**Book Review: Timothy Kuhner, *Tyranny of Greed: Trump, Corruption and the Revolution to Come* (Stanford University Press, 2020)**

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The age of Trump may now be over, but attempts to understand the legacy of this extraordinary presidency are no less urgent as a result. Timothy Kuhner’s book *Tyranny of Greed: Trump, Corruption and the Revolution to Come* provides a compelling account of the American ‘political tragedy’ of which Donald Trump was both a cause and a consequence.[[1]](#footnote-1) The book presents an argument which works on a number of levels – it is partly a forceful diagnosis of the particular ills of Trump, and partly an exposition of the perilous state of US democracy. But while the book is obviously the product of a particular political period (and was published before the 2020 election which saw Trump lose the White House to Joe Biden) it also speaks to a number of far deeper themes and challenges for contemporary constitutionalism. Kuhner shows that to respond adequately to the challenges posed by the Trump presidency, it is important to understand his period of political ascendancy in a much broader context, which reveals Trump’s time in office as both a disturbing degradation of the norms of good government and a symptom of wider democratic malaise. In doing so, Kuhner’s book raises a range of interesting questions about the future of democracy, the role of constitutions, and the nature of constitutional law.

This not a typical constitutional text – it roots constitutional issues not just in their political and historical context, but also in a wider moral and cultural context. Kuhner draws on Dante and Milton, biblical demons and sin, professional wrestling and Frankfurt’s theory of ‘bullshit’ to analyse the impact and implications of Trump’s election as the 45th President of the United States. The adoption of this style does more than add dramatic flair, but also shows that constitutional issues are not (just) dry and technical, but part of a much richer social narrative. Kuhner’s approach therefore offers a demonstration of the breadth of constitutional studies, and the possibilities of methodological inventiveness. Ultimately, this provides a basis for a demolition of Trump, and a devastating critique of American democracy.

**Government of the People, by Trump, for the Billionaires**

For Kuhner, ‘Trump is the stress test which finally proved American democracy unsound’.[[2]](#footnote-2) He is scathing in his criticism of Trump’s morality, integrity, character, misogyny, and racism, comparing him colourfully to the demon Mammon, the personification of infinite greed. Kuhner argues that Trump should be regarded as the ‘founding father of American kleptocracy’, replacing the previous ‘plutocracy’ with a ‘big idea’: instead of merely allowing the rich to dominate the political system, ‘why not allow the wealthy to govern directly?’[[3]](#footnote-3) Trump was not only able to instigate this ‘tyranny of greed’, but was also uniquely positioned to bring about ‘the wholesale destruction of truth and integrity’.[[4]](#footnote-4) Trump’s assault on truth derived from his rejection of accountability to an independent press as ‘fake news’, diminishing the institutions of mainstream media while constitutionalising social media, with Presidential proclamations issued directly via Twitter. Trump’s attack on integrity is evident in many ways, not least the excess of the billionaire’s standard of living, paid for by the taxpayers during his term in office, which is detailed by Kuhner in a style reminiscent of Private Eye.[[5]](#footnote-5) And these personal excesses are of course connected to Trump’s political excesses, and his unwillingness to accept any of the conventional constraints on his power while in government.

But crucially, Kuhner doesn’t approach Trump as an isolated deviation from otherwise good government, with the constitutional course quickly to be corrected by his defeat in 2020. Instead, Kuhner argues that ‘the challenge isn’t just to remove Trump’ but ‘to defeat the form of government bound up with his regime’.[[6]](#footnote-6) This becomes even more important in the post-Trump era, his reign ending in predictable ignominy with the then President baselessly questioning the legitimacy of the 2020 election before the votes had been counted, launching a succession of futile legal challenges to the results, and then inciting protestors to raid the Capitol Building following his defeat. With such a track record, it would be easy to cast Trump as an erratic but ultimately isolated villain, unable to control the forces he unleashed on a just-about-still-standing establishment. Yet this would underplay both the extent of the challenge which remains in his wake, and also the potential for Trump’s return. This cannot be ruled out in 2024, whether in the form of a second run by Trump, or a Trump-esque candidate, given his continuing control over the Republican party, his galvanising influence on the American right, and his bruised ego.

