
Populism, Elites, and National Security

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The tensions that have arisen of late between populism and elites pose grave risks for the United States and, I believe, for western democracies generally. These tensions extend far beyond their more obvious manifestations in international trade, immigration, and race relations. One critically important area in which they arise is the realm of national security. It may provide a measure of insight to view those tensions through the prism of an “imagined order.”

The idea of an imagined order was developed most recently by the historian Yuval Harari in his book *Sapiens: A Brief History of Humankind* (New York: Harper Collins, 2015). In it, Harari describes how myth systems provide stability. They establish an “imagined order” that structures social relationships only because large numbers of people believe in those myths. Taxes, and armies, are raised, and wars are fought, for the Motherland—or Fatherland—because of the widespread, underlying belief in a myth system. The famous Code of Hammurabi established order in ancient Mesopotamia not because it was uniquely brilliant or logical or even fair but because it was popularly seen as reflecting universal and eternal principles of justice. Social order rested on these myths, not on the Law Code per se. An effective, underlying imagined

A myth system provides social stability.

The National Security State myth.

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order, Harari writes, makes large-scale cooperation possible.

Harari's book caught my attention because in the previous year I had published my own book, on a narrower topic, that was also very much concerned about myth systems in the public sphere. It was called *National Security and Double Government*. In it, I argued that a convincing myth system prevailed in the United States in national security decision-making. That myth system was effective because it concealed a bifurcated system of government that the United States had drifted into in the realm of national security. The three front pieces of that system were the presidency, Congress, and the courts. I refer to these as the nation's "Madisonian institutions." The American people believed that national security was defined by those institutions, whereas in reality most of the decisions were in fact made by the nation's most powerful elite—a largely concealed managerial directorate, consisting of the several hundred leaders of the military, law enforcement, and intelligence departments and agencies of our government. Those managers, I suggested, operated at an increasing remove from constitutional limits and restraints, moving the nation slowly toward autocracy.

Myth sustained by all branches of government.

That is my first point: it was an effective myth system that allowed the national security state to operate smoothly in the United States. This was not a "noble lie" on anyone's part; it wasn't a lie at all, let alone some grand, "deep state" conspiracy. The dualist structure stemmed from simple bureaucratic inertia and familiar patterns of organizational behavior. Those patterns were amplified, however, by a set of incentives that have been deeply embedded in the process of national-security decision-making as it evolved since the Truman administration. Through decades of external threats that were both real and inflated, the courts, the Congress, and even the President had every incentive to defer to the expertise and experience of the security state's managers because no judge, senator, or president wanted to risk responsibility for a devastating national security mistake.

The courts, for their part, developed an elaborate jurisprudence of deference. They dismissed case after case without ever reaching the merits, on grounds of ripeness, mootness, the state secrets doctrine, the political question

doctrine, or lack of standing. Vast realms of the Constitution thus were unenforced by the courts. The principal restraint on the war power, for example, came to be the military and intelligence agencies' own judgment of the scope of their authority.

Congressional oversight, meanwhile, became, in the word of the 9-11 Commission, "dysfunctional"¹—more hindsight than oversight. Congress knew little and cared less about a vast array of activities ranging from black site prisons and torture to the tapping of allied leaders' cell phone conversations and mass surveillance. Senator Ron Wyden (D-Oregon) described the process by which Gina Haspel was confirmed to head the CIA, a process in which Haspel herself decided what information the Senate Intelligence Committee was permitted to see about her. Wyden said it was "an insult to the public and an abdication of [the Senate's] constitutional responsibilities. . . a stark failure of Senate oversight."²

The President, also, had every incentive to defer to the security managers' judgment, with the result that even a President who campaigned on "change we can believe in" ended up continuing the earlier administration's policies on drone strikes, troop deployments, mass surveillance, covert action, whistleblower prosecutions, claims of state secrets, and numerous other matters. The result was virtually unfettered delegation. "The CIA gets what it wants," Obama told his staff.³ He might have said the same about its sister agencies as well. When it was revealed that the NSA was tapping Angela Merkel's cell phone, Obama's national security adviser claimed the President knew nothing about it; as Secretary of State John Kerry confessed, some of these programs were on "automatic pilot."⁴

*Myth systems
that do not
adequately
reflect reality
collapse.*

The managers of the security bureaucracy, for their part,

¹ *Final Report of the National Commission on Terrorist Attacks Upon the United States, The 9/11 Commission Report*, 420 (2004).

