

CAN IT HAPPEN HERE?
AUTHORITARIANISM IN AMERICA

(CASS SUNSTEIN, ED.)

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Cass Sunstein has gathered an ensemble cast of today's intellectual Davoisie to tell us, in seventeen separate essays, whether Trump is the harbinger of American structural doom, and if so, how. It is illuminating to read this book immediately after having read Glenn Reynolds's *The Judiciary's Class War*, with its distinction between the ruling Front-Row Kids and the ruled Back-Row Kids. This is because ultimately nearly all the authors presented here believe that "it" can't, or is extremely unlikely to, "happen here," because they expect the Front-Row Kids to be able to stop "it." That is, in different ways but with the same result, the authors expect that people just like them will continue to rule, Trump and the peasants be damned.

That's not to say that they're not worried. Some of them are very worried. In particular, more than half of them explicitly recoil in horror at what's happened in Hungary and Poland, where people just like them have had their power democratically eroded. Of course, if people like the authors lose power, it's not really democratic, since history only goes one way, in their favor, so it must be "authoritarian." Thus, for the most part, this is what is meant here by "it"—not a dictatorship, but any turn away from the power of the Left. Even when the authors do talk about dictatorship, it is a throwaway. What they really are focused on is simply erosion of Left hegemony, generally using Trump as a straw man and foil. I will talk more of Hungary and Poland at the end of this review, but this basic definitional problem is only one example of how *Can It Happen Here?* is hampered by a lack of agreement on terms. Each author gets to pick his or her own definitions, which lends a somewhat scattered, ends-directed feel to the book. Still, it's worth treating each author fairly, in turn, so off we go.

Most of these authors are law professors, and no exception is the first up, Eric Posner, son of now-doddering former federal judge Richard Posner. Now, Posner may seem like an odd choice for this book, since his public profile has been highest in the recent past for his 2011 book, written with Adrian Vermeule, *The Executive Unbound*, in which he argued

that under the American system, as it exists today, an extremely strong executive is both inevitable and mostly very desirable. But that was in Obama's day, and now Posner has changed his tune. Still, Posner answers the title question in the negative. Like most of the authors in this book, he takes the concrete, anti-Trump, tack, rather than an abstract tack about possible American authoritarianism in general. Posner lists actions that Trump, specifically, would need to take to become a dictator—attack the press in various ways; attack Congress; attack the bureaucracy; attack the courts; attack state and local governments; attack the party system; attack civil society. He throws out a few historical examples of each type of attack, and concludes Trump can't effectively execute any such attacks, because #Resistance from the Front-Row Kids.

Next is Jack Balkin. His contribution starts off sounding like it will be interesting, an analysis of "Constitutional Rot," but it immediately careens off the rails. Balkin identifies causes of constitutional rot, "decay in the features of our system that maintain it as a healthy republic," as political polarization, loss of trust in government, increasing economic inequality, and policy disasters (e.g., the Iraq War and the 2008 financial crisis). Whatever the validity of this framework (and Balkin makes no effort to justify it or evaluate alternative criteria), Balkin's application of it is ruined by his only focus being unhinged ranting about Republican evil, which we are told is all-encompassing, and the main manifestation of which is the supposed fact that the Republican party merely exists to implement the (unspecified) demands of its "donor class." On every page they are excoriated; on one single page Balkin refers six times to these ghastly donors, usually with a modifier such as "wealthy donors" or "powerful donors," and then adds metonyms such as "masters." To the (very limited) extent Balkin actually seems to try to apply his framework, it is to show that Republicans are rotten, create rot, and spread rot, like the zombie fungus *Ophiocordyceps unilateralis*. Bad, bad Republicans. Then he tells us that, despite Trump being a fine example of where this (Republican) zombie rot has brought us, "I remain hopeful." Why? Because Reaganism is dead, and now we will have "the possibility of a new beginning in American politics," the exact nature of which is not specified, but about which we know it will give us, if we are fortunate, "greater democracy, equality, and inclusiveness in the face of

well-entrenched opposition.” This essay is not worth reading except to gaze in wonder at its eye-popping awfulness.

