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WEBINAR

FOUR MONTHS INTO THE TRUMP ADMINISTRATION: HOW HAVE US POLITICAL  
INSTITUTIONS RESPONDED?

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PANEL DISCUSSION:

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**WEST:** Good afternoon, I'm Darrell West, a senior fellow in the Governance Studies program at the Brookings Institution. So, it is four months into the Trump administration and there has been a flurry of executive orders and government reorganizations. We've seen major budget and staff cuts and some agencies have been almost entirely eliminated. At the same time, there has been a dramatic tariff war with many countries around the world, including our allies in Canada and Europe. And now, Congress is considering a major tax bill that, if passed, would make dramatic changes in U.S. Fiscal and social policy. Today, we want to examine how the legislative and judicial branches have responded to these initiatives and what the role of Congress and the court should be in dealing with administration changes. There are lots of interesting questions here concerning the rule of law, due process, and the cabinet confirmation process.

To help us understand these issues, we're delighted to have four distinguished experts with us. Sarah Binder is a senior fellow in the government Governance Studies programs here at Brookings, and she writes regularly about the Senate and its arcane processes. Quinta Jurecic is a fellow in Governance Studies and a senior editor at Lawfare, and she writes about the presidency and executive power. Molly Reynolds is a Senior Fellow in Governance Studies and she works on Congress and Fiscal Processes and Katie Dunn Tenpas is a Visiting Fellow in Governance Studies and the Director of the Robert Katzmann Initiative on Improving Inter-Branch Relations in Government. And she has written on the presidential confirmation process. And for those of you who have questions during the course of our event, you can send them to us at [events@brookings.edu](mailto:events@brookings.edu). That's [events@brookings.edu](mailto:events@brookings.edu). So Quinta, I'd like to start with you. You write regularly about executive power in the United States, and we've obviously seen a number of very dramatic moves from the Trump administration over the past few months. How would you assess Trump's actions so far and what worries you the most about what is taking place?

**JURECIC:** Hi, I'm unfortunately having some trouble with my video, but if you can hear me, I am happy to chime in.

**WEST:** Yes, we can hear you just fine, so why don't you go ahead.

**JURECIC:** Excellent. Thank you so much. So, I think what we are seeing is an administration that is really committed to a vision of governance that is effectively opposed to anything that really constitutes a check or balance on the executive branch. Thank you, sorry about that, that difficulty. I think we started seeing this almost immediately when the administration really kind of came in with the bang with the crisis over impoundments by which I'm referring to a sort of holding back, excuse me, sorry, holding back money from being distributed that had been appropriated by Congress. I think some of the most dramatic instances of this involved the freeze by the Office of Management and Budget of billions of dollars in federal grant money. And then, of course, I think you can also put into that category really the wholesale destruction of agencies like USAID, which are provided for by Congress in statute. And what the administration was really doing there was indicating, you know, that it was not respecting the congressional power of the purse, which is, of course, the weightiest power that Congress has in the constitutional system.

I think I would be comfortable describing it as a direct attack on Congress as a coordinate branch of government. I think that a lot of people have kind of wanted to, you know, wait to see a direct disobedience of a court order from the administration before declaring, you know, we're in a constitutional crisis. But I will say for my money, that is sort of where the crisis started with the executive essentially declaring that it did not have to respect the authority of other branches of government. And it has extended subsequently to similar disrespect of the judiciary. We have not seen outright defiance of a court order in the way that I think many Americans have come to imagine of, you know, the Supreme Court giving the administration a direct command and the administration saying that it simply won't take that action, like the apocryphal Andrew Jackson quote, "Jen Marshall has made his decision, now let him enforce it." What we have seen is sustained recalcitrance by the administration to abide by court orders, really dragging its feet, sort of hiding in increasingly complicated sort of technical and linguistic mouse holes to come up with rationales for why it doesn't have to abide by what courts are telling them to do.

Well, at the same time, the administration goes out and attacks judges, often by name. Um, in really disturbing language. Um, and so while we haven't seen a sort of, uh, particularly, you know, clear-cut example of outright defiance of a court, I think we have seen a lot of activity that comes very, very

close to that bar. Um, actually I will say that just before this panel I was listening into a hearing in the U.S. District Court for the District of Massachusetts where it's a little unclear, but a judge found that the administration had actually acted in contempt of an order that he had issued previously by removing a number of individuals who are immigrants to South Sudan without providing them adequate notice or opportunity to contest that removal. The administration has some sort of very narrow arguments as to why that was acceptable, but the judge did find that it was outright disobedience of the order. Again, I think that this all sort of combines to sketch a picture of an executive branch that doesn't respect the authority of Congress, doesn't the authority the judiciary.

