a list of potential Supreme Court nominees prepared by outside experts and you argue that not all norms are created equal. First of all, is this a breaking of a normal refusing to concede and congratulate the victor? And is it serious or picayune?

Charles Kessler: [00:07:01] Well, I don't think it can really be argued that this is a breaking a norm, considering how the 2000 election played out, and the resort to lawyers and to courts in Florida in 2000. Or the persistent rumors and reports that the 1960 election may have been stolen from Richard Nixon in, in Illinois, in Chicago, and in Texas. But Nixon declined to pursue it. There was a cold war going on and one can understand why discretion may have been the better part of valor there. There isn't a cold war going on now. I think President Trump is completely within his rights to go to the courts and attempt to find out what happened in Philadelphia, not far from the National Constitution Center, I suppose, and in other places in the country where strong democratic machines may have put their thumb on the scale. If the courts find that there's nothing to worry about, if the courts decide that even if there is something to worry about, there's no remedy, then the lawsuits will go away. The norm will have been, I would say, renewed rather than destroyed or decayed. And the president in our case, we'll leave the White House and, President Biden will enter it. I don't see that anything untoward is likely to happen here.

Jeffrey Rosen: [00:08:26] Yascha, in a piece published on November 2nd, called "Don't Panic." You say to my own astonishment-- I'm now one of the more optimistic voices in the room -- and you say that even if Biden wins, the next week's will be scary and turbulent, but you express confidence that although Trump may try to declare himself the victor and is almost certain to claim that millions of votes were cast illegally. Although Trump can sew chaos in the coming weeks, he doesn't have nearly enough control over the country's institutions, especially outside the executive to stay in office after losing the vote. You know, a week or so later, do you still feel that way, and are you concerned about any of the norms that might emerge from this transition period?

Yascha Mounk: [00:09:07] Well, I'm certainly concerned about that and I was concerned from the beginning about the effect it would have, if Trump as seemed eminently predictable, would, you know, spread conspiracy theories about the election and outright lie about you know, a democratic process. But what I argued 10 days ago, before the election was that there was a lot of irresponsible predictions. So we're going to have a civil war in our streets. And I think a little bit of hyperventilating about Donald Trump, somehow being able to stay in office, by dint of not accepting the outcome of a legitimate election.

I think so far, both of those points have been vindicated. We have seen joyous celebration in Washington D.C. and other places in the country. We've obviously also had, you know, 70 million Americans who are sad about the outcome of the election, but we have not seen any violent clashes in the streets.

We have not seen, you know, any violence in the streets in the last nine days. It is imaginable that we come to some kind of decisional crisis point in the next weeks or months where that change, but for now I don't see any particular indication of that. Similarly, you



know, my prediction that Donald Trump would refuse to accept the outcome of the election as legitimate has very predictably come to be true.

Everybody knew that that was likely, but actually the institutions are holding. So, Donald Trump is pursuing all kinds of legal avenues. So far, the courts and the judges have, rightly, rejected most of these as frivolous. And this includes, you know, codes like the Supreme Court of Texas, which refuse the lawsuit by the state Republican party before the election that wanted to throw out about a hundred thousand votes because they were supposedly cast and at voting stations that didn't confirm to the rules.

This was unanimously rejected by nine judges, nominated by the Republican party and then went to a deeply conservative federal judge who also rejected that. So I'm very confident that the 46th president of United States will take office at noon on January 20th, 2021. I do fear about the way in which Trump will have managed to delegitimize that president in the eyes of many Americans.

I certainly disagree with Charles that this is somehow within the norms of the history of the United States. It's perfectly appropriate for the president to pursue legal avenues. I have no particular problem with him doing that. But his lawsuits are part and parcel of a campaign of lies and conspiracy theories that are aimed at undermining the faith and democracy among the American population itself, or the aim that pretending that there are millions of votes illegally cast, that the Republican secretary of state and Georgia is somehow in on a conspiracy to defeat Republicans and Donald Trump. I think pretending that this is within the normal traditions of American and politics is frankly surprising to me.

Jeffrey Rosen: [00:11:52] David French, I think you are unique in this panel and being perhaps one of the only panelists who is very happy with the election results. You said before the election that you hope that president Trump would lose and that the Republicans would keep the Senate. I want to ask you about a recent report in Politico that 70% of Republicans do not believe that the election was free and fair. Based on your book "Divided We Fall," what light can you cast on why there is such a dissonance in the way Republicans and Democrats view the fairness of the election, and what consequence will that have for the future?

David French: [00:12:29] Well, you know, what we're in the grips of right now is a phenomenon called negative partisanship. And what negative partisanship means is essentially that, you may be a Republican, not so much because you really love the Republican party or its ideas, but because you despise or you fear the opposing party. And whatever your candidate's flaws are, your candidate has one great quality: he's not the other guy. So you have this negative partisanship laying on top of an enormous amount of distressed institutions. And then you also have laying on top of that institutions that do quite well financially, for example, sewing and fomenting distressed, whether it's merited or not merited.