This context shows the value of Kuhner’s book, because his analysis explains how it was the American political system which ultimately created Trump. It is in exposing the nature of the relationship between corruption, cash and the constitution that Kuhner provides the greatest insights. He exposes a crucial disjunction: while ‘the Constitution is silent on all matters of money in politics’, in reality ‘it’s all about the money’.[[7]](#footnote-7) Kuhner exploits this dissonance between the form and the substance of the constitution to develop a revealing account of the way in which a kleptocracy has insinuated itself beneath the folds of a republic.[[8]](#footnote-8)

For Kuhner (quoting Andrew Wedeman), kleptocracy is a form of government where ‘corrupt officials *transform* the state into an instrument of private plunder’.[[9]](#footnote-9) This shows the importance of the constitution in forging a ‘connection between individual and systemic corruption’.[[10]](#footnote-10) His Presidency allowed ‘[i]ntegrated networks composed of Trump’s family, advisers, cabinet members and foreign allies’ to ‘work… to align government agencies and institutions with members’ economic interests’.[[11]](#footnote-11) And legal cover for these activities was provided within government by a Justice Department which ‘has openly abandoned the rule of law’ leading to a ‘politicization of justice’.[[12]](#footnote-12) Nor will this effect be transient, given the pace at which Trump appointed relatively young federal judges who shared much of his ideology to the District Court, the Circuit Court, and most controversially – thanks to machinations in the Republican controlled Senate before the start and right at the end of his term – to the US Supreme Court.[[13]](#footnote-13) Trump’s legacy could therefore be a reshaping of the judiciary, which Kuhner views as one element of a ‘creeping, twisting transformation in law and society’.[[14]](#footnote-14)

Kuhner details the stark consequences of this institutionalised corruption, including in relation to Trump’s brutal immigration policies: ‘Under a kleptocratic regime, it’s predictable that migrant detention and child separation would be parts of a private industry that runs on taxpayer dollars doled out by a president who came to power through the industry’s own generous assistance’.[[15]](#footnote-15) But he is also careful to connect the modern kleptocracy to essential historical context too, arguing that ‘organised greed has played a key role in American democracy no matter how far back you look, from the plantation owners who pulled the strings of Southern governments to the great industrialists who influenced both major political parties for decades’.[[16]](#footnote-16)

One thing which is, however, distinctive about the modern period is the way in which the US Supreme Court has, during the last five decades, cut back restrictions on the financing of political campaigns, opening the US system up to the ever-greater influence of private wealth. In what is the highlight of the book, Kuhner provides a clear and powerful critique of this series of Supreme Court decisions in chapters 3 and 4. He regards *Buckley* v *Valeo[[17]](#footnote-17)* as declaring ‘the birth of a new form of government’ – plutocracy – through the Court’s ‘imposition of an open market-place for political spending’.[[18]](#footnote-18) The effect, according to Kuhner, is that ‘unlimited spending was democratic flourishing, not class government’.[[19]](#footnote-19) And this interpretation of the constitution led to the creation of a ‘financial aristocracy’ – a subset of less than 1% of the population providing the majority of funding for federal election campaigns in service of an ideology which favours ‘tax cuts, austerity measures, and privatization’.[[20]](#footnote-20)

