

If the Regime Fits

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The settlement language is the place to start. *Forever barred and precluded*. That is the phrase the Justice Department's acting attorney general signed on May 19, in a [one-page waiver](#) that bars the Internal Revenue Service from ever pursuing claims related to the president, his family, or his businesses on tax returns filed before that date. The waiver was added quietly, behind a hyperlink in a [Department of Justice press release](#), the day after the lawsuit it resolved was dismissed.

The lawsuit was the one the president filed in January against the agency he runs, [demanding ten billion dollars](#) over the leak of his tax returns by a former IRS contractor. The contractor was convicted and is serving five years. The leak was real and the privacy violation was serious. None of that is in dispute here. What is in dispute is the remedy. The remedy is a private contract between the president and the department he oversees, executed by an [acting attorney general who was the president's personal lawyer](#), that creates permanent legal immunity for one family from the tax authority that applies to every other American.

That sentence is the whole problem. The tax system depends on the proposition that it applies to everyone or it applies to no one. There is no version of equal application that includes a written, signed instrument exempting a named family in perpetuity. The settlement does not argue otherwise. It simply does the thing.

This is the move worth looking at carefully, because it is a particular kind of move. Ordinary corruption involves an official taking money for a decision. This is more specific. A sitting head of government uses a state legal instrument to foreclose the state's legal authority over himself. The instrument is binding because the state signed it. The instrument is durable because contracts are harder to undo than statutes. The instrument is invisible to most enforcement mechanisms because settlements are private documents that courts review only on motion. The instrument lasted eight weeks before a court reached it. How the court reached it, and what it could not reach, is the subject of this essay.

Three regimes have done versions of this move in the last twenty-five years, and the trajectory from the first to the third is shorter than most American readers assume.

Viktor Orbán came to power in Hungary in 2010 with a two-thirds parliamentary majority and used it to rewrite the constitution. The new instrument restructured the Constitutional Court, lowered the retirement age for judges to clear the bench of inherited opposition, restructured the electoral system to entrench Fidesz, and over the following decade channeled European Union recovery funds and state contracts to a closed circle of Fidesz-aligned beneficiaries through formal procurement mechanisms. Nothing went under the table. The table was the mechanism. Tax authorities and media licensing regimes were used against opposition-aligned business. In 2011 public broadcasting was [folded into a single state fund](#) that dismissed 1,600 journalists and answered to a Media Council whose

five members the governing party [had all nominated](#). Universities were brought under state control through legal restructuring. Hungary kept holding elections, contested but not fair, and the [international democracy indices](#) that classify regimes moved it out of the democratic column. Then in April 2026, on the [highest turnout in the country's democratic history](#), voters removed him, and the electoral system he had built to convert a plurality into a supermajority handed his opponent [two-thirds of parliament on 53 percent of the vote](#). The new majority's [first media law](#), in June, dissolved the fund.

Recep Tayyip Erdoğan came to power in Turkey in 2003 as prime minister of a parliamentary democracy. In 2014, while he was still prime minister, the Ankara administrative court suspended construction of a vast new presidential complex on the Atatürk Forest Farm, a first-degree protected site. The Council of State [upheld the suspension](#). Erdoğan defied both orders. [“Let them tear it down if they can,”](#) he said. The construction continued. He moved in. The complex, [Ak Saray, has more than 1,100 rooms and cost at least \\$615 million](#), double the initial estimate. After the failed 2016 coup attempt, Erdoğan used a state of emergency to conduct a purge that removed roughly 110,000 public officials in its first phase and has [reached more than 300,000 dismissals and 113,000 arrests](#) over the following decade. The dismissed include judges, prosecutors, academics, military officers, journalists, and elected mayors. A 2017 referendum consolidated executive power in the presidency. Turkey still holds elections. The opposition has won some of them, including the Istanbul mayoralty. The [winning mayor was prosecuted and removed](#).

