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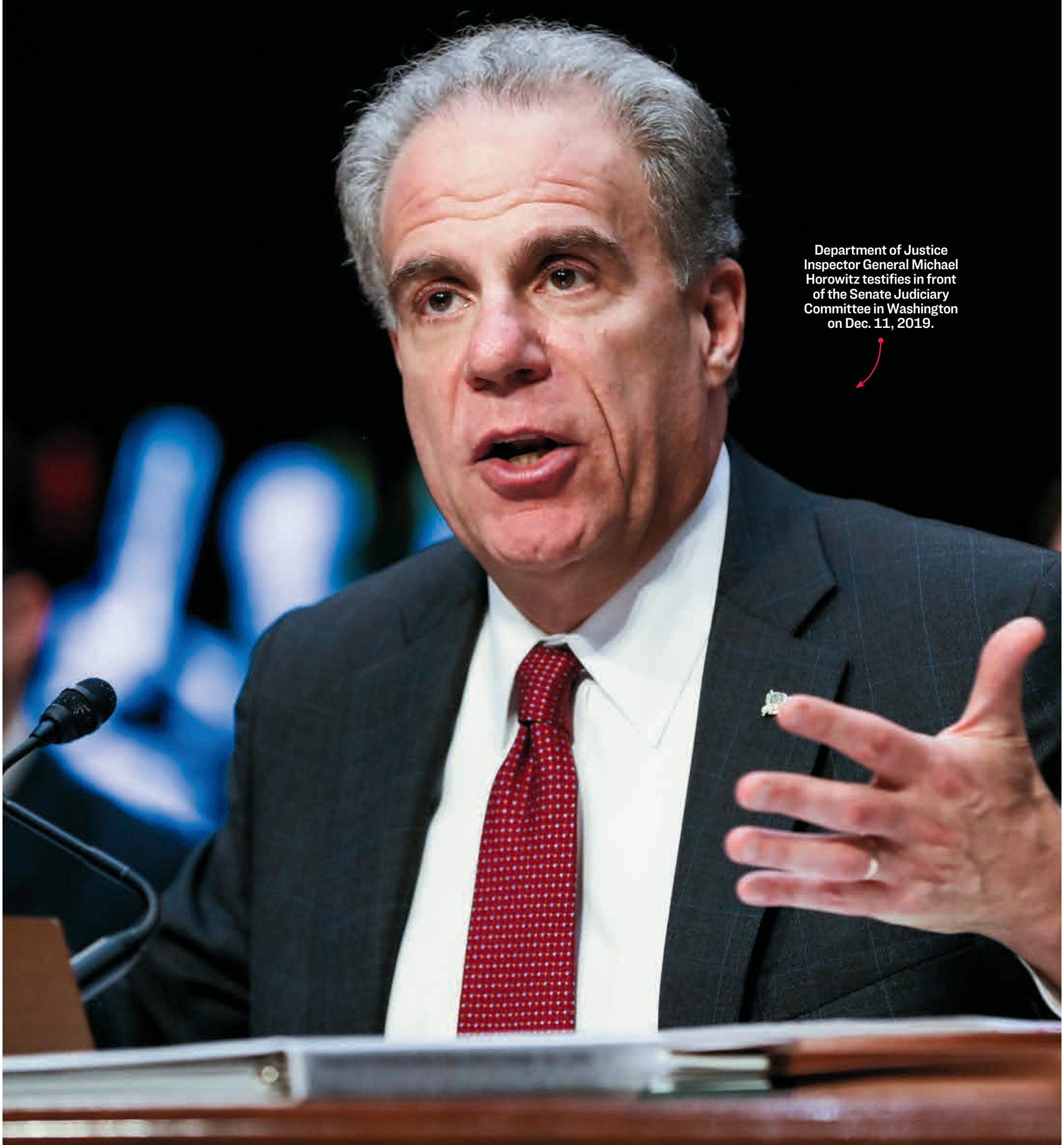
OUR NATION



CHARLOTTE CUTHBERTSON/THE EPOCH TIMES

Department of Justice Inspector General Michael Horowitz testifies in front of the Senate Judiciary Committee in Washington on Dec. 11, 2019.

Justice Watchdog Testifies on Surveillance of Trump Campaign

Horowitz terms surveillance illegal and says no one involved in it has been vindicated. Senators call for reform of FISA 7

US, EU, India Mount Incomplete Yet Increasingly Coordinated Response to China's Maritime Claims

BONNIE EVANS

CATHERINE LAI/AFP VIA GETTY IMAGES

The USS Ronald Reagan aircraft carrier as it sails in South China Sea on its way to Singapore on Oct. 16, 2019.

