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## Was Trump's Threat to Prosecute Hillary a Dictatorial Impulse?

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Donald Trump stirred controversy yet again in the second presidential debate when he threatened, if elected, to send his opponent to prison. Hillary Clinton's defenders immediately fumed that this was another piece of evidence that Trump's temperament was unsuited for the vast powers of the presidency. What he was advocating, they charged, was typical of the politics of third-world dictatorships. America should not be a banana republic where the loser of an election has to fear such vengeance from political opponents.

It is a valid worry, although in fairness Trump only pledged to appoint a special prosecutor to investigate Clinton's alleged crimes. He did not threaten to jail her based on an executive decree or blatant kangaroo judicial proceedings, which is the usual method in dictatorships. Still, such a step would be unprecedented, and we should proceed cautiously before venturing down that path.

Those who contend that only dictatorships prosecute political adversaries are factually wrong, however. There have been cases in which democratic governments have done so. Two cases stand out. In 1987, Roh Tae-woo became South Korea's first elected president following decades of military rule. Roh, a candidate favored by the military, won with a plurality of the vote because the center-left opposition was divided between two prominent candidates and split the anti-military vote. Nevertheless, outside observers confirmed that the balloting was free and fair.

Six years later, the opposition was united and elected Kim Young-sam as the nation's new president. One of the administration's first actions was to prosecute Roh, as well as the last military dictator, Chun Doo-hwan, for various crimes. Both were sentenced to prison. Kim then decided to show mercy—and avoid alienating conservative South Koreans—and pardoned Roh.

Another case of a high-level political prosecution in a democratic country occurred in Taiwan. Chen Shui-bian served as Taiwan's president from 2000 to 2008, during which time he pushed the agenda for the island's de facto independence from Beijing. As the first president from the

upstart Democratic Progressive Party, Chen was bitterly resented by the long-governing political elite of the opposing Kuomintang (KMT) Party. When the KMT regained the presidency in 2008, Chen's successor, Ma Ying-jeou, prosecuted Chen on a lengthy list of corruption charges. He was convicted and sentenced to prison.

In both cases, it is difficult to separate how much the proceedings were motivated simply by political revenge and how much by a genuine desire to demonstrate that no one is above the law. There is little doubt that South Korea's military rulers jailed and tortured critics and committed other crimes. Likewise, the evidence of Chen's corruption was rather strong—although cynics argued that it would have been possible to convict any Taiwanese political office holder, of either party, on similar charges. In all likelihood, there was a mixture of the two motives for the prosecutions.

Americans face a similar issue when it comes to proposals to prosecute Hillary Clinton. There does seem to be an unhealthy element of political vengeance at work. On the other hand, her behavior has been murky at best, and critics have made the credible argument that people without her political connections would certainly have at least been prosecuted for the mishandling of classified material in connection with her email scandal.

Moreover, public cynicism is rising that there are very different legal standards for the politically connected and the rest of Americans. There is good reason for that cynicism. Former National Security Adviser Sandy Berger was caught removing classified documents from the National Archives (by stuffing them down his pants), yet his penalty was nothing more than a fine and probation. Similarly, Gen. David Petraeus gave classified documents to his mistress so that she could write a glowing biography. His "punishment" likewise was probation and a fine equal to about three-quarters of what he typically receives for one speaking fee. Meanwhile, individuals without such connections, including whistleblowers such as Edward Snowden, face or have served substantial prison terms for comparable—and arguably better-motivated—offenses.

Investigation of and possible prosecution of a former U.S. senator, former secretary of state, and presidential candidate would certainly go far toward restoring the proposition that no one is above the law. It is a fateful decision, one that would set a powerful precedent, and it certainly should not be undertaken lightly. But it is not necessarily the hallmark of a dictatorship.

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