Sliding into Quasi-Fascism?

Trump's Embrace of decisionist Rule

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Many commentators label the second Trump administration *authoritarian* or *right populist*, but shun *fascist* as rhetorical overreach. They are currently correct. Such hesitation, however, is on less sure footing for those who prognosticate that, even in a worst-case scenario, the term *fascism* will not soon apply, or that the executive will not attempt to construct a regime claiming the right to unchecked, continuing power. Substantial continuation of constitutional and democratic norms, which they assume, is far from guaranteed. I will explain why the Trump presidency already displays characteristics that render reasonably possible its morphing into a regime appropriately characterized as *fascist* or, at least, *quasi-fascist*.

A stipulative characterization of "fascism"

While definitions are inherently limiting, and may, as Hannah Arendt explained in *The Origins of Totalitarianism*, leave us unprepared to cope with evolving realities, it should be useful to begin by setting out a suggested constellation of attributes that, in sufficient combination, would render a ruling order fascist.

First, legal and rule-of-law factors: resistance to judicial review of executive orders, systematic abuse of power consisting in arbitrary official action and decision-making, and the doling out of punishment for the exercise in a disfavored way of liberal constitutional rights, such as free speech, association, assembly, even religion.

Second, sociopolitical factors: spawning of a friend-enemy zeitgeist in pursuit of a nationalist ideology, rooted in the ruler's own embracing of a fairly homogeneous friend cluster and scorning of an imagined enemy population that includes political opponents and other groups singled out as undesirable. Those denying the propriety of this demarcation at all, by virtue of a universalist or humanitarian ethos, fall on the enemy side.

Third, control factors: denial of the orderly transition of power, official legitimation of the marginalizing, repressing, expelling, or otherwise eliminating disfavored groups, typically via a militarized domestic state but conceivably by alternative means given contemporary digitalized dependencies.

Fourth, programmatic factors: uneasy collaboration with certain sectors of the wealthy and those holding traditionally elite status toward further concentrations of riches in the hands of the privileged and power in those of the ruler.

Fifth, propagandist factors: the continual engagement in lying and deception toward the creation of a false reality capable of both cloaking the regime's machinations and engendering a willing mass complicity in the programme.

And sixth, the methodological glue cementing all of the above factors, and enabling their realization in practice. This is an element intimately entwined with arbitrary decision-making characterizing rule of law disintegration, but more insidiously enveloping the dictatorial leader in an aura of near-divine or ultra-charismatic authority, mythologizing the leader's near-infallible capability to decide when and how to depart from legal, constitutional, diplomatic, even economic, norms, and detaching the regime from the need for a process of thoughtful deliberation over the consequences of official action in relation to the public good.

Trump's "decisions" augur a fascist turn

Since his inauguration on 20 January 2025, Donald Trump in dizzying fashion has issued some one hundred (100) executive orders aimed at realigning the

U.S. governmental apparatus toward implementation of his so-called America First agenda. Executive orders have long been a normal accoutrement of presidential power, typically subject to constraints of judicial review of constitutional or statutory authority. Trump's executive orders, however, either pay minimal lip service to largely irrelevant statutory authorizations, or fail to claim any basis in statutory or constitutional authority at all. Related to their apparent lack of formal validity, many of the orders engage in an arbitrary exercise of legislative power not available to the Executive, and appear unaccountable to anything other than Trump's will.

As an example, Executive Order 14168, titled "Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government", misappropriates the executive's general statutory authority over employee conduct while assailing the LGBT community. Another executive order, EO 14147, is arbitrary and deceptive by purporting to remedy "the Weaponization of the Federal Government," while in fact itself weaponizing the government against those who legitimately assisted in legal actions against Trump or Trump-affiliated individuals during the "prior administration."

More disruptively, EO 14158 establishes the so-called Department of Government Efficiency ("DOGE"), an intrusive entity consisting of an obscure staff of tech-savvy but governance-ignorant players afforded access to all manner of confidential information handled by most areas of federal government. Transparent, however, is DOGE's prioritizing of Project 2025's core objective, "to deconstruct the Administrative State." Aligning with the dismantling of regulatory mechanisms have been the appointments of cabinet members existentially hostile to the very agencies they will be charged with overseeing.