² 164 Cong. Rec. S2755 (daily ed. May 17, 2018) (statement of Sen. Wyden).

³ Mark Mazzetti, *The Way of the Knife: The CIA, A Secret Army, and a War at the Ends of the Earth* (New York: Penguin Books, 2013), 228.

⁴ Dan Roberts and Spencer Ackerman, "US Surveillance Has Gone Too Far," John Kerry Admits, *The Guardian* (Nov. 1, 2013, <https://www.theguardian.com/world/2013/oct/31/john-kerry-some-surveillance-gone-too-far>).

understandably resisted policy changes pushed by generalists who knew far less than they did. The bureaucracy they oversee is massive—over 1,200 government organizations, working with around 2,000 private businesses in over 10,000 locations,⁵ with an overall annual budget of about \$1 trillion.⁶ This behemoth is the result of an enormous transfer of power since World War II from the Madisonian institutions to the security managers. It has been driven by incentives that neatly dovetailed: the expert managers naturally sought to resist kibitzing generalists, and the Madisonian officials sought to avoid the risk of career-ending misjudgments. This symbiosis played out behind closed doors, of course, so the transfer of power occurred smoothly; people believed in an imagined order in which the Madisonian institutions were in their heaven and all was right with the world.

You will note that I've used the past tense in describing double government. That brings me to my second point: imagined orders are fragile. As Harari put it, an "imagined order is always in danger of collapse, because it depends upon myths, and myths vanish once people stop believing in them."⁷ Myth systems survive only so long as they produce the real-world consequences that they are expected to generate. When the discrepancy becomes too great between the imagined order and the real order, the myth system is discarded. Therefore, as Harari writes, you never admit that the order is imagined; continuous and strenuous efforts must go into safeguarding it. Managers of the security agencies and officials in the Madisonian institutions therefore fell into an unconscious, parallel routine to prevent that from happening. The practice was: *Always remain publicly on the same page.* Always project an image of harmony. Whatever disagreements might exist

⁵ Dana Priest and William M. Arkin, "A Hidden World, Growing beyond Control," *Washington Post*, July 19, 2010: <http://projects.washingtonpost.com/top-secret-america/articles/a-hidden-world-growing-beyond-control/> ("Some 1,271 government organizations and 1,931 private companies work on programs related to counterterrorism, homeland security and intelligence in about 10,000 locations across the United States.").

⁶ Chris Hellman and Mattea Kramer, "Our Insanely Big \$1 Trillion National Security Budget," *Mother Jones* (May 23, 2012, <https://www.motherjones.com/politics/2012/05/national-security-budget-1-trillion-congress/>).

⁷ Harari, *Sapiens, A Brief History of Humankind*, 111..

behind closed doors, never allow those disagreements to become public. Sometimes they did, obviously, but the myth of a single, unified structure kept the imagined order of double government afloat; if that myth collapsed, I wrote in the book, the entire structure would “fall to earth.”⁸

*New myths
replacing the
old.*

What we have been witnessing over the last year, however, is precisely that: an epic collapse in the image of public harmony. A week has barely gone by in which a salvo was not exchanged between the President and managers of the security bureaucracy. The President tweets that the former FBI director is an “untruthful slime ball,”⁹ compares the CIA to Nazis,¹⁰ describes its former leaders as hacks;¹¹ the security managers and their alumni colleagues respond with a counter-barrage of name-calling and leaks. The *Washington Post* cited nine senior intelligence sources for one critical story; the *New York Times* cited four for another.¹²

Set aside the question of who started it or who’s right: The consequence of this public breach is that there is no longer a unitary imagined order governing the making of national security decisions. The myth system has collapsed. Talk of a deep state is now rampant; the President himself regularly refers to it. Three-fourths of the public now believes there is a deep state, defined as a group of “unelected government and military officials who secretly manipulate or direct national security policy.”¹³ When the public believes that it sees the dark

*No replacement for civic
virtue.*

⁸ Michael J. Glennon, *National Security and Double Government* (New York: Oxford University Press, 2016), 239 (quoting Walter Bagehot).

