**THE RISE OF THE AUTOCRATS**

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**LAWFARE / BROOKINGS INSTITUTION**

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Ben, thank you very much – that was a wonderful introduction and if you ever come across that editor at the Washington post, please thank them for me. And, Susan, thank you as well for inviting me and thank you to Brookings.

Ben was very kind in the choice selection he made of some of my legislative initiatives and was kind enough to exclude some other that landed with a great big ‘thud’ and went nowhere. I think of one in particular where I was trying to deal with the challenge of how do you handle enemy combatants when they’re arrested; how do you handle the situation of when you arrest someone overseas on terrorism charges. Obviously there has been a tension between the parties on whether they should be treated as an enemy combatant or as a criminal defendant, do they go to the tribunals, do they go to federal criminal courts and the challenge in using the criminal justice system is, among other things, not just the need to present people of Miranda rights, the need to present them before a magistrate in a timely way. That’s generally when people clam up is not necessarily when they are advised of their rights but when they are brought before a magistrate

So, I introduced a bill that I thought might hit the sweet spot of support between democrats and republicans where we would express a sense of congress that the good faith exception to the Miranda requirement that gives you some more time before you advise someone of their Miranda rights ought to be broadly construed in the terrorism context and visa vi the presentment clause that the Attorney general upon affidavit could seek an extension of the time before making presentation to a magistrate under XYZ circumstance and I did hit that sweet spot where neither democrats nor republicans were willing to support it.

I think I hit a similar sweet spot, Ben, in an effort to craft an AUMF that would not cross the GOP redline of restricting the President geographically, but would also provide a recourse in Congress where you could have a war-powers-like expedited vote if a president introduced forces to either amend or repeal the authorization that was granted and that similarly attracted no support from either side, so thank you for being so selective in your choice of legislative accomplishments.

As somebody who spends much of my time thinking about national security and the intersection of policy and law and the distribution of powers under the Constitution, I am very grateful for *Lawfare*.  These issues inspire a lot of passion and a lot of misinterpretation and mischaracterization, but *Lawfare* has provided a space for reasoned and responsible discussion by a range of voices and I greatly thank you for it. How many publications can earn the distinction of being selectively misquoted and misrepresented and appear in a tweet by the president? Ok, actually, quite a lot. But, nonetheless, it’s a badge of honor.

While *Lawfare* is a relative newcomer to our national debate, the Brookings Institution has played a prominent role in the formulation of policy across a range of foreign and domestic issues for decades now.  Along with the government itself, the American electorate, and our free press, Brookings and its peers have come to constitute a crucial fourth leg of the American policy process.  The values of Brookings – *Quality, Independence, and Impact* – are essential to stimulating change and progress and I hope you will continue your important work, especially at this unsettled moment in the life of our nation.

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The past months have left all of us reaching – for an understanding of where we are, for a sense of what lies ahead, for a path forward to meet the challenges, and, sometimes, for the right words to describe the unprecedented. As I often like to say, I’m running out of adjectives and expletives.

In the two months since Inauguration Day, things that seemed once unthinkable now seem routine.  An air of semi-permanent crisis has settled over the nation’s capital, where there is a palpable disquiet that I have never seen in the decade and a half I’ve served in Congress, and I think that disquiet crosses party lines.

Consider the House Permanent Select Committee on Intelligence’s investigation into the Russian Active Measures campaign against the 2016 election.  Yesterday morning, the HPSCI held the first of two open hearings this month – the next will be next Tuesday – a hearing in which the Directors of the FBI and NSA stated unequivocally that a startling accusation of illegal wiretapping made by the sitting President against his predecessor was patently false, rebutted another statement the President issued during the hearing as also inaccurate – a rare opportunity to use the directors to fact-check the president in real time – and informed the country for the first time that the President’s campaign personnel were under federal investigation for possible collusion with the Russians. And all this was before lunch.

I came to Congress in 2001 and vividly recall the [September 11](x-apple-data-detectors://6)th attacks and the weeks that followed.  The tension was palpable back then as well – F-15s patrolled the skies over Washington and the National Guard troops were on the streets of major American cities.  But there was also a unity of purpose, and a resolve that together, as Americans, we would confront the scourge of al Qaeda and win.  There were prolonged and bitter disagreements in the months and years ahead about how to defeat terrorism, but we were united in identifying the threat and recognizing the need to act.

This time is different – despite the unanimous conclusion of the 17 entities that make up the U.S. Intelligence Community that the Russian government sought to sow discord in our political process and undermine the Clinton campaign, there is a seeming hesitancy to dig too deeply into possible collusion between the Trump organization and the Russians, and to ascribe too much to Moscow, lest it call into question the “legitimacy” of the outcome of the 2016 election.