News Analysis

WASHINGTON–Since China began turning Pacific reefs and atolls into militarized islands, countries around the world have struggled with how to respond.

Complicating the matter is what is known as the Hague verdict.

In July 2016, an international tribunal in The Hague, Netherlands, overwhelmingly ruled in favor of the Philippines' claims of sovereignty in waters that China had claimed for itself. China has refused to accept that verdict, calling it "nothing but a scrap of paper."

That intractability on China's part, combined with the reality of militarized islands, a massive military buildup since Xi Jinping took office in 2013, and the scope and impact of investments under the "One Belt, One Road" (OBOR) initiative–which include port facilities from Asia to Africa–were the topics of a panel discussion on Dec. 5 at George Washington University's Elliott School of International Relations in Washington.

Focusing on the Chinese challenge from the perspectives of the United States, the European Union, and India, a single point of convergence emerged among panelists. All three of the entities have been hamstrung by domestic factors that have shaped and limited their responses to China's aggressive island-building and military installations in the South China Sea.

In addition, panelists asserted that the United States, the EU, and India aren't prepared to challenge China on its claims of island territories that are hotly disputed by countries such as Japan, Vietnam, and the Philippines.

Amid a fractured response from Europe, an overly narrow approach from the United States, and catch-up activities from India, China is being confronted with a clear and combined message from major world powers that flouting the United Nations Convention on the Law of the Sea (UNCLOS) won't be tolerated.

A Divided EU Responds

"The EU has a general policy that is committed to protect freedom of navigation, the Law of the Sea, and arbitration," one of the panelists, Liselotte Odgaard of the Hudson Institute, said.

"Echoes of the EU perspective" are found in the Indian approach to keeping the South China Sea open to international freedom of navigation, said another panelist, Deepa Ollapally of the Elliott School's Sigur Center for Asian Studies.

"We are both liberal, and we are both allies of the United States," she said.

Europe's 28 member countries–27, should the United Kingdom exit–have "more coherence than ever" within the structure of the EU, Odgaard says. Beyond that, however, the EU as a whole "hasn't been able to agree on much" with respect to countering China in waters it claims exclusively for itself.

The concerns of some individual member states are a barrier to a unified EU response to China's incursions into the international waters of the South China Sea.

"Greece and Hungary want to attract investment from China," Odgaard said.

Additionally, "Croatia and Slovenia have their own maritime dispute," which goes back to the establishment of each nation out of the breakup of Yugoslavia in 1991. Fearful of creating a precedent that could nullify their own respective claims to disputed waters, the Balkan states have pulled back from challenging China on its refusal to accept and abide by the Hague verdict.

Thus, in what can be seen as a weakness of the European Union's ability to act cohesively in the face of Chinese aggression in the South China Sea, the EU relies upon a smaller group of its members to pursue freedom of navigation.

Odgaard said that groups of countries with like-minded approaches to a policy "can go very far and not take into account outlier nations that don't agree" with a particular policy.

Therefore, France, the UK, Denmark, Germany, and Italy have confronted attempted Chinese hegemony in the South China Sea by contributing to Freedom of Navigation Operations (FONOPs), while other European nations have stayed home.

What may be notable is that some non-EU nations are Chinese targets for OBOR investments.

India Defends Indian Ocean

While a partial European reply to China's hopes for hegemony in the South China Sea is largely a matter of political principle, India's growing voice on the issue is as much practical as it is principled.

India is a major power and has its own interests in the region, Ollapally said. Echoing the EU policy position, she stated that "India doesn't have a stake in the territorial dispute" among China and its neighbors, and so has kept out of that issue.

India's interest in the South China Sea lies in its proximity to the Malacca Strait, which divides the South China Sea from the Indian Ocean.

Two issues are key for India. More than half of all Indian trade goes through the South China Sea region, so freedom of navigation is vital to Indian economic and trading interests. And at a more strategic level, India's perspective has been changed by Chinese activism in the Indian Ocean.

Ironically, the Hague verdict that made some nations shy of challenging China was pivotal in provoking India to act decisively.

China's refusal to accept the Hague verdict "suggested to India that the diplomatic route was not going to be the norm" in dealing with Chinese maritime claims and activity.

India only addressed the issue formally five years ago, when, in a 2014 joint statement with then-U.S. President Barack Obama, India formally stated its commitment to ensuring freedom of navigation in the South China Sea.

Two years later, when China's defiance of international law emerged through its denial of the validity of the 2016 Hague verdict, "a huge change" was created in the Indian perspective, Ollapally said.

