

From Slate 2/3/25

Copied and pasted:

Jurisprudence by Dahlia Lithwick
"Donald Trump's Orbán Playbook"

The events of the past two weeks are unimaginable to most Americans because they have never before experienced a president who is rewriting the laws and the Constitution, ignoring the statutes and case law that impedes him, and entrenching power in the executive branch in flagrant violation of fundamental norms around checks and balances. This conduct is not at all unimaginable to international lawyers who study the fall of democratic states to autocratic leaders. Much of what is happening fits familiar patterns from the decline of Hungary, Turkey, and Russia into authoritarian rule. On this week's Amicus podcast, Dahlia Lithwick spoke with professor Kim Lane Scheppele, the Laurance S. Rockefeller Professor of Sociology and International Affairs in the Princeton School of Public and International Affairs. She specializes in the rise and fall of constitutional governments with an emphasis on the ways in which the autocrat deploys armies of lawyers, instead of generals and juntas. Their conversation has been lightly edited and condensed for clarity.

Dahlia Lithwick: We in the U.S. media have witnessed so much in these two weeks since the second Trump inauguration: inspectors general fired, violent insurrectionists released from prison, the rewriting of the Constitution wholesale, and "jokes" about a third term in office. We are witnessing high-school graduates deleting whole agencies and stealing financial data, mass firings at the Justice Department, and the removal of security protection from people with targets on their backs—targets put there by Donald Trump. Even those of us who were bracing for, and warning about, the potential destructive lawlessness of Trump 2.0 are shocked, but I think you're probably the least surprised person that I know?

Kim Lane Scheppele: Unfortunately, you're absolutely right. I lived in Hungary for a long time. I also lived in Russia for a long time, and this is the third time I've ridden this escalator from democracy into a very dark place.

What we're seeing here is so similar to what happened in Russia, and particularly to what happened in Hungary. But Americans have this idea that when democracy fails, it's going to fail with tanks in the streets, it's going to fail with some radical rupture, it's going to fail with the normal ceasing to be normal. If you look at how autocracy works these days in the rest of the world, it almost always comes in on the back of a free and fair election. Somebody who is a "populist"—you can call them whatever, a charismatic leader who

promises to shake things up—gets elected. It's often fair and square the first time. If you go back and you look at the election monitor's reports from when Hugo Chávez was elected in Venezuela or when Vladimir Putin was elected the first time in Russia, or when Viktor Orbán was elected the first time in Hungary, the election monitors all said, "Free and fair election. No problem." And then as soon as these guys come to power, they start to just take over and disable all of the checks on executive power.

Their cover story is a lot of inflammatory rhetoric that causes pain to people, so now we're seeing immigration crackdowns, we're seeing attacks on people with gender fluidity, we're seeing attacks on affirmative action, we're seeing attacks across the board on vulnerable groups and people who have really never been treated equally. What all that rhetoric is disguising, and this was true in Hungary, in Venezuela, and in Turkey, it's disguising the *real* work of autocracy, which is removing all checks on executive power. A lot of that is happening in a very unsexy way in laws that are buried deep beneath the surface that only a technical lawyer could love. And that's where you start to see chipping away at every single constraint on what the president can do. Now, America is a very big and complicated system. It's going to take a lot to capture all of it because we have federalism, because we have a lot of nooks and crannies in which different sources of power reside. But Trump, in his first term of office, had not yet discovered this formula that you need the law to entrench yourself. He did a lot of horrible things, he caused a lot of pain, he was incredibly arbitrary, he loved to sign executive orders, but when he left office, most of the U.S. government was battered, it was beaten, but he hadn't changed the legal infrastructure. Except for one thing—the Supreme Court. What I think Trump learned is what a lot of these autocrats learned. Viktor Orbán was in power once and lost power because he didn't learn this lesson. When Orbán came back, and now when Trump is coming back, they have learned that you have to entrench yourself, and it helps if you compromise some institutions when you're in office the first time.