As I have been saying for several weeks, I hope that our committee can transcend partisan division and work together in the coming months to produce a report to which we can all attach our names. This is a difficult test for Congress in an era where the legislative process has too often failed to fulfill even its most routine duties.  And whether we can meet that test is far too early to say. But I certainly believe that it would be in the country’s interest for us to do so. If, at the end of the day, both parties issue competing conclusions, we will have added very little to the nation’s understand of this attack on our democracy.

It is no secret that I do not think that our investigation, or the parallel one being undertaken by our Senate counterparts, should be the last word on this matter.  Last December, former Acting Director of the CIA, Michael Morrell, a man who has devoted his life to keeping this nation secure and who has served presidents of both parties throughout his career, told the *Cipher Brief* that Russia’s interference in the 2016 elections was “the political equivalent of [9/11](x-apple-data-detectors://8).”  I agree with Mike and I have been pushing for the creation of a 9/11-style commission that will have the time, resources, and charter to undertake a truly comprehensive investigation of what has happened.

The Russian attack on our democracy last year was an unprecedented act and it was directed obviously at us and unprecedented in its success.  In fact the Russian government and the Soviets before them have long been working to destabilize their European neighbors – perfecting the techniques that were deployed so effectively here last year.

While Russia has always devoted enormous intelligence resources towards countering what they refer to as the “Main Enemy,” it has had much greater success in mounting political operations in Europe, especially in Eastern and Central Europe, where there are populations of ethnic Russians or economic ties to Moscow.

Many of the same macroeconomic and demographic forces that have buffeted our country in recent years are also present overseas and often to a greater degree.  Across Europe, high unemployment, fraying social welfare systems and graying populations are propelling right wing and populist parties.

The most consequential manifestation of this populist tide was the Brexit vote in Britain last June.  Much as with Hillary Clinton in our own Presidential election four months later, the “remain” campaign was expected to prevail, but instead was overwhelmed by a late surge of older, rural voters – a similar demographic to those who would later propel Donald Trump to victory.

In France, Marine Le Pen, the National Front candidate who shares Trump’s hostility to immigrants, skepticism of NATO and affinity for Putin, is expected to make it through the first round of presidential voting and into a two-candidate runoff [on May 7.](x-apple-data-detectors://11)

In Germany, where Chancellor Angela Merkel faces re-election in September, the far-right Alliance for Germany is expected to improve on its previous performance and will probably meet the threshold required to gain seats in the German parliament.  The party, founded just four years ago, has been riding a surge of support in reaction to the Merkel government’s 2015 decision to admit large numbers of Syrian refugees.

Hungary and Poland, two former Warsaw Pact states that are now members of both NATO and the European Union, are governed by right wing parties that use the power of the state to undermine the judiciary, the press and other pillars of civil society.  Hungary’s prime minister, Viktor Orbán, famously boasted in a 2014 speech that “the new state that we are building is an illiberal state, a non-liberal state.”   In Slovakia, another former Soviet satellite, Prime Minister Robert Fico has presided over a steady erosion of the country’s rankings in terms of governance and transparency as he has worked to restrict civil liberties and judicial independence.

The antidemocratic tide has even threatened countries renowned for their tolerance, progressivism, and commitment to the democratic path.  In the Netherlands, voters last week may have turned back far-right candidate Geert Wilders’ bid to become Prime Minister, but his party increased its seats in Parliament, where it is now the second largest party.

Europe’s illiberal parties are not uniform in their platforms, but they are generally nationalistic, hostile to immigrants, and skeptical of the European Union and greater integration.  Some, like Bulgaria’s Rumen Radev and France’s LePen and Francois Fillon, the French center-right candidate now charged with embezzlement, openly embrace Vladimir Putin and call for easing sanctions against Moscow.  Others, including Polish Prime Minister Beata Szydło, are committed to retaining membership in NATO and the EU.

But, all of them, whatever their ostensible position on Russia, serve the Kremlin’s interest by undermining the political order throughout Europe and especially for the EU and NATO.

This is not the Cold War and the relationship between European populists and Moscow bears little resemblance to the mostly slavish devotion of European communists in earlier times.  Rather, Russia has sought to exploit existing fractures in European societies by means of a simple, but successful recipe that encompasses the following elements:

      Economic relationships – some above-board and some otherwise;

      Political influence, either direct or through cut-outs like supposedly “independent” media or NGOs; and

      Covert influence, such as the acquisition and dumping of emails, personal information and other documents that could be damaging or embarrassing to one party or another, a phenomenon that I call the “weaponization” of information.