If China is going to challenge maritime freedom and international law in the South China Sea, "they're going to do the same in the Indian Ocean," Ollapally said. "Ultimately, India's concern is the Indian Ocean. China's main interest in the Indian Ocean area is energy. More than 80 percent of China's oil comes from the Middle East through Indian waters."

The Chinese are "pushing India out of neighboring states through money and influence, as China's ambitions are growing."

Therefore, although earlier held back by India's reluctance to openly challenge China's maritime activities, India is now acting.

"If China would gain control over the South China Sea, then it could leapfrog into the Indian Ocean. That would give China a decided advantage over India," Ollapally said.

India's strategy has been a denial strategy, the professor said. And in this, the United States has helped.

> The EU has a general policy that is committed to protect freedom of navigation, the Law of the Sea, and arbitration.
>
> Liselotte Odgaard, visiting senior fellow, Hudson Institute

Navigation

What the United States cares about is navigation, according to panelist Harrison Pretat of the Center for Strategic & International Studies (CSIS).

As the United States and its partners have attempted to maintain freedom of navigation in the South China Sea, it's met with a multitude of Chinese measures designed to deter those efforts, Pretat said.

As has been widely reported, islands and new man-made features have been militarized with missiles, fighters, and bombers. But the importance now isn't so much what is happening on the islands, as what is happening in the waters around them, he said.

Satellite photos and other imagery illustrate the "maritime militia" that China has developed in the South China Sea. While fishing boats are seen bobbing on the water, suspiciously, those boats don't place fishing nets in the sea around them.

Those vessels can now "stay at the islands full-time," according to Pretat. Chinese Coast Guard activity is heating up as well.

As with the EU and Indian perspectives, "the United States doesn't really care about the territorial dispute," unless those territories were "gained by force," he said.

Much more important to the Chinese regime is their "goal to push claimants out of waters" that those nations are entitled to under international law, he said. But with freedom of navigation as the "most visible U.S. response" to countering that Chinese goal, most of the effort comes from the Department of Defense, which has limited tools at its disposal.

Efforts on the part of all parties continue, however.

In April, India and the United States conducted an anti-submarine warfare drill in the Indian Ocean.

"There is only one target this can be for, and that's China, no matter what one can say," Ollapally said.

She added, "We will see much more Indian activism and greater partnership with the EU, especially France, and the United States."

DONDI TAWATAO/GETTY IMAGES

Filipinos protest against China's territorial claims in the Spratly Islands in the South China Sea, in front of the Embassy of the People's Republic of China in Makati, Philippines, on July 12, 2016.

Homeowner Looking to Supreme Court After Police Destroy House

MATTHEW VADUM

COURT EXHIBIT /FEDERAL COURT FILINGS

The Lech residence after the Greenwood Village Police Department had a standoff with an armed shoplifting suspect in Greenwood Village, Colo.

A Colorado family whose home was destroyed by police trying to capture an armed suspected shoplifter is pressing on with a lawsuit for damages after losing a round in a federal appeals court.

Courts tend to resist awarding damages to individuals injured by police doing their jobs, on the theory that it unduly burdens enforcement of the law. In this case, the court found that a government may destroy someone's home without paying compensation, provided that it's acting under its police power rather than the power of eminent domain. The case is important, according to the family's lawyers, because the appeals court ignored binding Supreme Court precedent.

"This whole affair has quite simply totally destroyed our lives," homeowner Leo Lech said. "My son's family was very literally thrown out into the street with the clothes on their back, offered $5,000, and told to 'go deal with it.'"

Lech told The Washington Post that he's considering taking the case all the way to the Supreme Court if he has to.

The family had argued that the destruction of the house constituted a "taking" under the Fifth Amendment that warranted compensation. The takings clause of that amendment states "nor shall private property be taken for public use, without just compensation."

But a three-judge panel of the 10th Circuit Court of Appeals held that actions by law enforcement officials could never constitute a taking, so no compensation was owed even though the police caused $400,000 worth of damage.

The Institute for Justice, a libertarian public interest law firm based in Arlington, Virginia, has taken up the case, which is cited as Lech v. City of Greenwood Village. The plaintiffs' lawyer from the original trial, Rachel B. Maxam of Denver, also is participating in the appeal.

"The police are allowed to destroy property if they need to in order to do their jobs safely," Robert McNamara, a senior attorney with the Institute for Justice, said in a press release. "But if the government destroys someone's property in order to benefit the public, it is only fair that the public rather than an innocent property owner pay for that benefit."