And so that leaves me to the last part of your question about what worries me about where this is headed. I think we have actually seen a pretty strong response from the courts. Not across the bar, there are a lot of district judges in our system, but overall the courts have been pretty strong and pretty unified in pushing back against the most egregious actions from the administration, regardless of the party to which the president who appointed the judge belonged. What I think is concerning is that a lot of these instances, judges are sort of being put in circumstances where the judiciary is just sort of not capable of responding quickly enough. These are political crises. There are many instances where the administration is taking actions that are illegal, but a court isn't capable of acting quickly enough to bar an action from happening. So, I think the destruction of USAID is a good example. There are also cases where the administration is doing things that are legal, and a court can't step in, and the actor that should be taking action is Congress.

And then there are cases where, the administration was doing things that are illegal, but the courts don't really have the power to step in because the body that should act is Congress. And so I do think we may be seeing a situation where the sort of energy... Opposition to some of the administration's overreach is kind of being shunted through the courts in a way that actually has a really distorting effect because Congress, and specifically congressional Republicans, are not making use of their own institutional authorities. Um, and Molly and Sarah will talk more about what that might look like, but it strikes me that more than anything, I think that the legal system is doing its best to hold on. It's the political system and the ability of the political system to respond to the concerns made of us.

**WEST:** Well, Molly, Quinta just name checked you on Congress, and of course you do have tremendous expertise on Congress. There've been many complaints that Trump has overridden far too many legislative prerogatives in the budget policy and personnel areas. How do you evaluate what you're seeing from Congress?

**REYNOLDS:** Sure, thank you, Daryl. So, I want to start, I think, by saying that we're living with two simultaneous realities. First, as Quinta talked about and I'll talk about a little bit more, the Trump administration is engaged in a dramatic incursion into congressional power and Congress, again as Quinta said, particularly congressional Republicans, excuse me, have yet to throw their full weight behind pushing back against that. Second, in areas where there really is no way around Congress, where if some change is to be made, it really does require congressional action, congressional Republicans who hold a majority in the House and a majority in the Senate, and there's a Republican president in the White House, they are still confronting large divisions within the party that are shaping their ability to act decisively. So, to start with the first bucket and kind of pick up where Quinta left off, I think we can put the ways that the executive branch is overstepping its bounds into congressional power into a couple of different categories.

So, the first, as Quinta talked a little bit about, are actions where the executive branches overstepped into Congress's spending power. Some of these do, in fact, constitute illegal impoundments. Quinta makes a really helpful distinction between things. That might be unconstitutional versus things that are constitutional but might still be illegal versus things um that are damaging to congress institutionally even if they are technically legal for the executive branch to carry out, but we have this sort of class of actions that constitute intrusions of the congressional spending power. We also have a set of actions that disregard Congressional authorizing decisions, the decisions that Congress has made separate from its decisions about how to allocate funds. Here I think this is particularly true around the existence of particular federal agencies.

So, thinking about the dismantling of agencies that Congress set up legislatively like the USAID, the Consumer Financial Protection Bureau, the Department of Education, any number of smaller agencies that are also getting dismantled by the executive branch despite explicit congressional

decisions to authorize the existence of those agencies. And then the third category that I would put on the table are actions that overstep Congress's choices about the appointment power. So, I think probably both Sarah and Katie will talk about this a little bit, but the administration is aggressively trying, for example, to undermine congressional design choices about making certain agency heads subject to removal only for cause rather than at the president's discretion. This includes, for example the commissioners of the Federal Trade Commission. So, this is another way in which Congress has made a choice in this case about what kinds of officials should be the head of certain kinds of agencies that the executive branch is also seeking to undermine. So as both Quinta and I have said, Congress, particularly congressional Republicans have not really pushed back in an institutional way.

Why is that? I think on the Republican side of the aisle, we have some combination of agreeing with what President Trump and other officials in the executive branch are doing. I think there are congressional Republicans who believe that the federal government should be smaller, it should do fewer things. Maybe if left to sort of their own devices, they would unwind some of these things in a more orderly way. But if the effect of what Trump is doing is that the federal government can't do things, then that's something they agree with. I think there's some number of congressional Republicans who probably fear President Trump politically, the idea that they might face a primary challenge or otherwise be made politically uncomfortable by pushing back against what the Trump administration is doing.

I also think there are some congressional Republicans, particularly in the spending context, who believe that when the Trump administration, the DOGE apparatus comes for things that are important to them personally, comes for particular federal facilities in their state or district, that they, because they are also Republicans, will be able to work personal connections to try and ameliorate those effects on things that they actually care about. On the Democratic side of the aisle, we certainly have seen Democratic members of Congress very vocal in opposition to what the Trump administration is doing. In some cases, using the tools that they have available to them as a minority, which because they are in the minority are not nearly as extensive as the ones available to them in the majority.