Third is Tyler Cowen, left-libertarian economics professor and blogger. He tells us “fascism” (not defined) can’t happen here, or at least anytime soon, because the federal government is “so large and unwieldy.” Authoritarian takeovers are easier in a night watchman state, Cowen claims. Where there is a large bureaucracy, on the other hand, it is harder to convince them to “adopt fascism.” The proof given is that 4.3 percent of the population of Washington, D.C., voted for Trump. “I do not myself consider Trump to be an appropriate stand-in for the concept of fascism, but the point is that a lot of these people did make that association, to varying degrees, and they voted accordingly.” This isn’t real convincing, either Cowen’s disavowal or that such voting proves a fear of fascism under Trump. After all, only 7.3 percent of the District voted for Romney (not that Cowen notes that; I had to look it up), and I’m pretty sure “proto-fascist” wasn’t a serious criticism of Romney. But both statistics do give weight to my contention that the entire bureaucracy in the District should be rusticated to rural America, and what they do say is that the District is radically Left, by philosophy and by economic interest, and would likely vote in the same percentages in favor of a fascist of the Left. (More generally, the reader has the sneaking suspicion about almost all of these authors that their resistance to any actual Left authoritarianism would be, uh, less than vigorous.) The rest of the article is rambling, pulling in Hayek and Friedman, denying the Khmer Rouge were Communist (instead saying “whatever label you wish to attach to their ideas”), and concluding that if fascism does arrive, it’ll not be by takeover of the government, but as a result of its collapse. That last claim is probably true, as is the idea that Right fascism won’t be possible as long as the federal government exists in its current form with its current power, although Cowen fails to address whether Left fascism has already arrived through that same vehicle.

The next offering is from the editor himself, Cass Sunstein. This is one of the best essays in the book (a low bar, admittedly). Rather than focusing on Trump, Sunstein offers a good thumbnail sketch of the Federalist/Anti-Federalist debate (with some dubious claims, such as that the Federalists contemplated that “[a] central function of the independent judiciary would be to interpret the Constitution, and thus

to ensure that the other institutions would be kept within their lawful bounds as established by *We the People*.”) And while certainly the American system has changed from what Publius anticipated, in its broad outlines it has worked well and continues to work well, including to prevent the rise of authoritarianism. The word “Trump” barely appears, and the reader leaves better informed than he arrived.

Fifth, though, is an unreadable steaming pile by the execrable Samantha Power, where, hopping off her broom to lecture us, she screeches about “Foreign Interference with American Democracy.” She’s not a law professor (she’s a journalist by trade, and a hack by practice), and it shows. Russia is bad, Fox News won the election for Trump by repeating falsehoods about Hillary Clinton (not by repeating truth disgorged from the DNC, which would be called “whistleblowing” if it had harmed a Republican), and we need to get back to the good old days, when the ruled only got their news from “mediated platforms” where any news was carefully selected by “professional gatekeepers.” Power doesn’t seem to have a real point other than to demand homage from the peasants, and she never answers the title question. Ugh. Let’s move on.

We seem to be falling into a rhythm where a bad essay is followed by a better essay. So next is Jack Goldsmith’s evaluation of the “Deep State,” a term used for different groups of entities, but here explicitly limited to intelligence agencies. Goldsmith admits there is a Deep State and identifies, since World War II, its occasional use of “political abuse” (actions to coerce non-state individuals, such as Martin Luther King) and “political sabotage” (actions to achieve political ends of policy or personnel; e.g., J. Edgar Hoover keeping files on politicians to ensure good behavior vis-à-vis the FBI). (No mention, of course, is made of the recently exposed massive political abuse and political sabotage by the Deep State under Obama, only the tip of the iceberg of which we probably know about, although to be fair some of that, such as the criminal Internal Revenue Service persecution of conservative groups, was not done by the Deep State as Goldsmith defines it.) The earlier era of the Deep State ended with the Church Commission in 1976, where Congress permitted continuing extensive intelligence activities but mandated greatly increased oversight, largely eliminating political abuse until 2008. But political sabotage continued, and Goldsmith divides that activity into the categories of “abusive” (Hoover)