> Property rights are the foundation of our rights.
>
> Scott Bullock, president, Institute for Justice

The case dates to June 3, 2015, when police chased an apparent shoplifter from a Walmart, according to the petition for rehearing filed Nov. 27. The suspect broke into the Greenwood Village, Colorado, home of Alfonsina and Leo Lech, in which one person was present at the time. Police surrounded the house, and the suspect fired one shot through the garage door, after which the police tried to negotiate with the person for four hours.

Over the next 19 hours, police laid siege to the house in an effort to apprehend the suspect, using explosives, tear gas, flashbang grenades, large-caliber rounds, and battering-ram devices mounted on armored vehicles that punched holes into the sides of the dwelling, which, in the end, was "utterly destroyed."

The suspect was arrested, but the house was declared a total loss and deemed unsafe to occupy by the local government, which offered the Lechs $5,000 to "help with their temporary living situation" as a "gesture of good faith," on condition that the Lechs waive all claims. Instead, the Lechs sued, seeking compensation under the Fifth Amendment and Colorado constitution.

> This whole affair has quite simply totally destroyed our lives.
>
> Leo Lech, homeowner

The district court rejected the claims, and a panel of the 10th Circuit concurred, finding Oct. 29 that the "actions taken pursuant to the police power do not constitute takings." The Lechs are now asking the full circuit to hear the case.

The city, Greenwood Village, was satisfied with the panel's ruling.

"The house was being used as a barricade, and the damage done to it was to remove the barricade and get the gunman out without any loss of life," city spokeswoman Melissa Gallegos told The Washington Post after the ruling.

"That is not a use of another's property under eminent domain, but a use of another's property during a police emergency."

Lawyers for the Lechs reject that reasoning.

"Property rights are the foundation of our rights," said Scott Bullock, the Institute for Justice's president and general counsel.

"The court's ruling that government officials can purposefully destroy someone's home without owing a dime in compensation is not just wrong. It is dangerous, and it is un-American. The Institute for Justice is committed to seeing it overturned, for the Lechs and for the protection of property owners across America."

CHET STRANGE/AFP VIA GETTY IMAGES

Judge Tosses 5 Charges Against Anti-Abortion Activists for Undercover Videos

SAUL LOEB / AFP

A Planned Parenthood building in St. Louis, Mo., on May 30, 2019.

PETR SVAB

A California judge dismissed five felony charges against two activists who secretly recorded Planned Parenthood executives talking about the practice of providing human body parts of aborted babies for research.

California Attorney General Xavier Becerra charged the activists in 2017 with 14 criminal counts of filming people without permission and one count of conspiracy to do so.

One of the charges was previously thrown out, and, on Dec. 6, Superior Court Judge Christopher Hite dismissed five of the remaining charges, according to a Dec. 6 release posted on Twitter by David Daleiden, one of the activists, along with a statement from his lawyer.

"Their case is falling apart as the facts about Planned Parenthood's criminal organ trafficking are revealed in the courtroom," the release said.

The activists with the nonprofit Center for Medical Progress (CMP) set up a fake biotech company and used it to register for a Planned Parenthood conference in 2015. They then engaged Planned Parenthood executives in discussions about the procurement of body parts from aborted babies and secretly recorded the conversations.

Daleiden, the CMP's founder, said in a Dec. 6 video that the case is unprecedented, as the state's videotaping law has never been used in this way before.

Daleiden's lawyer, Peter Breen, said he was pleased with Hite tossing more of the charges.

"As to the remaining counts, we have strong defenses that we intend to vigorously pursue on appeal, until every last one of these specious felony charges are thrown out of court," he said in a statement to The Daily Wire. "Mr. Daleiden followed the same commonly accepted practices, including videotaping in public places, as other undercover journalists."

> We have strong defenses that we intend to vigorously pursue on appeal, until every last one of these specious felony charges are thrown out of court.
>
> Peter Breen, lawyer for David Daleiden

Trade Versus Reimbursement

Trade in fetal body parts is illegal.

Planned Parenthood claims that it has only reimbursed for costs related to providing the body parts for medical research with patient consent, which is legal.

But CMP alleges the abortion provider used "accounting gimmicks" and middlemen to mask the fact that its reimbursements exceed actual costs.

CMP provided evidence that the reimbursement amounts were at least partly based on whether the obtained body parts proved usable for research, which means, CMP said, the fees were "based on market value of usable fetal parts."

In 2015, Planned Parenthood announced that it would no longer seek reimbursement for the body parts. The new policy wasn't convincing for CMP, though, as it needed to be enforced with the many Planned Parenthood affiliates across the country.

"It is unlikely that any new 'policy' against fetal tissue remuneration is anything more than a temporary gentleman's agreement for immediate PR purposes," the CMP said on its website.