Vladimir Putin came to power in Russia in 1999 as acting president on the day Boris Yeltsin resigned. His first decree, [Decree No. 1763](#), signed that same day, granted Yeltsin lifetime immunity from prosecution, search, interrogation, and detention. [The decree's language](#) is worth reading. “A president who has ceased carrying out his duties enjoys immunity. He cannot be liable to legal or administrative responsibility, detained or arrested, his premises cannot be searched, he cannot be interrogated or subjected to a body search.” Fourteen months later the Duma converted the decree into federal statute. Over the next two decades, Putin used selective prosecution against political opponents and rival business figures (Khodorkovsky was the first canonical case, Navalny the last), captured the legislature through dominant-party control, and built or had built for him a series of palaces whose cost and provenance have become a genre of investigative journalism. In 2020, he [signed legislation](#) extending presidential immunity to himself and his family and allowing him to remain president until 2036. Russia still holds elections. They are not contested in any meaningful sense.

These three regimes share a cluster of features. State legal instruments used to protect the leader from legal exposure. Public expenditure on monuments to the leader, built over or around legal constraints. Prosecution and harassment of political opponents through state machinery. Defiance of courts when courts attempted to constrain the cluster. Capture or marginalization of the legislature. Patronage funds channeled to political allies through formal state mechanisms. Capture of whatever press the state already owns. The cluster works as an operating pattern rather than a checklist, and the pattern is recognizable because three different leaders in three different countries have run it.

The American sequence is accumulating the cluster.

The IRS settlement is the legal-immunity feature. The waiver language is more sweeping than the Yeltsin decree it resembles because it covers the family and the businesses, not only the individual.

The monument feature is present and the parallel to Ak Saray is closer than comfort allows. The president [demolished the East Wing of the White House](#) in October 2025 to make room for a 90,000-square-foot ballroom that has grown in projected cost from \$200 million to \$400 million, with a [\\$1 billion congressional security appropriation](#) now attached to the project. The funding is described as private. The [donor list includes Amazon, Meta, Google, Apple, Microsoft, Lockheed Martin, Coinbase, Palantir, and three dozen others](#), most with significant business before the federal government, and [taxpayers are now on the hook for at least \\$300 million](#) regardless. Two days after announcing a \$37 million steel donation, [the administration cut tariffs in half](#) on the supplier's product line. The helicopter pad replacing the South Lawn is a [gift from the contractor that builds the helicopters](#). The Kennedy Center fits the same feature: in February 2025, the president [removed Biden-appointed trustees, installed himself as board chair, and replaced the institution's president](#) with a longtime political adviser. The Smithsonian was approached through a different mechanism, since its Board of Regents structure does not allow direct executive capture. The president signed [Executive Order 14253](#) in March 2025 directing the vice president, who sits on the Board of Regents, to remove "improper ideology" from the institution. The August 2025 White House letter demanded [comprehensive content review of eight Smithsonian museums](#) and tied future appropriations to compliance.

The opponent-harassment feature is present and accelerating, and the courts are providing a partial check. James Comey was [first indicted in September 2025](#) on two counts arising from 2020 congressional testimony, brought by a former personal attorney of the president whose predecessor had been removed for refusing to bring the case. A federal judge dismissed that indictment in November 2025 because the prosecutor had been unlawfully appointed. A second Comey indictment followed in April 2026 over a [seashell-arrangement Instagram post](#) the administration characterized as a threat against the president. New York Attorney General Letitia James, who prosecuted the president's business and won a \$500 million civil fraud judgment, was [indicted in October 2025](#) on mortgage fraud charges. That indictment was also dismissed in November on the same appointment grounds. Two subsequent grand juries [declined to reindict her](#) in December 2025. A third grand jury declined to indict six Democratic members of Congress over a video urging service members to refuse unlawful orders. John Bolton's [home was raided in August 2025](#), six years after the Justice Department's investigation into his memoir had been closed, and he was indicted in October on eighteen counts under the Espionage Act. Bolton [pleaded guilty in June](#) to one of the eighteen. It is the only case in the set that has produced a conviction.

The machinery does not require an opponent. When the president's repainting of the Lincoln Memorial Reflecting Pool [peeled within days of completion](#), he announced that vandals had done it, and a [67-year-old cyclist who touched a loose chunk](#) was arrested and charged. The Justice Department dropped the case at the end of July. [Its own filing](#)

disclosed that a Park Service engineer had attributed the damage to contractor error on June 11 and that the Interior Department held the email for nearly a month. The president then said he disagreed with his own U.S. Attorney for dropping the charges.