I will also say that I think Democrats are, in figuring out how to respond to what the Trump administration is doing, facing some political challenges, including some political challenges that are not new to Republicans, but are in fact newer to Democrats. And here I think this is particularly true in the context of a demand and pressure that some Democratic members of Congress feel from their constituents and from kind of democratic base nationwide to sort of fight and engage in fighting for the purposes of doing so, like that's the goal, as opposed to engaging in political conflict as a means to some sort of policy end. This is not a new phenomenon for Republicans. This dynamic and this pressure for fighting has characterized the Republican Party at least back to the start of the Tea Party era in 2010, but it's a newer experience for Democrats.

And really, there's some amount of kind of mismatch between the nationalized political environment and the groups-based nature of the Democratic coalition. And let me say something briefly about the other thing that I mentioned, which is areas where congressional action is necessary. So, Daryl mentioned at the top the major tax and social safety net bill, the One Big, Beautiful Bill, if you will. I probably don't need to walk through all of the ins and outs of the Republican divisions over this bill, but suffice it to say that as we speak, House Republicans are still trying to figure out how they can get this bill across the first of a series of finish lines so they can go up to the floor for a vote in the, and as we all know from having watched that play out, that process is really being affected by intra-party divisions within the party.

**WEST:** So, Sarah, I'd like to bring you into the conversation. And I know you've written extensively about the role of the Senate. How have senators in either party dealt with the whirlwind that has been the Trump presidency?

**BINDER:** Sure. So, I think it's helpful for us to go up a level of abstraction and then to hone in to the answer to your question about what senators are doing. So, if we go up to the proverbial 36,000 feet, there are a couple of things I think we see that are important here. First, and obviously, electorally, this is, as we've all been saying, this is not your grandfather's or your father's or mother's Republican party, right? Let alone, your older sister's Republican party, right? So, in the Senate, just two Republican senators were first elected with Trump in 2016. But today, roughly half the Republican

conference of over 50 senators, roughly half have come in since 2016. So, it's not, you know, two thirds, it's is not all Trumpian, but a good portion of that Republican conference came to the Senate based on these Trumpian voters back home. And so that's yielded a mix of kind of what we might think of as new establishment, conservative Republicans like John Cornyn versus the more mega Trump Republicans, Eric Schmidt, Missouri, and a handful of others who've come in more recently. But all of them need those Republican MAGA voters back at home, right? Maybe not Susan Collins and Murkowski from Alaska.

So, it's a Senate that is inclined, a Republican Senate that's inclined to be responsive to Trump and his demands and not to cross him publicly, right? For lots of examples that Molly gave, right, in the House Republicans in some Senate, like going privately to the White House and begging essentially to have funding restored. So electorally, it's quite different than we're used to. Second, of course, era of slim majorities. This one's not quite as small as some of the more recent ones, 53 Republicans, but very far from 60, the magic number in the Senate for cutting off debate. And in other words, outside of reconciliation, it's really a struggle to do anything with needing to get Democratic votes. Third, very clearly, we've sort of all hinted at here, right? The politics are just dominated by Trump. Unified party control. It is really his agenda. The job of the party leaders here is to carry water for the president.

And as we've all seen, everything's being pushed into reconciliation. Even though we might think that kind of, Trump, you know, flies in once in a while, twists arms, probably literally, when he needs to. But it doesn't seem that White House officials are really on the ground all that much in trying to bring these Republican differences to conclude those deals. So, and then just to tack on to be clear when we're thinking about what the Senate behavior is here, this is many people will say, that as we've been all suggesting so far, like Congress is sort of not up to the task of standing up for the institution, this is not a new problem for Congress. When I say problem, it's because Molly and I, we're students of Congress. This is decades in the making of delegation of authority to the president when lawmakers pretty much electorally don't want their hands on the power. And it's very hard to muster political will to regain and to claw that power back. So, to answer your question, what's the implication here? Very few incentives for bipartisan cooperation in the Senate.



There is more than meets the eye. Even today they're working their way in a bipartisan way on some crypto bill. Do not ask me what a stablecoin is, but that's what there seems to be bipartisan support for regulating in some fashion. But what does that mean? It means senators are just focused on the things they can do with majority support. They can confirm nominees. They can repeal rules and things that look like rules issued by the Biden administration, they can do that. And of course, they could do reconciliation because filibusters are banned on all of those. Having said that, what does that leave us? Very limited, right? There's not much else on the congressional agenda. It's really being stuffed into that one Big, comma, Beautiful Bill. And then third, I think this is important to keep in mind as we watch this reconciliation play out and what senators are going to be doing, right? By prioritizing majority rule measures, really, most of the news reporting is about differences within the Republican Party. And those are real.