The charges against Daleiden were criticized as an "overreach" by The Los Angeles Times.

$2 Million Lawsuit

Planned Parenthood sued the activists involved in the undercover operation for crimes that include trespassing, invasion of privacy, and also fraud, since they used fake identification and a fake company to get into the conference.

The lawsuit also alleged a breach of the Racketeer Influenced and Corrupt Organizations Act (RICO), which was originally designed to fight organized crime. Planned Parenthood didn't allege defamation.

Daleiden attorneys argued that the recordings took place in public places, such as restaurants and hotels, where people have no reasonable expectation of privacy.

On Nov. 15, Daleiden and others were found guilty and Planned Parenthood awarded $2 million in damages.

Breen blamed the judgment on the judge's instructions to the jury.

"The judge should have told them that Mr. Daleiden's filming was protected by the First Amendment. Instead, he told them the First Amendment is no defense, which is outrageous and not the law. When you have a series of unfair rulings, you can't expect a fair verdict," Breen told The Daily Wire.

Daleiden unsuccessfully tried to have District Judge William Orrick III removed from the case for bias, arguing that Orrick helped found a Planned Parenthood clinic in San Francisco. A media representative for Orrick didn't immediately respond to a request for comment.

The ruling, if not overturned, would have a chilling effect on undercover journalism, Marc Ruskin, a former undercover FBI agent, said in a Dec. 6 Epoch Times op-ed.

"Local TV news stations will be sued by 'So and So's Used Cars' after pretending to be potential buyers, to whom 'So and So' made gross misrepresentations," he wrote. "Likewise, reporters pretending to seek a loan from unscrupulous lenders, and being offered usurious interest rates and draconian payment terms, will also be subject to civil litigation, no matter if the plaintiffs were acting unethically, or even violating laws and regulations."

ERIC KAYNE/GETTY IMAGES

David Daleiden (R) and his attorney Jared Woodfill speak to the media at the Harris County Courthouse in Houston on Feb. 4, 2016.

Attorney General Slams Abuse of Spy Powers in Probe of Trump Campaign

IVAN PENTCHOUKOV

Attorney General William Barr assessed on Dec. 9 that the FBI abused government surveillance powers in its investigation of the Donald Trump campaign.

Barr gave his conclusion in response to the highly-anticipated report by the Department of Justice (DOJ) Inspector General (IG) Michael Horowitz, who determined that applications for warrants to spy on a Trump campaign associate contained 17 significant errors.

Horowitz concluded that the errors amounted to a failure that implicated the chain of command at the FBI responsible for handling the Foreign Intelligence Surveillance Act (FISA) applications, including senior officials.

"In the rush to obtain and maintain FISA surveillance of Trump campaign associates, FBI officials misled the FISA court, omitted critical exculpatory facts from their filings, and suppressed or ignored information negating the reliability of their principal source," Barr said.

> The malfeasance and misfeasance detailed in the Inspector General's report reflects a clear abuse of the FISA process.
>
> Attorney General William Barr

"The Inspector General found the explanations given for these actions unsatisfactory. While most of the misconduct identified by the inspector general was committed in 2016 and 2017 by a small group of now-former FBI officials, the malfeasance and misfeasance detailed in the inspector general's report reflect a clear abuse of the FISA process."

Horowitz concluded in the 476-page report released on Dec. 9 that the four applications for warrants to spy on Trump campaign associate Carter Page were riddled with serious errors that amounted to "serious performance failures by the supervisory and non-supervisory agents."

The inspector general didn't find evidence to support the claims that the spying against the campaign was motivated by political bias, according to the report. The controversy surrounding the surveillance of the Trump campaign has long been amplified by the discovery of biased text messages between FBI Deputy Assistant Director Peter Strzok and FBI attorney Lisa Page, who were having an extramarital affair at the time. Strzok and Page vented their hatred of Trump, spoke of what they believed were his slim chances of winning the election, committed to stopping him from being elected, discussed an "insurance policy" in the unlikely event of a Trump victory, and mulled "impeachment" around the time they joined special counsel Robert Mueller's team.

Strzok led the investigation of the Trump campaign and the probe of Hillary Clinton's use of an unauthorized private email server for government work. In a report on the review of the Clinton email probe, Horowitz concluded that Strzok and Page's biased messages "cast a cloud" over the investigation, but, similarly to the report on the FISA surveillance, he was unable to find evidence to support the claim that the bias had an effect on any investigative decisions.

According to Barr, FBI Director Christopher Wray was "dismayed" by the handling of the FISA applications. Wray was expected to announce a comprehensive set of reforms on Dec. 9.

