

Supreme Court declares America a presidential dictatorship

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The US Supreme Court's decision Monday in *Trump v. United States* fundamentally alters the character of the American government as it has existed since the American Revolution, placing the president above the law and effectively transforming the "Commander-in-Chief" into a dictator, who can commit crimes with impunity.

In an opinion authored by Chief Justice John Roberts, the far-right majority declared that a US president enjoys presumptive "immunity" for "official acts," and that ex-President Donald Trump was therefore "immune" from prosecution for most of his acts in furtherance of his January 6, 2021 coup attempt. The court remanded the case to the lower court to consider whether other actions related to the coup—including Trump's efforts to force Vice President Mike Pence to seat alternate slates of electors in states Trump lost—count as "official acts." In practical terms this means that Trump cannot be convicted for the January 6 insurrection before the November 5 election.

In the words of dissenting Justice Sonia Sotomayor, the majority opinion "makes a mockery of the principle, foundational to our Constitution and system of Government, that no man is above the law."

While the word "dictator" does not appear anywhere in the majority or dissenting opinions, a chief executive who is "above the law" is called a dictator. This is what it means to have a presidential dictatorship.

"The Court effectively creates a law-free zone around the President, upsetting the status quo that has existed since the Founding," Sotomayor wrote. "When the president uses his official powers in any way, under the majority's reasoning, he now will be insulated from criminal prosecution. Orders the Navy's Seal Team 6 to assassinate a political rival? Immune. Organizes a military coup to hold onto power? Immune. Takes a bribe in exchange for a pardon? Immune. Immune, immune, immune."

"The relationship between the President and the people he serves has shifted irrevocably," Sotomayor wrote. "In every use of official power, the President is now a king above the law."

In a separate dissent, Justice Ketanji Brown Jackson suggested that the president is now free to murder other government officials with impunity. "While the President may

have the authority to decide to remove the Attorney General, for example," she wrote, "the question here is whether the President has the option to remove the Attorney General by, say, poisoning him to death."

Monday's decision is without precedent in American history. In 1977, three years after resigning from the White House in disgrace, former President Richard Nixon told journalist David Frost that "when the president does it, that means that it is not illegal." For decades, this declaration was treated not as a statement of American constitutional jurisprudence but as an expression of Nixon's criminal character.

To make an appropriate historical analogy, it is necessary to reference fascist jurisprudence. The 1933 Enabling Act, for example, gave Hitler the power to unilaterally violate the Weimar constitution, without any accountability to other branches of government. Similarly, the Supreme Court majority Monday declared that the US president needs to enjoy legal immunity in order to be free to engage in "bold and unhesitating action."

Under the new legal framework of presidential dictatorship announced by the Supreme Court, Augusto Pinochet would have enjoyed complete immunity from prosecution for his crimes, so long as he declared that the mass murder of left-wing political opponents was an "official act" to "combat terrorism and subversion" and "save the country from communism."

To use a more immediate example, a bill proposed in the US House of Representatives in May by Tennessee Republican Andy Ogles authorizes the deportation of anti-genocide student demonstrators to Gaza. Under the Supreme Court's decision Monday, a president who carried out such a policy would be immune so long as it was an "official act."

The decision effectively abolishes what was once called the "American theory of government," according to which there is no "sovereign" such as a king or prince. Instead, in the words of dissenting Justice Jackson, "the People are the sovereign, and the Rule of Law is our first and final security."

American revolutionaries called the idea that anyone could be above the law "tyranny" and "despotism." In the words of the Declaration of Independence, when a population is subjected to such a regime, "it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future

security.”

Notwithstanding the opinions of the dissenting justices explaining the monumental historical significance of the decision, much of the establishment media in the US downplayed the decision Monday. The *New York Times*, a mouthpiece for the Democratic Party leadership, even suggested that the ruling had an upside because in lower court proceedings, prosecutors will be allowed “to detail much of their evidence against Donald Trump in front of a federal judge and the public.”

Biden made a brief media appearance Monday evening to denounce the ruling. “Any president, including Donald Trump, will now be free to ignore the law,” Biden said, calling the ruling “a fundamentally new principle and a dangerous precedent” because any limits on the president’s powers will now be “self-imposed by the president alone.” But in response to the ruling, Biden merely called for “the American people to render a judgment on Donald Trump’s behavior” by electing Biden instead of Trump in the 2024 elections.

Presidential dictatorship is not only in danger of happening if Trump is elected. It is already the “supreme law of the land,” thanks to the Supreme Court’s decision Monday, from which there is no appeal.

Biden essentially argues that the population should prevent a malevolent dictator from coming to power by electing another dictator instead, one who would assume the same powers but would supposedly exercise them in a more “responsible” way.

Biden offered no proposals for preventing the institution of a presidential dictatorship. In 1937, President Franklin D. Roosevelt at least threatened to overpower the opposition of the Supreme Court to the New Deal by appointing more justices, a measure that Biden could easily have justified under conditions of a historic corruption scandal on the court.

Five of the six justices who imposed a dictatorship on the 340 million inhabitants of the United States were appointed by presidents who lost the popular vote, including three appointed by Trump himself (Neil Gorsuch, Amy Coney Barrett and Brett Kavanaugh). At least two other justices, Samuel Alito and Clarence Thomas, are implicated in the coup themselves.

Biden and the Democrats share equal responsibility with the Republicans for the menace posed by Trump, having insisted on rehabilitating a “strong Republican Party” in the wake of the January 6 insurrection. Since the coup attempt, they have governed in an effective coalition with the Republicans to wage war and genocide abroad while suppressing strikes and dissent at home.

However, the danger of dictatorship does not come from Trump as an individual or even from the fascistic Republican Party in general. Likewise, the January 6 coup attempt was not an isolated incident, but an episode in a protracted and ongoing process.

This process has continued through both Democratic and Republican administrations, including the Supreme Court’s

intervention in the 2000 elections to steal the election for George W. Bush—its infamous decision in *Bush v. Gore*—as well as the assertion by the Obama administration of the power to order the killing of US citizens in the assassination of Anwar Al-Awlaki in 2011, which Barrett cites approvingly in her concurring opinion.

The tendency towards dictatorship is inherent in the capitalist system in the imperialist epoch, which is characterized by the dominance of finance capital in the economy and by imperialist wars for the redivision of access to labor, markets and raw materials. The drive towards dictatorship is motivated in particular by expanding social inequality, war and the necessity, from the standpoint of the ruling class, of imposing fundamentally unpopular policies.

“Finance capital does not want liberty, it wants domination,” wrote Austrian Marxist Rudolf Hilferding, in a passage quoted by Lenin in *Imperialism: The Highest Stage of Capitalism* (1916). Democracy is inconsistent with a society in which oligarchs like Elon Musk can receive a \$45 billion pay package, while hundreds of thousands of people are homeless and hungry.

Democracy is also incompatible with imperialist war, which requires the conscription of masses of youth to serve as cannon fodder, the diversion of public funds from social needs and the crushing of all opposition. While the US-NATO alliance claims to be warring for “freedom and democracy” against the “authoritarianism” of Russia and China, it is the American political establishment that is imposing authoritarian forms of rule at home.

The struggle against the imposition of presidential dictatorship requires understanding its roots in capitalist relations of production and in the outmoded division of the world into rival nation-states. The social force that will oppose dictatorship, defend democratic rights and challenge the capitalist system is the international working class, organized as a class, independent of all capitalist parties and fighting for socialism.



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