A report issued by the Center for Strategic and International Studies last October on Russian influence in Central and Eastern Europe identified these tactics as elements “of Russia’s doctrine of New Generation Warfare, which is ‘primarily a strategy of influence, not of brute force’ and its primary goal is break[ing] the internal coherence of the enemy system- and not about its integral annihilation.”  The objective is simple: to arrest and reverse European integration, to push NATO back from Russia’s borders, and, to the extent possible, recreate Soviet-era influence in Moscow’s Near Abroad.

         The Russians have been using these types of tactics for decades going back to Soviet times, and analysts on both sides of the Atlantic expect their “active measures” campaigns to continue.  In the next few months, France and Germany will hold national elections and authorities in both Paris and Berlin are bracing for a wave of hacking and dumping, as well as the dissemination of misinformation in hopes of unseating Angela Merkel and boosting the fortunes of Marine LePen.

         Whether Putin succeeds will depend in no small measure on whether, and to what extent, the people of Europe recognize the Russian actions for what they are and respond accordingly.  Some early indications, including the Dutch elections I mentioned a few minutes ago, would seem to lend credence to the theory that European electorates, now that they have seen it happen here, will be better able to repel the Kremlin’s attempts to influence their own decision-making.

But alert voters do not guarantee that Putin will fail.  As I mentioned earlier, Trump benefited from Russia’s active measures in spite of the fact that public speculation centered on Russian intelligence from the moment that the first DNC emails began to surface in the days before the Democratic National Convention last July.

Ensuring that the assault by Russia and others on democracy does not succeed must now take its place among the first rank of foreign policy issues – a docket that is already overwhelming and not likely to get any more manageable in the foreseeable future.

We – and here I am referring to the international community of democracies – have a duty to act in concert to protect the electoral process in France and Germany and in other countries where Russia or other antidemocratic regimes are working to subvert elections and distort internal dialogue.

         As the birthplace of modern democracy and its great champion, the United States must lead this effort, but the sense among allies and others is that this is a role that our new President neither desires, nor considers a priority for the United States.

         Several weeks ago, I accompanied Senator John McCain and a bipartisan delegation from both Houses of Congress to the annual Munich Security Conference, which brings together several hundred senior policymakers and experts.  The panels at this year’s gathering focused on the challenge to the West, to NATO, and to democracy itself.

But there was really only one question on everybody’s mind in Munich that weekend– where is America?

On the stage and in the hallways, everybody wanted to know why the new President and his team have so suddenly, and with so little forethought, abandoned America’s traditional place as the leader of the world’s democracies.  That sentiment has only intensified in the weeks since and when Chancellor Merkel visited the White House at the end of last week, much of the commentary on both sides of the Atlantic echoed *Politico*’s headline: “The Leader of the Free World Meets Donald Trump.”

While in Munich, I attended a small dinner organized by Irish rocker and global humanitarian [Bono](x-apple-data-detectors://12) – that’s one of the advantages of traveling with John McCain, a dinner with Bono and Bill Gates, that’s pretty sad company really. I actually have a bone to pick with Bono – no one man should have that much talent because it leaves a lot less for the rest of us. He’s not only a brilliant musician, and obviously a world class philanthropist, but he speaks like a poet.

And after he was done discussing efforts that he and others are making to end extreme poverty and preventable diseases, he affectingly reminded my colleagues and me when he said something really precious about America. He said: “I’m very proud to be Irish, I’m very proud of Ireland. But Ireland is just a country, America is also an idea.”

As an American, hearing [Bono](x-apple-data-detectors://14)’s words, and those of a parade of world leaders visiting the White House – Canada’s Justin Trudeau, Irish Prime Minister Enda Kenny, and, most recently, Chancellor Merkel – who have pointed out and pointedly reminded the President of America’s proud heritage as both the Land of Opportunity and as a sanctuary for those in peril. This has been both remarkable and humbling.   And it has impressed upon me the damage that his Executive Orders are doing to our international reputation, separate and apart from the damage to our national security.

In 1990, former President Ronald Reagan traveled to Westminster College, the site of Winston Churchill’s famous “Iron Curtain” speech to keynote the dedication of a Cold War Memorial constructed from eight sections of the Berlin Wall, which had come down only the year before.

Towards the end of his remarks, Reagan addressed the students directly:

He said: “I received a letter just before I left office from a man. I don't know why he chose to write it, but I'm glad he did. He wrote that you can go to live in France, but you can't become a Frenchman. You can go to live in Germany or Italy, but you can't become a German, an Italian. He went through Turkey, Greece, Japan and other countries. But he said anyone, from any corner of the world, can come to live in the United States and become an American.”