U.S. Attorney John Durham, the U.S. attorney tasked with investigating the origins of the investigation of the Trump campaign, issued a rare statement on Dec. 9 disagreeing with some of the conclusions in the DOJ IG report.

Barr assigned Durham earlier this year to probe the origins of the FBI's counterintelligence investigation of the Trump campaign and to assess whether the surveillance of Carter Page was free of improper motive. In a statement issued on Dec. 9, Durham noted that his investigation—unlike the one concluded by the DOJ inspector general—reaches beyond the "component parts of the Justice Department" and includes persons outside the United States.

"Based on the evidence collected to date, and while our investigation is ongoing, last month we advised the Inspector General that we do not agree with some of the report's conclusions as to predication and how the FBI case was opened," Durham said in a statement.

Durham's review recently evolved into a criminal inquiry. The report by Horowitz, meanwhile, is limited to violations of FBI and Justice Department policies.

The FBI launched a counterintelligence investigation of the Trump campaign in late July 2016. Barr concluded that the investigation was "intrusive" and was initiated based "on the thinnest of suspicions." The suspicions were "insufficient" to justify the steps the bureau went on to take, Barr said.

"Nevertheless, the investigation and surveillance was pushed forward for the duration of the campaign and deep into President Trump's administration," Barr said.

In late October 2016, the FBI secured a FISA warrant to surveil Page. The bureau renewed the warrant three times, surveilling Page for a total of roughly eleven months.

The FISA warrant application featured claims from an unverified dossier of opposition research on Trump. Former British intelligence officer Christopher Steele compiled the dossier by using second- and third-hand sources with ties to the Kremlin. The Hillary Clinton campaign and the Democratic National Committee ultimately paid for Steele's work, a fact the FBI didn't disclose in the warrant application.

The inspector general's report shows that the FBI withheld information undercutting Steele's credibility in the original application. The bureau failed to address the issues in the renewal applications, even after receiving further evidence challenging Steele as a reliable source. The team leading the investigation also failed to disclose statements by Steele that undermined the credibility of a key source of the dossier, including that the source was a "boaster" and an "egoist" and "may engage in some embellishment."

The revelations about Steele are especially concerning because the inspector general's report revealed that the FBI team leading the investigation of the Trump campaign used the Steele dossier to renew its efforts to obtain a FISA warrant on Page. The team running the investigation of the Trump campaign, codenamed "Crossfire Hurricane," was originally rebuffed when seeking a FISA warrant on Page. But after receiving a copy of the Steele dossier on Sept. 19, 2016, the Crossfire team immediately renewed its efforts.

"We determined that the Crossfire Hurricane team's receipt of Steele's election reporting on September 19, 2016 played a central and essential role in the FBI's and Department's decision to seek the FISA order," the Horowitz report states.

President Donald Trump said that the IG report showed that the FBI "fabricated evidence" and "lied to the courts."

"It's a disgrace what's happened with the things that were done to our country," Trump told Republican senators and state officials in the White House on Dec. 9, shortly after the report was released to the public. "It's incredible, far worse than what I ever thought possible."

The inspector general concluded that while the Steele report played a key role in the securing of the FISA application, the FBI didn't use the document to open the investigation of the Trump campaign in July 2016. The opening of the investigation was predicated entirely on information the bureau received from a "friendly foreign government" regarding statements made by Trump campaign associate George Papadopoulos. Horowitz determined that the decision to open the investigation wasn't motivated by "political bias" or "improper motivation."

While the extent of the surveillance granted in Page's case remains classified, FISA warrants allow for some of the most intrusive spying under the law. Under the so-called "two-hop" rule, investigators could collect the communications of every person Page interacted with as well as every person who communicated with Page's contacts. As a result, it's possible that the FBI obtained the communications of the entire Trump campaign, both retroactively and in real-time.

The failures of the Crossfire Hurricane team are thus amplified, considering the potential scope of the intrusion and the sensitive nature of investigating a major political campaign before, during, and after the presidential election. Horowitz determined that much of the information withheld by the Crossfire team "was inconsistent with, or undercut, the assertions contained in the FISA applications that were used to support probable cause and, in some instances, resulted in inaccurate information being included in the applications."

"Our review found that FBI personnel fell far short of the requirement in FBI policy that they ensure that all factual statements in a FISA application are 'scrupulously accurate,'" the report states.

The bureau also withheld crucial exculpatory information it possessed about Page, including the fact that he was a source for another government agency, according to the report. Page's work for that government agency overlapped with the time period of the allegations in the FISA applications. In the applications, the Crossfire Hurricane team described Page as an agent of Russia. Page vehemently denies the claims and the bureau never charged him with a crime. The inspector general determined that the FBI was unable to verify any of the "specific substantive claims" about Page in Steele's dossier that ended up in the FISA application.

