

INTERVIEW WITH GREGORY FRIED

PROFESSOR OF PHILOSOPHY



Gregory Fried is a professor of philosophy at Boston College. He has taught at the University of Chicago, Boston University, California State University Los Angeles, and Suffolk University. He specializes in political philosophy and has a particular interest in responses to challenges to liberal democracy and the rise of ethno-nationalism. He also works in the philosophy of law, especially law and hermeneutics; philosophy and race; practical ethics, including just war theory; public philosophy; the history of ethics; Ancient philosophy; and 20th century Continental philosophy, especially Heidegger. This interview was conducted on November 17th, 2020.

Dianoia: Professor Fried, thank you for agreeing to interview with Dianoia: The Undergraduate Philosophy Journal of Boston College. We are very excited to discuss your book, *Because it is Wrong: Torture, Privacy, and Presidential Power in the Age of Terror*. Thank you for being with us.

Fried: My pleasure, thank you for inviting me.

Dianoia: Can you please give us a brief introduction to your book and highlight a few of its central claims?

Fried: The book began as a reaction to what came out of the news in the spring of 2004. I think it was April of 2004 when the first word of the torture that was being conducted in Iraq spilled out. I was very moved and concerned by that, and I, from that time on, had many conversations about it with my father. He and I were working on various aspects of philosophical and legal responses to it, and at a certain point we said, “Why don’t we just do this together rather than compete with one another; let’s combine forces.” And, so, what that brought together were my interests in figures like Locke and Aristotle on questions of prerogative and law at the limit and my father’s interests in what he had seen in the government in terms of the abuse of presidential power and constitutional issues around privacy. We wanted to have an overarching discussion of these concerns that had jumped out at the political community of the United States following the outbreak of the war on terror. So, the subtitle of the book is “Torture, Privacy, and Presidential Power in the Age of Terror.” Each of those are domains of pushing at the boundaries of either moral or constitutional legal norms that were put at issue by the war on terror. I think both my father and I came at those issues through a combination of philosophical lenses—I think most prominently a Kantian lens on the question of torture. We weren’t trying to force one specific philosophical lens on it, we wanted to try to analyze it with the help of philosophers who could help us articulate our points to make our own argument for an audience wider than simply a philosophy audience. So, that’s the background to the book. In the book itself we make the case that torture is wrong and that it should be avoided—in fact, made both morally and legally impermissible, as an absolute. But then we look at the questions of privacy and the extent and limits of presidential power within the same framework as well. What are things that break absolute restrictions on political or individual ethical behavior? Is the invasion of privacy like torture? Or, is it a different order of things? Is a president who bends or even breaks the law for the sake of national security the in same kind of absolute situation that we are facing with the question of torture? Our answer for those is that privacy is an important moral domain that any legitimate government should respect, but it’s not the absolute that the prohibition of torture is. The same, surprisingly, ends up being true of what we call executive law breaking, which means any person, not just a president, whose legitimate function within a constitutional republic is to execute the law and be responsible for seeing that the law be faithfully upheld in situations where such a person might

bend or break the law in a legitimate way. The nature of that legitimacy is very complicated, and that's what we try to address. Those are the broad parameters of the book, and I'm happy to spend as much time as you'd like talking about some of the details.

Dianoia: Moving forward to more of a future perspective on it, what changes do you anticipate in the global discourse around torture? Especially when figures like Donald Trump or Rodrigo Duterte say that torture “absolutely works.”