Kuhner is similarly critical of the devastating impact of *Citizens United* v *Federal Elections Commission[[21]](#footnote-21)* (‘[h]ere, farce would meet dystopia’ as the Court struck down limits on corporate electioneering)[[22]](#footnote-22) and *McCutcheon v FEC[[23]](#footnote-23)* (which ‘reopened the political process to donors who wishes to give millions of dollars to political parties and candidates’).[[24]](#footnote-24) He concludes, ‘Warped by the Roberts Court, the Constitution now views political responsiveness to wealth as democratic, not corrupt’.[[25]](#footnote-25) And this was the same court which, in *Shelby County v Holder*,[[26]](#footnote-26) ‘announced, effectively, that racism was over’, removing federal preclearance requirements under the Voting Rights Act 1965, and opening the doors to a deluge of state laws enacted which disproportionately suppressed the voting rights of African American, Hispanic and other minority voters – often also among the least wealthy, less likely to vote for the billionaire Trump, and decisive in the key swing states in which the 2016 election was won.

Kuhner charts these constitutional currents which led to President Trump, concluding that they have created a crisis which strikes at the ‘life force’ of the constitution.[[27]](#footnote-27) And of course while his illuminating analysis is US specific, there are also broader resonances too. For example, when Kuhner writes ‘Today’s political crisis pits the public and constitutional design against a paradigm breaker, a figure who openly derides ethical principles and legal restraints’[[28]](#footnote-28) it could equally be applied outside the American context to the current Prime Minister of the UK, Boris Johnson.

While we should clearly be cautious of drawing comparisons too easily between the UK and a US which is now post-Trump, Johnson’s rise has also exposed challenges to the integrity of the UK’s political system. Many of the current challenges are not new, such as the reliance of the state on small number of monopolistic profit-generating corporations to deliver public services,[[29]](#footnote-29) or the close connections between private wealth and power revealed by the David Cameron ‘Greensill Capital’ lobbying scandal.[[30]](#footnote-30) There are also concerns about the influence of donors after the Prime Minister sought outside funding for a lavish renovation to the Downing Street private flat,[[31]](#footnote-31) and overruled the House of Lords Appointments Commission to award a peerage to a billionaire donor.[[32]](#footnote-32) The government has also been criticised for appointing figures with close connections to the Conservative Party to leading positions in the coronavirus pandemic response without any competitive process,[[33]](#footnote-33) and the lack of transparency and conflicts of interest relating to the award of government contracts during the Covid crisis.[[34]](#footnote-34) And to consolidate Conservative power, ‘reforms’ which diminish the authority of the Electoral Commission are now planned,[[35]](#footnote-35) posing a threat to the integrity of the financial regulation of elections, along with US-style voter ID laws, which have the potential to limit in practice the voting rights of the least wealthy members of the electorate.[[36]](#footnote-36) The question of how to respond to the dominance of wealth in politics is therefore certainly relevant beyond the US.

**Constitutional Revolution?**

Kuhner’s solution is to try to recover the revolutionary spirit of the Declaration of Independence – ‘a fountainhead that we’ve long loved and studied’ – to reject the tyranny of greed just like the tyranny of monarchy before it.[[37]](#footnote-37) For the reader who might be sceptical about this return to history, Kuhner is clear that there was no glorious previous age: ‘The tyranny of greed has threatened self-governance since the beginning of our imperfect union’, in an America ‘socialized into the belief that self-interest and profit should be the motors of government’.[[38]](#footnote-38) And as tyranny has formed from ‘unholy unions between different power centres’, this means ‘the solution comes in the form of separation’.[[39]](#footnote-39) In particular, Kuhner argues for a new constitutional ‘separation of business and state from candidates, officeholders, and political parties’.[[40]](#footnote-40)

Kuhner’s solution is therefore tied up with the trappings of US constitutionalism, even if this appears to be done pragmatically rather than nostalgically. That framing might inspire less confidence outside the US context, especially in the UK, where the relevance of the separation of powers is constitutionally contested, since the government and legislature are fused in Parliament, state and religion are united in the Crown, and the aristocracy and politicians united in the House of Lords. There might also be risks in counting on a formal constitutional separation to shape rather than obscure the reality in practice. Yet Kuhner offers an authoritative list of substantive reforms to regulate (if perhaps not eliminate) the influence of wealth in the political system which all appear highly desirable – this ‘legal architecture’ would include campaign finance limits, equitable funding for political parties, eliminating super PACs, new conflict of interest and lobbying rules, regulation of social media and online campaigns, while also requiring an effective, resourced, legitimate body for enforcement.[[41]](#footnote-41)