The exculpatory information withheld from the FISA application includes statements by Papadopoulos recorded by an FBI undercover source. The source recorded Papadopoulos denying that "anyone associated with the Trump campaign was collaborating with Russia."

A number of FBI officials directly involved in preparing and signing the FISA warrants have all either left or been fired from the bureau, including Director James Comey, Deputy Director Andrew McCabe, and Strzok.

Horowitz formally announced the investigation into the Carter Page FISA in March 2018. He submitted a draft report to the DOJ in September. The inspector general's office interviewed more than 170 witnesses and reviewed more than 1 million documents as part of the investigation. Horowitz released the report as Democrats held the latest round of impeachment hearings.

"Inspector General Michael Horowitz uncovered 'significant inaccuracies and omissions' in FISA applications that precipitated one of the greatest abuses of investigative power in our lifetime," Vice President Mike Pence said in a statement.

"Since the day President Trump announced his candidacy, career bureaucrats at the Department of Justice sought to undermine this President and our Administration—including falsifying information and suppressing the truth. What took place here should never happen again to any President or any Administration in the future and those responsible should be held accountable."

Carter Page told The Epoch Times in an email: "Every American should be troubled by the 17 separate instances of FBI misconduct and abuses identified in the Inspector General's report. This unchecked surveillance power is a threat to liberty, and there must be a complete reckoning here. This is just the beginning of an important national dialogue about egregious overreach by the intelligence community."

SAMIRA BOUAOU/THE EPOCH TIMES

Michael Horowitz, inspector general at the Department of Justice, at a Senate hearing in Washington on June 18, 2018.

Attorney General William Barr speaks at an event at the Department of Justice on Dec. 3, 2019.

DREW ANGERER/GETTY IMAGES

ALEX WROBLEWSKI/GETTY IMAGES

Justice Department Inspector General Michael Horowitz on Capitol Hill on June 19, 2018.

Democrats Unveil 2 Articles of Impeachment Against Trump

ZACHARY STIEBER

House Democrats said President Donald Trump abused power and obstructed Congress, unveiling two articles of impeachment against him on Dec. 10.

House Judiciary Chairman Jerry Nadler (D-N.Y.) said Trump tried to conceal evidence from Congress and betrayed the public trust, endangering the Constitution and the United States' national security.

Trump "solicited and pressured Ukraine to interfere in our 2020 election," Nadler claimed.

Nadler said Trump "engaged in unprecedented, categorical, and indiscriminate defiance of the impeachment inquiry," prompting the obstruction of Congress article.

"No one, not even the president, is above the law," he said.

House Intelligence Chairman Adam Schiff (D-Calif.) said that House Democrats couldn't wait any longer while courts decide whether Trump aides need to comply with subpoenas.

"The argument, 'Why don't you just wait?' amounts to this: Why don't you just let him cheat in one more election? Why not let him cheat just one more time? Why not let him have foreign help just one more time?" he said.

The announcement came more than two months after House Speaker Nancy Pelosi (D-Calif.) announced an impeachment inquiry against Trump. She said it was triggered by a complaint filed by an anonymous person that focused on Trump's phone call in July with Ukrainian President Volodymyr Zelensky. Trump and Zelensky have both denied the allegations.

NICHOLAS KAMM/AFP VIA GETTY IMAGES

President Donald Trump talks to journalists before departing the White House to attend a "Keep America Great" rally in Tupelo, Miss., on Nov. 1, 2019.

Trump's White House released a transcript of the call the same week.

Democrats say Trump abused the power of his office by reviewing congressionally approved aid for Ukraine. Trump has said he reviewed the aid because of widespread concerns about corruption in Ukraine, and his administration noted it was ultimately sent out on time.

Democrats have sought to connect the hold on aid with Trump's request to Zelensky to "look into" allegations of corruption surrounding former Vice President Joe Biden and Biden's son Hunter Biden, who worked for the Ukrainian energy firm Burisma from 2014 to 2019.

Because Joe Biden is running for the Democratic presidential nomination, the party has claimed Trump's request amounted to an attempt to interfere in the 2020 election.

Both U.S. and Ukrainian officials have said Ukraine wasn't aware of the hold on the aid until August, weeks after the phone call took place.

Democrats have also accused Trump of "bribery" but left that allegation out of the articles of impeachment.

Rep. Jamie Raskin (D-Md.) told reporters late Dec. 9 that the impeachment inquiry uncovered two patterns of misconduct by Trump, Reuters reported: "Bringing in foreign governments into our politics in order to corrupt our elections" and "working to cover up this kind of misconduct by blockading witnesses, withholding evidence, and trying to stop people from testifying."

