

Democracy in Danger S1E17 So Long, Mr. Trump

Will Hitchcock [00:00:03] Hello, I'm Wil Hitchcock.

Siva Vaidhyanathan [00:00:04] And I'm Siva Vaidhyanathan.

Will Hitchcock [00:00:06] And from the University of Virginia's Deliberative Media Lab, this is Democracy in Danger.

Siva Vaidhyanathan [00:00:11] Well Will, what a week it's been. American citizens and really the whole world sat glued to their televisions, watching Steve Kornacki tap on screens and scribble out numbers. And we watched in real time as democracy faced one of the most grueling stress tests it has had in recent years.

Will Hitchcock [00:00:32] Yeah, it has been an exhausting week, an exhausting four years. And, you know, Joe Biden has been declared the winner of the presidential election. But Donald Trump remains in utter denial. He seems determined to drag out the end game as long as possible, using the courts and, of course, social media to inflame tensions and assert bogus claims of fraud.

Siva Vaidhyanathan [00:00:53] Yeah, so, I mean, we know it's going to be a bumpy transition, and that's using bumpy rather lightly. But, you know, one of the core questions here is after that transition, what can the Biden administration accomplish? How can it heal the United States? How can it restore some of the basic trappings of democracy? I mean, he's Biden is likely to face stifling gridlock in the Senate. And as we've discussed on the show before, any executive orders that Biden might issue are going to face lots of challenges in a federal court system that is increasingly dominated by Donald Trump appointees.

Will Hitchcock [00:01:30] Yeah, and the broader context too, Siva, is really potent. I mean, as we've talked about throughout the show, America is facing this roiling stew of racism, xenophobia, fascist rhetoric, you know, polarization, disinformation spread through social media. None of that is likely to disappear soon.

Siva Vaidhyanathan [00:01:51] Well, here to help us talk through the election, its aftermath and what is in store for the health of the United States and maybe democracy in general are two of our favorite people, our dear friends, Jamelle Bouie and Dahlia Lithwick. Jamelle is a columnist for The New York Times and he's a political analyst for CBS News. And Dahlia is a senior editor at Slate and the host of the popular legal affairs podcast, Amicus. Jamelle, Dahlia, welcome to Democracy in Danger.

Dahlia Lithwick [00:02:23] Thank you.

Jamelle Bouie [00:02:24] Thank you for having us.

Will Hitchcock [00:02:25] So, Jamelle, Dahlia, whether President Trump likes it or not, he lost the election. And my first question to you, probably predictable, given the title of our podcast is are we out of trouble or is democracy still in danger? And if it is in danger, you know, what are the sources of that threat? I guess another way of asking this is where does Trumpism go from here? Does it have a future after January 20, 2021? And,

you know, just imagining here, what might it look like? What do you think? Jamelle, do you want to take the first crack at that?

Jamelle Bouie [00:03:02] Sure. You know, my position on Trumpism is it very much grows out of a long standing current in the American political tradition. It is a kind of fusion of ethnic chauvinism, you know, appealing to the dominant ethnic group, white Americans, on the basis of their whiteness. It is prosperity, gospel like political prosperity gospel, that if you give your support to Trump, if you believe in his vision of the country, then you will be blessed with prosperity. And it is a masculine performance, kind of a very aggressive, aggrieved masculinity that is centered on dominance of others. And so when you put those three things together, you have Trump, you have the kind of cult of personality around him. You have the kind of government by decree, an attempt to turn the entire government into an instrument of his will. And I don't think any of that is necessarily going to go away. And the structural things, the structural factors that enabled Trump to even come to power, the Electoral College, your voter disenfranchisement and kind of a turn away from broadly expanding the franchise, the sort of counter majoritarian institutions of American government like the Senate. All of these things, I think, make it pretty likely that this style of politics is going to come to the fore again, regardless of how the next four years go. It's been shown to be a style of politics that can maybe not win majorities, but win large enough minorities to capture power in our system. And the party in which it's sort of taken hold doesn't appear to have any incentive right now to attempt to build a majoritarian coalition. These institutions and structures, allow it to do that. So I sort of you know, I don't think we'll see another Trump. I think he's sort of unique in a lot of respects. But we will certainly see politicians attempt to replicate the Trump effect, the Trump magic. And I'm not going to rule out the possibility that one of them succeeds.