While this call for a post-Trump constitutional revolution therefore has much to recommend it, it also prompts a number of broader questions. The first concerns the breadth of Kuhner’s solutions. As a prospectus for reform of political campaigning, it clearly would be a revolutionary programme, especially in the current climate. But given Kuhner shows the systemic nature of the problems facing the American political system, it would have been interesting to know what changes beyond constraining the influence of wealth in politics would be of value. For example, is reform to the Electoral College which gave Trump the victory in 2016, despite his 2.8 million vote deficit to Hillary Clinton in the overall popular vote, also required? Given the dire record of the US Supreme Court in this context, are proposals to reform the powers or composition of that court required, and is ‘court-packing’ a potentially desirable option?[[42]](#footnote-42) More speculatively, might new constitutional institutions, or new forms of representation, be required? Or even in a revolutionary situation, is the famously rigid template of the US Constitution something which must be worked within, rather than contested?

Second, the book raises challenging questions about how technical legal reform impacts on constitutional and economic culture, which, as Kuhner shows so effectively, is thoroughly implicated in supporting a plutocratic or kleptocratic regime. At one point, for example, after discussion of Trump’s financial and political ties to Russia, Kuhner observes: ‘It’s clear that the obstacle to accountability isn’t evidentiary in nature. But the obstacle isn’t just political either. The United States has a spiritual problem on its hands’.[[43]](#footnote-43) Are any legal solutions therefore likely to get caught up in a wider ‘spiritual’ debate between different visions of good government (as with the Obamacare legislation before them)? In a society with deep commitments to capitalism, how can voters be persuaded to support a separation between government and wealth? After all, while the moral and political case against Trump is clear and devastating, some 74 million people voted for him in 2020. No doubt Kuhner is right that a ‘deformed’ public sphere and ‘human susceptibility to outside forces’ make the idea of rational choice in this context highly suspect.[[44]](#footnote-44) Yet after four years of Trump’s presidency, the argument that ‘standard principles of conscious choice didn’t apply’ at the voting booth becomes more questionable. None of this undermines the importance of Kuhner’s reform agenda, but it may suggest that dealing with the problem of wealth in politics also requires some reconsideration of the role of wealth in society.[[45]](#footnote-45)

Finally, Kuhner’s work highlights important challenges for constitutional thought when it reaches the point of calling for revolutionary solutions. It raises difficult questions about what we can expect from constitutions and from constitutional lawyers in times of bad government. Again, this is clearly not just an issue specific to the US – in his emphasis on the need for a revolution, at points Kuhner’s work has echoes of JAG Griffith’s argument ‘Why We Need a Revolution’ in the UK in the late 1960’s.[[46]](#footnote-46) Griffith too saw a ‘spiritual’ problem: ‘the systems which control us, are continually reducing the spiritual (choose your own word) quality of our lives’.[[47]](#footnote-47) He was also concerned about ‘power and money’ and the ways in which they bring ‘entry into small circles of men whose influence in all important matters is crucial’.[[48]](#footnote-48) But Griffith was pessimistic about the prospects for reform – ‘you don’t find people who like power and money relinquishing their control over these commodities’[[49]](#footnote-49) – and at least in part viewed the role of the political system as ‘to persuade people that they make decisions while ensuring that they do not’.[[50]](#footnote-50) For Griffith, therefore, revolution was an alternative to the existing constitutional order: ‘It is only when you are conspiring against the King that you need to look under the bed. Conspiring with the King is a much more open affair although there may well be many occasions when a little modest privacy may be insisted on’.[[51]](#footnote-51) While revolution was therefore necessary, it was also unlikely to come, at least in part because the constitutional system existed and operated to prevent it. Instead, the idea of revolution perhaps served as a reminder of the need for vigilance, to keep ‘struggling to avoid slipping even further down the slope’.[[52]](#footnote-52)

