

“Executive Autocracy Versus Professional Ethics”

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During its first year in office, the second Trump Administration has generated [abundant evidence](#) to support the [profound concern](#) of a broad spectrum of Americans that [it is attempting](#) a [radical revision](#) of the functioning of the United States constitutional system and civic space toward [Executive autocracy](#). That is, virtually unlimited power for the President and his team to act alone, largely without meaningful [checks](#) inside the Executive Branch, and also without meaningful external checks by the [other two federal branches](#), the states, [the press](#) and other elements of civil society – and even without checks by [the public majority who disapprove of the President’s job performance](#) and by [the wide public majority \(64%\) who believe that he is expanding presidential power too much](#).

The intentions and preferences of Trump, his personnel, and [his voters](#) surely [vary](#). Whatever its subjective motives and electorate support, however, the trajectory of administration action aligns well with two central elements of autocracy: centralization of power with the leader, and complete subservience of all Executive Branch personnel.

My central point in this symposium essay is that these aspects of autocracy inherently clash with core ethical commitments of multiple professions of honor, and in particular those of law, arms, and intelligence. The ethical codes of these expert guilds include heightened fidelity to the truth, prohibition of participation in wrongful conduct, and analytical independence in determining what claims and courses of action are reasonably available to their politico principals, and which instead are frivolous, false, or otherwise illegal or unethical and therefore cannot have the professional’s cooperation. To varying degrees, the legal, military, and intelligence professions in the Executive Branch are also ethically independent in the sense of being apolitical. Among similar developments in multiple professions, high profile resignation letters by [well-respected non-partisan and even right-associated](#) government lawyers this year clearly suggest that the autocracy drive is colliding with ethics – letters that recall the [refusal after the 2020 election of top first term Trump-appointed lawyers](#) to advance factual and legal claims that in their judgment were [frivolous](#) or [false](#).

Here I first frame the autocratic drive as reflective, among other things, of the second term Trump team’s “radical constitutionalism.” Second, I examine the common core ethical commitments of the professions of law, arms, and intelligence, and emphasize that they operate as checks against error and abuse of authority. These ethical commitments and their functions inevitably clash with attempted Executive autocracy, an enterprise that to succeed must either purge professionals or else win their acquiescence or de-professionalizing de-ethicalization. One

way to theorize the second Trump Administration's unprecedented purging, transformation, and personalization of the federal administrative state is as an attempt to force an exception to professional ethics for Executive Branch service. Finally, I conclude this essay by underscoring actionable steps to buttress the professions as a bulwark against authoritarianism, corruption, and disastrous decisions.

I. Attempted Autocracy and Radical Constitutionalism

[The Steady State](#), a group of hundreds of former intelligence analysts, recently delivered their “moderate to high confidence [assessment] that the cumulative effect” of Trump Administration actions and congressional acquiescence “places the United States on a trajectory toward ‘competitive authoritarianism.’” That is, “a political system where the formal architecture of democracy—such as regular elections and legal opposition—remains intact but incumbents systematically manipulate the playing field to disadvantage rivals and consolidate power.” In legal terms, there is [extensive evidence](#) – too much to recount in full here – that the administration is on track to create a “[constitutional moment](#)” that functionally amends the Constitution in favor of Executive autocracy and away from paramount constitutional principles of limited, divided, checking, and distributed power.

James Madison warned in [Federalist No. 47](#) that “accumulation of all powers, legislative, executive, and judiciary, in the same hands” is “the very definition of tyranny.” There is no constitutional text, structural consideration, nor originalist evidence that the Constitution properly envisions incapacitation of its power-limitation structures in favor of Executive autocracy, which involves the Chief Executive acting in defiance of or effectively claiming the lawmaking and law-interpreting powers of the other branches. Nevertheless, autocracy is plainly contemplated by the President in his repeated claims that he can “[do anything I want](#)” under [Article II](#), and that he [may not be bound](#) by the Constitution. A broader societal dominance objective is evident in statements from other top Trump figures indicating intent to achieve “us [completely replacing](#) the existing ruling class with another ruling class.”