And I think what we're beginning to see, especially in the conservative media right now is an avalanche of misinformation. Just an avalanche. So, for example, you know, a comparison of



what is happening right now--when we talk about, does Trump have a right to pursue lawsuits? Yes, he has a right to pursue lawsuits.

But what a responsible media then does is to talk about the merits of those lawsuits and the prospects of those lawsuits overturning the result. And the lawsuits are--if you look from the factual allegations to the legal claims, to the request for relief--up and down the line are borderline frivolous sometimes at best and outright frivolous at worst.

And in fact, you know, the Bush V Gore comparison is completely wrong. In Bush V Gore, the outcome of the Gore election litigation could tilt the whole election. In this circumstance, Trump could win in Philadelphia, entirely, stop the certification of votes in Philadelphia and in Pennsylvania, and it won't affect the outcome of the election. He's still going to lose. And so what we're seeing here is a series of lawsuits brought across the country that have no merit and no ability to change the outcome of the election, and yet conservative media is dutifully saying again and again, well, there's lawsuits pending.

We have to see how the lawsuits will come out. Which gives millions of people the idea that these lawsuits can come out in a way that would make Donald Trump president of the United States. They cannot. They will not. You can say it on the one hand, Trump has a right to file lawsuits. And on the other hand, level, be honest with people and say, these lawsuits are not going to adjust the outcome. These lawsuits are frivolous. Instead, you don't get that. You get the Bush V Gore comparisons, which are completely different from this particular election in the claims at issue in this election. Instead, you get constant rumor mongering about vote fraud, constant. You know, you had Laura Ingram yesterday with somebody with her voice changed delivering a, you know, a really an unverifiable account of vote fraud that even if it wasn't--even if it was true, wouldn't adjust the outcome of the election. Yes, Donald Trump has a right to go to court. No Senator can stop him from that by saying this, that Joe Biden is president-elect. No talk show hosts can stop him from that by saying that Joe Biden is president-elect. None of them can stop him from availing himself of these legal options, but what they can at least do is be honest. And they're not being honest. And that furthers his negative polarization. It lines their pocketbooks, frankly. And it makes Americans distressed and despise each other even more.

Jeffrey Rosen: [00:15:56] Anne, you wrote a series of such illuminating pieces over the past four years, arguing that president Trump was part of a global tendency toward autocracy that we saw in other countries, including Hungary. And you most recently, in the Atlantic, compared to East German, communist leaders, Wolfgang Leonhard and Markus Wolf, with Mitt Romney and Lindsey Graham, and talked about how people with very different backgrounds might make very different choices about whether or not to support an authoritarian leader. As you review the legacy of the past four years, if we assume that President Trump is indeed succeeded by Joe Biden, which of the tendencies toward authoritarianism that you have been writing about for the past four years will endure and remain during a Biden presidency?

Anne Applebaum: [00:16:47] Thanks, Jeff. So the point of that piece was, it was an attempt to explain why the Republican party, with its historical attachment to a very clear set of



values, ranging from concern about the president's character to a commitment to the promotion of democracy around the world to a belief in markets and different kinds of freedoms.

Why the Republican party, at the very highest level, by the way, I'm not talking about voters. I'm talking about the Senate and to some extent the cabinet. Why did that group of small, that small, elite group of people not stand up to Donald Trump as he began breaking one by one, not just norms, but in some cases, laws that had long applied to the presidency and to his office.

So just for a refresher, you know, this is an administration that, ignored it's obligation to testify before Congress. This is a president who abused power. So he used tools of American foreign policy, including military aid to a foreign country, in order to blackmail a foreign leader into conducting a false investigation into his rival, entirely false.

He used the secret service to channel money to his personal companies. His family worked in the White House and failed to meet conflict of interest standards, and so on, and on and on and on. And so why then did the Republican party not stop him? Why wasn't he blocked in the Senate? Why wasn't he impeached?

Why didn't the cabinet find a way to block him? And the answer, I'm afraid, is that the Republican party is no longer committed to the ideals of liberal democracy that it has historically promoted. It's a party that is now, you know, as all four of us have just agreed, it's a party that is now willing to use conspiracy theory and lies, directed at its voters and its supporters. It seeks to undermine people's faith in the electoral process and in the system. And one by one, we've seen Republican leaders, rather than standing up for the values and standing up for the traditions of the society, letting them go, making excuses, allowing them to slide, in the name of other things. In the name of personal power, in some cases, as David said. In the name of, you know, their profound hatred for the other side. And this is a real change in our political system. And it is parallel to a change that we can see in other countries. I lived through a similar kind of change, here. I'm in Poland right now, as I'm speaking to you. And the right-wing party here that was once a center-right party is also now an authoritarian, populist party. You can see the same kind of pattern in other countries, all around the world. It's important that people understand that there's not a binary moment. It's not as if you know, Donald Trump is a dictator or he's normal. There are small steps along the way.