How we fit radical solutions into constitutional studies is therefore an important but challenging question. If the constitutional system itself is the problem, we can call for its reform or replacement. But what if constitutionalism is the problem, because it is a product of other social and political forces, rather than a container for controlling them? If so, is any constitution capable of preventing elites from dominating a political system? This does not make the pessimism of Griffith inevitable, but it may suggest we need a degree of scepticism about the potential of constitutional revolution. Indeed, as Kuhner writes: ‘throughout history a minority of human beings has generally dominated the majority in the service of an ideology. The uncertain parts are, Which human beings will exercise control? In the service of which ideology? And where will they take the nation?’.[[53]](#footnote-53) As Kuhner’s book shows, the constitution can shape the answers to these questions for better and worse, but it is the need for a relentless ‘democratic spirit’, even in the face of constitutional and other obstacles, which may ultimately emerge as pivotal.[[54]](#footnote-54)

Kuhner’s solutions to challenge the influence of money in politics may therefore be both absolutely necessary and yet also not sufficient to prevent a future Trump (or Johnson). But his argument poses a major challenge to constitutional lawyers: to work out whether anything might be.

1. Timothy K. Kuhner, *Tyranny of Greed: Trump, Corruption and the Revolution to Come* (Stanford, 2020) 142. [↑](#footnote-ref-1)
2. Ibid 149. [↑](#footnote-ref-2)
3. Ibid 146. [↑](#footnote-ref-3)
4. Ibid 97. [↑](#footnote-ref-4)
5. See eg ibid 115-116. [↑](#footnote-ref-5)
6. Ibid 145. [↑](#footnote-ref-6)
7. Ibid 77, 116. [↑](#footnote-ref-7)
8. The original phrase is from W Bagehot, *The English Constitution* (P Smith (ed), CUP, 2001) 44. [↑](#footnote-ref-8)
9. Kuhner, 137 (emphasis in original); quoting A Wedeman, *Double Paradox: Rapid Growth and Rising Corruption in China* (Cornell UP, 2012) 61. [↑](#footnote-ref-9)
10. Ibid 137. [↑](#footnote-ref-10)
11. Ibid 139. [↑](#footnote-ref-11)
12. Ibid 140, 141. [↑](#footnote-ref-12)
13. Ibid 141. [↑](#footnote-ref-13)
14. Ibid 142. [↑](#footnote-ref-14)
15. Ibid 118. [↑](#footnote-ref-15)
16. Ibid 34. [↑](#footnote-ref-16)
17. 424 U.S. 1 (1976). [↑](#footnote-ref-17)
18. Kuhner, 68-69. [↑](#footnote-ref-18)
19. Ibid 68. [↑](#footnote-ref-19)
20. Ibid 76. [↑](#footnote-ref-20)
21. 558 U.S. 310 (2010). [↑](#footnote-ref-21)
22. Kuhner, 79. [↑](#footnote-ref-22)
23. 572 U.S. 185 (2014). [↑](#footnote-ref-23)
24. Kuhner, 81. [↑](#footnote-ref-24)
25. Ibid 82. [↑](#footnote-ref-25)
26. 570 U.S. 529 (2013). [↑](#footnote-ref-26)
27. Kuhner, 131. [↑](#footnote-ref-27)
28. Ibid 131. [↑](#footnote-ref-28)
29. See eg TT Arvind and L Stirton, ‘Carillion, Captia and the costly contradictions of outsourcing public services’, *The Conversation* (2 February 2018): <https://theconversation.com/carillion-capita-and-the-costly-contradictions-of-outsourcing-public-services-91030>. [↑](#footnote-ref-29)