Will Hitchcock [00:05:13] Dahlia, do you see it the same way that the Trump may be gone, but Trumpism has deep roots and is likely to be around for a while?

Dahlia Lithwick [00:05:20] I think so. I think I wouldn't...I'm not sure I would diagnose the larger enduring problem as Trumpism, because like Jamelle, I think Trump is very much his own thing. And I think Trumpism is a really complicated stew of personality and faith and a hyper male 'own the Libs' kind of worldview that is in some ways unique to Trump in that he performed it really well and in a compelling television way that I think really reached out and spoke to people. But I agree with Jamelle. I think in some sense the seeds of whatever it is we're calling Trumpism, which I just call minority rule, sort of white supremacist patriarchy, those were baked in long, long, long before Trump came along to take advantage. And so when I think about this, I kind of start and end with the institutions. And I think one useful way to think about this maybe is which institutions are irreparably damaged, regardless of who moves into the Oval Office in January. And I think, as Jamelle just said, you know, we have a functioning minority rule Republican Party that has seen huge, huge advances, by the way, in this election in the states, which means we're going to see massive amounts of gerrymandering that will entrench that minority rule. And so when I try to hive off the institutions that can be fixed, let's say hypothetically, the Justice Department can be turned back into something that looks like a Department of Justice and not a department of bolstering Trump's friends and punishing his enemies. There are things that can be done and we should start and end with covid response. Right. There are things that are material and lasting that can, I think, snap back. But I think I share Jamelle's view that this snapping back is in some ways a fanciful notion because it still snaps back to a very, very entrenched and enduring system in which wealthy minorities continue, I think, to have an outsized say in things that are existential, including the vote, including how apparently how the census is going to determine redistricting. Those things,

I don't think snap back or to the extent they snap back, they snap back to something that is fundamentally broken long before Trump came along.

Siva Vaidhyanathan [00:08:14] Well, Dahlia, this is a subject that I brought up when we spoke to Risa Goluboff, the dean of the UVA law school, just a couple of episodes ago. I was expressing my deep frustration, maybe cynicism, maybe even nihilism about the very concept of constitutional law and of our legal system being a support for justice, democracy, progress in any way. Like I'm way down on my hope level right now. And, you know, as I look forward and I think about all of the things that the Biden administration might want to do and, you know, let's assume the Biden administration actually gets a Senate that will work with it. I just see a nightmare, not unlike, you know, what happened with, you know, in 1905 when the Supreme Court ruled that restrictions on hours were unconstitutional, working hours were unconstitutional because they limited an individual's ability to contract. Right. This hyper libertarian idea that undermined a basic health and safety regulation. I foresee things not unlike the early years of the New Deal, when the federal court system struck down New Deal effort after New Deal effort, that we're all emergency efforts to try to save lives, save jobs, save livelihoods and give people hope. You know, I worry, given the economic meltdown we're encountering and the global pandemic that is still killing hundreds of thousands of people per year and likely to for a while, that the things that the Biden administration is going to need to do, it's just not going to be able to because of the courts. Am I panicking too much, too? Is there a foundation for my concern?

Dahlia Lithwick [00:10:02] Siva, I don't think you're panicking, I've been making similar claims for some time, and I think nobody actually has written more eloquently about Progressive's and the magical thinking around the court and the need for reform than Jamelle has in the last few months. So I don't think any of us disagree. And I think the courts are probably my exhibit A of institutions that cannot and will not snap back to something that preserves any kind of civil rights of minorities in any meaningful way, the way we had kind of come to believe that the courts would do as an institution. So there will be some wins and an immense number of losses. And I think it's worth pausing to say this is a six three court that is the most conservative court since that pre-New Deal court. This is not a middling court. This is a court at which either Neil Gorsuch or Brett Kavanaugh is the median justice. So progressives have told a story since probably *Brown v. Board* that the court is always going to be a counter majoritarian check that will help vulnerable and disenfranchised communities. And that, for a brief moment, was true. But for most of the court's history, it has been a revengist, white supremacist, pro-business institution. And I think it is probably going to be that for the foreseeable future. And it's worth noting that without the Senate, there can be no meaningful court reform. Which means that we will live with Trump's not just his three justices, but with the judges that he put on the federal appeals courts in the federal district courts. We are going to live in the shadow of that for a very long time. You know, it's going to exist to stymie an immense amount of what Joe Biden is going to do. And maybe the light here is there are some pro democracy reforms that I think can happen in a bipartisan fashion in the Senate. Jamelle is going to tell me why I'm wrong. But I do think that the anti-corruption moves that can be made so that what was the ephemeral emoluments clause, what was the ephemeral Hatch Act, what was the ephemeral, hey, presidents shouldn't be using the office of the presidency to enrich their corporate coffers and for self dealing purposes. I think we may see simply because Senate Republicans are terrified that Biden's going to do all those things, that those kinds of reforms, not HR1, not pro democracy in terms of expanding the franchise, but maybe anti-corruption that could happen. That's my sad little bright spot.