and “virtuous” (Mark Felt), although he admits “[i]t is sometimes hard to say precisely when and why opportunistic use of secret information to sabotage democratic leaders is deemed virtuous.” You can say that again. But Goldsmith even-handedly uses this framework to analyze the publication of various recent leaks by the *New York Times*, Edward Snowden, and so forth. He then admits that “[t]here is significant evidence that the Deep State so understood—either as part of a concerted movement or via individuals acting more or less independently—has used secretly collected information opportunistically and illegally to sabotage [Trump] and his senior officials.” Goldsmith notes that most of this anti-Trump activity is totally unprecedented, not only in amount but in type. Nonetheless, he refuses to conclude this Deep State behavior is “not virtuous,” muttering in essence that extraordinary times require extraordinary measures, but it clearly makes him very uncomfortable, and “the whole ordeal has already done great damage to both the presidency and the national security bureaucracy.”

Seventh is Tom Ginsburg and Aziz Huq, shilling for Huq’s upcoming book, who talk about “democratic backsliding,” among other places in Hungary and Poland (a topic which I will, as I say, discuss below). Their basic point is that sudden descents into autocracy (or whatever exactly the “it” of the title is) are not required to get to autocracy, or even likely. Slow erosion of democracy is more likely, more plausible and more historically demonstrated. (Ginsburg and Huq are occasionally unintentionally funny, as when they say flatly, “[D]emocracy can’t work if the ruling party has the courts and bureaucracy firmly in its pocket.” By that standard democracy is already over, and Trump and the Republicans lost.) Then they go on at length to tell us that Republicans are trying hard to erode democracy, but, God willing, their evil will not succeed, and if it is prevented, it will not be prevented by the Constitution (contra Sunstein), but by the people who, united, can never be defeated.

Noah Feldman parses each of “it,” “can’t,” “happen,” and “here,” to conclude that “it” means the erosion or end of “liberal democracy,” a term and concept he notes is found nowhere in the Constitution and is a post-1787 creation. Thus “it,” meaning material political transformation, has occurred, is occurring, and will continue to occur. What that will look like, though, is hard to say. True enough, I suppose.

Next was the essay I held out the most hope for, by Karen Stenner and Jonathan Haidt, both psychologists, with Haidt being the foremost voice on the Left today for attempts to reach across the aisle, encourage real debate and discussion, and arrive at negotiated ends. I was not disappointed, though it took a while to get there. This is a long essay; most of it is taken up with technical discussion of surveys of the “authoritarian dynamic” in individuals, how that differs from “conservatives,” and how those measures correlate with public opinion in the United States (especially with respect to voting for Trump) and Europe (especially with respect to voting for Brexit or Marine Le Pen). I found this fairly boring, though your mileage may vary. But at the end Stenner and Haidt turn to suggestions, among them Haidt’s often-made statement that diversity is not our strength, but instead democracy needs “an abundance of common and unifying rituals, institutions, and processes,” which will bring us together and blunt the authoritarian temptation. Speaking of Trump haters without specifying, they note that “the sentiments that seem to fuel those [populist] movements are often considered merely the products of frustration, hatred, and manipulation by irresponsible populist leaders—certainly not serious, legitimate preferences that a democracy must attend to.” This is especially true of immigration—Stenner and Haidt explicitly reject that any and all immigration must be good. “If citizens say they’re concerned about the rate of immigration, we ought to at least consider the possibility that they’re concerned about the rate of immigration, and not merely masking a hateful racism or displacing their economic woes onto easy scapegoats. . . . It is implausible to maintain that the host community can successfully integrate any kind of newcomer at any rate whatsoever, and it is unreasonable to assert that any other suggestion is racist.” Some level of intolerance is inherent and natural; to pretend otherwise is silly and is likely to itself destroy liberal democracy. Thus, this essay, which began dry, ends with a frankly radical approach relative to others in the book, many of which also name-check Francis Fukuyama, but none other of which suggest that not only was he wrong about the end of history being liberal democracy, but that further movement toward that end may be exactly the wrong thing to push.

