

# Trump asserts unchecked presidential powers

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10 October 2019

In the wake of the eight-page letter sent Tuesday evening by the White House to the House of Representatives declaring the Trump administration's defiance of the impeachment inquiry, the president and his attorneys are elaborating a theory of unchecked executive authority, a presidential dictatorship in all but name.

The scope of presidential immunity from Congress asserted in the letter sent by White House Counsel Pat Cipollone is essentially unlimited. The letter makes the president the decision-maker over whether Congress has the right to bring impeachment proceedings against him and how they are to be conducted, in direct violation of the constitutional separation of powers, which makes Congress a branch coequal to the executive.

As far as legal arguments go, the White House letter amounts to declaring the Constitution null and void. In its claims that the inquiry is not "necessary," "authorized" or "valid,"

it simply ignores the plain text of the document, which declares (Article 1, Section 2), "The House of Representatives ... shall have the sole Power of Impeachment," and the House (Article 1, Section 5) "may determine the Rules of its Proceedings."

The president has no power to declare an impeachment inquiry "constitutionally invalid" or claim that it "lacks the necessary authorization for a valid impeachment." He is not the supreme arbiter of constitutionality and has no control over the manner of his own impeachment. If impeached, he may defend himself at the Senate trial, presided over by the chief justice of the Supreme Court.

In the letter, Cipollone writes, "Put simply, you seek to overturn the results of the 2016 election and deprive the American people of the President they have freely chosen." Aside from the dubious character of Trump's victory, which came via the Electoral College despite losing the popular vote, this complaint is absurd in a letter about *impeachment*, which by definition includes the removal of an elected president.

As for the American people feeling "deprived," Trump's approval rating has remained in the low 40s throughout his presidency—a first for any US chief executive. Polls

published Tuesday, one conducted by the *Washington Post* and the Schar School of George Mason University, and the other by NBC News and the *Wall Street Journal*, showed support for the impeachment inquiry by a sizeable majority, and a plurality for actually removing Trump from office, both figures having sharply climbed over the past three months.

Particularly disturbing to congressional Republicans were figures showing 28 percent of Republican voters supporting the impeachment inquiry, a figure that rises to 40 percent for Republican-leaning adults ages 18 to 39. Nearly 20 percent of Republicans supported Trump's removal from office.

Nearly as reactionary as the White House letter was the argument voiced by Justice Department lawyers in federal court in Washington Tuesday. The Trump administration is fighting efforts by House Democrats to obtain grand jury material used by Special Counsel Robert Mueller in his investigation into alleged Russian interference in the 2016 US elections.

Justice Department lawyers argued that judicial actions taken during the impeachment inquiry into President Richard Nixon were wrong. In particular, they objected to the decision of Federal District Judge John Sirica to turn over grand jury materials on the Watergate burglary to the House Judiciary Committee, an action that marked a critical step in the process leading to Nixon's forced resignation.

According to press reports, Chief US District Judge Beryl A. Howell responded, "Wow, okay," adding, "As I said, the department is taking extraordinary positions in this case." The judge made no immediate ruling but appeared to be inclined to reject demands that she overturn a 46-year-old precedent, an appeals court ruling in *Haldeman v. Sirica* that has long been regarded as a legal milestone.

Simultaneous with Trump's opposition to House subpoenas and demands for documents in the impeachment inquiry, his lawyers were in court in New York City asserting a diametrically opposed principle: that the president cannot be prosecuted or even investigated by a state prosecutor because only Congress has jurisdiction over misdeeds by a president.

Last week, the Justice Department intervened in a federal

lawsuit filed by Trump against the Manhattan district attorney seeking to block a subpoena for his income tax returns. The argument there was that a sitting president cannot be investigated, period—a position that would have shut down the Mueller inquiry before it started.

Federal Judge Victor Marrero issued a ruling Monday dismissing the Trump lawsuit and ordering Trump's accountants to provide his tax returns to the Manhattan DA. This action has been stayed pending a further appeal. But Marrero wrote in his 75-page opinion that Trump was seeking "a vision of presidential immunity that would place the President above the law," and declared, "This Court cannot endorse such a categorical and limitless assertion of presidential immunity from judicial process."

The great danger in this political crisis is that Trump's Democratic Party opponents are aligned with powerful sections of the military-intelligence apparatus and are basing the impeachment inquiry entirely on actions by Trump that offend the CIA and Pentagon, not those that genuinely threaten the democratic rights of the American people.

The inquiry is strictly limited to the Ukraine issue, with the Democrats arguing that Trump has undermined "national security"—that is, the machinations of American imperialism in Ukraine—in pursuit of his own personal interest in collecting dirt on a major political rival.

There is a profound irony in using Ukraine as an example of "outside interference" in the US electoral process, since Ukraine has itself been the victim of "outside interference" by Washington on a scale that dwarfs the petty mudslinging between Trump and former Vice President Joe Biden. The elected Ukraine government was overthrown in 2014 by a CIA-sponsored ultra-right movement that masqueraded as a "democratic revolution"—and had the blessing of both Barack Obama and Joe Biden.

Both the pro-Russian faction overthrown in 2014 and the anti-Russian faction that came to power in Kiev are reactionary instruments of billionaire oligarchs who built their fortunes on the restoration of capitalism in the former Soviet Union.

In a similar way, both Trump and his Democratic Party opponents represent rival factions of the financial aristocracy in the United States. One seeks to develop an authoritarian presidency based on appeals to the Border Patrol, the police, the military and outright fascists, while the other is aligned with the CIA, the Pentagon and sections of the financial elite.

As the WSWS warned yesterday: "The operation of the Democratic Party is aimed at connecting the fight against Trump with support for the intelligence agencies and US military operations. This guarantees a reactionary outcome no matter what the result of the impeachment process."

This alignment is demonstrated by the secret, closed-door character of the impeachment hearings, which are not aimed at alerting the American people to a threat to their democratic rights, but at cementing the role of the intelligence agencies as the arbiters of American politics.

It is significant, in that context, that the Pentagon has been distinctly less enthusiastic in its support for Trump than other federal departments. Defense Secretary Mark Esper extended an olive branch to the House Democrats last week, issuing an order for the collection and retention of all records on the decisions involved in authorizing, delaying and finally releasing military supplies to Ukraine, so that the documents would be available to the inquiry.

House Intelligence Committee Chair Adam Schiff and two other committee chairmen sent a joint letter to Esper, as well as to Russell Vought, acting director of the Office of Management and Budget, informing them of subpoenas for all material related to the Ukraine events, with a deadline of October 15 for compliance.

House Speaker Nancy Pelosi has repeatedly emphasized that the inquiry is not to deal with any of the issues for which Trump is hated by tens of millions of Americans: his brutal persecution of immigrants, his appeals to racists and fascists, his favors to big business, from deregulation to tax cuts, or his militaristic threats against countries from Iran to Venezuela.

On the contrary, by embracing the CIA-led campaign of destabilization and howling against Trump actions like the order to withdraw US forces from Syria and negotiations with the Taliban and North Korea, the Democrats enable Trump to posture as a president working to bring an end to "endless wars" that are opposed by the majority of the population.



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