Executive autocracy is the logical implication of the “[radical constitutionalism](#)” advocated by Office of Management and Budget (OMB) Director Russell Vought. The idea here is that, as Vought wrote in an essay three years ago, ours is a no-limits “post constitutional moment.” That is because “a slow-moving revolution” built a Constitution-negating administrative state of “career civil servants with purported expertise” and independent agencies. “The Right needs to throw off the precedents and legal paradigms that have wrongly developed over the last two hundred years,” Vought wrote – including by intimidating courts with the [threat of defiance](#). Essentially, the Executive should disregard its special responsibility to “[take Care](#) that the Laws be faithfully executed” that tames the reality that it uniquely has “the sword” and can take physical action, and instead should simply ignore 200 years of bad law made by “bad cases and bad statesmen.” Via [crushing](#) statutorily created and funded [agencies](#), purges (to include civil servants generally, [ethics offices](#), and [Inspectors General](#)), and pressure on

remaining workers to conform to an [Executive Order](#) that purports to centralize all legal interpretation with the President, the Trump administration appears to be executing Vought's stated desire to return to a Founding Era circumstance in which the administrative state built in the last century did not exist and therefore (the logic jumps here) should never have existed. (Conveniently, Vought does not recommend eliminating today's standing army, a prospect that deeply [concerned](#) many [Founders](#). Nor is Vought moving to scrap Trump's new domestic army: the heavily armed, shockingly violent, and rapidly expanding Immigration and Customs Enforcement (ICE) paramilitary force that in short order has generated extensive evidence of [violations of the law](#)).

Executive autocracy, competitive authoritarianism, radical constitutionalism – whatever one terms it, this power grab runs inevitably into the professions that have evolved over the course of the nation's history. These expert guilds, with members spanning the political spectrum, have become key enablers and integrity guardians in analysis, decision-making, and organizational action in virtually every American institution, including the federal administrative state. Autocracy's precepts of power centralization and total personnel subservience cannot co-exist with ethical codes that require professional independence. To be sure, this clash to many appears to be part of a larger class war against the intelligentsia (one that recalls authoritarian communist revolutionaries [Lenin](#) and [Mao](#)). We can also be sure that the Constitution does not require professionals nor their ethical codes in federal service. Even so, experts and their ethical codes are enormously valuable, especially but not only in the national security space.

II. Professions of Honor, Protecting the Republic

As I have argued in [my scholarship](#), “lawyers, military servicemembers, and intelligence officers have much in common. They are members of similar ethical professions, ones with similar attributes and a common core of ethical commitments.” These include heightened fidelity to the truth, refusal of malfeasance, and a basic quantum of analytical independence to decide whether the client or organization is acting reasonably and therefore the professional can participate. These commitments enable professionals to do their expert work of managing complexity, while reflecting our civic and constitutional values.

All three professions in federal Executive service also have – in varying form – apoliticality as a key part of their professional independence. The military and intelligence professions are apolitical under longstanding norms, and as a matter of the rules under Pentagon [political activity regulations](#) and a statutory requirement for intelligence to be “[independent of political considerations](#).” Lawyers in many political appointee positions may bring political sensitivity to their work, but must comply with the [Hatch Act](#) ban on political activity in government and over the past century a strong norm of [Justice Department](#) and [prosecutorial independence](#) emerged, to ensure that law enforcement does not become a partisan weapon.

Professional ethics in a limited but meaningful way decentralize power within organizations. They require professionals to act as checks on error and abuse of authority, and to be courageous. In subtly different ways in each profession but with common general effect, an ethical professional cannot sign away their independent judgment, nor can they abandon their obligation to refuse participation in a claim or action that they determine to be false ([covert action](#) would be one limited exception) or illegal.

Professionals of law, arms, and intelligence are generally prohibited from false statements, and must be ready to provide frank assessments that their colleagues, clients, and bosses may find inconvenient. The lawyer's [ethical obligation](#) of "independent professional judgment" to include "candid advice" is fundamentally similar to the obligation of the intelligence professional under the Principles of Professional Ethics for the Intelligence Community to "[speak truth to power](#)," and to provide "[objective intelligence](#)." The ability of all members of the [Joint Chiefs of Staff](#) and the four-star [combatant commands](#) to provide their candid recommendations to their civilian superiors and to Congress is [statutorily protected](#), as is the [independent legal advice](#) of the JCS Chairman's Legal Advisor and the [military lawyers of the services](#).

Autocracy typically involves illegality, repression, lies, self-dealing, and other abuse of authority. Not surprisingly, professionals [who might resist](#) are commonly [targeted](#) for [suppression or cooption](#) by [authoritarian regimes](#). In America in 2025, professionalism is in constant clash with the Trump team's moves toward complete power centralization and personnel subordination.

Professional ethics do especially important work behind closed doors. In unclassified but confidential settings, and in highly classified national security spaces, secrecy combined with dispatch, judicial deference, and avoidance doctrines can insulate administrative action and [legal interpretation](#) from meaningful congressional, judicial, and public review and correction. Legal, military, and intelligence personnel through their professional ethics help bring fidelity to fact and law to secrecy's darkest corners, and act as checks on error and abuse of authority.