There are accommodations that people make. There are situations that people get used to. There are circumstances that people would once have objected to that they now ignore. And we've seen this slow erosion of norms and of laws and of types of behavior, over the past four years. And it has been facilitated, unfortunately, by one party.

Jeffrey Rosen: [00:20:04] Charles, Anne just said that the GOP is no longer committed to the ideals of liberal democracy. In your forthcoming book, "Two Constitutions," I think you make a different argument and say, in fact, the Republican party is committed to the Founders' Constitution, whereas progressives have abandoned it. Anne also said that all of you agree that the Republicans use falsehoods in the name of personal power and hatred of the other



side, perhaps you disagree with that point too. So please share with our viewers, why you believe that the GOP, far from abandoning the ideals of liberal democracy, remains committed to them?

Charles Kessler: [00:20:37] Well, I do disagree of course, with almost everything Anne has said, and I think her reaction, which she shares, of course, with many other people, arises from the fact that there really is a substantive, a deep substantive disagreement in the American public about what the Constitution means. And as it were, which constitution we're supposed to be living under. One that is the constitution of modern progressivism and modern government, which really is the constitution of the "living constitution," as the lawyers call it, versus the Republican view, very imperfectly pursued, I have to say, that the constitution of 1787, the constitution that presumably the National Constitution Center inshrines, the constitution of natural rights and limited government, is authoritative and still controlling.

And so much of what is dismissed as shattered norms lying around Washington, are shattered norms of liberal or progressive governance. But Trump is a rough character. He's an amateur politician. He is, basically, a businessman. But he's not, and never was, a Caesar figure, I don't think. You know, Cicero said Caesar was consumed by *Libido Dominandi*, the lust for dominance or power.

I don't think Trump is that kind of a politician. He wants to make America great again, which means he thinks America was great. Liberals and progressives today rather disagree with that. They don't think America has ever been that great or ever probably will be that great. But if so, only by moving farther and farther away from sort of, constitutional norms. In foreign policy as in domestic policy, I think what you see in Trump is really a return to Republican norms, Republican party norms, which were altered and updated, you might say, by the necessities of the cold war. As the cold war has faded, you're seeing a regression to the mean in the Republican party, which Trump is not the cause of, but merely an example of. And so the old republicanism, which stood for a much more modest foreign policy for limits on immigration, gaging immigration by the capacity to 'Americanize' the immigrants, limited taxes, constitutional conservatism, constitutional limits on the legislature -- all of these things, including tariffs and a more trade policy and a national economic policy driven by national interest -- all of this is very traditional in the Republican party and what you're seeing, despite the excited cries of Anne and others, is to me, really not that threatening, except it is threatening to the Washington consensus, both in domestic and foreign policy, as it has existed for the past generation, at least.

Jeffrey Rosen: [00:23:36] Yascha, we have two very different conceptions of reality and of the American Constitution, both in America and on this panel. And appropriately enough, you wrote a piece in 2019, "Republicans don't understand Democrats and Democrats don't understand Republicans," talking about that perception gaps that makes both sides unable to empathize with each other.

How do you reconcile the argument that Charles just made? Namely that Republicans are resurrecting the original Constitution against unprincipled assaults by progressives and



arguments like the one that you made repeatedly over the past four years, including in 2016, where you talked about the interlocking reasons why our confidence in the system is naive and ways that our system of checks and balances has relatively few resources to stop an authoritarian president from violating the Constitution. So, the hard question I'm asking you, because so important is, you know, first, how do you reconcile the completely different views, one that Charles and you have articulated, and how would you bridge this gap for our viewers?

Yascha Mounk: [00:24:38] Well, look, I think I would distinguish between two very different things. I think by some high-level of obfuscation going on here. So, one is that undoubtedly Democrats and Republicans have trouble understanding each other. There is some very interesting public opinion research by more uncommon and others, that essentially show that when you ask Democrats what kind of beliefs Republicans have, you know, they caricature. They think that Republicans all hate immigrants, that they don't think that there's any racial discrimination in the country, and so on. And actually, most Republicans have relatively positive attitudes towards immigrants, but they might just want to change our immigration system and perfectly recognize the ongoing forms of racial injustice. And the other way around, we ask Republicans about what kind of views Democrats have, you know, they would think that they're all sort of Antifa supporters who make excuses for political violence and, unproud to be American, for example. Actually a huge majority of Democrats say, we're proud to be American, and reject things like Antifa.