They're real within the House, they're real in the Senate, and they're between the two chambers, Republicans in both chambers. But that's where all the attention has been. But those differences pale in comparison to the differences between the parties. Right. And so, I think we get lulled into the sense that these factions and the Republicans are kind of detrimental to their to their goals. But my guess is at the end of the day, whatever that day is, they're going to find a way to get onto the line. Nobody wants to sink the Trump's agenda for all the reasons that we've been talking about. So, a bit of a rocky road ahead for these senators, but they seem to be kind of watching and waiting and not really trying to get out ahead of Trump and rarely, sometimes, but rarely, really challenging what the administration is up to.

**WEST:** Katie, I know you just published a major study looking at cabinet confirmations under Trump and comparing them to the last few presidents. So, what did you find in that study? And how does Trump compare to his first term, as well as that of other recent presidents?

**DUNN TENPAS:** Yeah, the data are actually quite interesting and the whole project of looking at not only the pace of Senate confirmations, but looking at the gender and ethnic diversity came about in 2020 because, then candidate Joe Biden, was talking about if he were elected, he would create a cabinet that was diverse. So, in order to sort of test that sort of promise, what I did was I went back to

George W. Bush, I looked at the first 100 days of confirmations. Second then the first 200 days and then 300 days to try to get a sense for how the presidents, from George W. Bush through Joe Biden, sort of stacked up in terms of pace of nominations and diversity. So, adding Trump, number two, to this data set, what I found is that the pace of President Trump's nominations and confirmations has been much faster than it was during his first term. And it's the second fastest in this group of presidents. There were 45 individuals in the major cabinet departments, the 15 cabinet departments that are in the line of presidential succession.

There were 45 and the president that had slightly more than that was president Barack Obama who had 63. I attribute the increased pace to a couple of reasons, at least a couple, but one I think that Project 2025 and the American First Policy Institute were filled with former Trump staffers who realized that if there was a chance to get him reelected in 2024, they would do it in a much more professional way, a more organized way, and therefore more efficient and possibly more influential. And so, I think there was more advice that was taken by the president and his people. And as a result, they saw a larger number of individuals confirmed across the 15 cabinet departments. Of these first tranche of appointments, only one needed to be broken by a tie, and that was Defense Secretary Mike Hegseth. And so, Vice President Vance needed to make an appearance on the Hill. As Sarah mentioned, the margin of 53 Republican senators really has helped enable President Trump also to have this quick pace.

Again, there haven't been very many objections. Like I said, only one nominee resulted in a tie vote that had to be broken. So, you can see that they are working together. Senator John Thune, the minority leader is clearly able to sort of. Marshal these individuals to sort of vote in the way that he hopes and that Trump wants them to vote. In terms of gender and ethnic breakdown, Trump too, is a far cry from Trump one and all of his predecessors. So, for instance, there are 84% of the nominees in this first tranche are male. When President Trump was president in 2017, it was 74%. So, there's been a 10% decline in the number of women that are represented in this tranche of nominations and confirmations. Sorry, confirmations. And in terms of ethnicity, the same thing. 84% of the individuals are white, 16% are non-white, and that represents a 10% drop from 2017.

I would say this demonstrates sort of his consistency and adherence to ending DEI programs, it sort of reflects Project 2025, the America First Policy Institute, their sort of philosophy going forward, and it is showing the numbers quite starkly. And I think I'll leave it at that, but I'm happy to answer any questions.

**WEST:** Hey, thank you. You know, that's very helpful. And anyone who wants to see the results of that study, you can check it out. It's on the Brookings website at Brookings.edu. It's also important, I think, to discuss the role of the courts. We've gotten into that a little bit. But there have been over 200 lawsuits already against the Trump administration on personnel, a budget, and some policy things that he has put into practice. They are winding their way through the judicial system. And I'm just curious how you assess the role of the courts and how judges have handled the Trump move so far. Maybe Quinta, we can start with you.

**JURECIC:** I think the courts have been strikingly aggressive. And I want to clarify specifically what I mean by that. During the first Trump administration, specifically, I'm thinking of the litigation around the travel ban, which so in its initial iteration was simply a total ban on entry from citizens of seven majority Muslim countries into the United States in February 2017. Judges were very aggressive in ruling against that ban and some of the subsequent iterations, even in ways that sometimes involved kind of pushing the limits, let's say, of what the law clearly allowed them to do. The issue was sort of, well, we have this policy under an administration that had a more sort of typical president, perhaps if the White House came out with this order that said, you know, we're going to ban entry into the US from members of these nations, we might accept that at face value, but can we really do that, given that this is signed by a president who spent time on the campaign trail saying he wanted to ban all Muslims from entering the United States?