Fried: First of all, those figures are not particularly credible sources for the claim that torture works. But, they play an important rhetorical role in the public's fear that has gained in influence over the last decade and has come to great prominence with the success of Donald Trump and figures like Bolsonaro and Duterte, and other quasi to genuinely authoritarian leaders throughout the world. I think it's important to note that for authoritarian, totalitarian or dictatorial leadership, torture plays a very important role. It is a tool in their toolbox that they want to lay claim to, but not for the stated purpose that it works to prevent terrible crime. What it works for is enhancing the power of an autocratic regime. One can give credit, even to a figure like Donald Trump, if one wants to, to say that they sincerely believe that there are certain circumstances where they think torture will work to prevent some great wrong. That may in individual cases be what's motivating them to embrace torture, but functionally, if you look at the role of torture in regimes that have used it, especially in the 20th century, whatever the initial intent, what ends up happening once torture becomes institutionalized as one of the tools of the government is that it plays a distinctly oppressive role in the work of an authoritarian or dictatorial or totalitarian (if we are going to go from bad to worse) regime. The reason for that is that the torture itself becomes the point for those kinds of regime. It is not what they can accomplish in terms of intelligence or crime prevention; it is what they can accomplish in terms of terrorizing a population and corrupting the forces of law that are part of the institutions that the authoritarian or dictator want to bring into their fold.

There are a variety of arguments one can make against torture, some of them can be deontological, as my father and I tried to do, so in other words a claim about the sheer wrongness of torture in of itself, as an act, that should be avoided, but there are other kinds of arguments that are consequentialist arguments that I think are also very important that have to do with what happens to a society when torture is institutionalized. I don't think it is particularly helpful to base policy on some fantasy or imaginary thought experiment about whether or not in this or that emergency situation it would be right to torture somebody to prevent some terrible wrong from happening. I have a very strong philosophical problem with using thought experiments in order to establish policy, and I can come back to that. But, your question was about the world that we are engaging in the future, and I think it is very important to bear in mind that the rise of authoritarians and quasi-authoritarians will be accompanied by torture regimes. Therefore, the defeat of those kinds of leaders is very important. So, the next five years are going to be decisive. Will Donald Trump have a comeback after a Biden presidency? If he has a comeback, will he come roaring back and thereby be able to tear down even more of the institutional and cultural norms in our society? If he succeeds in that, or somebody like him succeeds in the United States, it will pull down the barriers for world leaders across the globe to incorporate torture in their governance. And they will do that not because it's good for law enforcement or preventing horrible emergency scenarios. They will do it to entrench their rule. That's the goal.

I can't predict the future, but what I can predict is that torture is like a canary in the coal mine. The more it's happening, the more likely it is that you have a political community that's shifting from some form of democratic republican form of government to an authoritarian one. It's just not the tool of a democratic regime. It corrupts a democratic regime to use torture. So one way to think about that is once you institutionalize torture, what branch of the government is responsible for torture? Who are you going to be training to do the torture? What's going to happen when they come out of the military, for example, and join the police forces. It's very hard once you start down that road to contain it, as if in some toxic waste facility. That's not how institutions and governments and cultures of governance develop. Once you change a culture of governance by bringing in a torture regime you've changed much much more than just whether or not you're torturing some people in some black site somewhere.

Dianoia: In the final chapter "learning not to be good," you make the distinction between something being wrong because it is illegal and something being illegal because it is wrong. How can executive officials know where to draw the line between those two types of wrongs when they are faced with a dirty hands situation?

Fried: There is no formula, and that's what makes being involved in civic life a risky business, and it is one reason that we should be charitable to people who go into law enforcement, but we also have to be vigilant about what the boundaries are. This is really the problem if you have a democratic regime, such as ours, where the rule of law is really important and where officers of the law are just that: servants of the law entrusted to uphold it for the good of the people. We have a democracy, or a republican form of government that involves democratic elements. The idea is that it is the legislature and the people. In a regime like ours, the people are sovereign, so ultimately, it is they who get to decide. They decide on what the rules are through their representatives who make the laws, and then the officers of the law, from the parking meter enforcer to the president of the United States, are meant to be servants of the laws as they are passed by the people. That is what it means to be an officer of the law. Unlike other forms of regime, where the officer of the law can claim to be the law, especially in a monarchy. In a democracy, by contrast, the officer of the law is not meant to substitute their own judgement for the judgement of the people acting through their representatives in their law-making function. At the same time, part of the duty of an officer of the law is to attend to the common good of the community that they are serving, and it is impossible to lay out a formula in advance to be able to tell such an officer when their duty to the law will come into profound conflict with their duty to protect their community or an individual member of their community. You can try to build in all kinds of safeguards for emergency situations into the law, but it is ultimately impossible to build in enough safeguards so that you can cover every circumstance that might come up. The answer that my father and I have to this problem is that somebody who is an officer of the law, whether it is a police officer or the president of the United States, when they are faced with such a situation, must do what they think is best in terms of balancing the rule of law with the good of the community, or the good of a particular individual. They have to then come clean about that. You do not just sweep it under the rug. But the degree of responsibility really depends on the context, and there are petty situations, like parking meter violations, in which you could imagine somebody who is a parking meter attendant not giving a ticket to somebody who has parked their car to rush in to save the lives of people in a burning building, right? You might want to tell your supervisor that you did that and just make sure that there's nothing you have to