⁹ Donald J. Trump (@realDonaldTrump), Twitter (April 13, 2018), 5:17 AM.

¹⁰ Donald J. Trump (@realDonaldTrump), Twitter (Jan. 11, 2017, 4:48 PM).

¹¹ Brandon Carter, *Trump slams former US intel leaders as ‘political hacks’*, The Hill (Nov. 11, 2017, <http://thehill.com/homenews/administration/359894-trump-slams-former-us-intel-leaders-as-political-hacks>).

¹² Greg Miller, Adam Entous & Ellen Nakashima, *National security adviser Flynn discussed sanctions with Russian ambassador, despite denials, officials say*, WASH. POST. (Feb. 9, 2017, https://www.washingtonpost.com/world/national-security/national-security-adviser-flynn-discussed-sanctions-with-russian-ambassador-despite-denials-officials-say/2017/02/09/f85b29d6-ee11-11e6-b4ff-ac2cf509efe5_story.html?utm_term=.4d19880d10f9); Michael S. Schmidt, Mark Mazzetti & Matt Apuzzo, *Trump Campaign Aides Had Repeated Contacts With Russian Intelligence* (Feb. 14, 2017, <https://www.nytimes.com/2017/02/14/us/politics/russia-intelligence-communications-trump.html>).

¹³ Monmouth University, *National: Public Troubled by ‘Deep State’*, March 19, 2018 (https://www.monmouth.edu/polling-institute/documents/monmouthpoll_

part of the system sitting right in front of it, in plain view, the whole edifice falls to earth.

The immediate consequence of this collapse has been policy instability. The distinctive feature of double government was always continuity in national security policy—indeed, excessive continuity. For decades, the nation experienced no departures from the existing policy trajectory. But with no symbiotic incentive structure any longer binding officials together, future policy directions are now difficult to predict as Iran, North Korea, China, and America’s NATO allies have all discovered.

What, then, lies ahead? My third point is that demise of the double-government myth system has created a vacuum—and that that vacuum will inevitably be filled by another myth system simply because, again, large-scale cooperation cannot occur otherwise. One can already see the outlines of emerging myths, moving in to fill that void.

The most pernicious embryonic myth is that the Framers handed down a system of checks and balances that is self-correcting. That myth is perhaps the most dangerous one of all. The system is not self-correcting. The myth that it is self-correcting probably derives from the familiar intention of the Framers to set ambition against ambition so as to preclude the rise of autocratic power. That was of course their purpose, but it’s only half of the picture. The other half involves the need for civic virtue, at two different stages. The Framers believed, first, that citizens themselves must be engaged and informed, so as to be able to participate meaningfully. Decision-makers cannot be held accountable unless citizens have enough knowledge and intelligence to do that. The Framers also believed, however, that people must select officials who are committed to advancing the public interest, rather than their own private, personal interest. People have to be wise enough not only to reject another Caesar, but to reject another Crassus.

*Citizens must
be engaged
and select
worthy of-
ficials.*

Absent civic virtue at both levels, they believed that the equilibrium of power would collapse, and democracy would not survive. Like the rest of the Framers, Madison had no doubts in this regard. He said: “I go on this great republican principle, that the people will have virtue and intelligence to select men of virtue and wisdom. Is there no virtue among us?

us_031918.pdf/).

If there be not, we are in a wretched situation. No theoretical checks, no form of government, can render us secure. To suppose that any form of government will secure liberty or happiness without any virtue in the people, is a chimerical idea.”¹⁴ Nonetheless that seems to be just the myth that some educated Americans are now beginning to embrace—the illusion that our government is a machine that runs of itself, whatever the level of virtue among the people.