Jamelle Bouie [00:13:01] So, Jamelle, why is Dahlia wrong? And in a bigger sense, is our court system fundamentally anti-democratic? And if so, if we actually believe in democracy, can we continue to entertain this unaccountable power in our institutions? I mean, there is no reason for us to respect judicial review. There's nothing in the Constitution. No American ever voted for judicial review. No founder ever signed a document endorsing judicial review except for one, Marshall, who ended up writing the whole thing. We just kind of went along with it like, is there a way that we might just want to take a fully articulated stand against centralized, anti-democratic power in the courts?

Jamelle Bouie [00:13:52] So first, I don't think Dahlia is wrong about anything here. Even her tentative optimism regarding what could possibly get to the Senate, I think is basically right. Nothing. Nothing transformative, nothing big. No, no big delivery's on agenda items. And that's provided - there's an upcoming special election in Georgia and that's provided Democrats don't win both those seats, which is likely. And it's, you know, for at least the next two years, we're going to kind of be in this grinding legislative trench warfare again. Although that, to be fair, is even preferable to Congress essentially doing nothing for the past two years. But as far as the courts go, I mean, this is the thing that progressives and liberals just have to really begin to wrap their minds around, that the courts are illegitimate insofar that they actually do bolster the democratic aspirations of the people of the country, that they don't stand in the way of self-government. Obviously, they're going to be cases where individual actors institutions may be. Overstepped their bounds or we have a debate about whether they overstepped their bounds. But a court that for four years does little to act as an obstacle to a president who does have contempt for democracy, followed by a court that spends four years standing in the way of a president who does not have that contempt and who does actually have a democratic mandate. I think that would demonstrate the extent to which the court just doesn't respect the basic principles of government. And if that's the case, I mean, I think that President Biden will likely have a popular vote majority of between five and seven million votes, probably on the high end of that. He will have ended up winning a larger percentage of the electorate in the last 30 years for a single candidate, upwards of thirty three. Thirty four percent of the electorate will have voted for him, which is Reagan '84 numbers. I think President Biden will have the legitimacy to say straight up, you know, if the if the court is going to strike down hard fought legislation that we pass, then we're just not going to treat the ruling as legitimate. Or at least we're not going to treat the ruling as binding on our future actions. Maybe it relates specifically to this particular legal issue or holding, but it's not something that binds us for the future. I think liberals and progressives have to get into the habit of basically making the case that the court generally has the prerogative to interpret the Constitution, but does not have exclusively the prerogative to interpret the Constitution. And constitutional interpretation is something that all constitutional actors can participate in.

Siva Vaidhyanathan [00:16:43] They all they all swear an oath to it. Right? They all swear an oath. If you're going to obey the Constitution, protect and defend the Constitution, you're your duty is also to interpret and understand it. Right?

Jamelle Bouie [00:16:51] Right. Right. It's sort of implicit in making law or executing law is making is an interpretation of the Constitution. And I think progressives and their politicians should begin to get comfortable saying we think the court just has this wrong. Conservative certainly do. Right. Conservatives have for the past 40 years kind of consistently argued that we think the court is interpreting the Constitution incorrectly. It's not beyond the pale of ordinary politics to do that. And I think it just requires to go back to what Dahlia said, breaking this idea that the court is some sort of like super political institution. Right. That it exists above politics. No, it's part of the political world. It's subject

to checks and balances, just like anything else. And it shouldn't stand in the way of legitimately elected representatives trying to govern the country.