So, there's definitely sort of this mutual incomprehension going on and that also exists at a more philosophical level. So I don't disagree with Charles with his different notions of the Constitution that drive each side, and that leads to certain misunderstandings and disagreements. I think one example of this was when Senator Mike Lee of Utah said, but in fact, America is not aiming to be a democracy, it's a Republic. You can have different views about how helpful or clever point that is, but it was spun by a lot of left-leaning media, as Senator Lee sort of openly admitting that he's anti-democratic, that he wants to destroy the electoral system or something like that. That was simply a misunderstanding of what he had said.

And I think it's absolutely an example of that kind of clash between different readings of the Constitution and different vocabulary leading to a little bit of hyperventilation. So I don't disagree that that exists. Now, what's very important to point out, though, is that as Anne has said, what Donald Trump has been up to for the last four years and what he has been up to in these past weeks, should be a crying affront to either of those two conceptions of the Constitution.

Whether you believe we live in a democracy or in a democratic Republic, whether you think that the anti-democratic or the counter-majoritarian elements of the Constitution, like the Senate, are perfectly appropriate, or whether you think that's problematic, either way, you should believe in a peaceful transfer of power.

Either way, you should believe that it's very important not to gratuitously undermine the trust that people have in the electrical system. Either way, you should think that a sitting



president should not say that there was massive voter fraud, without being able to offer any kind of evidence for that thesis. Either way, you should say that a president going on about how his opponent should be locked up or are committing crimes in an unsubstantiated way is exactly the kind of behavior that has doomed all republics that had been attempted before the foundation of ours, and that the founding fathers were so worried about, when they wrote not just the Constitution, but when they modeled a set of behaviors and a set of norms, that they hoped, would put us on a more stable path. So, yes, we have different notions of the Constitution we are operating with.

Yes, there's a lot of mutual incomprehension, but to spin that into an excuse for the kind of behavior we have seen from the outgoing president of the last weeks, takes a little bit of a chutzpah.

Jeffrey Rosen: [00:27:59] David, as someone who favors a GOP Senate, but opposes President Trump, you're perhaps uniquely well-situated to help translate each side to the other.

So, put us in the shoes of the 70% of Republicans who believe that the election was rigged and also the Republican senators who are supporting the president's claim. And then as you think about the way forward, I am always struck by how difficult it is to persuade people who disagree with you about policy. At the same time, it is possible to have civil debates about the meaning of the Constitution, as we find every day at the Constitution Center, when we host precisely these debates between liberals and conservatives, is that one way that both sides can debate productively? Basically not just setting the policy disagreements aside and focusing on the constitutional disagreements, or do you have other suggestions for productive discussion moving forward?

David French: [00:28:52] Well, it's frankly hard. As a practical basis on a mass scale, it's really hard. You know, through the big sort, we increasingly live around people of like-mind. As we live around, people of like-mind, we reinforce our own biases and we grow more extreme. We channel our interests into the media that reinforces all of those trends.

So, you know, the way I've put it to people who, you know, I live in a precinct that went almost 70% for Trump. And I think in the last, in 2016, I lived in a more rural precinct and it went 72% for Trump. My friends, my neighbors, they support Trump. And one thing that I say to an awful lot of people who say, why?

They often tend to be Christian conservatives, constitutionalists, to the extent that they really think that much about the Constitution in kind of the way that Charles describes, and they say, but what about all of these things that Trump has done? Well, they don't believe that Trump did them. You know, this is one thing that I think is really important to lay out is that if you consumed the media, that the large majority of Trump supporters consume, and that was your source, and these were people and figures you had trusted for years, the odds of you being a Trump supporter go way high.

Because in this telling of this narrative, Trump is a guy who's rude. He's just rude, but he has been persecuted and we don't like him to be rude or maybe sometimes we do because they



deserve it. But he's got a style problem. And the opponents though, his opponents have the substance problem and his opponents are also deceitful and malicious and have tried various coups to destroy the Trump Administration.

And so when that is the narrative, that Trump's flaws is one, if he just tweets too much. And the flaw of the opposition is that they're deceitful, they're malicious, they're radical. Then you begin to see why all of this, why there would be 71 million people who would turn out for Donald Trump. The problem that you have though, is that this coherent ideological support for Trump, that Charles talks about it, I just don't think exists. I mean, I think there's a lot of people who have been trying to put a frame, an ideological frame around Trump and Trumpism, when Trumpism is quite literally the political ambition of one man. And what ends up happening is they identify with him and support him in all that he does.