III. The Autocratic De-Professionalization Drive

In a republic under the rule of law, a drive for autocracy is manifestly wrongful conduct, a constitutional sin of the first order that no one who swears an oath to the Constitution [can knowingly advance](#). The Framers explicitly designed the Constitution to prevent dictatorship. To succeed in warping the constitutional operating system, an autocratic attempt must purge, silence, or corrupt professionals away from fidelity to their constitutional conscience and ethical responsibilities. Moving into the gap are centralized power and subordination so total that professionals are reduced to equally mindless tools of salutary action and repression.

Trump's first term generated considerable tension with the professions of law, arms, and intelligence, as I explained in the [Hofstra Law Review](#). In part because professionals reasonably did their jobs during the first term in resisting Trump's effort to overturn the 2020 election and other wrongdoing, and because they were involved in amply predicated investigations and prosecutions of Trump and those around him from 2016 through 2024, professions in the second Trump Administration are under pressure that in its scale is unprecedented in American history and predicated on the weak but endlessly repeated claim of a vast partisan "deep state" conspiracy. The more obvious explanation for Trump's clash with professions in various fields is the incompatibility of autocratic tactics and professional ethics, to include the ideas, norms, rules, and laws that sustain them. One way to understand this year's events is that the second Trump Administration is trying to force an exception to professional ethics for federal Executive Branch service – de-professionalization, and de-ethicalization.

Law

Actions bearing on the legal profession have plainly reflected the autocratic pattern and facilitated moves against other professions.

The first key move was the Attorney General's February 5 [direction](#) to U.S. Department of Justice (DOJ) lawyers to zealously advance any ostensibly "good-faith" claim and not substitute "personal...judgments for those that prevailed in the election." Second, on February 18, the President in [Executive Order 14215](#) self-designated himself (a duly-elected President, and also a convicted felon) and his designees as final authority on law within the Executive Branch. Every President has the potential final say, a power rarely invoked. What is different is that Trump has centered presidential preferences to a degree without equal in living memory, and eliminated the traditional independence of the Justice Department. Third, the second Trump Administration has generated an unavoidably large body of evidence of reduced fidelity to the law and ethics as long understood – prompting a large number of firings and resignations of career lawyers on that basis, rebukes from an array of courts that have been misled and defied, the first [presidentially-directed prosecutions](#) in living memory, and ultimately [abundant reason to conclude](#) that the Trump Administration has so little integrity that the Executive Branch no longer warrants traditional respect and deference by courts.

Read together with the [Trump \(2024\)](#) decision by the U.S. Supreme Court that created presidential immunity to criminal liability for any official act, these Trump second term moves can reasonably be understood to have generated this new circumstance: Executive Branch lawyers are obligated to blindly accept the President's definition of a "good-faith" claim, no matter their own judgement about its truthfulness, no matter if Congress or the courts have made contrary law, and no matter how much the claim fits with a clear broad pattern of government bad faith or plainly reflects illegal or inappropriate politicization intent by the President. In other

words, lawyers must abandon their core ethical obligations to independence, heightened fidelity to the truth, and refusal to participate in malfeasance.

A charitable understanding of these moves is that the second Trump Administration is attempting to impose an exception to legal ethics for federal service. The move would be grounded in the Constitution's textual unitary grant of the "Executive power" to the President, the President's electoral accountability (at least during a first term), and in originalist terms the lack of norms of independence for prosecutors and other Executive personnel during the Founding Era, refracted through radical constitutionalism.

This *arguendo* and unarticulated best-case, however, fails the can/should test. Even if Presidents Adams and Jefferson directed prosecutions against political adversaries, and even if (again *arguendo*) in theory the President today could de-professionalize lawyers into J.D.-equipped burger-flippers – into ethics-free legal muscle – there is no good case for why. [Madison](#) and [Hamilton](#) wrote in *The Federalist* that without checks people with power are tempted to wickedness. There is therefore great risk in obliterating today's more stringent legal ethical regime as an internal check on fallible humans in government inevitably doing wrong. A moment's reflection on past [intelligence scandals](#) and [abuses](#) of [secret law underscores](#) that is especially true in classified spaces protected from usual congressional, judicial, press, and public review.