And so, there was this kind of push and pull with courts really trying to figure out how can we calibrate our normal posture of deference to the executive branch. With the fact that this particular president has said some things and acted in some ways that rightly should make us skeptical of what he's doing here. And I think they kind of leaned ahead a little bit on that. What we're seeing this time, I think, is actually it's not a situation where these are actions that under another administration might be entirely

acceptable, and it's really the question of this administration that throws them into doubt. It's that the administration is taking actions that we have never seen before and that under no other president would we expect to see. So, you know, I'll go back to the example of impounding millions of dollars of federal grants, getting rid of federal agencies left and right, attempting to lean on private security guards to sneak into the US Institute of Peace. Those kinds of things don't happen under what we previously would have considered a normal presidential administration. And so, judges in some ways I think are actually being faced with an easier task now of responding to actions that are very obviously illegal and unconstitutional. And they're doing so with remarkable speed.

I mentioned earlier that the courts had been slow compared to what we might expect from the political process. But they're still acting quite quickly when we compare them to how courts usually act. We'll have temporary restraining orders that are issued within 12 hours of a complaint being filed. Really astonishingly fast turnarounds. And they're also getting creative when it comes to how they're responding. So, thinking aggressively about what it means to create circumstances where the administration is kind of forced to do what the court says, really boxing the administration in rather than relying on the good faith of White House or to say Department of Homeland Security, whose good faith the courts I think no longer think that they can trust. And we're seeing that manifest in a number of ways, but I think it is becoming a very clear pattern.

Um, where courts essentially just no longer can take statements made by the government at face value when the government makes them in court. Um, and so I would expect that what we would see, you know, over the coming months and years, the rest of the second Trump administration, we would see that kind of build into a jurisprudence of its own, and you already see judges pointing to past skepticism by previous judges. Voicing concern about how the administration has handled things when they're ruling against the government. So, in that sense, I think you might be able to tell a positive story in the sense that judges are kind of working with each other to build a sort of new approach to countering overreach. I think the concern obviously is whether the administration will at some point try to sort of say, "damn the torpedoes," and go forward with a full-scale rejection of the court's authority to direct the executive.

**WEST:** So, Molly, Sarah, and Katie, how much of what Trump has done could be reversible in four years if there was a different administration in place? And how much will persist, or to put it differently, how has Trump actually transformed the office of the presidency and the way that our political system operates? Molly, we can start with you.

**REYNOLDS:** Sure, I actually want to say something on the question that you asked Quinta first, which is to say that I don't disagree with anything that Quinta said about the way the federal courts have been behaving. But I also want to note that courts are not designed to be the primary back staff to congressional power. In general, our separation of power system is not designed to have every dispute about something the executive branch is doing to be adjudicated by the courts and in thinking specifically about the congressional spending power, there are challenges that are presented by long-standing legal doctrines around congressional appropriations that really may limit the ability of Congress to sort of, or I should say, limit the ability of individuals, organizations, state and local governments, even other parts of the executive branch who are not receiving the federal resources that Congress has appropriated to them that may limit their ability to use the courts to get those resources that they're rightfully entitled to because the courts are simply not designed and not set up to perform this function.

There are big questions about who has standing to sue in some of these disputes. Are the facts in some of these disputes sufficient to justify the lawsuits? What decisions by agencies can be reviewed? When can they be reviewed, like, what constitutes, in legal parlance, a final agency action that makes something reviewable? Do some of these cases belong in the regular district courts, or do they belong in sort of a separate legal process known as the Court of Federal Claims, which here suits for money damages? So, these are all big questions that are going to have to get resolved. But they're questions that we're asking in part because to go back to what we were talking about earlier, Congress is not really, and particularly in the Appropriations Power context, not standing up for itself and we're instead seeing what really should be a conflict between Congress and the executive branch get shoveled into a federal court system that's really not designed to adjudicate all of these questions.

So having said all that, in terms of the question you just asked, Daryl, I think the biggest thing that I would note is that as we are seeing every day, it is much easier to destroy elements of the executive branch and the administrative state than it will be to rebuild them, particularly if you have an executive branch that is willing to disregard any number of laws, norms, and practices around how it is supposed to make changes to the way that federal agencies work. If it is willing to disregard those, then it's very easy to simply turn something off and much harder to either turn it, first, to turn it back on in the near term, and certainly the longer something, the longer an agency's functions lay fallow the harder it is to think about how you would rebuild those things in the future for a whole host of reasons, not least of which is that the way that the White House and the DOGE and sort of the individuals who are effectuating these changes across federal agencies.

The way that they are doing them, I think, is going to create real challenges for the future and convincing people to enter the civil service. We were already facing a pretty significant planned set of retirements in the civil services. The civil service was aging. There were all kinds of questions about what's the responsible ways to modernize the civil service? What are ways to make it easier to get good talent who wants to enter public service to do so? And those questions still exist and then we've layered on top of them a whole set of other questions about the stability of these functions. And even if you can design a way to rebuild some of them, do people believe that over the medium to long term, these functions are going to be stable and that matters both the kinds of people that you wanna get into the Federal Civil Service, and it matters a lot for the people around the country who depend on the things that these agencies do.