So if he passes a very Reagan-Ryan like corporate tax cut, yes. If he appoints classical liberal judges and justices, the same kinds of judges and justices that any Republican would appoint, yes. If he does a trade war that other Republicans wouldn't do, yes. If he says he's going to get out of foreign wars, yes. If he increases American military involvement overseas, yes. Whatever Trump does, the answer is yes. And that's what you see every day in the world of conservative media. And one of the things that Yascha is, I think accurate about, is you can have the ideological discussion that in differences in constitutional jurisprudence that Charles is talking about. You don't have to locate it behind a person and advance it through a person who's malicious, who's cruel, who's grotesquely incompetent, and who lies to the American people.

You don't need that vehicle for constitutionalism. And that's where I located, for example, my support for a GOP Senate, where for all their flaws, they're not Donald Trump. And they were more likely to advance policies that I agree with, but through Donald Trump, I don't want or need Donald Trump as an avatar of constitutionalism. Because he's not. He's an avatar of his own ambition.

Jeffrey Rosen: [00:32:38] Anne, Craig Dimitri asks: in light of how most of Trump's GOP allies are refusing to acknowledge president-elect Biden's clear victory as of Saturday. How do you think history will judge them in light of your recent Atlantic article, "History will judge the complicit"? And then I want to broaden that important question out to this question: if David is right that loyalty to President Trump is his personal, will the authoritarian drift that you described disappear once Trump leaves office or will the GOP remain structurally committed to it? And will it continue as a threat and force in American politics?

Anne Applebaum: [00:33:16] So, one of the things I've been wrestling with and which I don't yet know, what I think about, is precisely the point David just brought up, which is namely, is there such a thing as Trumpism, without Trump? Given that actually in practice in office, everything that Trump did was in his own personal, financial or political interest and not in the interest of America, not in the interest of the Republican party, not in the interest of anyone else.

What does it mean to have Trumpism without him? What could that be? And what I do fear it might be is that, the Republican party has learned from him that rules can be broken, that



lies can be got away with, that large parts of the population, millions and millions of people can be misled, using the echo chamber of Fox and other media, using social media, but not only, and that they will then attempt to use that knowledge that they now have to go on to break other roles or perhaps to produce somebody who's even more dangerous. And so what I worry is that, in retrospect, we will look back on this week, this week, when you know, the secretary of state, the, you know, leading senators, refuse to acknowledge the results of an American election -- refuse to acknowledge it -- as the beginning of a downward slope, the beginning of a slippery slope that could lead us to somewhere worse.

Jeffrey Rosen: [00:34:42] Charles, we have Joy Pollock who asks: if you believe the American Constitution limits power on the legislative branch, explain your reasoning that there's not the same limitation on the power of the executive? This is certainly relevant in light of the fact that President Biden, if he is inaugurated, will rule by executive order as much as President Trump did? And then, Joanne and Jay Chronos asked, what happened to Pat Moynihan's comment, that one is entitled to his, her opinion, but not his or her own facts.

Charles Kessler: [00:35:09] Well, the facts are often in dispute. You know, facts and values weave with each other. I don't believe in the radical separation of facts and values. Values are a kind of fact, too, and, facts reflect values. The questions you ask shape the answers that you are looking for, obviously, but I would say the executive orders is a good point here. I mean, Trump has done all he can by a series of inventive and aggressive executive orders. He has not written law in his own name. He has, you know, the constitutional checks, are operational. When Joe Biden takes office, as I expect he will, he will undo all of those executive orders and issue equal and opposite ones in a different policy direction.

The Constitution will be intact. The political system will be intact. The essential norms will be intact. And in the meantime, you know, the president who is presented as an ogre, and would-be despot, has been under investigation and one can only say relentless assault by the media, by the whole establishment of American politics and including a lot of Never-Trump Republicans as well in the, in the Russia investigations in the impeachment.

The constant media scrutiny that he has been subjected to and so forth. All of which is par for the course as it were, because he is pursuing policy goals that raise the ire of a great many people in the establishment. But it seems to me that, you know, in terms of real, where's the real illiberalism in America, it is on the campus left, the academic left, which increasingly influences the mainstream democratic party. We're going to see a very interesting fight within the Biden Administration over just how 'woke' it's going to be, just how many conservative spokesman, how many academics, how many bureaucrats will be listed on the list of prescriptions that the liberals wish to enact against conservatives.

It seems to me that, you know, if you're looking for people, who've lost their jobs because they're insufficiently woke, you could start with the New York Times. There is a kind of really radical anti-free speech, group-think liberalism, which has spread from the campus to the parts of the democratic party, not all of it, but it is increasingly setting the agenda for that party.



If President Trump is anything, he is politically incorrect. And he opposes this kind of political correctness above all else, in a way. That's one of the reasons why he has won so much enthusiastic support from Americans across the country. And despite the constant charge that he's a racist, he has received more of the Hispanic vote and more of the Black vote than any recent Republican presidential candidate, growing his own numbers, even if in a losing cause this year, from where they were four years ago. Blacks and Hispanics find something admirable, increasingly, in this administration, which is not just, you know, it's, this is not a white supremacist in the sense in which the 1619 project indicts the whole constitutional system, and most Americans, as being part of a giant white supremacist conspiracy. If you want a conspiracy theory, which is really being enforced, you have to look to the left, not to the right in this country.