The press feature is present in the one place the state owns the press. Stars and Stripes has covered the military since the Civil War with an editorial independence its own editor described as “required by law and by the department’s own policies.” In January the Pentagon announced it would refocus the paper away from “woke distractions” and stop running wire copy. A March memo required content consistent with good order and discipline. The department fired the ombudsman whose job was to protect the paper’s independence, installed an active-duty Navy captain as deputy publisher without telling the publisher, and on August 21 fired the editor-in-chief, the publisher, and the reporter covering the Iran war. The stated cause was insubordination. The editor’s insubordination was telling CBS that censorship would be a red line.

The court-defiance feature is present in two forms. The first is the familiar one. The administration has conducted Alien Enemies Act removals to El Salvador in defiance of court orders requiring the planes to be turned around. Federal courts have found the administration in contempt or close to it on multiple immigration matters. Court orders that align with administration preferences are followed. Court orders that constrain administration action are sometimes not.

The second form is newer and is legal. A federal judge ordered ballroom construction halted in March pending congressional authorization. The administration appealed and kept building, with a 250-person crew working twenty-hour days, seven days a week, by its own account in court. When the D.C. Circuit affirmed the injunction on August 7, the Solicitor General asked the Supreme Court to let the work continue, describing the building as an integrated military complex vital to national security, and reported it 65 percent complete. The preservation group that sued argued the administration was trying to outrun judicial review. On August 21, hours before the injunction would have taken effect, the Chief Justice stayed it. “Let them tear it down if they can” was also a bet that completion would moot the order. The Kennedy Center is a second instance. A federal judge ruled in May that the board had no power to put the president’s name on a building Congress named for someone else, and the letters came down in June. On August 13 the same board voted to put the name back as an inscription crediting the president with the restoration, plus a plaza named for him, plus a second inscription if a fund in his name reaches \$100 million. The statute is unchanged. The wording is new.

The legislative-marginalization feature is present in three forms. The administration has withheld appropriated funds in violation of the Impoundment Control Act by the finding of the Government Accountability Office, which has cited it more than once. In August 2025 the president sent Congress a \$4.9 billion foreign-aid rescission with fewer than 45 days left in the fiscal year, a maneuver GAO has said since 2018 the statute does not permit. On September 26 the Supreme Court let the money lapse, finding the Act likely bars private parties from suing over it. Enforcement now rests with the Comptroller General, whose office has said it has not decided to file suit.

The war is the second form. The president [began hostilities against Iran on February 28](#) without asking Congress, let the sixty-day clock under the War Powers Resolution run out, and told Congress in May that a partial ceasefire had stopped the clock while the blockade continued. In June [both chambers passed a resolution](#) directing him to withdraw, 215 to 208 in the House and 50 to 48 in the Senate, the [first concurrent resolution under the statute](#) ever to clear both chambers; earlier joint resolutions on Yemen and Iran had passed and been vetoed. The House [passed a second one in July](#). The administration has not said what the war costs and [has not asked for the money](#).

The troops are the third. Federal troops have been sent to cities run by political opponents. The president federalized the California National Guard for Los Angeles in June 2025 over the governor's objection, then ordered federalized Guard units into Portland and Chicago that fall. Illinois sued. [Four lower-court judges](#) found the facts did not support the Chicago deployment, and on December 23 the Supreme Court, six to three, [left the block in place](#), holding that the administration had identified no legal authority for the military to execute the laws in Illinois. The president [withdrew from the three cities](#) where governors could sue and [extended the deployment in Washington](#), the one city where no one can, through the end of his term, at an [estimated additional cost of \\$1.4 billion](#). That is the Orbán method exactly. Where the check exists, retreat. Where it does not, stay.

The patronage feature is the anti-weaponization fund, and its trajectory is the clearest instance in the set of how the cluster behaves under pressure. The same announcement that dismissed the IRS lawsuit [established a \\$1.776 billion fund](#) to compensate people who claim past administrations targeted them. The expected beneficiaries were January 6 defendants and members of the president's political circle. The mechanism was formal, the money public, the direction from the state to the leader's allies. Republican senators objected. A federal judge in Virginia [enjoined the fund on June 12](#). The acting attorney general told Congress it would not go forward. On August 2 [the department rescinded the order](#) that created it. The settlement clause obligating the attorney general to create it was not rescinded, the plaintiffs have not released it, and the president [has continued to say he supports it](#). The order is gone. The promise is not.