**WEST:** Sarah, your thoughts on how much of what Trump has been doing could be reversible.

**BINDER:** Sure, so I agree with Molly's, I mean, most basic and important point that the easier and quicker to destroy than it is to rebuild for all the reasons that Molly pointed out. I guess I would add two things. The first is I think I personally, and I think we generally don't know, I think we don't yet know from day 100 plus what life will look like and what the government will look like. And what presidential power will look like in four years. And the degree to which these changes will be permanent and destructive. But we do have, I would say two things just to add onto that. First, one

important sign would be for a change of party control in one or both chambers at the midterm elections. The reason is really as a check on this notion of what people are referring to as sort of the authoritarian movement of Trump, right, which literally would, you know, what do we mean by authoritarians?

We mean that really that incumbents can't lose elections, right? And so, it doesn't mean that incumbents have to lose elections. But if you do have electorally competitive with a chance of picking up the chamber, more likely the in the Senate. I think that's a good sign that our normal bedrock check of elections is still functioning, which I think is probably paramount toward looking toward efforts, you know, lacking other guardrails, that's the ultimate check. So, I think this is one thing to keep in mind. Second, the only thing I would add in terms of explicitly about whether these Trump moves have changed or will change executives and executive power. I think if the courts do essentially strike down the last real limit on president's ability to fire agency heads, what we now have to call so-called independent agencies without cause just because you disagree with them or because they were appointed by the past administration. Or you appointed them in the past and don't like what they're doing, ruling and deciding an office.

That will probably stick. I can't really imagine a future president not taking the opportunity to replace head of an agency if the court has blessed it and if Trump has done that. Not least in part, if it's a Democrat trying to rebuild public sector and public service and rebuilding these agencies. So, I think that's, and that's just obviously just one thing to keep an eye on, but that suggests to me that some of these inordinate grabbing of power by the administration will stick, even, and from our perspective, hopefully not as flagrantly unconstitutionally as it seems to so many of us.

**WEST:** Katie, your thoughts on how much of this could persist over time?

**DUNN Tenpas:** Yeah. Well, first of all, thank you for letting me go after Molly and Sarah, who had remarkable answers and were quite comprehensive. But I actually am very interested in this topic. And I think one of the reasons that will make it very difficult to sort of reconstruct and recover is that there is very little public disclosure about where the firings are occurring, the numbers of firings, the

share that are forced retirements versus voluntary retirements. There's a lot of data that people like me are really interested in, and that is very difficult, if not impossible, to get. So, in order to rebuild, it strikes me that it's of paramount importance to understand what happened and where the changes were made. I think that everyone, Republicans, Democrats, will agree that we were due for some serious civil service reform, but maybe not with a hatchet and maybe not prior systematic research that indicated where cuts should be made. So, I actually am a little bit more pessimistic in the sense that I think, as Molly pointed out, it's so much easier to sort of take out the sledgehammer and break things, and it's much harder to put them out together. And without public disclosure and information about where it's been happening, it makes it all that more difficult.

**WEST:** So, each of you have identified particular problems in our current situation, but at Brookings, we also like to focus on possible solutions. So, I want you to be forward leaning in what do you think are the most viable remedies for dealing with some of the problems that we've already enumerated? What are the concrete steps that we could take to safeguard the future of our political system? And Quinta, we can start with you on that.

**JURECIC:** I feel like I'm in the hot seat here. I mean, this is really the \$64,000 question. I think in my mind, the difficulty here is that there are plenty of really interesting ideas that people have put out there, but the magnitude of what needs to be fixed and the magnitude of what it is possible to fix, given the constraints of our current system, are really at odds. So, you know, if you speak to people who study, you know, systems of representation, they'll suggest proportional representation, multi-member districts in the House. Maybe we should get rid of the Senate. Maybe we should make the Senate into a kind of a House of Lords that has a sort of advisory position. Maybe we should rethink having a presidential system at all. Uh, that presidential systems are sort of inherently more unstable and a parliamentary system might be more stable here.

Um, I think there are a lot of different proposals, which all of which are, you know, sort of, uh, interesting and thought-provoking in their own way, but the question of course is, okay, well then how do you get there from where we are now? Because the Senate of course, is, is not going to vote to abolish itself. And many of these changes would require constitutional amendments in one form or



other. What I would say, constraining myself to what is more possible, while acknowledging that I think a real, the necessary overhaul sort of is more ambitious than may actually be feasible, is to Sarah's point, I think that there needs to be a focus on making sure that the midterm elections, and after that, the 2028 presidential election, are free and fair, that people are able to participate and exercise the franchise, that people aren't afraid to campaign, to run for office, that there are adequate protections, that the Justice Department, for example, is not, you know, reaching in by announcing investigations of candidates, as it did recently in the mayoral race for New York City. And everything that we're talking about in terms of where we might go next depends on the existence of free and fair elections initially in the midterms and then in the presidential election. And so, just in the immediate term, I think that it's going to be very important sort of across civil society to think about what it means to ensure the integrity of those elections and to ensure that Americans feel that their vote matters and that it means something to exercise the franchise, even in a political system that is sort of going through this period of chaos.