Bruce Ackerman then offers a brief essay, recycling (by his own admission) his proposal that institutional frameworks for Presidential

action in emergencies be put in place now, before an emergency allows an ill-intentioned president to distort the existing Constitutional system. Maybe, though my guess is that if a President uses an emergency as an excuse to seize broader power, such structures won't matter much.

Next up, Timur Kuran offers a long article, trying (loosely) to use Hayek's framework of the "road to serfdom" to explain how "cascading intolerance" can lead to that serfdom, defined as authoritarianism not arrived at by collectivism, but by suppression of communication and pandering to grievances. Kuran lays out an even-handed framework of how communities of intolerance have arisen on the Left, through many adopting identity politics enforced and advanced by political correctness, and on the Right, through many (allegedly) adopting "nativist" politics, enforced and advanced in a way not really specified. These groupings are fair enough, though Kuran ignores that the former is massively powerful and dominates American culture, while the latter, especially in its more extreme manifestations, has no power or real influence at all, and in its mainline manifestations, such as Fox News, has limited power and is much closer to the majority of American thought than are Left identitarians. (Also, Trump may "flaunt" the law, but I think Kuran means "flout.") In any case, these intolerances are mutually reinforcing, and further reinforced by "availability chambers" (i.e., echo chambers). Despite occasional howlers, such as the suggestion that we can reduce intolerance by all getting our news from CNN, to get "exposed to diverse perspectives firsthand," this is a pretty good analysis. Kuran concludes that Tocquevillian associations are destroyed by this process (although he seems to think they have not already been destroyed, an odd claim in light of Robert Putnam's work), and that our only hope is a restoration of the "mushy middle" as against this increasing chasm between us.

The twelfth essay, by sociologist Jon Elster, is a somewhat offbeat offering about Louis Napoleon, Napoleon III (the nephew of the original Napoleon), who seized power in France in 1852. This is a fascinating account, featuring Tocqueville again, although here not with respect to his opinions on America, but as a direct participant in the action. (Tocqueville appears in some form or another in most of the essays in this book, followed, surprisingly, in number of references, as far as political thinkers go, by Carl Schmitt—not for the latter's Nazi connections, but rather for his substantive political thought. This is frankly

shocking to me—I had no idea the Schmitt revival had reached deep into the Front-Row Kids, not that any writer here endorses Schmitt, but several of these writers very evidently find his thought extremely valuable and important.) The point seems to be that Louis Napoleon could have been stopped at many points, but for a variety of reasons, he wasn't. Nor was Trump. And to the extent Trump, or someone else, actually tries to become authoritarian, other opportunities to stop him will exist, and they should be taken. At least I think that's the point.

Next Martha Minnow, the dean of Harvard Law School, asks "Could Mass Detentions Without Process Happen Here?" Her frame is the infamous *Korematsu* case, still valid law but part of a group of decisions generally "abhorred and rejected," what she calls the "anti-cannon," by which she means not a machine to defend against artillery pieces, but an "anti-canon." Minnow notes that there is every reason to believe that in a future emergency equally bad behavior would be endorsed by the courts. Her point in this short article seems to be that *Korematsu*, which "remains like a loaded weapon" (a cannon, perhaps?), needs to be formally overruled, and the upcoming Supreme Court decision on Trump's travel ban on foreign citizens coming to the United States from certain Muslim-majority countries is the place to do it.

Duncan Watts then talks at great length, much greater length than necessary, about how common sense is a bad basis for leaders to base political decisions on, and that we need a scientific approach, although he admits that isn't all that much better in practice. (The name Edmund Burke does not appear, though Thomas Paine does.) Watts offers a very interesting Barack Obama quote, "Nothing comes to my desk that is perfectly solvable. Otherwise, someone else would have solved it. So you wind up dealing with probabilities. Any given decision you make you'll wind up with a 30 to 40 percent chance that it isn't going to work. You have to own that and feel comfortable with the way you made the decision. You can't be paralyzed by the fact that it might not work out. On top of all this, after you have made your decision, you need to feign total certainty about it. People being led do not want to think probabilistically." Still, more scientific approaches mean, on average, more legitimacy for decisions, and I presume the message is that makes authoritarianism less likely.