do, to fill out some paperwork or what have you.

But then there are much bigger issues like what President Lincoln faced, or President Jefferson faced, where they had to violate Constitutional norms in order to protect the nation. Let's take President Jefferson, where he faced a moment where he thought that war with England was imminent and that the United States was unbelievably badly prepared. Under the Constitution, only the U.S. Congress can appropriate funds for any purpose, such as restocking the military. Jefferson appropriated those funds and used them to secure naval defenses for the United States, because Congress was not in session to make this decision, even though he knew that his doing so was a violation of the Constitution. What he did was to go to Congress afterwards and say, "This is what I've done. I know it's a violation of the Constitution. I think it was still the proper thing to do. If you don't, punish me, impeach me, censor me, whatever it is you need to do, but if you do agree with me, let's ratify this *ex post facto* by you making some kind of legal determination about it, so that we repair the rule of law after this breach." I think that you can imagine ways of institutionalizing the officer of the law's responsibility to the rule of law even in the breach of law. What my father's and my concern was, in the Bush administration, was there was no such acceptance of the recognition that laws were being broken and that the executive had a responsibility to uphold those laws. Instead of being upfront about them and making the right kind of appeals to the public and to Congress, they did these things in secret and tried to paper them over. That was the problem, and those were things having to do with privacy violations. That was our concern there. Those are consequentialist concerns, but even if you are a Kantian, it does not prevent you from having consequentialist concerns about how the government is organized and how to deal with these very, very difficult positions that people in executive authority may face sometimes. We want to give them a way of dealing with it that also provides them with an out—that they don't have to feel like law breakers and then cover it up. That's the danger that we saw.

Dianoia: You frequently refer to the animalization of human beings as a negative effect of torture. You quote Jeremy Waldron's claim that "torture reduces human beings to cattle," and remark yourself that "torture causes us to look at the human body as a side of beef, ready to be flayed and butchered." Do you think it is fair that in our culture we associate being an animal with being a creature that bears brutal deforming psychologically damaging pain, and how would you philosophize about the value of an animal soul?"

Fried: This question posed itself to us when we were writing the book, and an analogy for how we could have pursued it would be what we did in the book with capital punishment. As we were working through the problem of torture, it became clear to my father that our arguments against torture were also arguments against the death penalty, which he had not been opposed to previously but became opposed to through working through this argument. What I would say is that it may well be that the argument we made has implications for the treatment of animals, and if that is the case, then our use of the language of animalization would have to be changed, but the whole point of it would be that what torture does is it renders us a kind of being that we are not supposed to be, and that is an intense violation of what we are and who we are. I do think that there are very serious critiques to be made of how we treat animals even if you do not want to go to the lengths of animal rights activism or veganism or even just the baseline vegetarianism. I think you can make such arguments. There is a very ancient set of ideas in Judaism and Islam, for example, the rules for keeping kosher or for keeping halal, that are in part designed to

protect the well-being of animals. There can be a recognition that animals are not the same as humans and do not have the same set of rights as humans, but that we ought to still behave with a minimum of cruelty towards them, and I think that's true, although these religious traditions may not provide a precise argument for what the limits of humane treatment should be. I have made a lot of decisions in my own life that move in that direction in terms of my diet. I think the question is a really good one, and it is just not the book we ended up writing, but I think it opens up the question about our responsibilities to any form of life, in terms of the pain we cause. It should be one that we examine with an open mind, and my mind is certainly still open. I have not completely resolved all my thinking, so, there we are.

