



## Fact, along with Trump, is on trial in the Senate

January 24, 2020

Alexander Nazaryan

“The truth is there,” Rep. Val Demings, D-Fla., said at the opening of the Senate impeachment trial of President Trump, a statement repeated and paraphrased countless times by the seven House impeachment managers, who have treated the case against Trump as self-evidently true based on the facts they have gathered.

Now they just have to convince Republicans.

That will be difficult to do because, from the president himself to the most junior members of the House, Republicans have resisted acknowledging the uncontested facts of Trump’s months-long campaign to pressure Ukrainian President Volodymyr Zelensky to announce politically motivated investigations into the 2016 election and the business dealings of Hunter Biden, the former vice president’s son. Trump and his allies seem to be operating on a principle best expressed in 2018 by Rudy Giuliani, the former New York mayor who is now the president’s personal attorney: “Truth isn’t truth.”

That leaves a confounding question at the heart of the impeachment inquiry: If one side believes in fixed truth, and the other treats truth as a fluid concept, how can the two parties even begin to seriously debate the articles of impeachment?

The trial has put in sharp focus what Julian Sanchez of the Cato Institute described as “epistemic closure” in the conservative movement: a refusal to even consider ideologically inconvenient facts, no matter how obvious. The phenomenon infects right-wing media, including some of the president’s favorite anchors on Fox News, his supporters in Congress and the White House itself, where Trump is comfortable saying whatever seems to serve his purposes best at any moment — for example, denying he knows Giuliani’s erstwhile associate Lev Parnas, despite the existence of numerous photographs of them together.

Lead impeachment manager Adam Schiff acknowledged this precise point as he concluded the Democrats’ opening arguments late on Thursday night.

“Right matters,” Schiff told the members of the Senate who are acting as Trump’s jury, repeating himself for emphasis. “And the truth matters. Otherwise we are lost.” #TruthMatters and #RightMatters quickly became trending hashtags on Twitter.

Supporters of the president insist that what Schiff calls truth is little more than an anti-Trump version of events. They, too, used the #TruthMatters and #RightMatters hashtags — only they did so to impugn Democrats and their allies.

“People have their own truths,” explains Richard Stengel, a former State Department official and Time magazine editor who recently authored “Information Wars,” a book on disinformation campaigns around the world. Stengel has compared Fox News to RT, the intensely pro-Kremlin propaganda outfit masquerading as a journalistic enterprise.

At the same time, he says that human psychology, much more than a television network, accounts for Republican fealty to Trump, even in the face of seemingly damning evidence against him.

“Tribalism isn’t about logic,” Stengel says, “but emotion and cognitive biases.” He adds that “one person’s truth is another person’s lie,” and that trying to convince them that those truths are, in fact, not truths at all could fall victim to the “backfire effect,” in which errant conceptions only harden in the face of contradictory evidence. (A classic example of the backfire effect is the inability of public health officials to convince anti-vaccine activists that vaccines are, as the evidence uniformly shows, completely safe.)

And so Democrats are at least partly resigned to the fact that Republicans in the Senate will stick with Trump, which means he will not be convicted on the two articles of impeachment endorsed by the House last month. No Republican member of the House voted in favor of those articles. None voted even to open the formal impeachment inquiry on Oct. 31.

Watching Schiff lay out the prosecution’s case did not hearten Paul Rosenzweig, who worked with Ken Starr on the impeachment of President Bill Clinton. Today a scholar at the nonpartisan R Street Institute, he is no supporter of Trump. Yet he believes the Democrats’ efforts will have only limited efficacy.

“Do you think he changed any votes in the Senate?” Rosenzweig wondered. “I doubt it. I do hope he changed minds in the general public, but we won’t know that until November.” (Republicans have charged that Democrats are trying to hurt Trump’s reelection prospects with their impeachment inquiry.)

At the same time, Democrats appear to be encouraged by a Pew poll released earlier this week that shows, for the first time, a majority of Americans want Trump removed from office. More than two-thirds believe that the impeachment trial should have been the more open proceeding demanded by Democrats, as opposed to the speedy, narrow process now being run by Senate Majority Leader Mitch McConnell.

“That’s unheard of in modern history except for Nixon the week before he resigned,” a House aide working on the impeachment trial told Yahoo News in reference to the Pew poll, and the rising number of Americans who want Trump convicted by the Senate in particular. “Only 31 percent believe the charges should be dismissed. Seventy percent of the American people believe there should be witnesses and documents in the trial, and growing. The House has already proven its case to the American people, and we’re not done yet.”

Georgetown Law scholar Joshua Geltzer, who was an Obama administration National Security Council official and is involved in House Democrats' lawsuits against the Trump administration, also pointed to the Pew poll as a sign that Democratic punches "seem to be landing." He says Democrats have to continue directly challenging Republican articles of faith: that Trump did nothing wrong, that the aid to Ukraine was withheld for legitimate reasons, that a president has the untrammelled power to ask an ally to investigate corruption.