That essence of renewal and rebirth has always been at the heart of what America means to the world.  It is why governments and hundreds of millions of ordinary people around the globe are so concerned.  And if we are to restore America’s place as guardian of democracy and the American President as the leader of the free world, we must begin with a repudiation of this ill-conceived and odious order and the indiscriminate crackdown on undocumented immigrants.

Proving once again the unique genius of the Founders, the courts have stepped into the breach to block implementation of both of the President’s immigration orders, but it does not alleviate Congress from our responsibility, as a co-equal branch of government, to look for better, fairer, more humane ways to secure our borders.  And if Congress as a whole will not speak out, then my party must.

Returning the welcome mat to America’s doorstep is one of a number of steps that Congress can take to turn back the tide of illiberalism abroad and reassert our traditional leadership of the international effort to enlarge the circle of freedom.  But, there are others.

 First, the world’s superpower deserves a first-rate diplomatic and development corps, properly resourced and with the capacity to direct and disburse effective foreign assistance that also advances our national interests around the world.  The proposed cuts to the State Department and USAID would fundamentally impair our ability to conduct a range of vital work around the world and must be opposed and reversed.  Congress, through the appropriations process, has the power to reject the gutting of our diplomacy and I am confident that we will.

Second, the promotion of human rights has always been at the heart of American foreign policy, yet the new Secretary of State, Rex Tillerson, did not even bother to show up for this year’s release of the report on human rights, a sharp break with the practice of previous secretaries.  I hope that the new Secretary will look for ways to highlight support for human rights going forward.  Here, too, Congress has the power to act – to impose sanctions such as those authorized under the Magnitsky Act; by directing or withholding spending; and by using the bully pulpit of the Congress to shine a spotlight on particularly egregious cases, as I and others have been doing for the past decade through the Congressional Caucus for Freedom of the Press.

And in this context I think about people all over the world who look to the United States. I think about those young protestors in Tahrir Square before their revolution was hijacked by the Islamists. Many of them now are in prison and others are worried about going to prison, and I think that they must look to the United States and wonder – are we still here? Do they still have an advocate? Do they still have a voice?

And if that voice doesn’t come from the White House, it is incumbent on Congress to be that voice.

 Third, we must respond to manipulation of the media.  The creation of actual “fake news,” state-sponsorship of networks like RT in Russia and China’s CCTV, and armies of Internet trolls who help to amplify and spread malign content,  are effective tools to undermine democracy and pluralism and keep the West off balance and on the defensive.  Rather than slowly starving our international broadcasting programs, which for seven decades have been bringing “real news” and hope to millions trapped by oppression, Congress should dramatically increase our ability to meet the challenge by expanding languages and platforms and ensuring that content is relevant to a contemporary audience.  We also need to direct assistance to strengthen independent media in the states along Russia’s frontiers, which are the target of relentless pro-Moscow propaganda.

Fourth, we must continue to work with our international partners to share intelligence on attempts to undermine democracy.  According to press reports, it was a tip from British intelligence that first alerted our government that Russia was hacking into the DNC, and our best guarantee of success is collective action and constant vigilance.  Through the annual Intelligence Authorization Act and our ongoing oversight, this is an area in which the two intelligence committees in Congress can be extremely helpful and I intend to push for additional sharing on Russian activities.

Finally, we must reaffirm our commitment to the alliances and international structures that we created in the decades after the Second World War.  The UN may be maddeningly imperfect, our NATO partners may not meet their funding commitments, and it may seem that we are on the short end of trade disputes, but the global system that some see as so constraining, is, by and large, an American work product and one that locks in structural advantages for the United States.  Congress should reject cuts to the UN and other international organizations and forcefully restate our commitment to NATO and our other allies around the world.

These are a few things that we can do outside of our borders to strengthen the general capacity of the West to defeat “active measures” and other hybrid campaigns against our politics, but this is a battle that must also be fought at home.

The Russians, and the Soviets before them, have long sought to interfere in our elections.  The difference is that this time they succeeded.  Perhaps their tradecraft was better and their ability to use WikiLeaks as a conduit to dump thousands of emails directly into millions of homes made the attack more effective.

Or, perhaps, we were more vulnerable than we realized to an attack of this sort.

For several decades now, since the Watergate era, a range of American institutions, including the press, has fallen dramatically in the eyes of the American people, as has trust in government.  The growth of highly partisan media, amplified by megaphones like Fox and Breitbart, have made our politics so tribalized and so focused on zero-sum victories that any expression of bipartisanship is subject to criticism.