Each of these features, taken alone, has a defense. The settlement responds to a real privacy violation. The ballroom is privately funded, at least nominally, and houses a bunker. The indictments are described by their prosecutors as merit-based, and one of them held. The court-defiance instances are characterized by the administration as legal disputes over jurisdiction. The impoundments are defended as constitutional. The war was a response to a nuclear program. The fund is described as remedial.

Taken alone, each defense is at least colorable. Taken together, the cluster is the operating pattern of three regimes, two of which no longer count as democracies by any standard measure and the third of which held for sixteen years.

The features accumulating in the American sequence are the same features that accumulated in those sequences, they accumulated in a recognizable order, and the constitutional democracies in the comparison set either reversed the accumulation, through courts or through an election, or did not. Italy reversed Silvio Berlusconi's

immunity laws through the Constitutional Court on equal-protection grounds. Brazil's electoral court barred Jair Bolsonaro from office for eight years, and its Supreme Court then convicted him of plotting to stay in power after losing. Hungary reversed through the ballot, sixteen years in, against an electoral system designed to prevent it; the instruments survived until the man operating them was removed, and the new majority is now repealing them one statute at a time. Turkey and Russia did not reverse, and the absence of reversal is what produced the regimes they are now.

The Italian reversal ran through a channel the American system lacks. Italy's Constitutional Court does not wait for an injured plaintiff. Any trial judge who doubts a statute can refer the question to Rome, and the Milan judges trying Berlusconi did so twice. The Court struck the Schifani law in 2004 and the Alfano law in 2009 because equality before the law does not admit a named exception, and because an exception of that kind requires a constitutional amendment rather than an ordinary statute. No American judge can refer a settlement to anyone. Review waits for a party with standing to sue the government over a contract the government signed with itself. The Italian mechanism did not need an adversary. The American one has none.

The contract mechanism in the American case is the part worth watching, because it has now been tested once. A statute can be struck down. A decree can be revoked by a successor, and Yeltsin's was in fact replaced by an act of the Duma within fourteen months, which means even Russian immunity passed through a legislature on its way to permanence. The American instrument required one signature from one official, and that official was the beneficiary's former personal lawyer. The case-or-controversy requirement that lets a court review a settlement assumes adverse parties. Here the parties were the same, and the court said so. In April the judge in Miami ordered both sides to brief whether a president suing his own agencies presented a controversy at all, and appointed six outside lawyers to argue the question because no one on the government's side had appeared. The government never did. Before the briefing deadline, the president dismissed the case and the department announced the deal. Asked the next day why the agreement had not been submitted to the court, the acting attorney general [answered that "there is no judge."](#) Thirty-five retired federal judges then moved to reopen the case. On July 13 the court [ruled](#) that there had never been adverseness, never a controversy, and never a question about who would win, that the suit had been filed to lend a court's name to a deal that could not survive on its own, and that the immunity order, signed by the acting attorney general alone, contravened the statute that forbids a president to ask the IRS to end an audit of anyone. She [sanctioned the lawyers](#), sent her order to the bar authorities already examining the acting attorney general, and barred the parties from using the agreement in any proceeding as evidence of a settlement. The adversary had to be imported, twice. The president and the Justice Department [appealed together](#), against the judge, and the case is now captioned [Trump v. Thirty-Five Former Federal Judges](#). The order does not reach the agreement itself. The judge wrote that whether the private deal is valid or is "an illegal conferral of immunity" was not before her. The plaintiffs have not released it, and the official who signed it [remains the nominee for attorney general](#).

The United States, then, has reversed one instrument, at the trial-court level, on appeal, by a mechanism the system does not guarantee and a set of volunteers it cannot count on twice.

The standard answer to comparisons like this one is that American institutions are stronger and the constitutional design will hold. That answer has been true for two hundred and forty years. It is being tested now under conditions the design did not anticipate. The test is whether the institutions hold against an accumulating cluster of moves, each defensible alone, that together form a pattern, rather than against any single move.

If the regime fits, the comparison is not a slur. It is a diagnosis. The diagnostic question concerns the trajectory the American case is on, and where that trajectory terminates if it is extended.

That question has an answer. For now it is the name of a case on appeal in Atlanta: the President of the United States against thirty-five former federal judges.