Jeffrey Rosen: [00:38:53] Yascha, Charles just made a strong claim. He said, as you heard, that threats to classical liberalism come, not just or only from the right, but from the left, the 'woke left', he called it, and he suggested that those will continue in a Biden Administration. Your response to Charles's point and then looking forward, you argued in the Atlantic that it's true that to recover its citizens loyalty, our democracy needs to curb the power of unelected elites who seek only to pad their influence and line their pockets, but it's also true that to protect its citizens lives and promote their prosperity, our democracy needs institutions that are by their nature, deeply elitist. This is to my mind a great dilemma that the United States will have to resolve if we're going to survive, disaggregate, in light of the election.

Yascha Mounk: [00:39:38] Yeah. Well, I mean, let me start on the first point. Look, I've written extensively about some of the excesses of what Charles calls political correctness.

I'm not sure that's the right term, but it'll do for this purpose. On the left, I've written about David Shaw, a data analyst, which, who was fired because he pointed to an academic study by the Princeton professor Omar Wasow about the political impact of riots in the 1960s. I've written about a Latino electrician in San Diego, who was falsely accused of making a white supremacist gesture. He's completely apolitical and he's not white. And yet was fired by San Diego Gas and Electric over those accusations. And I've written about the extent to which a sort of orthodoxy is enforced in parts of the media in the United States. And it's often an orthodoxy that actually is far away from the median opinion of Americans and even a median opinion of Democrats.

And I think that's not just a disservice to the readers, it's actually a real disservice to the Democratic party as well. So, I recognize elements of what Charles is saying, and I think we should take those seriously and we should fight against those, as indeed many people on the liberal left are doing. That's why I founded a new magazine called "Persuasion," that is engaged in some of those debates.

Now, I also want to emphasize that to dismiss on the one hand, an actual refusal to accept legitimate outcomes of elections and say, well, Donald Trump is not Caesar, so why worry about him? To ignore, for example, the fact that there's a form of cancel culture going on in the department of defense at the moment, in which officials who are not personally loyal to



Donald Trump, who refuse to do unconstitutional things when they're asked to do so, are summarily fired. To ignore all of those things, while talking about some of the undoubtedly existing axes on the academic left or in the media, is to not put things in the proper perspective, I think. I am worried about some of the things Charles is talking about. I'm a lot more worried about an outgoing president who refuses to accept the legitimacy of the election and fire senior staff at the Pentagon, because they're not personally loyal to him. That seems to me, from a constitutional point of view, a much more concerning form of cancel culture.

To a larger point, I think you're right, that there is a kind of technocratic dilemma that we face in the United States, but also in other countries around the world, in which, you know, an incredibly complicated economic system and incredibly complicated governing system requires real expertise to be governed. And so, one way to deal with that as a creation of institutions like the European Union and other way is independent agencies, so things like the federal trade commission, the FTC, in the United States or the environmental protection agency, and so on, which pass a lot of day-to-day regulations. You know, I think, I think there's a, a real trade-off here, where on the one hand, these agencies often do good work in actually making sure that there's no run on the banks, you know, that we ensure that children don't die of small particle pollution. You know, a million difficult policy areas for which you need real expertise. On the other hand, it is true that as a result, there's now huge swaths of American life and the same can be said of life in other democracies, which are governed by rules, which are, which don't have direct democratic legitimation.

And which certainly most citizens don't feel like they have any meaningful say or control over. You know, I think figuring out how to balance this technocratic dilemma, because we're never going to entirely solve it, is one of the big questions of the next decades and, and there's no easy answers to it but, it's one we should take seriously, including both the need for expertise and some of this rulemaking and the very real extent to which it raises the danger of people saying, well, you've promised me a democracy you've promised me a system in which we get to rule ourselves, you've promised me self-government, but actually I don't feel any form of agency over the very important elements of my life.

Jeffrey Rosen: [00:43:44] David, I detect one important area of agreement among all four of you. And that is consensus that the classical liberal principle, that free speech can only be banned if it's intended to and likely to cause imminent violence, should be preserved and is crucial to the preservation of the liberal order. I know that you embrace that position. You defended it so heroically as, head of Fire, and in your various writings. What will ensure that principle going forward? I believe it has a majority, super-majority on the current Supreme Court. Are the courts enough to preserve the principle of classical free speech in the face of the strong social pressures on both the left and the right against it? And if not, how can that principle be preserved in order to preserve the future of American democracy?