**WEST:** And I think the good news is there actually are a lot of individuals who already are starting to mobilize and consider possible races next year. And there's certainly a lot of groups that are getting much more active. Molly, what do you think are the most viable remedies for dealing with some of the problems we discussed?

**REYNOLDS:** I think it'll surprise no one to hear me say that I think a lot of the answer to this is about figuring out politically instead of compatible ways to empower the legislative branch. So, I think one thing that we are sort of dealing with right now is the culmination of several decades of Congress willingly giving up its own power to the executive branch, often because Members of Congress have decided that if they can't act themselves, that they are okay with the president of their party exercising vigorous executive power to achieve certain policy outcomes that they agree with, even if it means weakening the legislative branch. We are also dealing with the culmination of a several decades long project, particularly on the political right to empower the federal judiciary, both in a way that bolsters the executive branch's authority, but also increasingly that amasses for itself in the judicial branch a large amount of power.

And so, I would say that kind of the balance in our system of checks and balances is off and the legislative branch is not strong enough institutionally in comparison to the other two branches. How do you convince members of Congress to invest in enhancing their own power, particularly in a moment of very high levels of partisanship, is hard, but I think that there are ways to do it. And I think often, it requires thinking creatively about what sort of questions of procedure and legislative organization should look like that are responsive to our political realities, as opposed to sort of just imagining that we could wind back the clock or get in a time machine and go back several decades when Congressional committees were where the power was as opposed to the hand in the hands of congressional leadership and there are sort of politically good reasons for individual members that the leaders have as much power as they do.

And so, I don't have clear easy answers like Quinta. I agree that abolishing the Senate is, you know, not one of them but uh, but I do think this I think fundamentally this is a question of how do we enhance congressional power in a way that brings the power across the three branches back closer to some amount of parity as opposed to Congress being at a disadvantage.

**WEST:** Sarah, your thoughts?

**BINDER:** The only thing I would add, I mean, the answer about solutions depends on the outcome of your previous question, like how permanent is this style and this absorption and grabbing of power in the hands of the presidency, like how permanent is that? And with the Trumpian twist, who seems unconstrained by norms and by the letter of the law, right? Because normally our minds go, if not to constitutional reform, then to legislative and reform statutory reform. But, if you're going to try to legislate and then find that the president has no intention of or the White House or the administration of abiding by those reforms, then, you know, then we're in a bad, dark, dark place. But I don't like I don't like to go bad, dark places. So, assume there's a more powerful president, but one that is less inclined to act the way the current president has been then legislation is somewhat of a remedy here. Not easy for all the reasons that Molly and Quinta have laid out. I would point out in the end of the, during the Biden four years after the first Trump term, they did actually reform, re-amend the Electoral Count Act.

So as to limit, maybe that was fighting the last war, but to kind of strengthen it and make it a little less ability to be picked off by small factions, right? And so, there is probably a lesson there that there can be some bipartisan incentives to try to fix these electoral issues and maybe even others. And the one that comes to mind most clearly to me is the whole range of statutes that have to do with declaring of emergencies and how long emergencies can last, the president's role in declaring them Congress's role in declaring them or not, or approving them, and so forth. And that's only important because those emergency declarations are things that what Trump administration relies on to unleash all these other authorities and movement of monies and so forth.

And so, I, and there was some movement of foot to try to address that in 20, I guess 23 and 24 that never made it over the finish line. But something like that to me, makes sense as a place to focus on. And then smaller things that, again, the Congresses over the years tried to toughen up, use of inspector generals, some sort of insulation from presidential authority, I think is helpful there. So, there's a whole spate of things Congress could do. And the question is, what are the ones on which both parties have an incentive to kind of re-claw and toughen up Article 1 powers here of congressional authority.

**WEST:** Katie, your thoughts on what we can do going forward and then we're going to take some questions from the audience.

**DUNN TENPAS:** Yeah, so I'm going to sort of take a slice of something, because I think coming up with a holistic solution that's as grand as sort of a constitutional amendment or something of that age, or hoping that Congress will realize its power is seeping away by the second, and then they want to reclaim it, some of those things are a little bit difficult, and I'm not sure those will happen. I'd focus more on civil service, and I think that with what has happened with DOGE and all of these cuts, And I'm going to start out negative, but I will end positive. There will be government failure. I mean, you cannot take swaths of public employees out of their jobs and not expect that something is going to go wrong.