30. See eg ‘FCA investigates Greensill as David Cameron’s lobbying texts are published’, *The Guardian* (11 May 2021): <https://www.theguardian.com/politics/2021/may/13/greensill-lobbying-leaves-reputation-tatters-david-cameron>. [↑](#footnote-ref-30)
31. See eg R Brazier, ‘Mr Johnson and His Flat’, *UK Constitutional Law Association Blog* (4 May 2021): <https://ukconstitutionallaw.org/2021/05/04/rodney-brazier-mr-johnson-and-his-flat/>. [↑](#footnote-ref-31)
32. See eg ‘Peter Cruddas: Peer donated £500,000 to Conservative Party days after joining the House of Lords’, *Sky News* (4 June 2021): <https://news.sky.com/story/peter-cruddas-peer-donated-500-000-to-conservative-party-days-after-joining-house-of-lords-12324319>. [↑](#footnote-ref-32)
33. See eg ‘From Covid to Cuba: the growing list of Tory cronyism rows’, *The Guardian* (10 February 2021): <https://www.theguardian.com/politics/2021/feb/10/from-covid-to-cuba-growing-list-of-tory-cronyism-rows>. [↑](#footnote-ref-33)
34. See eg ‘Dominic Cummings ally’s firm given £1m of taxpayer cash – including health contract’, *The Mirror* (19 August 2020): <https://www.mirror.co.uk/news/politics/dominic-cummings-allys-firm-given-22536284>. [↑](#footnote-ref-34)
35. See eg ‘Boris Johnson accused of attack on democracy over plan to “neuter” watchdog’, *Open Democracy* (18 June 2021): <https://www.opendemocracy.net/en/dark-money-investigations/boris-johnson-accused-of-attack-on-democracy-over-plan-to-neuter-watchdog/>. [↑](#footnote-ref-35)
36. See eg the criticism of the Electoral Reform Society: Jess Garland, ‘Mandatory voter ID would dangerously undermine UK democracy’, *The Guardian* (11 May 2021): <https://www.theguardian.com/commentisfree/2021/may/11/mandatory-voter-id-uk-democracy-electoral-system-voters>. [↑](#footnote-ref-36)
37. Kuhner, 143. [↑](#footnote-ref-37)
38. Ibid 147, 148. [↑](#footnote-ref-38)
39. Ibid 150. [↑](#footnote-ref-39)
40. Ibid 151. [↑](#footnote-ref-40)
41. Ibid 151. [↑](#footnote-ref-41)
42. See eg R Doerfler and S Moyn,‘Democratising the Supreme Court’, *California Law Review* (forthcoming). [↑](#footnote-ref-42)
43. Kuhner 130. [↑](#footnote-ref-43)
44. Ibid 100. [↑](#footnote-ref-44)
45. Especially given the inadequacy of the system of taxation for the wealthiest in society (in the US, UK and globally): see eg ‘The Secret IRS Files: Trove of Never-Before-Seen Records Reveal How the Wealthiest Avoid Income Tax’, *ProPublica* (8 June 2021): <https://www.propublica.org/article/the-secret-irs-files-trove-of-never-before-seen-records-reveal-how-the-wealthiest-avoid-income-tax>. [↑](#footnote-ref-45)
46. JAG Griffith, ‘Why We Need a Revolution’, (1969) 40(4) *The Political Quarterly*, 383-393. [↑](#footnote-ref-46)
47. Ibid 383. [↑](#footnote-ref-47)
48. Ibid 390. [↑](#footnote-ref-48)
49. Ibid 389. [↑](#footnote-ref-49)
50. Ibid 387. [↑](#footnote-ref-50)
51. Ibid 390. [↑](#footnote-ref-51)
52. Ibid 393. [↑](#footnote-ref-52)
53. Ibid 74. [↑](#footnote-ref-53)
54. Ibid 62. [↑](#footnote-ref-54)