Dianoia: In the chapter "The Big Ear," you mention that privacy, specifically the sensitivity to it, is more of a modern sentiment. Relating to the scenario in which a woman is keeping a Swiss bank account that is separate, is today's sensitivity to privacy more a matter of how citizens are perceiving their own government's corruption, or has having control over one's public image rather than a non-consensual display of one's private life become more relevant?

Fried: That's really complex. I want to say something about privacy as a more modern concern. By that, we do not mean to relativize it or say it should not always be a concern. It has just become something that is very much at the forefront of our conception in modern times about what legitimate government should respect. The way that my father and I present that in the book is that unless there is some zone of privacy within which one can retreat with one's own thoughts and inquiries, or to which one can retreat in conversation with other people, the possibility of a freedom that is enabled to ask the hard questions about the legitimacy of one's own government, how one might want to change it, how one might want to live even one's own life apart from political questions—all that becomes impossible. What we say is absolute is that, based on the technological and sociological state of your society, there should be an equally appropriate zone of privacy to which one can retreat with a sense of security to work through the questions that you might have about your own life or about your political life without fear of being squashed like a bug. That will depend on the kind of technology that's available, and it will depend on the kind of society you're living in. A mass society like we live in now is very different from a hunter-gatherer society, and the level of privacy that you might require in those very different kinds of societies to feel that you have the appropriate zone of privacy to have for human freedom will be very different. It's not that there is nothing to privacy—that privacy is simply a modern invention. I do not think that it is. At least, the need for it is not simply a modern invention.

I think what you are pointing to in part of your question is just how challenging the problem of privacy is in our modern world, given the rapidly changing technological situation that we are all living in. Right now, we are meeting each other through Zoom, and it is being recorded, and who knows where it is going to end up, and how much damage it will do to any one of us in our future lives. I cannot remember if we quoted this in the book, but the Cardinal Richelieu, the famous seventeenth century French statesman who worked for the king and had enormous power, said something like this: "Give me five paragraphs written by the most honest man, and I will find enough to hang him with." Here you and I have been having an hour-long conversation. It is much more than five paragraphs. If this falls into the hands of some future government, it very well could be enough to hang me

with, especially given the things I have said about Donald Trump and authoritarian rulers. To live in a free society, though, I need to feel that I have a sufficiently protected zone of privacy to speak my mind with you right now—to engage in the human freedom of philosophical reflection and philosophical discussion. What we need given the enormous pervasiveness of these technologies that capture our behavior, our location, almost our every thought at this point, is that it not become so pervasive that we are afraid of our own freedom. How we are going to do that, I am just not sufficiently adept with the technology to know. All I know is that the risks are becoming greater and greater with every improvement in the technology. The zone of privacy has to exist, but again, there's no formula for what defines it at a particular point in history because that zone is so dependent on the nature of the technology—and not just the technology, but also the kind of society you have.

There is a famous Supreme Court case from the 1930s about whether telephone calls are privileged zones of privacy based on the Bill of Rights in the American Constitution and whether or not the government can just tap your phone lines or whether or not there has to be a court order. This was a case where the government had tapped the phone line in a phone booth in a restaurant that they knew the people who were under investigation would be using. The constitutional question was, was that an unreasonable search and seizure when they tapped that phone booth? The answer was that there is not a reasonable expectation of privacy when you are out in the public world using public forms of communication. If you are in the restaurant and speaking very loudly about your plans to rob a bank, there would be no legitimate expectation in that sociological, technological situation to think that a loud conversation wouldn't be overheard. The court said the same is true of a public telephone. If the phone were in their own apartment, then it would be different. The zone of privacy and the reasonable expectations about how its boundaries should be protected would be different, but it is very hard to predict these things until you actually know the technological and sociological circumstances themselves.