Grinding toward the end of the book, David Strauss offers an excellent essay, arguing that the real problem is how to deal with a “slow-motion emergency,” and that the correct way is for judges to do so by taking illegal action to stop it. This has the virtue of being honest about his project, and Strauss, to his credit, similarly honestly identifies and discusses the problems with this approach, including how to identify what is an “emergency,” the possible erosion of judicial legitimacy, and so on. He discusses civil rights-era cases other than *Brown* through this framework, notably *Shelley v. Kramer* and *Terry v. Adams*. He notes, dispassionately, *Bush v. Gore* and *NFIB v. Sebelius*, in the context of what judges view as an “emergency.” And he pleads that judges be explicit and open about what they’re doing, when they bend or break the law in response to a perceived emergency, and be willing to react and, if necessary, roll back their actions. In other words, this is a straightforward call for judges to rule us completely and wholly undemocratically, for our own good, in order, if necessary, to prevent authoritarianism. Strauss, more or less, says it can’t happen here, because it has already arrived, in the form of total judicial supremacy. Now, he doesn’t say that in so many words, but that’s the inescapable conclusion, and I certainly agree that we have already arrived there. My conclusion is different—it is that today’s judicial supremacy needs to be smashed and its authors punished. But I admire Strauss for his straightforward, clear-eyed, and honest approach and evaluation.

Penultimately, Stephen Holmes gives us a very long, and not very coherent, list of eleven factors that erode democracy (defined in practice as left-liberal supremacy) and dishonestly attacks the current governments of Hungary and Poland at similar length. He concludes, though, that our democracy is doing pretty well, because #Resistance has provided “democratic effervescence.” Of course, that effervescence’s goal must only be “removing right-wing populism from power” and “defend[ing] democracy against its drunkenly reckless enemies.” It’s pretty clear that the Tea Party, or anything opposing Left demands, is not the type of effervescence that Holmes has in mind—rather, I’m sure he’d categorize those as those demanding “authoritarian xenophobia.” All animals are equal, and all that. Skip this one; life is too short.

And, last of all, Geoff Stone, who is a bright man but not nearly as bright as he thinks, and who has never met a mirror that he did not

congratulate, gives us an outstanding and valuable history lesson about all the times civil liberties have been sharply curtailed in the United States in ways we find incomprehensible at this moment in time, from the Alien & Sedition Acts to Vietnam. (He errs, though, when he says that in *Ex parte Milligan* “[t]he court ruled that the president [Lincoln] was not constitutionally empowered to suspend the writ of habeas corpus, even in time of war, if the ordinary civil courts were open and functioning.” Actually, the Court did not address habeas corpus, the right to suspend which is explicit in the Constitution, though by whom and when is still not settled. Rather, the Court said that military trials could not be substituted for civilian trials. The habeas issue was treated as moot.) Stone covers President Wilson’s suppression of dissent during World War I, and, again, *Korematsu*. He ultimately calls for “political leaders who know right from wrong . . . federal judges who will stand fast against the furies of the age,” and an informed and non-docile media and public. I find little to disagree with in this as far as resistance to true authoritarianism, if we are attempting to maintain the existing American framework, though I note that on many matters federal judges are the blade of the “furies of the age,” insofar as left-liberal policies are being forcibly imposed to cut America’s throat.

If I had to pick two overriding themes in this book, they are that America’s chief ornament and defense is its “independent judiciary,” and that modern Hungary and Poland are disgusting nations now run by evil men, the likes of which is it our prime goal to fend off here. As far as the first, what “independent” means is never, ever, defined—but its meaning is clear, and it is not “independent” in its usual sense of subject to and implementing the rule of law (a phrase that appears in very few places in this book, to my surprise), rather than the rule of men. Here, instead, it means a judiciary that will resist to the end, as Strauss explicitly endorses, any democratically produced legislative or executive action that is conservative, most especially socially conservative, and will at the same time reliably implement, where desired legislative or executive action is not forthcoming, left-liberal desires, regardless of any basis whatsoever in statute law or the Constitution, and without any possibility of appeal or messy democracy getting in the way of the desired Left ends. A judiciary, for example, that refused to find a right to same-sex marriage in the Constitution, or allowed a

baker First Amendment rights, or, worse yet, found that the right to not be deprived of life without due process of law included human life in the womb, would, I can assure you, not be awarded the title of an “independent judiciary.” Rather, it would be awarded titles I cannot repeat in a family-oriented forum such as this one.