Dahlia Lithwick [00:17:40] And if I could add just one one coda, because I think it's worth saying with the huge caveat that we don't know what's going to come in the next days out of the U.S. Supreme Court. As we're taping this, we're waiting to hear if the court's going to re-up that Pennsylvania the segregated ballots question that it's now batted away twice. And it's really worth saying Sam Alito has made clear, Brett Kavanaugh has made clear. I think Clarence Thomas is on board. There are a number of justices who were absolutely willing to jump into this election if it were close. And who were absolutely willing to do so on this preposterous, preposterous notion that Brett Kavanaugh floated a few weeks ago that there's something inherently fraudulent about voting by mail and that, by the way, was never briefed or argued it was just President Trump rhetoric. So I just want to really flag if we had been taping this even a week ago, I might have been apt to say the Supreme Court is about to take that legitimacy that Jamelle's talking about that is, right, neither the person nor the sword, all it has is public legitimacy and set it on fire. If they could have found a fifth vote to jump into this contest. Now, I don't think I don't think they're going to do it and I don't think they're going to do it, not because there aren't - I suspect there are five votes that would happily set aside election outcomes if there were some evidence and some plausible argument for doing so. But I think that this is a real lesson, a palpable lesson in what Jamal's talking about here, which is the court on the brink of doing something reckless and stupid and very partisan and political made the decision, I hope let's see what happens, but made the decision to preserve its own institutional legitimacy. Because to do anything else, I think would have wrong footed the court in a way that would have really, really done catastrophic damage to Article three courts going forward. So the court is very receptive in some sense to public signaling. And I think this is where John Roberts has been really masterful about when it's gone too far. And in some sense, that's a dubious thing to rest hope in, but I do think that what we saw this week was both lower courts and to some degree, the Supreme Court reckon with the fact that they do not want to follow Donald Trump into the crazy.

Jamelle Bouie [00:20:20] I'll add to that. I think it matters over the past couple of months that mainstream figures have been openly talking packing the court.

Dahlia Lithwick [00:20:28] Yep.

Jamelle Bouie [00:20:28] Openly talking about expanding the Supreme Court, expanding the federal judiciary, that the fact that that is a live option on the table, I think makes a difference in the behavior of the Supreme Court, certainly. And also the larger federal judiciary is thinking about its role.

Will Hitchcock [00:20:46] Let me shift our focus back to the election and the results so far. I just want to get you two to help us unpack, you know, kind of what happened. You know, we're still going over the data. It's a little bit early in this process of picking through the results. You know, we can say, as Jamelle did, that Biden won convincingly, but it wasn't really maybe the political earthquake that his supporters were hoping for, maybe that we had been led to believe from the polls. Turnout certainly was up, but turnout helped both candidates as it turns out. And here's the thing that I think I know I was most surprised by, and that is that Trump made gains in some unexpected racial and ethnic categories among African-American voters, Latinos, Asians. Doesn't seem he's made significant gains among white voters. And I'm just wondering, Jamelle, if you have a read on, you know, what this means about our conception of the electorate, what directions

these categories seem to be moving in, is our conception of the electorate out of date? Does it need to be refreshed and rethought? You know, what do you make of all this?

Jamelle Bouie [00:21:52] I think it's first we're saying that relying on exit polls and all the exit polls aren't as inaccurate as I think people were saying. Exit polls are just notoriously imprecise. And so it's worth having that in the back of our minds as we begin to analyze this particular question. So having said that, I think there is a degree to which these games are a little overstated. So in the exit polls, Donald Trump is winning 12 percent of African-Americans. That is more than Mitt Romney in 2012. It's more than John McCain in 2008, a little more than he won last time around. But it is just at George W. Bush's performance in 2004. It's actually a little below Bush's performance in 2000. And it's below Bob Dole's in '96, which is to say it's kind of right in the middle over the past 30 years of where a Republican president performs among African-Americans. Now, among Hispanics, Latinos, however, you want to designate the group, it does look like the president has made some modest gains, improving as a vote share by about five or six percent, according to the exit polls. That, too, is kind of in the middle-high zone for a Republican president. But it's surprising for Trump in particular, given his anti-immigration, nativist politics. My view on this and what I wrote last week for The Times, I think this result should be a reminder to us that a phrase like "people of color", which is very en vogue, tends to obscure more than it illuminates. That these groups are different. Within these groups, Hispanics especially, there is a wide amount of geographic/national/language variation. There is a wide and multiracial variation. Right. And there's no reason to think that some Hispanic groups will not be receptive to some of Trump's messaging. In the same way, we wouldn't express surprise, right, that all white voters didn't support Trump. There's variation in the group. There's variation among Hispanics, too. And I think we're witnessing the extent to which some Hispanic constituencies are just going to be more Republican friendly going forward for reasons of their relationship to immigration, the extent to which they are fully assimilated into American society, all sorts of things. One thing I would push against that I have seen a little bit is this idea that Trump's improvement with Hispanics especially, but nonwhite groups generally, however modest it is, somehow means that his central appeal wasn't on the basis of racial resentment. And I just think that is a misunderstanding of what racial resentment actually measures and a misunderstanding of American politics. And the overall thrust of Donald Trump's political movement, irrespective of these modest changes in vote share, is kind of an exclusionary vision of the country in which one's full participation is tied to one's racial or ethnic identity.