There is a corollary myth that has emerged alongside the myth that the political system is self-correcting. The corollary is that the security bureaucracy is an appropriate check on elected officials—that its managers are wise, all-seeing guardians charged with commandeering the ship of state when some unsteady captain or crew sails it into the shallows. This myth is of course welcomed by some security managers themselves, who have coveted bureaucratic autonomy for years but have never been willing to stand up and claim it outright. Of course we can appropriately check elected officials, some now think—why any longer be coy about it? A number of former prominent officials have very candidly stated their hope or expectation that their successors will do just that. Michael Morrell, a former acting head of the CIA, worried openly that “the president’s advisers have not been able to properly ‘manage’ the president.”¹⁵ Listen to the recent words of Phillip Mudd, a former top official in both the CIA and FBI:

So, the FBI people—I’m going to tell you—are ticked, and they’re going to be saying, I guarantee it, you think you could push us off this because you can try to intimidate the director, you’d better think again, Mr. President. You’ve been around for 13 months; we’ve been around since 1908. I know how this game is going to be played, and we’re going to win.¹⁶

¹⁴ J. Elliot, *The Debates in the Several State Conventions on the Adoption of the Federal Constitution*, 536-37 (1836).

¹⁵ Michael Morrell, “Three lessons from the Trump-Russia episode (and one is actually good news),” *Washington Post* (May 17, 2017, https://www.washingtonpost.com/opinions/three-lessons-from-the-trump-russia-episode-and-one-is-actually-good-news/2017/05/17/f5bd0230-3b1e-11e7-9e48-c4f199710b69_story.html?noredirect=on&utm_term=.f9d242cbe4f9).

¹⁶ Tim Hains, “Former CIA Official Phil Mudd Warns Trump: ‘Think Again’ About War With Intel Community, ‘We’re Going To Win,’” *RealClear Politics* (Feb 4, 2018, https://www.realclearpolitics.com/video/2018/02/04/phil_mudd_warns_trump_in_war_with_intelligence_community_were_going_to_win.html).

For leaders and activists from both parties, the enemy of their enemy has become their friend. Bill Kristol said that he'd prefer the deep state to the Trump state.¹⁷ Senate Minority Leader Chuck Schumer said: "You take on the intelligence community, they have six ways from Sunday at getting back at you."¹⁸ The *New Yorker* predicted that the intelligence community's managers would challenge Trump before Congress, and it allowed that this was as it should be. The magazine said: "This is just the sort of thing we want to see happening" as part of "the fabled 'checks and balances' in the U.S. system."¹⁹

Now, it is easy to understand the temptation to look to the FBI, the CIA, or the military to step in to fill the vacuum left by Congress and the courts. But this new myth stands the idea of constitutionally delegated power on its head. Under the Constitution, power is delegated to the security bureaucracy, not by it. The bureaucracy was never intended to be a coequal of the three branches of the federal government. It was intended to get power from them, not to grant power to them. Bureaucracy does not even appear in the constitutional blueprint that emerged from Philadelphia in 1787.

Effective security agencies are of course essential in today's world. But they are required to operate within a system of democratic accountability, and we've seen how those agencies behave when they do not. The most comprehensive account appeared 40 years ago, when the Church committee issued its report.²⁰ Its central findings are still worth recalling.

Remember COINTELPRO, the FBI's program aimed at exposing and disrupting the activities of thousands of groups and individuals, people who were engaged in constitution-

¹⁷ Clifford Cunningham, "Neo-Con Bill Kristol Backs Deep State over Trump," *Infowars* (Feb. 16, 2017, <https://www.infowars.com/neo-con-bill-kristol-backs-deep-state-over-trump/>)

¹⁸ Mallory Shelbourne, "Schumer: Trump 'really dumb' for attacking intelligence agencies," *The Hill* (Jan. 3, 2017, <http://thehill.com/homenews/administration/312605-schumer-trump-being-really-dumb-by-going-after-intelligence-community>).

¹⁹ John Cassidy, "Trump Isolates Himself with C.I.A. Attack," *The New Yorker* (Dec. 12, 2016, https://www.newyorker.com/news/john-cassidy/trump-isolates-himself-with-c-i-a-attack?mbid=feed_ns).

²⁰ U.S. Senate Select Committee to Study Governmental Operations, *Intelligence Activities and The Rights of The Americans* (1976): https://www.intelligence.senate.gov/sites/default/files/94755_II.pdf.

ally protected conduct aimed at protesting the Vietnam War or campaigning for civil rights. The FBI mailed hundreds of anonymous letters to civil rights activists; one was sent to Martin Luther King, intending to drive him to suicide. Remember OPERATION CHAOS, the CIA's own domestic spy program, and OPERATION LINGUAL, under which the CIA illegally opened and read thousands of international letters every year to and from American citizens. Remember OPERATION MINARET, under which the NSA placed 1,500 individuals on a watch list and listened in on telephone conversations with no court warrants. Remember that even the Army engaged in domestic surveillance, spying on political officials, anti-war and civil rights activists and church leaders and sharing the information it gathered with the FBI, CIA, and local police departments.