Dianoia: Along similar lines, you start the chapter “No Beginning or No End” with the discussion about George Bush’s decision to break the law in response to the credible intelligence that was received about Al Qaeda’s plans to develop a weapon of mass destruction. Would you say that there’s a reasonable threshold that, for conversation standpoint, we could have for determining how credible this so-called credible intelligence needs to be to serve as an impetus to violate the law for this public good, as you have been discussing this evening?

Fried: Our argument in the book was that *prima facie* Bush would have been justified in breaking the law if he had such a credible threat of such a massive, destructive event. He would still have to do what Jefferson did and Lincoln did, though, which would be to explain it afterwards and to have it publicly affirmed that what he did was acceptable by Congress or what have you. Your question is a much more specific one about what constitutes credible evidence. and I think that is almost a question for a political scientist rather than a philosopher, because I think it is a question of the institutions that we have and whether those institutions are trustworthy and what data those institutions, such as in the intelligence community, can legitimately count as evidence of a credible threat. So long as you have a minimally legitimate government with minimally dependable routines of processing that information, the president or other executive authorities are legitimately responsible for acting on the basis of that information. How I would specify what the tripwire is between legitimate and illegitimate, I am just not expert enough to say,

according to current technology and law. I just think that epistemologically, there must be such a point at which it is legitimate to say, "I think I know enough now to make this decision." The reason that you then make it public afterwards is to determine whether you improperly crossed that boundary or not. That is why as we say being a real political leader at a high level involves very serious risk that one takes upon oneself. We quote the Declaration of Independence, where the signers say that they pledge their lives, property, and sacred honor to the cause. The higher and higher up you get in political responsibility, the more important it is to remember that you have made that pledge, too, and that like a soldier you are risking something by taking on that responsibility. You are trusting in the good faith of the system that if you ever have to cross that line, and then you present your case for why you did it, the system will exonerate you and make good the rupture of the rule of law. That requires that we have a very well-functioning political society, and I think we can have that. The examples of Lincoln and Jefferson show that it is possible. Unfortunately, in the atmosphere we have now, it is hard to imagine that being the case. Being as fair as possible to Bush's administration, you could understand why they would hesitate to proclaim their lawbreaking. Still, I think it was Bush's duty to do so because it is important to prevent the presidency from becoming more and more autocratic, rather than bound by democratic norms and limits. John Locke, whom some of you have studied with me, said, "Y'know, we need to give our rulers the authority to make those tough decisions to break the law sometimes." He calls it prerogative. We also have to remember that it is extremely dangerous for those leaders to use prerogative, and he says in fact the most dangerous thing is a very good ruler who uses prerogative because then the people will come to trust that when a ruler breaks the law, they are doing it for a good reason and can account for it. Then along comes a very bad ruler who uses that same expectation to do very terrible things and then insist that they do not have to account for what they have done. That is what we have to worry about in the rule of somebody like President Trump.

There is a really good book for those of you interested in these questions. It is called *After Trump: Reconstructing the Presidency*, and it is by Bob Bauer and Jack Goldsmith. For those of you who are interested in law and politics as they intersect with philosophy, I really recommend this book. Jack Goldsmith is a remarkable man. He served in the Bush White House in the Office of Legal Counsel, which is a special office in the White House responsible for giving the President advice on the law so that the president doesn't break the law. Jack Goldsmith, at quite a young age, became the leader in the Office of Legal Counsel. He had taken that position after John Yoo. The name might mean something to you if you studied that period, but John Yoo had authored some memos saying that these various "enhanced interrogation techniques" did not constitute torture, and therefore if the president or his officers engaged in these activities they would not be guilty of torture. Goldsmith saw these memos and said we have to retract them. That was a very brave thing to do. He got all kinds of blowback, and so he is one of the people that my father and I talked with a lot when we wrote this book. Goldsmith co-authored this new book about the Trump presidency because—and he is interested in exactly the kinds of thing that we're interested in, which is presidential power—what kinds of problems are we now seeing as this fraying of the guardrails to excessive presidential power has proceeded under Trump well past what happened in the Bush administration. It might have been a trickle under Bush, but under Trump it is a torrent of lawlessness. This book is about what we do to bring the presidency back into the rule of law without damaging the presidency, without making it so weak that it is no longer an effective part of our government. I strongly recommend *After Trump* for those of you interested in these questions.