The only apparent ground for many of Trump's precipitous directives is that they jibe with the cult of personality dedicated to his blitzkrieg against an imagined "deep state" that has been out to persecute him, and against perceived enemy populations whose objectives conflict with a white Christian nationalist agenda. An executive order issued March 6, 2025, for example, pursues punishment of one particular law firm for its representation of Trump's erstwhile political opponent Hillary Clinton. The important point is that Trump and his circle believe, or act as if, this sort of thing is permissible, notwithstanding the Constitution's inclusion of two provisions explicitly prohibiting bills of attainder, these being measures that inflict punishment on specifically designated individuals without the benefit of judicial trial. Attainder violates the rule of law requirement that laws be sufficiently general such that like cases are treated alike and laws not draw arbitrary or irrelevant distinctions between individuals.

"Populism" or "Competitive Authoritarianism" ?

The combination of Trump's arbitrarily defined executive orders, statements of retributive intentions and priorities, a nationalist America-First agenda modeling autocratic behavior and aligning with brutal anti-democratic rulers, logorrheic claims of coming imperialist ventures, a seemingly pathological addiction to lies, and his followers' constant refrain that he has been divinely selected to "make America great again," trigger warning signs that *right populist* and *authoritarian* might not suffice to describe where the U.S. power structure under Trump may be headed.

By Jan-Werner Müller's widely-cited explanation, populism's core features include participants' class consciousness and an ostensibly moral campaign against elites deemed corrupt. Trump does not harness this sort of apparent moral impetus. Illustratively, his vociferous ally Stephen Bannon favors a populist agenda formulated against elites and wealthy interests, resulting in his deep animus toward "interlopers" such as Elon Musk. Trump has similarly courted political investments, arguably quid pro quo bribes, from fossil fuel company executives on promises of dismantling existing environmental initiatives.

Nor is the future of the Trump agenda necessarily limited to what some have called a "competitive authoritarianism" falling short of fascism. An analysis by Steven Levitsky and Lucan A. Way offered recently in *Foreign Affairs*, in their piece "The Path to American Authoritarianism: What Comes After Democratic

Breakdown" coins this term. They opine that the breakdown of democracy will not give rise to fascism or "a classic dictatorship." While soberly acknowledging numerous aspects of that breakdown – including efforts to overturn election results, intentions to formally prosecute political opponents, desires to punish critical media, suggestions that the military violently suppress protest – they view the "worst-case scenario" as amounting to what they term "competitive authoritarianism."

For Levitsky and Way, when two features of democratic governance persist, namely, the real possibility of electoral change, and the courts' role in effectively reviewing executive measures, then "the formal architecture of democracy" endures and fascism is avoided. Illustrative might be Brazil's indictment earlier this year of former President Jair Bolsonaro on charges of having attempted a coup to stay in office after his 2022 election defeat. Levitsky and Way seem to take heart in the supposition that "the Trump administration will not control the courts." They further assume that election cycles will remain on track. They do allow that radically unfair authoritarian rule may become entrenched, "with grave and enduring consequences for global democracy." But if so, this would result from subjects' own rational choices not to risk the costs, including retaliation, likely to be triggered by resistance.

The potential for decline into quasi-"fascism"

Unfortunately, the two minimal safeguards rehearsed by Levitsky and Way are not guaranteed. As an empirical matter, even in its first month the new administration has conveyed the specter of a coming disobedience to court orders. This disobedience may already be happening, a constitutional crisis in progress. It is not clear, for example, whether the administration is fully obeying the Supreme Court's order halting its freeze on foreign aid disbursements. And the federal court in the District of Columbia has hauled Department of Justice lawyers back into court to answer for the administration's apparent flouting of the court order immediately halting flights deporting Venezuelan immigrants to El Salvador under an obscure eighteenth century wartime law. Regarding the second Levitsky and Way factor, Trump's blatantly unconstitutional seizure of power is not unimaginable, at the most yoked end of the spectrum by advancing his feigned interpretation of the Constitution as permitting a third term. Beyond this, perhaps emboldened by the Supreme Court's broad immunity ruling in Trump v. United States (US 2024), Trump could conceivably declare martial law, suspend the ballot upon proclaiming a fair election to be impossible, or develop some other plan. These are all possibilities that, once suggested by the leader, are likely to be militantly pressed by the base, which has repeatedly displayed its willingness to mobilize in support even of his most extreme promptings, including a violent, insurrectionist assault on the U.S. Capitol on January 6, 2021.

But in other respects, a richer analysis of both the dynamics of fascism and the maneuverings of the second Trump administration also suggests that it may be unwise, or at least premature, to jettison *fascism*, or *quasi-fascism*, as a descriptor of the second Trump presidency. Critically, the high-octane efforts now underway, led by Trump and Elon Musk, toward dismantling administrative systems pose insidious dangers. These are perhaps less obvious than the Levitsky and Way factors, but nevertheless threaten a slide into quasi-fascism.