Security services and managers easily go rogue.

These were not rare, one-off pranks undertaken by some lone cowboy. These were painstakingly planned, deliberate operations in which America's most trusted security services, under the direction of their leaders and acting over a period of many years, "turned their dark arts against the very people they were created to protect," as Loch Johnson has written.²¹ Their actions represented a violation of the public trust, an attempt to alter the people's form of government without the people's knowledge or consent. We need to remember how easy it is for zealots, acting in secret and freed from the restraints of accountability, to push the nation slowly and silently toward autocracy. Those who do remember will be in no hurry to trade the illiberalism of elected officials for the illiberalism of unelected security bureaucrats.

I know that some people, liberals as well as conservatives, will still look to the security managers as their white knights. That is their prerogative. I would only suggest that they may wish to consider where their new protectors came down when the first test of loyalty arose—with the nomination of Gina Haspel to be CIA director. Virtually every one of these newly-exalted champions of morality in government—James Clapper, Michael Hayden, John Brennan, Mike Morrell, Leon Panetta, Robert Gates—every one of them lined up behind President

²¹ Loch K. Johnson, *Spy Watching: Intelligence Accountability in the United States* (Oxford: Oxford University Press, 2017), xi.

Trump and pushed for the approval of Haspel's nomination. Their gift to the nation is a CIA director who ran a secret prison where unspeakably gruesome practices occurred, who destroyed records of what happened, and who then continued the cover-up during her confirmation hearings.

A new myth system, for good or ill, will fill the void.

No one can know, at this point, what new imagined order will emerge, or what new cooperative efforts it might enable. It's worth bearing in mind, however, that cooperation in and of itself is neither good nor bad. The defeat of polio will be a triumph of cooperation. So was the mass detention of Japanese Americans during World War II, a shameful triumph of cooperation. It is possible that the President and factions among the security managers will discover that their interests do not conflict but are in fact aligned, and that those mutual interests are better advanced by quiet cooperation than by open hostility. President Trump already struck a new, very different note when Haspel was sworn in, to lead what Trump called "the exceptional men and women of this agency," "the most elite intelligence professionals on the planet."²² My guess is that—if Trump survives the Mueller inquiry and its after-effects—it will be only a matter of time before a "reformed" intelligence community returns the President's affections manyfold, in a mutual admiration society that richly benefits both.²³

Myth systems have a way of adapting to new modes of cooperation, however pernicious or even preposterous. Robert Graves portrays one of those myth systems in his novel *I Claudius*. Claudius watches with growing alarm as his nephew, the emperor Caligula, sinks into deeper depravity, the Roman Senate into deeper servility, and the Roman people into deeper passivity. Claudius finally learns that Caligula intends to proclaim himself to be a god, and Claudius is overjoyed—he thinks, surely this overreach will mean Caligula's downfall. But Caligula comes before the Senate and announces that he has become a god, and the Senate's response is—applause. Ev-

²² Michael D. Shear and Matthew Rosenberg, "Trump Swears In Gina Haspel as C.I.A. Director, Praising Agency as the 'Most Elite' in the World," N.Y. Times (May 21, 2018, <https://www.nytimes.com/2018/05/21/us/politics/trump-haspel-cia.html>)

²³ Michael J. Glennon, "Security Breach," *Harper's Magazine*, June 2017, at 41, 44-45.

everyone is afraid, everyone looks out for himself. No one looks out for Rome. It has been written of this period of Roman history: "The aristocracy knew the truth and suffered in bitter impotence, not least when they derived profit and advancement from the present order."²⁴

At a time when few can remember the headlines from last year, let alone Committee reports of the 1970s, cautionary tales from empires long past are little on our minds. Yet it is not ancient history to recall, again, the words of James Madison: "Is there no virtue among us? If there be not, we are in a wretched situation."

²⁴ Ronald Syme, *The Roman Revolution* (Oxford: Oxford University Press, 1939), 479.