David French: [00:44:31] Yeah. So courts are necessary. They're indispensable. They're not completely sufficient to preserve free speech. We have to have a legal regime of free speech, which we have. We have more protection for free speech right now by overwhelming majorities of the Supreme Court than we've had probably in the history of the



United States, as far as protection from government interference at every level of American government.

That's a marvelous success. And it's a marvelous success has come from left liberals and right liberals who have pursued a robust free speech jurisprudence. But it's not sufficient. You also have to have a culture that respects free speech. You have to have vital American cultural institutions that respect free speech.

And this is where we're beginning to falter, to be honest. We have corporate environments. You've heard of, you know, quote unquote, woke capitalism. You've got corporate environments that will silence employees for, or terminate employees for things that they say privately in their own social media.

Even if they're relatively, you know, they're mainstream ideas or thoughts. You have a sense that, in important liberal institutions that dissent from the consensus is inherently suspect and can place your job in danger. We've seen multiple-- Yascha has written about this at length that there is such a thing as cancel culture.

But what we cannot do is say that there's a cancel culture on the left and the heroic Trump right, fighting against cancel culture. Because the Trump right is infested with cancel culture. Infested with it. I've experienced it firsthand. Threats to defund institutions that I've been apart of, people have been denied jobs in the Trump Administration merely for having retweeted me.

You talk about bad tweets costing someone a career? Merely re-tweeting just me -- well, who am I? -- has cost people jobs in the Trump Administration. Efforts to hound people off of social media, to intimidate people, to shame people. So what we're seeing is sort of a rise of a right that is justifying its existence by the existence of the illiberal left. And has this argument about fight fire with fire. That we're going to do to you, what you have done unto us. And that that's competing political correctness. That's not fighting political correctness, it's competing politically correct, intolerant systems. And so what we have to have is, both on the left and on the right, people have to defend classical liberalism and they critically have to defend it against their own people on their own side, so to speak.

So if you're on the right and all you're doing is fighting left cancel culture, you're not doing your job. If you're on the right and there's cancel culture on the right, you should be fighting that also. Because guess what? The left thrives on opposition from the right. The right thrives on opposition from the left. It has a greater difficulty dealing with that internal in-group opposition. And that's where it requires courageous people to stand up to people who are quote unquote on their own side or in their own tribe, and to say, no, we have to protect a culture of free speech against threats from the right and against threats from the left.

Jeffrey Rosen: [00:47:38] Thank you very much for that galvanizing call to action, calling on both sides to defend classical liberal principles against threats from their own side. Very difficult, of course, in light of the tremendous pressures from social media that lead people to be shamed in just the ways that you described. And that suggests, just to sum up this part of the discussion, that if there are threats to liberal democracy, they come not only from



particular leaders or even, erosions of governmental institutions, but from social media and its attendant pressures. We have time for just a few sentences of closing thoughts and I'll leave it up to each of you to leave us with the thoughts you think best.

So, I'll just tee it up by asking what have we learned from the past four years? And are you optimistic or pessimistic about the future of liberal democracy? Anne, first one to you.

Anne Applebaum: [00:48:25] I think what we've learned, not just from the United States, but from other countries around the world, is that the solution and the answer to the kinds of culture wars that David was just talking about, and this is very profound polarization, is very often not to join that polarization, but literally to change the subject. To get people to talk about things they can do together, whether it's, I don't know, building a road in your local town or whether it's finding a way to recreate public space, a public sphere on the internet.

Finding a joint problem is the answer. One of the things that concerns me about the US right now is that with what looks like we're going to have a split government again, and with it appearing to be again in the interest of the Republican party to maintain polarization in order to keep its voters, is that that kind of goal, which seems to be the goal of the Biden administration from everything that Joe Biden has said in the last three or four days, maintaining that is going to be extremely difficult.

Jeffrey Rosen: [00:49:23] Charles, your closing thoughts?

Charles Kessler: [00:49:25] Yes, it's really, it's the American people, who are responsible for divided government.

I mean, divided government that is parceling out the Senate, House, and the presidency among two different parties at the same time is the norm in American politics. For more than 50 years, almost, 60 years, in fact, if you go back to 1968. Since that time, we've had about three, three times as many years of divided government as of undivided government, which was never the American pattern before.

So in a way, the sixties continue. We're caught in a culture war, which is a profound, political, cultural war. And, we're sort of torn between two visions of America, two understandings of the purpose of America and to what constitutes America. And, that will require a lot of statesmanship, it seems to me, to navigate. Because if the people won't make up their minds to entrust the future of constitutionalism to one party or the other, then the two parties are going to have to coexist in some way.