Siva Vaidhyanathan [00:24:46] Dahlia, what I fear and I wonder if you share this concern, is that with the rise of the Biden administration and the celebration of gentility and the celebration of politeness and the celebration of basic human decency, all of which I'm for. We might all revert to this illusion that we can raise arguments with evidence and expect the best arguments to win and that eventually Americans will come along. You know, has this election shown you that we might actually be able to go back to that sense of public engagement? And what should we be telling America to think about? What should we be pushing the Biden administration to do?

Dahlia Lithwick [00:25:30] My instinct is and I think we have this utter bifurcation now in media, certainly in political life, between truth and not truth. And you can call it all sorts of things. But, you know, one of the things that it seems to me as we look at not just a refusal of Donald Trump to concede after this had been called and let's recall, there's not just one, but many, many states he would have to reverse the outcomes in in order to even say this can be resolved in the courts. So that's a fact free determination that this can still be won. And then look at the Republican establishment that has stood behind that claim. Look at

how few people, right, George W. Bush, Mitt Romney, Chris Christie or the heroes here. Right. Because they're saying I think truth now needs to move into the vacuum. But I worry profoundly that what is not going to change unless massive, massive changes happen at the most meta levels, what Facebook does and what Rupert Murdoch gets to sa., I think unless those changes happen, we are trying to layer over this very robust machinery of untruth and saying, oh, here these cute little government institutions that somehow will change things. And it seems to me that that robust denialism that has been a hallmark of the last not just four years, this goes way back, is going to I see no reason for it to diminish in force. I see no evidence in the last week that it has been anything inclined to do anything other than double down on the absence of truth. And the thing that I fear is demands for reconciliation and good faith and reverting to norms that will be very, very, very attractive to Joe Biden, who I think by temperament lives in that space and to his credit, believes in those norms. I don't think politics qua politics solves this problem, Siva. I think anyone who looks at creeping authoritarianism, at, you know, tyranny, a lot of the people you've had on this show would tell you that to try to paper over the lying without A) reckoning with what is true and what is not true. And B) and this is hard having consequences for people who have violated and broken every single norm. I don't think this gets solved with a big hug.

Will Hitchcock [00:28:25] Let me let me introduce a slightly different rhythm to the conversation. My 23 year old son, who's come into political consciousness during the Trump years, told me about a month ago that he was actually reasonably optimistic about politics, largely because of what has happened in the state and the Commonwealth of Virginia. And what he was trying to do was to counter the wet blanket of his dad every day with his head hung down. And one of the things that has happened, I think, has been in part to connect history with the present. In a way, we're living in a moment of extraordinary flowering, of a historical consciousness and the use of a historical consciousness to guide policy. And I mean, I don't know how else you can explain the extraordinary turnaround that's happened in Virginia, the beginnings, the very painful and slow beginnings of the removal of public symbols of white supremacy and statues and so on. But also real concrete legislative progress that's happened in what was, of course, once the heart of the Confederacy. I'm just wondering if there isn't something we can draw from this moment about the way in which our historical imagination as Americans has been activated. Is there some way to maintain that momentum, to build on our awareness of the power of history and what history demands of us today, rather than feeling the obvious constraints, institutional constraints that face us?