This, though, is a commonplace, and one I have treated at more length elsewhere. More interesting to me is the execration of Hungary and Poland, or rather of the current recent dominance of the Fidesz party in Hungary and the Law and Justice Party (PiS) in Poland. I have a particular interest in, and knowledge of, Hungary. My mother is Hungarian; I speak Hungarian (though not well enough to read on political matters in detail); and my first cousin, twice removed, József Antall, was the first post-Communist prime minister of Hungary. When I lived in Hungary, the current prime minister and hate object of the progressive Left, Viktor Orbán, was a young man and leader of the youth party (as Fidesz was, originally). Poland I have less connection with, but as is not well known in the West, the Hungarians and the Poles generally are historically very friendly (probably because they have no common border!) and I have spent time in Poland as well. As wave after wave of propaganda viciously attacking Fidesz and the PiS, and therefore attacking the democracy of those countries, has cascaded through the Western media, led by the *New York Times* and funded by George Soros, I have been meaning to adequately inform myself of the truth of the matter. Today is that day, and you are the lucky beneficiary of my study.

But first, let’s parse the attacks, well laid-out in two essays in this book, one the one by Ginsburg and Huq, the other the one by Holmes, although most of the essays mention both Hungary and Poland as supposed cautionary tales, and every single mention is explicitly that Fidesz and the PiS are “anti-democratic.” I’m sure there’s a lot of sausage-making type politics in both Hungary and Poland today—gerrymandering, dirty tricks, etc., just like in any political system ever. But it’s not that the authors here object to that. No, they just object to the flavor of the Hungarian and Polish sausage, but claim that they won’t eat sausage because of how it’s made, when in fact they are happy to gobble up any sausage made by the Left, even one made from metal shavings and sawdust.

Ginsburg and Huq inform us: “In a startlingly short time frame, populist governments in both countries have straitjacketed independent courts; dismantled independent checks on political power; used regulation to muzzle the media or stack it with cronies; and conjured supposed security threats from immigrants and minorities as a justification for centralizing power and dismantling checks. In Hungary, the Fidesz government used constitutional amendments to entrench its slim (53 percent) majority beyond easy electoral challenge by changing the composition and operation of a previously independent electoral commission. The result was that in 2014, it won two-thirds of the parliamentary seats with 45 percent of the vote. Fidesz also changed the composition of the Constitutional Court and created a new National Judicial Office. It also strengthened the prime minister’s control of supervisory bodies such as the Electoral Commission, Budget Commission, Media Board, and Ombudsman offices. . . . [PiS], elected in October 2015, began its tenure by selecting five new judges for the Constitutional Court, while refusing to swear in three other judges who had been properly appointed by the previous government. Two months later, the PiS-controlled parliament enacted an amendment to the Constitutional Tribunal Act requiring a two-thirds majority on the court in order for its decisions to be binding. In the same month, the parliament also enacted a new media law dismissing the boards of all public-service broadcasters and vesting the treasury minister with authority to replace them with pro-PiS leadership.”