And my hope is that it's not something that's catastrophic, but something that makes the American electorate aware of the importance of public service, of bureaucracy, of civil servants, and that there will be new leadership that provides bigger and vision, kind of like the JFK, "Don't ask what your country can do for you, ask what you can do for your country." So, this would require new leadership. This would be after subsequent elections, but I would hope that there would be a way to reinvigorate and repair the civil service.

**WEST:** OK, thank you. So, we're starting to get some questions from our audience. We have a factual question. William asks, "How long can executive orders stay in effect with the ongoing legal challenges?" And then Nassar has a similar question, "Is there a time limit on executive orders? Can they be renewed indefinitely?" Anyone who would like to answer either one of those questions.

**BINDER:** Well, I mean, the simplest answer is that most presidents these days come into office and spend the good portion of January 20th afternoon undoing previous executive orders by other executive orders. So, they can be, unless for some reason there's a date put into them, conceptually they last the duration of a presidency or until the next president revokes or revamps them in some way.

**WEST:** Okay, Juanita has a question. She says, "I understand that Trump's budget proposals are not widely supported by the American public. How do political institutions feel about this? What, if anything, can be done to avert the consequences of money and resources being diverted from the poor and given to the rich?"

**REYNOLDS:** No, I will say something about sort of presidential budget proposals generally, which is that for several decades, the president has drafted the executive branch working with the Office of Management and Budget have drafted a budget proposal that budget proposal, the President's budget goes to Capitol Hill. Where it is merely a starting point for what ultimately is produced by Congress as part of its negotiations over what annual discretionary spending bills look like, what other legislation affecting the budget that Congress might take up in a given year looks like. We know and have talked about in this session a great deal about the sort of high-level deference on the part of

Republican members of Congress, including Republican members of the Appropriations Committee, who are often folks who are willing to break from their party in support of their institutional interests as appropriators, as the folks who are responsible for the lion's share of the drafting of these spending bills.

We haven't seen lots of pushing back against the president, but I still think that when it comes time to actually draft the spending bills for next year and kind of what exactly that process looks like I think remains to be seen. We should still take the president's budget as sort of it makes drastic cuts in a lot of areas of the social safety net as well as in other areas, we should take it seriously but we should also remember that it is not unlike say in a parliamentary system. It will not come to the floor for an up or down vote. Congress will work at least some of its will on those spending numbers. And frankly, you have seen over the past week or so, a number of cabinet secretaries start to appear before subcommittees of the appropriations committees in the House and the Senate to talk about their agency's budget requests.

And in a number of cases, especially in the Senate, that has gone well for the cabinet secretaries in question. They have faced tough questioning from Democrats and in some cases from Republicans as well about the kinds of things that the president's budget proposes doing at various federal agencies. So, I think, again, we should see that as a starting point and not necessarily where the process is going to end up.

**WEST:** Okay, Carolyn has two questions: "How do we maintain the independence of our judiciary, and how can we prevent the suspension of habeas corpus?"

**JURECIC:** The judiciary is independence, I think, is absolutely crucial to the strength of American democracy. And the good news is that it is very, very deeply inculcated in American culture. We have a real sense that going against a court order is a dramatic step. And if you look at the polling of vast majority of Americans, including, I believe, majority of Republicans, although by a slimmer margin, disagree when they're asked what they would, if they would, approve of President Trump going against a court order.

And so, I think that that kind of cultural reverence is maybe too strong a word, but respect for the judiciary history is absolutely key. Is something that we very much need to hold on to for the purposes of sort of protecting the independence. You know, the courts, as people like to point out, the courts don't have, you know, their own forces to carry out orders. It depends on the willingness of people to abide by those orders. And so, to the extent that the United States maintains that kind of political culture where it is so crucial to respect the authority of the courts. I think that will be really, really key. And that does seem to be something that is holding up culturally so far. Regarding habeas corpus, I have good news, which is that the president actually cannot suspend Habeas Corpus unilaterally. Abraham Lincoln attempted it during the Civil War. It was very controversial. The status of that is still somewhat of a question mark, but it is very clear.

That the president cannot do it when we are not in a state of war, which we obviously are not, and that it would require action from Congress in order to suspend that, which I think there is no reason to believe that Congress would do. So, this is one of the sort of threats that the administration has made that I think it's actually extremely straightforward. That is just not something that they can go forward on. There is very, very clear law on this point. And so this is actually an instance where, you know, it's the judiciary that is offering some of the protection from the sort of the line of cases that follow that Lincoln decision and other actions that took place in the Civil War, but it's also Congress and the very, very clearly delineated power set forth in the constitution in Article I, that that power is given to Congress and not to the presidency.

**WEST:** That's great that we can close on an optimistic note like that. So, thank you very much, Quinta. I do want to thank Quinta, Molly, Sarah, and Katie for sharing their thoughts. We appreciate your insights on all of these important topics. And we at Brookings write regularly about these topics. And you can find our work at Brookings.edu. That's Brookings.edu And I want to thank you very much for tuning in.