Dianoia: At the end of the book you revealed that you and your father are not completely of one mind when talking about prosecuting officials, and I wanted to ask what that process was like? How do you write with someone that you might not always see eye to eye with, and how were you able to cross that gap?

Fried: My father had a lot of training in philosophy when he was in law school. He has written works in philosophy, so at that level we could really speak the same language. I do not have the training in law that he has. I will tell you a very brief story. After my father and I finished the book, my mother told me that she had been really mad at my father for suggesting that we do this book together because she was really worried that we would have some horrible falling out over the issues. That just never ever happened, I think, because we each have a philosophical disposition to enjoy vigorous dialogue and we were willing to talk things out. Where we could not come to an agreement in that last chapter of the book, we incorporated the disagreement into the book! It all worked, and that was a really lovely experience. I have done other work like that in my professional career where I have translated philosophical works out of German with a colleague, and we constantly were going back and forth but never getting into serious arguments. When you can do that, it is one of the great intellectual pleasures in life. I think our solution in that book was the best solution, which was just to incorporate our disagreement into the life of the book itself. That way, the reader would be presented with this stark problem that faced the nation after the Bush presidency, which was, "Here are these unpunished excesses committed by the executive branch; do we let that lie for the sake of the unity of the nation, or do we do something about it to make clear that these lines shouldn't be crossed?" Now we have had the Trump administration, which seems to bear out my side of the argument, which is if you do not do something about such transgressions, they will just get worse and worse.

The fascinating thing about the *After Trump* book is that the two authors did the same thing. Bauer and Goldsmith end their book the same way: by one arguing that Trump should be prosecuted, and the other saying no. I teased Jack a little bit about that, saying that he had stolen our method, but I think it is a really useful thing to have in a book for conscientious citizens who want to understand just how tough these problems are. I would say we need to do something about Trump, although I think it is likely that the Biden administration will not seek his prosecution at the federal level, because Biden will not want to fray the nation's divides even further. But there is a big difference between the Trump and the Bush administration. Trump's crimes are really the crimes of a dictator, not of somebody who's done things that are wrong for the sake of the common good, which if you want to be generous, you can say about the Bush administration. That is why it was so difficult for us in that context because I still have sympathy for what the Bush administration was facing, even if I think what they did was very wrong. With Trump, it is nothing like that. He is not doing these things for reasons of the common good. It is purely for his own benefit. If you are not going to come down hard on that, what are you going to come down hard on? The difference is that because Bush was doing these things for the sake of the common good, these were federal infractions, and therefore, in principle, he could be pardoned for them if it ever came to that. For Trump, he is committing crimes in so many contexts, so even if Biden pardons him for federal crimes, Trump will still have to deal with the state of New York, and they could still take him down. That might be good enough. It is still not as much as I would like to see, because I think Trump's actions fell so far beyond the latitude that we should grant a president. Although I am sensitive to

the problem that our country is really torn apart right now, and this could make it even worse, my fear is that the next president with authoritarian ambitions will be even worse than Trump if we do not set the bar somewhere.

Dianoia: Now that we are some years removed from the direct issues that you were discussing when you wrote this book around ten years ago, and now that we have the COVID-19 pandemic still ravaging our country, would you say that there are any applicable takeaways from your discussion of the necessity to take bold action in the face of an overwhelming threat to the nation that would help inform our policy-making. You have clearly alluded to the inadequacy of the Trump administration during the last four years, and especially during the climax of the COVID-19 pandemic, so are there any applicable crossovers from what you have talked about in the book?