Military

The profession of arms is enduring an assault on its professional ethics nearly as great. Defense Secretary Hegseth rendered moot the traditional threat of resignation by firing to date 17 general/flag officers, including dismissal of the Chairman of the Joint Chiefs of Staff without cause. Trump and Hegseth are injecting [personalization and partisanization](#) into the apolitical military through shockingly partisan and increasingly participatory [presidential public events](#) with servicemembers. The administration emphasizes not the officer's oath to the Constitution, but loyalty to a President who recently told hundreds of generals and admirals that the military should use American cities as "[training grounds](#)" for fighting a "war from within" against Americans. Hegseth has called into profound question the administration's commitment to the rule of law that the military is obligated to follow, among other steps through [sidelining JAGs](#) via firings and reassignments, stipulating "[maximum lethality, not tepid legality](#)," and lethal strikes on [alleged drug runners](#) that under longstanding understandings of the law are unlawful and most obviously [murder of civilians](#) engaged in everyday crime, who as the Secretary of State acknowledged could have been captured instead. All of these moves lean toward de-professionalization and de-ethicalization. The Trump Administration is rapidly undermining vital ethical commitments to independent advice, to apoliticality, and to the Constitution and the rule of law.

Intelligence

The profession of intelligence is also under intense pressure. In a stunning and unexplained move, the Office of the Director of National Intelligence (ODNI) summarily deleted the [Principles](#) of Professional Ethics for the Intelligence Community from its website. This code aligns with statute's apoliticality requirement, and obligates intelligence professionals to seek truth objectively, speak truth to power, follow the law, and value diversity in the nation and "in our thinking." Did the Trump team here move to suspend intelligence ethics? Or did the code die because it used the [banned word](#) "diversity"?

Filling the ethical gap is mounting evidence of intimidation, politicization, and illegality. The career four-star military intelligence officer heading NSA and the US Cyber Command, and his career NSA deputy, were [removed](#) on the basis of an internet troll's bald "disloyalty" allegation. A career three-star military intelligence officer was [removed](#) as DIA Director after providing a draft airstrike damage estimate regarding Iran that differed from the President's assessment.

Another normally scandalous incident similarly aligns with autocracy's centralization and total subordination principles. [Emails shows](#) that a top ODNI political appointee sought to revise a draft National Intelligence Council (NIC) [analysis](#) that determined that Venezuela's government probably does not have a policy of directing drug gang Tren de Aragua (TDA), "so this document is not used against the DNI or POTUS." The [facially vigorous](#) NIC report stands at odds with President Trump's March 15 [determination](#) that TDA has Venezuelan government backing for an "invasion" of the United States, a conclusion that forms much of the claimed legal basis for Trump's use of the Alien Enemies Act to remove alleged non-U.S. citizens [without standard due process protections](#) and to use lethal force against alleged TDA drug boats. Rather than welcome competing analysis and protect the NIC's independence, the Trump Administration [responded as an autocracy would](#): it smeared two well-respected top career NIC officials as "Biden holdovers" and fired them "because they politicized intelligence." Trump officials may sincerely frame everything in terms of the leader's political standing, and therefore sincerely believe this. Based on all we know, however, a well-founded and more obvious conclusion is that "politicized" or "weaponized" in Trump's second term actually means [politically inconvenient](#) for an administration that is – consistent with Vought's autocratic radical constitutionalism – defying numerous statutes, regulations, and norms to purge and politicize the federal workforce.

IV. Action, Education, and Ethical Courage

What is to be done? The recommendations I offered at the close of the first Trump term are now only more urgent.

First, every professional must maintain their standards, even at personal cost. Absent an act of Congress or other formal exception – which would be ill-advised – ethics are not optional. Ethics exist because people with great skill who operate without principles can so readily become agents of malfeasance.

Second, Congress on a bipartisan basis should deploy all of its legislative tools to return the Trump Administration to compliance with the law and ethics. Next, Congress should comprehensively codify ethics for all professions in government, starting with the legal Model Rules of Professional Conduct, Pentagon apoliticality rules, and the IC Ethics Principles.

Third, professionals in different fields should recognize their common position and common peril, and make common cause in standing up for high standards. They can better educate a highly partisanized but closely divided Congress where persuading even a few members can potentially make a difference.

Fourth, professionals and their allies can better inform an increasingly anti-elite and anti-professional public about the vital roles played by ethical professionals. A public that is [majority-disapproving](#) of Trump may appreciate knowing more about how professionals protect the nation and what the vast majority of Americans value: protecting security and liberty via high-quality decision-making, speaking truth to power, and integrity.

Ultimately, every professional, like every citizen, must remember that [it is always their job](#) to be a person of integrity and courage. The national stakes are high, meaning that this is a time for principle. It is always right to refuse in advance to be intimidated, to lower one's standards, or to participate in one's own corruption.