"You make uncomfortable that which seems immovable in your audience's mind," Geltzer says, so that even the Republicans' bedrock assumptions about Trump suddenly become impossible to maintain. Those assumptions, Geltzer appears to be suggesting, may not be quite as deeply held as cable news sound bites may lead some to believe.

There have been a few signs that the case is breaking through. Late on Wednesday evening, for example, Sen. Lindsey Graham of South Carolina confronted Schiff in the Capitol — to tell him that he'd argued an impressive case. "He's well spoken, did a good job of creating a tapestry, taking bits and pieces of evidence and emails and giving a rhetorical flourish, making the email come alive — sometimes effectively, sometimes a little over the top," Graham later said of his conversation with Schiff. For this to come from one of the president's closest supporters — one whose furious defense of Supreme Court nominee Brett Kavanaugh became a symbol of Republican loyalty to Trump — was a significant development that made national news.

That same day, another reliable Trump ally, Sen. John Kennedy of Louisiana, also seemed to admit that Republicans were more receptive to Democrats' case than some might believe. "I've learned a lot," Kennedy told a reporter about the case House Democrats have been making all week. "Everybody has. Senators didn't know the case. They really didn't."

That doesn't mean, of course, that Kennedy or Graham is going to vote to convict Trump — almost certainly not. But their statements seem to signal that, however slowly, the facts being presented by the Democrats have started to break through the Republican ramparts.

For the most part, however, Senate Republicans remain in thrall of "alternative facts," such as those featured prominently on Fox News and even more prominently on the president's Twitter account. For example, Sen. Tom Cotton of Arkansas went on Fox News to characterize Democrats' case as based on "hearsay," though that case has included hours of testimony from people directly involved in Ukraine policy.

Sen. Ted Cruz of Texas, meanwhile, has insisted that Trump was seriously intent on an investigation of corruption in Ukraine, despite clear evidence that he merely wanted the announcement of an investigation to hurt presidential campaign rival Joe Biden over his son Hunter's business dealings.

Despite there being no evidence of Hunter Biden's involvement in any wrongdoing, Cruz has repeatedly tried to turn the impeachment inquiry into an investigation of the Ukrainian company Burisma, on whose board the younger Biden served. On Twitter, Cruz has shared a timeline of what he purports to be evidence of Biden-related malfeasance having to do with Burisma.

Republicans have also fed the conspiracy theory that it was Ukraine, not Russia, that interfered in the 2016 presidential election, and that the intended beneficiary was Hillary Clinton, not Trump. U.S. intelligence agencies unanimously disagree.

Senate Republicans must know this. After all, it was a committee chaired by Senate Republicans that only months ago concluded that Ukraine did not interfere in the 2016 election to Clinton's benefit. And yet the politically expedient fiction has been revived for the purposes of defending Trump in the impeachment trial.

"The calculus of power enters into this, I think, in a very serious way," says one congressional staffer who has worked on the impeachment effort and continues to follow it closely. Senators who buck a tempestuous president demanding unflagging loyalty know they might pay with a one-way ticket back home come their next election. "If the Republican senators are truly paying attention," the aide adds, "then they have seen that the evidence against the president is overwhelming. If they choose to put party before country at this point, it'll be obvious."

And he is unapologetic about the Democrats' pursuit of Trump, describing the impeachment trial as an "overwhelming case of simple right and wrong that ideology shouldn't enter into."

Inevitably, ideology does. In their defense — which begins Saturday — Trump's lawyers will challenge Democrats' facts as part of a politically motivated campaign to remove him from office. They will have on their side the fact that some House members sought to impeach Trump even before the Ukraine matter came to light. They will likely challenge core Democratic assertions, like the one made by impeachment manager Sylvia Garcia when she said that Hunter Biden "did nothing wrong." The younger Biden has admitted using poor judgment in taking the post at Burisma, although he has denied doing anything wrong or illegal.

The Democrats' case closes on Friday evening, but it was Schiff on Thursday night who provided what has thus far been the most rousing summation of the Democrats' case, with his appeal to the kinds of fundamental values taught in grade school. Whether his words, and those of his fellow impeachment managers, have any effect on Republicans is an open question, though also not a question many Democrats believe has an auspicious answer.

Even so, they believe their efforts are not in vain. "Much of our presentation has been a direct appeal to Senators on these grounds exactly," a Democratic aide said of needing to highlight the importance of truth, as opposed to any number of more sophisticated arguments to which Democrats have recourse. "And it's why, after a long day laying out the core case on abuse of power, Schiff closed with an appeal to truth and right."

Now comes the Republicans' turn.