Fried: I think the gross negligence of the Trump administration's response to COVID-19 was a conventional failure to face up to in an emergency. I do not think there was anything unconventional or illegal that was a useful option in that case. It was not like the threats coming from Al-Qaeda. This was a natural event. Maybe there would have been law breaking that a president could have engaged in order to facilitate the response. For example, maybe seizing supplies of medical equipment in order to distribute them, assuming that would have been necessary. I do not know if it would have been, but let us assume that it was. That would be the sort of thing that we have in mind. In such a case, the president would say, "Look, I did this. This was a crime. Congress of the United States, fix it by deciding either to impeach me or to confirm my actions." The problem is that if it had been Obama making such choices with Mitch McConnell's Republican Congress, they would have used it as an excuse to impeach him. That is what is driving this problem here. There is not sufficient trust between the branches of government so that a president could do what Jefferson and Lincoln did, which was to say, to put it in the vernacular, "Hey, I did this for the common good, cut me a break here." That is what is so disturbing about our present moment because let us not forget Jefferson was president when he campaigned against John Adams. That presidential election was as vicious, if not more so, than the one that we just went through. The divisions between the Federalists and the Democratic Republicans were very serious. Again, it took courage on Jefferson's part to expose himself, just as it did with Lincoln during the Civil War, when there were really serious political divisions that could have led to the end of their political careers. Lincoln's re-election was not an obvious thing. He was facing challenges from people like McClellan, who would have made peace with the Confederacy. Exposing himself was a dangerous move, but I think it was the right one. At some point, you have to draw the line in the sand on these issues of presidential power because it looks to me like successive presidents are taking more and more and tearing out the guardrails against excessive power. Give one an inch, and the next one takes the mile, and the one after that is going to take a hundred miles. Soon, the country will be covered. That is the main lesson that I take. The fact is we do not yet know everything that we need to know about Trump's law-breaking. The Mueller Report made very clear that Trump stonewalled them in gathering evidence at every turn. But I think we know enough to know Trump is deeply problematic. He has broken many serious laws, both constitutional and otherwise. We do not know everything, and more facts will emerge, I would hope, after his presidency is over —so long as he does not convince those Republican state legislatures to discard the popular votes in their states and substitute their own choice of the electors to go to the Electoral College, which is something that he has tried to get some of them to do. It is absolutely unbelievable. It has

a constitutional plausibility to it, but it would be the end of democracy if he does that. I do not think he will get away with it, though. I do not think the state legislatures will cooperate, but it just shows how far he is willing to push this in the direction of dictatorship, and the door has now been opened to the next attempt.

You know, my father is a refugee from World War II Europe. I grew up in a household which had that era very much on its mind. He became a Republican because he believed that the best defense against the kind of tyranny that had destroyed his homeland—he was from Czechoslovakia, first a Nazi tyranny, and then a communist tyranny—was to have limited government and a sense among the people that their lives are their own and that the government ultimately belongs to them. For my father, that meant you wanted to have as little government as possible while still maintaining the common good. He was a moderate libertarian Republican of the type that was very common in the 1960s, 1970s, and 1980s. With the rise of the new Gingrich style of Republican, that more moderate Republicanism has gradually been eclipsed. That is no longer the Republican party that we have now—the kind of moderate libertarian Republicanism that is suspicious of big government programs and regulation as potentially leading to governmental overreach. But what we have seen develop instead is that the overreach is coming from the supposedly conservative party. For somebody like me, and certainly for my father, there is certainly a kind of historical whiplash that we are seeing now where the old categories do not seem to mean very much anymore. If I were to leave you with one lesson from this, it would be to ignore the categories of liberal, conservative, left and right, because I do not think they are particularly helpful right now in terms of thinking about what is in the best interest of the nation regarding pivotal issues such as reforms to make voting more accessible, fixing the Electoral College, and preventing voter suppression. These should not be liberal vs. conservative issues. They should be American issues. We have really gone off-track with that at this point. How to fix the divide, I am not sure. I am not enough of a prophet, but your generation will probably have to be the one to fix it, not mine, and not my father's.