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Institutions can't save America from Trump

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When John Kelly stepped in as White House chief of staff last summer, he was widely hailed as someone who could impose order on a chaotic West Wing and check President Trump's worst impulses. Kelly — a retired four-star Marine general — became a figure of military discipline in the White House, alongside national security adviser and active-duty Gen. H.R. McMaster. He also joined McMaster as a prominent member of "the adults in the room," a widely used phrase suggesting a contrast between the immature president and the more experienced, more composed officials tasked with averting disaster.

Trump critics took it as a sign that Kelly was on their side when he seemed to hang his head as the president defended white-nationalist protesters in August. And yet six months later, Kelly's future in the White House is highly uncertain, his reputation is greatly diminished, and the vision of Trump constrained by military officers acting as "adults" has evaporated.

Kelly's public descent into ugliness began with an October news conference in which he defended Trump's insensitive call to a soldier's widow by attacking a Democratic congresswoman who is a friend of that family. Amid the fight over immigration, he accused eligible young people who didn't sign up for deportation protections of being "too lazy to get off their asses." And he protected staff secretary Rob Porter's position at the White House and spoke of Porter as "a man of true integrity and honor," despite knowing that domestic violence accusations had cost Porter a full security clearance.

Kelly has aligned with his boss more often than not — which is hardly unusual for a chief of staff, but it's frustrating for those who had hoped that he would be a fighter for the resistance. As historian Chris Whipple told The Washington Post this past week: "It's clear now that those expectations everybody had that Kelly would somehow be the grown-up in the room, a moderating force who would smooth the rough edges off of Trump, were just completely unrealistic."

Trump critics would do well to reflect on this moment. Because it's not just Kelly and the other generals in the Trump administration whom they've claimed as part of the resistance. It's judges, civil servants and newspaper reporters. It's special counsel Robert Mueller and the FBI. Americans are rallying around institutions as a means of opposing the president — but also out of a desperate desire for truth and accountability as correctives to the constant chaos of Trump. Yet these institutions can't provide the salvation people seek. And by setting expectations that are almost certain to be unmet, those who oppose the president may end up diminishing faith in America's institutions, too.

Trump is presiding over a great destabilization in American life, and his attacks on institutions are a key aspect of this uprooting. He appoints Cabinet secretaries whose main goal seems to be destroying their own agencies, and he directs bile toward institutions personally. He

began his presidency in a battle with the intelligence agencies, mocking their report on Russian election interference and comparing them to officials in “Nazi Germany.” He has since moved on to attacking the FBI and the Justice Department for failing to display adequate loyalty. He regularly complains about the civil service, saying he is being thwarted by a malignant “deep state.” He dubbed a federal judge who ruled against his immigration ban a “so-called judge” and accused the courts of putting the country in “peril.” He suggested that the news media is the “enemy of the American people.”

With each new outrage, Trump smashes assumptions about the things a president would never do or say. Nonpartisan norms we thought we could depend on, such as the independence of the Justice Department and the importance of a free press, appear under threat.

As Trump has attacked our institutions, his critics have embraced them. It seems fair to say that neither Mueller nor former FBI director James Comey expected that Americans would one day be purchasing T-shirts reading “It’s Mueller time” or “Comey is my homey.” And yet the FBI has become the unlikely darling of the left.

Similarly, the usually anonymous civil service has been elevated to hero status. After acting attorney general Sally Yates refused to enforce Trump’s travel ban, #ThankYouSally trended on Twitter, and Politico celebrated her as “the face of institutional resistance, the first sacrificial hero to the beleaguered townspeople of the Washington bureaucracy.” And when a crop of “alternative government” social media accounts, claiming to speak for civil servants opposed to Trump, became wildly popular, Think Progress asked, “What happens when every government agency joins the #resistance?”

The news media, meanwhile, rarely the most popular institution, has seen a surge of support in the form of increased viewers and subscribers. Readers have expressed their thanks by sending pizza to newsrooms. Post editor Marty Baron has had to clarify: “We don’t view ourselves as part of the resistance” and “we’re not at war, we’re at work.”

Although this embrace of institutions has come mostly from Trump’s liberal-leaning critics (who have few other levers of power in Washington at the moment), it has a strongly conservative flavor. It reflects a desire to maintain structures already in place — and often to defer to figures of traditional authority.

This impulse was behind the hope that the generals — Kelly, McMaster and Defense Secretary Jim Mattis — would be able to contain the president with the power derived from their military titles. It’s at work in the excitement over the courts’ insistence that the president’s words have meaning after all and that he isn’t entirely free from consequences. (“#Resistance!” hundreds of left-leaning observers posted on Twitter after the first court rulings against the travel ban.) And it motivates the obsessive interest in the progress of the Mueller investigation, which is also a hope that the special counsel will be able to hold the president to account for his behavior.

Trump’s critics look to institutions — the courts, the FBI, the media, the military — to set the country back on stable ground and reestablish that shared world he so thoroughly disrupted.

But these institutions will never be able to deliver on this symbolic promise. Familiar and stable though they might be, they weren’t constructed to set the world right. Like all institutions, they have limited tool kits and missions that stop short of rescuing the nation.

Consider, for example, the Hail Mary effort by a handful of legal scholars and advocacy groups to challenge Trump's pardon of former Arizona sheriff Joe Arpaio in federal court. The pardon represented the upheaval of Trump's presidency in miniature: It turned justice upside down, granting unearned mercy to a man convicted of contempt of court for racial profiling, by use of an essentially unreviewable presidential power. If the judge had agreed to wipe away the grant of clemency, the case could have been a bold example of the judiciary using the accumulated weight of its institutional authority to set right the grievous moral wrong of Arpaio's pardoning. But that's a separate question from whether doing so would have been legal — which is seriously in doubt. The business of the courts is not to reaffirm our moral systems but to weigh the relative merit of arguments within a set of texts and precedents. As Dahlia Lithwick wrote in Slate at the time: "The predicate belief of the judicial system is that nothing should be resolved in any but the narrowest possible ways. Drama and grand gestures are anathema." The judge refused to strike down Arpaio's pardon or allow a special prosecutor to continue the legal fight against it.