To explain, frenzied measures being taken toward decimating the regulatory apparatus do not, in fact, aim at having the federal government disengage from matters addressed by the targeted agencies and projects. These measures ought not be interpreted as neutral disengagement from substantive federal matters that had been subject to regulatory supervision. Quite the contrary, the desire is for a shift from institutionally constrained to unfettered decision-making, an administrative regime responsive to the president's arbitrary and capricious whims. For instance, while an executive order is reportedly in the works for jettisoning the Department of Education, EO 14190 directs "American schools . . . to instill patriotic admiration for our incredible Nation," along with a slew of further propagandist dictates.

A shift towards decisionism

Now, what does this have to do with a potential for some manner of fascism? The core factor described above in the stipulative outline of fascism was the dictatorial ruler's systematic abuse of power consisting in arbitrary official action and decision-making cloaked in a veneer of near-infallibility. What refugee scholar Ernst Fraenkel termed the "prerogative state," finding rational deliberation objectionable and responsive predominantly to the ruler's will and pleasure, is a core fascist attribute. This does not mean that the ruler abolishes the constitution or rules in a fully monolithic manner. As Robert O. Paxton counsels, "we must see fascist rule as a never-ending struggle for preeminence within a coalition, exacerbated by the collapse of constitutional restraints and the rule of law." This formulation is an apt characterization of the Trump modus operandi, which continually rebuffs rule of law constraints and wrestles for primacy in "deal"-making by keeping political and economic entities, both foreign and domestic, walking on egg-shells in the face of commandeered American power.

Intimations of an emergent fascism under Trump have sometimes conjured theoretical underpinnings set out in the works of Nazi-era political philosopher Carl Schmitt. New York University School of Law Professor Stephen Holmes has explained the notion of "decisionism," an approach to governing prescribed in Schmitt's political realism, which imbues the leader with "a secularized version of the theological idea of divine authority, which scorns bargaining and the rule of law, while apotheosizing 'hard' political decisions – the choice of an enemy, for example," as Holmes emphasizes. "This decisionism," wrote Schmitt, "is essentially dictatorship, not legitimacy."

Reminiscent of Trump's infamous comment that he could shoot someone on Fifth Avenue and not lose any voters, Jan-Werner Müller at Princeton has described Schmitt's alignment with counter-revolutionary theorists such as Joseph de Maistre, whose own notion of decisionism came "closest to making dictatorship a matter of pure despotism, as true sovereignty consisted of 'doing evil with impunity'." And several of Trump's executive orders, such as EO 14156, "Declaring a National Energy Emergency" over "critical minerals," and EO 14159, "Protecting the American People Against Invasion," call to mind Schmitt's well-known definition of the sovereign as "he who decides the state of exception," namely, the leader not constituted by law but who by his own lights decides both when there is a state of emergency or exception and how to respond.

Two further definitional insights

Consider, finally, two further definitional insights into the nature of fascism elaborating on the factors enumerated in our stipulative characterization above, and significantly, albeit still imperfectly, aligning with Trump's manner of ruling. First, in Anatomy of Fascism, Paxton defined fascist movements as being obsessively preoccupied with community decline or victimhood. Fueled by cults of unity and purity, fascism creates a nationalist party that works in an uneasy but effective collaboration with traditional elites to abandon democratic liberties and pursue internal cleansing and external expansion "with redemptive violence" and without ethical or legal restraints. Unrealized thus far in the second Trump administration may be merely effectuation of the quoted phrase. In general, however, the definition that Paxton arrived at upon his historical study of fascist movements alarmingly resonates.

Second, and doubtless as evocative of the present scene, Hannah Arendt in *The Origins of Totalitarianism* (© 2024 p. 422) summarizes fascism's totalitarian aspiration never to pause "to think about the world as it really is" or to compare the lies with reality, but to rest on its most cherished virtue, "loyalty to the leader, who, like a talisman, assumes the ultimate victory of lie and fiction over truth and reality." Researchers pinpoint tens of thousands of Trump's "false or misleading claims" espoused in his first term alone.

Conclusion

A fair amount of daylight remains, of course, between the catabolic operations of the second Trump administration and unconstrained, quasi-fascist rule. At the

same time, the administration's daily prevarications, unrestrained subversions of constitutional norms, expansionist claims and abandonment and vilification of international allies on mendacious premises, and intimations that it will respect neither judicial interference nor routine electoral mechanisms are readily construed as steps taken toward realizing a decisionist ethos. Arbitrary, decisionist-like rule appears to be the new administration's desideratum. The enduring adage is that, where there's a will, there's a way.

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