Jamelle Bouie [00:29:48] So a former colleague of mine, former colleague of both Dahlia and I at Slate who works for The New Republic now wrote a provocative essay. And the essay argues that the key problem with American governance right now, with American politics, is that we're basically tied to this hundreds of years old document that just is ill equipped for handling the challenges of the modern world. And he ends the essay on a note, which I find very powerful that some people find very offensive and super provocative, but I find very powerful, which is that however we decide to deal with our governing document, how to deal with our political problems, that we should at least try to capture some of the spirit of audacity that drove a bunch of 30 and 40 somethings and a couple of 20 somethings to create a new government from scratch, a new type of government from scratch. You know, I'm of the firm belief that you know the past happened. It doesn't repeat itself. We should look to history to help us understand how we got to a place to help us sort of see how previous generations maybe dealt with similar problems. That we should understand that the present is, in fact new and that the underlying forces that drive things today are not the ones that drove things necessarily

then. But for this particular question, given this flourishing of historical interest, what can we draw from it as we pave a path forward? That point about audacity is actually the thing that I would encourage people to dwell on or to think about, which is that for this being a country that loves individualism, that is very much about forging one's destiny. Americans do seem to feel so not even indebted to or tied to the Constitution, but almost burdened by it. That, you know, the Constitution is this thing which cannot be touched, cannot be revised. It is a thing that exists in stasis and that the country's institutions are things that exist in stasis. That has not been true. This institutionally has actually been quite a dynamic country. But I feel that Americans in the present have lost some sense of that dynamism. And so I would encourage people to look to the past not as a guidepost, but to try to grab some of the spirit of past Americans who understood that democracy has to be dynamic, that one of the ways in which democracy dies is that it becomes stayed and it becomes static and it cannot adjust to what the people face and what they what they need to do. And so if if more Americans want to and learning more about the country's history, maybe absorb some of the audacity of the framers or of the men who did reconstruction or of the New Deal era, that is, I think, what the country needs. Like energy needs. It needs a sense that we do actually make our own destiny.

Will Hitchcock [00:32:55] I love that word of audacity and Dahlia, I wonder if that resonates with you? But does that feel like it's going to be the word of the moment or do you associate audacity with Biden or should we just look somewhere else? Maybe we're too focused on the presidency to create that sense of energy that Jamelle was talking about.

Dahlia Lithwick [00:33:13] No, I love the word audacity, Will, and I love it when it's knit together with empathy and compassion. And we have seen that. Right. That's Gretta Thunburg and that's the Parkland kids. And that is, without a doubt, an engine of what has always even going back to the founders being sort of the great light of constitutional democracy. I think I stop at the word empathy because I think that one of the things I have learned in the last few weeks and months and years is we forget I think we forget that who gets to tell stories in America is really central to the narrative that then becomes what our kids hear. And I think that all of our kids are growing up knowing that who gets to tell that story is really important. But it's also partly just understanding that we don't know what we don't know, and then one day we do. And it's why no matter how Grim Reaperish I sound today, I just can't get over Kamala Harris as vice president. That is an astounding, an astounding accomplishment. And our kids will never not know that. And so I guess this sounds really sentimental, but I think that the audacity of being willing to see what you don't see and correct for what you didn't see is a huge part, Will, of what I think your son is telling you.

Will Hitchcock [00:34:58] That's a great way of putting it. Yeah, absolutely.

Siva Vaidhyanathan [00:35:00] So, Jamelle, if you had Joe Biden's ear, you had an hour with Joe Biden, what would you push him to focus on? What would you push him to, to make first to try to revive a sense of justice and democracy in America?

Jamelle Bouie [00:35:16] I think what I would say to President Biden or President elect Biden is that for as much as you may have run on this message of restoring decency and restoring our institutions and such, that ordinary voters do not actually care about that stuff. Or to the extent that they care, it's a little abstract. That no one is going to - this argument probably work better if there are a Democratic Senate - but if you were to, on day one, kill the filibuster and pass a three trillion dollar aid package, no one is going to

vote against you because you sort of broke a norm or broke rule. And I would I would urge President Biden and Senate Democrats to understand that the only thing that matters for shoring up their position for 2022 and 2024 is delivering actual aid and assistance to the American public using every single lever within your power to do that. Whether that's forgiving student loan debt through the Department of Education, whether that's cutting whatever deal you need to make with Republicans to get a couple trillion dollars in checks into people's hands, that is the stuff that's going to count. The upshot of that, in addition to what it means about focusing one's attention as far as legislation goes, is that there are plenty of things in the executive agencies that you can do that are going to have a big impact, that the only thing it's going to matter is, as far as the politics of it go, is how it impacts people's pocketbooks. And if it doesn't, if it doesn't either way, but it's still something worth doing that you should just go ahead and do it. I'm thinking of you know, I think there needs to be some attempt, essentially audit the executive branch in the wake of Trump and get to the bottom of any kind of wrongdoing that happened over the last four years. Don't worry about alienating the public, because if you can deliver them checks, they're not going to care. I think one of the things about the Trump era one of the things Trump I think correctly understood is that people just want results. They want tangible results. So if you can deliver them that it frees you to do a lot with the power that you have. In Trump's case, what he wanted to do was just like make a quick buck and keep immigrants out. But if your if your aspirations are not that venal or objectionable, morally objectionable, then take advantage of this dynamic the best you can.