Perhaps because law is so un-Trumpian in its insistence on precision and consequence, legal questions — efforts to hold Trump to law or to oppose law's unjust enforcement — are often at the center of these symbolic moments of would-be resistance. When Mattis announced last summer that he would order a study in response to the president's executive order banning transgender military service, Trump opponents hailed him as a hero who had disobeyed an unconstitutional directive. "I think we've figured out how to deal with the unfortunate reality of donald trump being President," read one popular comment on a USA Today story describing Mattis as having frozen the ban. "... have the adults still serving in government simply ignore anything he says or tries to do."

But Mattis's request for a study on transgender service members didn't disobey Trump's order — it complied with it. "On this and so many other subjects . . . it may be tempting to exaggerate the gaps between Pentagon leaders and Trump," civil-military relations scholar Phillip Carter wrote at the time. "These military leaders are decidedly not part of the resistance."

The military is one of the few institutions that Trump has not attacked but embraced — though Carter and former Pentagon official Loren DeJonge Schulman, among others, have voiced concern that the president's deference to "my generals" risks eroding the norm of civilian control of the armed forces. Either way, the push and pull of the military between Trump and his critics paints as political an organization that aspires to be anything but.

The same is true of civil servants, who pride themselves not on their ability to #resist an incoming administration but on a tradition of apolitical service to the country and the Constitution.

Then there is the special counsel. The expectation that Mueller will act as a kind of avatar of justice on the Russia matter, sharing his discoveries of wrongdoing with the public in order to set things right, misreads the scope of his role. Mueller is a prosecutor, not a truth commissioner. His investigation may take years to complete. Even when (or if) he does reach a conclusion, the Justice Department's special counsel regulations limit the chances that his findings will be made public. What's more, many of the president's most egregious failings are certainly immoral but not necessarily criminal. There's no guarantee that Trump's dismissal of Comey or his other efforts to erode the independence of the Justice Department will amount to a criminal charge — or a clause in an impeachment referral to Congress.

In some cases, this confusion between an institution's actual role and its perceived role as a bastion of resistance might create a productive discussion. Disagreement over how aggressive journalists should be in confronting the president, for example, is forcing the press to reevaluate old norms of political reporting. This has had some positive effects so far, such as increased transparency in the reporting process and other efforts toward improving media literacy. In its stories on allegations of sexual abuse by Senate candidate Roy Moore of Alabama, for example, The Post offered readers a detailed look at the mechanics of reporters' work. And the New York Times has begun to routinely publish transcripts of its reporters' interviews with Trump.

Within the government, on the other hand, there's little evidence that organizations such as the FBI, the judiciary and the military are embracing this new and outside view of their responsibilities. That's for the best: The thought of the courts or the special counsel doling out a vision of "justice" unconstrained by law is a frightening one, and disobedience from military leadership would lead down a dangerous road. It's true that some federal judges have ruled against Trump with unusual aggression, but such rulings don't depart too far from the law. Likewise, military leaders have held back from outright opposition to the president. And Mueller has chosen to seclude himself from the public eye and let his investigation speak for itself, avoiding the posturing of his Clinton-era predecessor Kenneth Starr.

But this also means that the new faith in government institutions will inevitably be disappointed when these organizations fail to rein in Trump and restore meaning to our unordered world. The trust and sincerity of those Americans who have put their hope in institutions risk becoming disillusionment and bitterness. That's a dangerous thing at a time when American democracy faces a tipping point and public confidence in government is already at near-historic lows. To put it another way: If we put our trust in Mueller to save us, what happens when he doesn't?

There is also the danger that by defending institutions from Trump's predations, the president's critics open those same institutions to further pushback from the right. "The judiciary has joined the #resistance," Ilya Shapiro wrote disapprovingly on a blog run by the libertarian Cato Institute, calling an appeals court ruling against the travel ban "a travesty." Likewise, by turning the FBI into a liberal token, Trump further aligns the bureau with the Democratic Party in the eyes of his supporters and thus bolsters his next round of attacks.

That doesn't mean we shouldn't rally around institutions. On the contrary, it's crucially important right now to defend the free press, the expertise and dedication of the civil service, and the independence of the judiciary and federal law enforcement. But in doing so, it's also important to understand the necessary limits and weaknesses of those organizations. In turning to institutions for stability, we're seeking refuge from imbalance and untruth in the conservative and comfortable. The risk is that this desire for comfort can prevent us from doing the uncomfortable but necessary work of acknowledging those institutions' failures.

This tension is most prominent in the new liberal love for the FBI, given the organization's particularly troubled past. Adam Serwer writing in the Atlantic and Matt Ford writing in the New Republic have argued that the bureau must be defended from the president without forgetting or forgiving its history of abuses under J. Edgar Hoover and its tense relationships with Muslims and black Americans. In fact, those abuses make the defense of the FBI even more important, lest Trump turn the organization's significant powers against his political enemies.

The unsatisfactory truth is that institutions will not save us. We have to do the work of saving ourselves — while protecting these institutions from Trump and pushing to improve them. The only way out of the Trump presidency's constant upheaval of morality and knowledge and meaning, its destruction of the world we share as citizens, is nothing more or less than politics.