When we are inclined to believe the absolute worst about each other, is it surprising that an attack comprised of hacked and dumped material that reinforces a pre-existing opinion was so effective?

In the short run, Congress can work to institute early warning systems that dictate procedures by which the intelligence community can forward timely notification to the President, the Congressional leadership, and the affected party as soon as a suspected “active measures” attack is detected.

We also need to look for ways to more actively engage the public in warning them of the provenance of what they are reading or watching.  Much of this effort will have to come from private industry, and Facebook, Google and others are engaged in efforts to combat the plethora of fake news that was disseminated on their sites.  Their work is decidedly in our national interest and we should be looking for ways to support it, consistent with our commitment to free expression.

We must also do more to harden our political infrastructure to mitigate the chances of intrusions and possible manipulation of state voter rolls, or other data necessary for the conduct of elections.

And, clearly no President can allow an attack of this sort to continue without make public attribution and informing the public. I understand the dilemma President Obama found himself in, but his voice would have been critical in ensuring that the full dimensions of the Russian meddling penetrated into the electorate’s consciousness.

Ultimately, however, the Russian effort succeeded in its goal of undermining support for Hillary Clinton and in the democratic process more generally because we allowed it to.

I have said it twice before this morning, I will repeat it for a third time now, media reports, from the beginning, pointed to Russian involvement; everybody knew what was going on and who was behind it – while it was occurring.  When Donald Trump, on July 27, 2016, called on Russia to hack and release Hillary Clinton’s e-mails, he was doing so in response to the nearly universal belief that Russia was behind the dumping of internal DNC communications.

Nevertheless, Trump, his campaign, and news outlets from coast-to-coast gleefully pounced on the emails from senior DNC staff and from senior Clinton campaign aide, John Podesta, without much hesitation given how and why it ended up in their hands.

Worse still, was the receptivity of huge swaths of the American public to Moscow’s ill-gotten gains.  This must never be allowed to happen again.

To do that, we must harden our population against these types of attacks and simultaneously work to detoxify our politics.  Neither will be easy.

We need to prepare the American people to recognize and reject these types of attacks when they occur. Finland, which shares a long border with Russia and has been the target of protracted active measures campaigns going back decades, relies on strong institutions and a well-educated populace as its first line of defense against its enormous neighbor.

In the U.S., the state of civics education is woeful and it is an afterthought for many school districts in an era when parents (and many future employers) want a greater emphasis on science and math.  That needs to change and America’s schoolkids need to have a much more consistent and detailed exposure to civics all the way from K-12.  Not only will it build a population that is less susceptible to manipulation, it will have the added benefit of boosting our embarrassingly low voter participation rate.

Finally, no active measures campaign will succeed against a government whose citizens believe that it is serving their interests and discharging its duties honestly.  Russia succeeds where there is mistrust and a lack of confidence in government and in other national institutions.  That is the case in this country at the moment, and I am reminded almost daily that I am a member of an institution with an approval rating in the low single, maybe the low double digits.  The American people see us as ineffective, corrupt, or both and they desperately want us to work together to solve the nation’s problems.  When we repeatedly fail to pass appropriations bills; when nominees for senior government posts languish for years in the Senate, or when simple debt extension votes become an occasion for political hostage-taking, we are doing Putin’s work for him and preparing the ground for his next attack.

We may be in an era when neither party can afford to give an inch, but at some point both Republicans and Democrats are going to have to re-learn the art of compromise and to redefine “victory” if the American experiment is to flourish and if we are to beat back the challenge of nativism and foreign attacks on liberal democracies.  For nearly three decades now, the old ways of consensus and cooperation have been eclipsed by a [24/7](x-apple-data-detectors://18) brawl in which truth is the first casualty and all of us lose.  That has to stop, for all of our sakes.

And the hunger for cooperation – any kind of cooperation – is there.  When two of my colleagues from Texas, Democrat Beto O’Rourke and Republican Will Hurd, drove together from Texas to Washington to escape last week’s snowstorm, it made the news all the way around the world.

Liberty and democracy are not our birthright to be taken for granted, and the United States of America is not exempt from the siren song of authoritarianism, nor are we invulnerable to the machinations of others.  Our democracy has been paid for with blood and it must be nurtured and treated with reverence.  In some respects, our commitment to popular sovereignty is a point of vulnerability, but it is also our greatest strength.  If Putin and other undemocratic leaders around the world were not so fearful of the appeal of liberal democracy, they would not seek to weaken it.  Now that we know the enemy within our midst, it is up to us to rise to the challenge.