Will Hitchcock [00:37:52] Dahlia, you got five minutes with President Biden on line one. Is it deliver the goods or is it inspire and sustain the momentum for, you know, civility, unity and the American dream? I mean, what's your advice?

Dahlia Lithwick [00:38:08] Yeah, I don't know that there's a lot of people in play who are going to sign up for inspire and unity. I mean, I think we need to just recognize what is and I agree that absolutely whatever can be done needs to be done. And I also agree I think Jamelle led with this and I think it's important is like bringing a spork to a knife fight, which is sort of been the M.O., you know, of the Senate Democrats right through, I think, the Amy Coney Barrett fiasco. I think it doesn't sound in the key of civility and reconciliation. It sounds in the key of weakness. And I think everything I've learned about constitutional hardball the last year, I think I've learned that you just must match spork with spork and knife with knife, and you cannot hope that Mitch McConnell is going to come to the table because, you know, you offer him enough cuddliness. So the only other thing I think I would add, Mr. President elect, is that we've got to get Donald Trump out of our heads. That I think in a profound way, this has been a kind of abusive relationship where immense amounts of our brain have been given over to his tweets and his performance. And as Jamelle said, the performative kind of cruelty, masculinity, hatefulness, the really punitive mode of governance. And I think that that's just unhealthy. And so I think to the extent that we move forward without triangulating against Donald Trump at every heartbeat, I think will help. And that doesn't mean Donald Trump or Trumpism goes away. And it certainly doesn't mean that the Pam Bondis and the Rudy Giuliani go away. But I think clearing out a mental space for, you know, whatever we've called it on this show, audacity, empathy, hope, aspiration, history, truth. I think the requisite to that is to get this out of our heads. And it doesn't mean there shouldn't be consequences. It doesn't mean that wrongdoers should not be investigated and that that shouldn't be done publicly. But I just think we're exhausted by Trump on all sides. And I think moving forward, one of the things that has to happen is to just not let him lead every thought, every conversation, every narrative.

Will Hitchcock [00:40:51] Let me ask you both to reflect just for a moment about this time that we're in, historically speaking. We all know that American democracy is flawed. It's its flaws are part of the system. But look, over the past two centuries, change and progress has come. It's come very slowly. And there have been times of backward slipping, to say the least. But I just wonder, how do you see the arc of history playing out now? I mean, it's become almost a tired metaphor, this arc bending toward justice. And yet it is also an inspiring one. It's just that the arc never seems to bend far or fast enough. I want to just ask you, do you sense that progress and momentum is possible or are we really stuck in effectively a kind of endless trench warfare between two visions of America that are, frankly, mutually exclusive? I mean, is the idea of progress in America alive or is it really a myth?

Jamelle Bouie [00:41:45] I mean, my view of the arc of the universe, etc, etc. bending forward has always been that this is sort of like a post hoc thing we impose on the past. That's the narrative that we construct that when you're put in the moment, the arc doesn't look like it bends towards anything. And to the extent that anything bends, it's because we can make it bend. And I also think that nothing is set in stone, that nothing is unchangeable, that no progress is unquestioned and no retrenchment is insurmountable. So I think that this moment is as open, is as pregnant with possibility as any moment. And that there are - that it is well within our ability and power to make the country more democratic, more equal, more just. We just have to understand that this is not something that's just going to happen of its own accord. It has to we have to make it happen.

