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Prosecutions of ex-leaders elsewhere show benefits, but also risks.

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Prosecutions against former heads of state are exceedingly rare in the United States, heightening public shock at the latest development in the <u>escalating federal investigations</u> into former President Donald J. Trump.

But, in many democracies around the world, it is not so unheard-of for a former leader to face criminal investigations or even jail time.

Two recent French presidents, <u>Jacques Chirac</u> and <u>Nicolas Sarkozy</u>, were found guilty of corruption, with Mr. Sarkozy facing a yearlong prison sentence if he loses his appeal.

Benjamin Netanyahu, Israel's former prime minister, is <u>embroiled</u> in a corruption trial. So is Jacob Zuma, the former president of South Africa.

In Brazil, the former president Luiz Inácio Lula da Silva was <u>sentenced</u> to 12 years in prison for corruption and <u>barred</u> from running again for office. The country's Supreme Court later <u>reversed</u> some charges, freeing Mr. da Silva, who now leads in polls for Brazil's looming presidential election.

And in South Korea, two of the country's last three ex-presidents are currently in jail, with a fourth having committed suicide during a corruption investigation.

The record suggests that prosecuting former leaders can be a double-edged sword for democracies.

Such cases send the message that not even heads of state are above the law, discouraging the abuse of office. In new or fragile democracies, this can be an important safeguard against the risks of backsliding into authoritarianism.

Even when justly pursued, though, prosecutions can set a precedent of jailing political rivals that future leaders have sometimes abused. At the same time, declining to investigate can be just as dangerous, establishing de facto impunity for the abuse of power.

"Both sweeping immunity and overzealous prosecutions can undermine democracy," a team of University of Washington scholars wrote of their research into such cases worldwide.

In healthy democracies like France, prosecutions tend to bring few downsides. Trust in the legal system's objectivity brings legitimacy to any rulings. And the strength of democratic norms in such countries means neither side fears that the other will abuse prosecutions — or resist them — for partisan gain.

The risks are higher, the scholars found, in fragile democracies, such as those in Latin America, where politicians may treat even a legitimate investigation as the opening shot in an all-ornothing battle for power. Some may even take extreme steps in response, such as sidelining the judiciary or opening retaliatory investigations on retaking power.

But the need for such cases can also be higher in those countries, as a way to create — or claw back — a norm that leaders will follow the law, deterring would-be strongmen.

Some legal scholars, like Walter Olson of the right-leaning Cato Institute, <u>argue</u> that it is appropriate for prosecutors to, in the interest of "civic peace," set a high bar for targeting former leaders. Still, Mr. Olson has argued that this does not apply in Mr. Trump's case, where a precedent of impunity could be even more dangerous.