And statesman in both parties are going to have to come to terms with that. And it's hard to do because at the same time, of course, they want to win and they want to win complete control. But every example, since 1968, shows that the time in which one party has confided control of the whole government is usually two years at most, and therefore, every party feels a need to do as much as possible, as quickly as possible in the first two years, which is usually a bad instinct, constitutionally and politically. But I fully expect to President Trump to leave office, peacefully, if the election results are certified as valid. And I think they will be,



broadly speaking. But the message will survive the messenger, in this case. And the fact that the Republican party running on more or less, a Trump platform, outperformed the president in many places, in many races, indicates to me that Trump's effects will continue, but they will be increasingly less personal and more generally political and ideological.

Jeffrey Rosen: [00:51:39] Yascha, your closing thoughts.

Yascha Mounk: [00:51:40] I've been much more optimistic in the last weeks than most of my friends and colleagues. And I think the reason for that is that the pessimistic lessons over the last four or five years, I've taken onboard a while ago. So the pessimistic lessons are first of all, that modern America can elect a demagogue to be president.

And that's very worrying, but it hasn't been the case in American history for a very long stretch. It has been a case in 2016 and that, I think, should make us all concerned about what kind of politician on the right or for that matter on the left, might get elected in the future. The second point is that it is very clear that a demagogue or authoritarian populist can indeed damage American democratic institutions in a serious way.

There's a lot of people in 2016 who said, oh, the Constitution will completely contain Trump, there won't be any serious damage to our governing system because of the genius of the Founders. Though I love and revere the Constitution, and I love the Constitution Center in part for that reason, you know, I think that's a misunderstanding of what kind of tool the Constitution is.

It's a tool that has to be defended by people. And when the people who are in high power don't have constitutional values, when they think that any division of power or suppression of power, is somehow a personal affront to them, and whenever somebody wants to limit what they can do, they just need to be swept aside.

The Constitution won't guarantee the survival of American democracy. And so I think the last four years have reminded us of how high the stakes are. Now, I do also think, as the optimistic lesson, that first of all, Americans are philosophically liberal by instinct, that though they sometimes vote for illiberal causes and candidates, they actually see the damage that does and are able to correct course, as in my mind they have, last Tuesday.

And secondly, that American institutions are pretty resilient, but it takes time. And it takes a very talented political leader with a lot of discipline to destroy them sufficiently. To, for example, undermine a peaceful transition of power. So, what we are seeing in my mind is an incredible stress test for American democracy. A needless and irresponsible stress test for American democracy. But I think we are also seeing the institutions holding up so far and relative to where I thought we could be at this point in time, when I was thinking about it four years ago, that makes me proud of the Constitution, of American institutions, and cautiously optimistic about the future.

Jeffrey Rosen: [00:54:08] David, last word to you.

David French: [00:54:10] Yeah. You know, America's always been a place of partisan conflict. But the partisan conflicts can be more or less dangerous. We're built to have disputes over



tax rates. We're built to have disputes over gun rights and gun policy. We're built to have disputes over trade policy.

Those are things that our system can handle. It was built from the ground-up to handle that. What we have trouble with is when it is between reason and unreason, between truth and lies, between tolerance and intolerance. To a large degree, a lot of American partisan dispute now, and a lot of our American cultural battles right now are not so much over this policy versus this policy.

But it is over truth versus lies. It is over liberalism itself versus intentional illiberalism. These are things that are very primal. These are things that are very fundamental and if you lose the battle against lies, if you lose the battle against authoritarianism, if you lose the battle against unreason, the consequences are far more severe than if you lose the battle over a particular trade policy or a particular tax rate, or even things like, how far does the first amendment extend --you chip it this way? Or do you extend it that way? And that's, increasingly, what it seems like we're fighting now, is this battle between truth versus lies, reason versus unreason, illiberalism versus authoritarianism. And I look forward honestly to the day, when, hopefully that battle over liberalism versus illiberalism is over, and Yascha and I, who are great friends, can go back to arguing about gun policy. And that will be a symbol that we've passed through what I think is a dangerous period in American life.

Jeffrey Rosen: [00:55:54] Thank you so much. Anne Applebaum, Charles Kesler, Yasha Mounk, and David French for an illuminating, a civil and an inspiring discussion of the future of liberal democracy. Justice Louis Brandeis loved to quote the book of Isaiah, "come let us reason together." And that is precisely what we've done in this illuminating discussion.

We are so grateful to our co-hosts and friends at the SNF Agora Institute. This is the second in a series of conversations with SNF Agora that we hope will be ongoing. And we're so grateful to our panelists for having taught us so much. And friends, thank you for joining. Thank you for educating yourself about the Constitution.

Hope to see everyone again soon. Thank you.

Jackie McDermott: [00:56:41] This episode was engineered by Greg Scheffler and produced by me, Jackie McDermott, along with Tanaya Tauber and Lana Ulrich. As always, please rate, review and subscribe to the show and join us back here next week. On behalf of the National Constitution Center, I'm Jackie McDermott.