What Viktor Orbán did, and what Donald Trump is doing right now, is to use their time out of office to put together a team of people who will write all the laws you need to entrench yourself. And it's being written by private groups. It's not going through the normal lawmaking process. Private lawyers are writing up all of these plans, and then as soon as you come into power, you start to shovel this stuff out the door as fast as you can. You take advantage of incredibly obscure laws already on the books that already give the executive

tons of power. You override existing laws. You might declare an emergency. We've seen two emergencies declared in the past week in the U.S. already. Who knows how many more there will be? These emergencies are being declared to give the president additional powers. There's also new executive orders that are simply grabbing power.

It's really hard for most of us to triage the executive orders and actions raining down on us in terms of what's meaningful, what's important. I keep reminding people that executive orders are not the law, but they are certainly promises and instructions to agencies on how to conduct themselves. What I'm hearing you say is that there's one bucket that is distractions, chaos, and confusion, then there's another bucket that's very systematically shoveling power back to the executive branch and constructing an impermeable executive branch. Is that the best schema for thinking about this?

Yes. And of course, that bucket of distraction is also actually harming people. It takes most of the opposition and pulls their attention over towards it. So for example, we've seen immediately lots of lawsuits on birthright citizenship, lots of people putting out advisories on what to do if ICE comes knocking on your door. All that's crucial, and people should be working on those things because so much of this is causing real pain. But there's another set of things that's not getting nearly enough attention, and that is the second bucket, which is all the stuff that is consolidating power in the executive.

So let me tell you two things that look familiar from Hungary, because these were really crucial in the early days of Orbán. Orbán immediately suspended the civil service law in order to fire tons of governmental workers. Now we've seen that a lot of the things that Trump has been doing is to rattle the civil service. The Biden administration saw this coming and they enacted a regulation that actually made it impossible to directly fire people who had civil service protection, which is why you see these new executive orders coming in. They're reassigning people to jobs they can't possibly want to do, or they're putting them on paid leave just to get them out of the way. So the Biden regulation is doing something to slow this process down. But in some of these executive orders, they actually say, "In our view, this Biden regulation is unconstitutional, and so we are going to ignore it," which is why they're also just firing some people.

Attacking the civil service is a big chunk of what Orbán did, and he fired a lot of people. He then terrified the rest so that they were afraid to go against him.

Even if there wasn't anything he could have really done, he put people in fear of their careers, their jobs. They become disoriented, because it happened so quickly, they don't know what to do. So attacking the bureaucracy, making everybody either quit, be fired, or live in fear, was a big chunk of what he did, and that's what we're seeing.

The other thing Orbán did is that he defunded everybody who could possibly push back. In the U.S. government, what we've seen so far is a kind of random defunding of everybody that was not, shall we say, precision-guided. But what I'm expecting to come is more systematic defunding of all the places where they think the opposition will come from.

So let me tell you what happened in Hungary. When I was living in Budapest, there were 12 daily newspapers in a city of 3 million people. It was wonderful. You could read papers ranging from left to right and some wonderful objective journalism. But it was unsustainable. It turns out you had 12 daily newspapers because most of their funding came from state advertising. As soon as Orbán came to power, he cut the funding and cut all the advertising to all the papers and all the TV stations and radio stations that had been critical of his party. So they started to fail economically. What happens next? His oligarch friends swept in, bought up the media they wanted, or they let them fail. And when the rest of Europe looked at this, because this is all happening in the European Union, there's supposed to be a club of democracies, Orbán says, "Oh well, you know, it's just the market. They can't sustain themselves." This is happening at a time when newspapers all over the world are failing for financial reasons, so it didn't look like he'd done anything. But he had *defunded* the press. He *defunded* the civil sector. Turns out a lot of the civil society groups relied on government grants. He *defunded* the universities. Turns out they were all publicly funded. He just went systematically through all the places where the opposition might have been able to mobilize civil society against him, and they all ran out of money. Here we go.

Here we go. This is so bone-chillingly evocative of everything we are seeing right out of the chute in these first two weeks.

<https://slate.com/news-and-politics/2025/02/donald-trump-orban-playbook-putin-musk.html>