Dahlia Lithwick [00:42:49] Yeah, I think I would just add this. In the face of a pandemic, in the face of, as Jamelle and I have both talked about, profoundly anti-democratic institutions from the courts to the Senate to gerrymandered districts, people voted and they stood in freaking lines and they mailed in their ballots. And, you know, there were weeks in there I mean, I really worried that the utter nihilism of the messaging around this, that none of it matters and all news is fake and everybody's a liar was really going to take root. And I am pretty impressed at this instant by not just voters who voted against some odds that might have suggested to them that it wasn't worth it. But also, my God, local election officials, local attorneys general and solicitors general and even governors and just an amazing array of folks who could have been very partisan and attempted to block the vote, who didn't. Who just did their job and made sure that votes were counted. And in a strange way, I've come to think of this election as a referendum on the franchise itself, on voting itself. Because the message has been all summer long, don't bother. It's all corrupt. It's going to be stolen. And we're hearing vestiges of that. Now, you know, the news shouldn't call the election. But really, I think that there's something really robust that reared its head in the face of a choice between nihilism and just doing your own tiny little thing. Massive numbers of Americans, against all odds, did their own tiny little thing. I can't help but think that when I lay that against what's happened in Turkey, what's happened in Hungary, what's happened in Russia, I think that the fact that human agency really, really was resilient here at the most micro level, I'm just not prepared to write that off. I think that is absolutely foundationally important. And I think this election, to me, signaled that that is not in peril yet.

Siva Vaidhyanathan [00:45:12] Dahlia Lithwick, Jamelle Bouie, thank you so much for joining us today on Democracy in Danger.

Jamelle Bouie [00:45:19] It was our pleasure. Thank you.

Dahlia Lithwick [00:45:21] Thank you for having us.

Siva Vaidhyanathan [00:45:31] So I'm almost always the Eeyore on this program, and Will is always the voice of reason and often the voice of hope, and I'm so thrilled that Jamelle brought up this idea of audacity and that and that Dahlia has embraced it. I saw the same thing all summer here in 2020 as young people led a series of demands that we actually live up to our beliefs. That we actually believe in the processes and principles of justice. Right. That we actually start treating Americans, all Americans, as human beings. That kind of audacity pops up once every decade, maybe twice every decade. And in the current situation, the past four years, it has had to pop up much more frequently. And that has and I think if you go back through all of our shows, that has always been the touchstone of what we might see of as a model for the way forward. Democracy rising from the demos, making demands on the powerful, shaking the powerful.

Will Hitchcock [00:46:38] Yeah, what I heard was actually a little bit surprising to me, which was a combination of what you just described, but at the same time, to get Donald Trump out of our collective heads, to move on past his toxicity and to begin to think about concrete projects on which you can score a couple of wins. Build a few wins, use the institutions that are still functioning. Work within the system. So a combination of staying tough. The idea that, look, you have to bring a knife fight to a knife fight and go toe to toe while also being pragmatic. And I think I heard Jamelle say something similar. And that's not an argument for turning the page. Moving on. Civility. It's an argument for matching institutional savvy with a very cynical and smart Republican leadership with the need to deliver practical results to a public that's just basically desperate for governance. And I think that's a pretty good message.

Siva Vaidhyanathan [00:47:38] That does it for this episode of Democracy in Danger. Be sure to join us for our season finale, a live recording with a panel of special guest stars. That's coming up later this week.

Will Hitchcock [00:47:51] Find out more about that show, register for the event and catch up on all our past episodes on our website, medialab.virginia.edu. And please shoot us a tweet. Let us know what you think about the election and the future of democracy in America. Our Twitter handle is @UVAMediaLab.

Siva Vaidhyanathan [00:48:11] You can also subscribe to Democracy in Danger wherever you get your podcasts. And please sign up for our mailing list so you can get updates on season two. It's coming up in February and I promise you, it's going to be good. We're going to explore where democracy should go from here, both in the United States and in the rest of the world. We will have many more expert guests from a variety of points of view and disciplines, and they will talk about what it will take to repair the damage that's been done by illiberal rhetoric and by authoritarian regimes.

Will Hitchcock [00:48:42] Democracy in Danger is produced by Robert Armengol with help from Jennifer Ludovici. Our interns are Kara Peters and Denzel Mitchell.

Siva Vaidhyanathan [00:48:50] Support comes from the University of Virginia's Democracy Initiative and the College of Arts and Sciences. The show is a project of UVA's Deliberative Media Lab, and we're distributed by the Virginia Audio Collective at WTJU Radio in Charlottesville. I'm Siva Vaidhyanathan.

Will Hitchcock [00:49:07] And I'm Will Hitchcock. And we'll see you soon.