Holmes tells us that Trump is “hell-bent on emulating [Hungary’s and Poland’s] attacks on democracy’s core norms and institutions.” He calls this “xenophobic authoritarianism.” Yes, but what does that mean specifically? Slogging on, we learn that “The Fidesz Party . . . and the [PiS] both came to power through elections. Once in power, their leaders proceeded to dismantle virtually all checks on their power, neutering the courts, for instance, and undermining freedom of the press. Viktor Orbán and Jaroslaw Kaczyński excite their bases by railing against the technocratic EU, insalubrious migrants, thieving Roma, foreign-funded NGOs, the sex-obsessed internet colonized by American corporations, the nose-in-the-air elite, the self-perpetuating establishment, meritocracy for a few, open-demography globalization, a high-stakes gamblers’ capitalism that revealed its callous disregard for ordinary people in

2008, atheist consumerism, gays whose refusal to breed contributes to an embarrassing decline of national natality, and a multiculturalism that robs citizens of their national identity.” None of this is very specific as to actual acts relating to supposed authoritarianism, and “virtually all checks on their power” and “neutering the courts” sounds like, and is, an extreme exaggeration, even if you agree with Holmes that there is a problem. What substance Holmes offers thus duplicates Ginsburg and Huq. But as for the rest, this is presumably not the effect Holmes desires to create in his readers, but when I read that list, I want to stand up, cheer loudly, and wish Orbán and Kaczyński every success in every element of their program!

How Hungary and Poland got to what everyone agrees is a Third Way, opposed to the brutal “liberal democracy” of the EU, is another story I won’t try to cover here. Holmes ascribes it to reactions against “neocolonialism,” by which he means attempts to force neoliberalism on these communities (channeling the philo-Communism of Philipp Ther). I think more likely it is a return to the original mainsprings of anti-Communist activity in these countries, as Ryszard Legutko has so adeptly laid out. But as I say, that’s another question, and another story.

Let’s take the truth of each of these claims in turn (a task made harder by that no references are provided by any of the authors). But first, in general, let’s note that we see here the typical use of the never-defined term “independent” for its special meaning—advancing the goals and power of the Left. And missing here is any argument, any at all from either set of authors, why any of these claimed actions are “anti-democratic.” When you realize that, like “independent,” the term democratic is not to be used in its ordinary sense, of popular consent and determination, but as a code word signifying “Left supremacy,” its real use becomes clear. Finally, missing here is any claim that any of these actions violated the actual structures of Hungarian or Polish law, which would seem to be an important element of any attack on these actions, if the actual relationship of these actions to the rule of law was the question, which it is not. Instead, we get bloviating like the claim of the International Election Observer Mission of the Organization for Security and Cooperation in Europe (say that five times fast; whew!) about undeniably completely legal changes to election law, that they were somehow deficient because they did not have enough “inclusive

dialogue with opposition parties.” Somehow, you just know that it’s never enough “inclusive dialogue” unless the Left gets its way, and when that’s the locus of complaint, you know the “Observer Mission” (which I am certain is a hard-Left EU body) is a stupid farce.

So, as far as “have straitjacketed independent courts” or changing the composition of various courts, it is a bit precious of American Front-Row Kids whose entire program for decades has been implemented and is maintained by unelected federal judges in the teeth of democratic opposition to complain that judges are acting to implement a political program in Hungary and Poland. But leaving that aside, what is happening in Hungary and Poland is not, in fact, just a mirror-image application of the principles that have enshrined Left principles as the dominant ones in American life. Rather, it is important to remember (as Anna Funder documents in great detail in *Stasiland*) that former Communists, high and low, were never purged or punished in any East Bloc country and, for the most part, kept much or all of their power. Thus, many judges today in Eastern European countries were active and committed Communists, never punished in any way for their crimes or complicity. PiS was elected in part because of its promise to reform the Polish judicial system (including addressing both Communist and traditional-style corruption). The PiS’s chosen mechanism for this was to allow the legislature and professional bodies input into judicial appointments, which had up until that time been solely in the hands of the judges themselves, in a classic example of the cat guarding the henhouse. Along similar lines, the PiS wanted to appoint some PiS appointees to the Constitutional Court—until then, the Left party formerly in power, the Civic Platform, had created a court composed almost wholly of their own appointees. Only one of these things is seen by the Left as “anti-democratic,” and we can see why, doubly—because the Left party is not in power, and the judges who are used to further the Left’s agenda are going away. (Nor is it true that the three judges the Civic Platform wanted to retain had been “legally appointed”; whether they had was the question in dispute.)

As far as “have dismantled independent checks on political power,” this is meaningless, because it means nothing without examples. That none are given suggests this is mere puffery. What it probably means is

that Left power, that is, “independent checks,” has been eroded, which is “anti-democratic.” To parse the statement is to refute it.

As far as “have used regulation to muzzle the media or stack it with cronies,” this is somewhat opaque. To clarify, first, we should remember that in Europe, even more than in America, there is a one-party media where what is allowed to be considered news is almost wholly dictated by the ruling class, which is Left in all relevant parts. The worst example of this is Sweden and its total suppression of the reality of the Muslim invasion and resulting massive crime wave (though to its credit the *New York Times* recently reversed its earlier attacks on Trump for his exposing the Swedish conspiracy of silence, and admitted the problem), but it’s generally true across the Continent. True, Orbán has turned the government-owned media into a cheering section—but there is plenty of private media, and a much more vibrant set of views available in Hungary, ranged across the political spectrum, than in the vast majority of European countries. Second, in Hungary, it is true that a news organization can be fined for publishing “imbalanced news coverage” or material deemed “insulting” to a group (but none has been so fined). By American standards, that sounds bad (although let’s not forget the Fairness Doctrine, only used to suppress conservatives, or that *Citizens United* revolved around an attempt to suppress a film documentary critical of Hillary Clinton as a “campaign contribution”). But such laws are the norm in Europe, where the principles of the First Amendment simply don’t exist. When such laws are used, as they often are, to suppress orthodox Christian belief or as blasphemy laws that only protect Islam, or where the government uses its power to more generally control the media, that’s never a problem. No, it’s only a problem in Hungary, which suggests that the real objection is to Hungary not toeing the EU’s left-liberal line, not to its unexceptional laws about the media, which are neither anti-democratic nor authoritarian.

As far as “have conjured supposed security threats from immigrants and minorities as a justification for centralizing power and dismantling checks,” part of this is incoherent (what checks?), but any honest observer will admit that Muslims, which is what we all know we’re talking about here, have repeatedly proven to be not just a security threat, but rabid killers. From Bataclan to Brussels, Muslim fanatics have left a trail of bodies. The number of Muslim killings in Hungary

and Poland, ever? Zero. You can argue causation, I suppose, and note that most Muslim economic migrants to Europe (that is, essentially all migrants to Europe) are not Muslim fanatics and much prefer to transit Hungary to, and avoid Poland in favor of, juicier welfare states farther west. But to suggest that Muslims aren't a threat is stupid, and security is a traditional valid rationale for centralizing power (one which we should be suspicious of, but as always with this book, it's only suspicion of conservative views that's permitted or suggested).

The real reason for all this outraged pillorying of Hungary and Poland is that these authors are afraid, not of authoritarianism, but of the possibility that history is taking a wrong turn and leaving them behind, tangled in the briars. (They fear Trump's rise for much the same reason, not because of any actual fear of an authoritarian future.) Any possibility they are not on the right side of history is an existential crisis for anyone who has built his life, or his political views (which two things liberals often conflate) around the idea of inevitability. Thus, backsliding from liberal democracy is heresy, and heresy is the greatest threat of all. As Hilaire Belloc defined it, it is "the dislocation of some complete and self-supporting scheme by the introduction of a novel denial of some essential part therein." That is the very definition of what Hungary and Poland have done, and it cannot be forgiven. As shown by the (presumably uncoordinated) attacks launched by nearly every single author in this collection on those countries, it weighs heavily on their minds, a Sword of Damocles that will not kill them, but instead puncture the comfortable inflatable chair they have spent their lives trying to fill up with air so they can relax, wrapped in comfortable Left hegemony. Ah well—too bad for them. Of course, whether this course of virtue will continue in Hungary and Poland is unclear—voter turnout is low, children are few, and Hungary has a general election April 8 of this year, which shows some signs of eroding Fidesz support. But one should take any port in a storm, and if these countries are the pivot around which we can rally, and from which Trump and the post-Trump future can obtain best practices for breaking the power of the Left, we'll all be better off, though I am certain that there will be a wailing and gnashing of teeth among the authors collected in this book.