Trump has denied wrongdoing, asserting it is his duty to probe corruption. He has pointed to statements Joe Biden has made in the past, including bragging in 2018 that while in office he threatened to withhold $1 billion in aid from Ukraine unless a prosecutor there was fired. That prosecutor, Viktor Shokin, was probing Hunter Biden's employer, Burisma, at the time.

"Hardworking Americans know this sham is simply the dems weaponizing impeachment to try & undermine @realDonaldTrump, who has done nothing but fulfill the promises he ran on & fight for our country. Their behavior is shameful, but this will only serve to further unify our party," White House press secretary Stephanie Grisham wrote on Twitter on Dec. 10.

Trump wrote on Twitter: "To Impeach a President who has proven through results, including producing perhaps the strongest economy in our country's history, to have one of the most successful presidencies ever, and most importantly, who has done NOTHING wrong, is sheer Political Madness!"

A majority vote is required in the House to impeach Trump. Democrats currently hold a 233–197 majority.

If the House approves impeachment, a trial will be held in the Senate, where Republicans currently hold a 53–47 majority.

A vote to convict a president, or remove him from office, requires the concurrence of two-thirds of the Senate. No president in the history of the country has been impeached and removed from office. The last president to be impeached, President Bill Clinton, was acquitted by the Senate.

Insurance Companies Tell Supreme Court of Government Bait and Switch

MATTHEW VADUM

WASHINGTON—The Trump administration told the Supreme Court that the government is not obligated to pay $12 billion to insurance companies that knowingly took a business risk and lost money by participating in the Affordable Care Act's "risk corridors" program.

> No money shall be drawn from the Treasury, but in consequence of appropriations made by law.
>
> Edwin Kneedler, deputy solicitor general

Republican lawmakers and other critics characterize taxpayer funding to cover the shortfall as a "bailout" and a "slush fund" for the insurance industry. That's because the program gave the insurers participating in the risk corridors program a special deal that limited their financial exposure for the first three years beginning in 2014.

The program was created in hopes of stabilizing health insurance premiums and subsidizing insurers willing to sell a risky new product—in this case, comprehensive, guaranteed issue, individual and small-group insurance covering preexisting conditions.

The understanding was that if premiums collected on Obamacare's health care marketplaces from 2014 through 2016 exceeded an insurer's medical expenses, the company would kick back some of its profit to the government.

Conversely, if premiums failed to cover expenses, the insurer would get payments from the government. In the end, the money paid into the pool quickly ran out and the insurers cried foul and sued. The company's claims were rejected by a three-judge panel of the U.S. Court of Appeals for the Federal Circuit.

Oral arguments came Dec. 10 in three separate cases, Maine Community Health Options v. U.S., Moda Health Plan Inc. v. U.S., and Land of Lincoln Mutual Health v. U.S., that were consolidated and heard together.

Acting for the insurers, lawyer Paul Clement denounced the government, accusing it of deceit.

"This case involves a massive government bait-and-switch, and the fundamental question of whether the government has to keep its word after its money-mandating promises have induced reliance," he said.

JOE RAEDLE/GETTY IMAGES

Alberto Abin walks out of the UniVista Insurance company office in Miami on Dec. 15, 2015.

SAUL LOEB/AFP VIA GETTY IMAGES

The Supreme Court in Washington on Jan. 31, 2017.

Edwin Kneedler, deputy U.S. solicitor general, responded, telling the justices that what the other side described as a statutory promise to cover losses is meaningless without action by Congress.

"The Appropriations Clause of the Constitution is central to this case," he said, a reference to the sentence: "No money shall be drawn from the Treasury, but in consequence of appropriations made by law."

Making the government pay the insurers "would impose unprecedented liability on the United States of billions of dollars," Kneedler said.

In fact, critics point out that appropriations risk is a well-recognized factor that has to be taken into account when investing. Just because lawmakers voted to appropriate funding for a program last year doesn't obligate them to do the same this year.

Clement conceded that Congress has often made promises to pay "subject to appropriations," but said that specific phrasing was absent in the law authorizing the program.

Kneedler said the phrase didn't mean much. "It's not entirely clear what the 'subject to appropriations' language does," he said.

Justice Brett Kavanaugh asked Kneedler if "every congressional promise to pay" was "subject to an implicit 'subject to appropriations' caveat"?

"I believe by and large that that is correct, yes," Kneedler said.

Chief Justice John Roberts said Clement's argument on behalf of the insurers amounted to: "They were basically seduced into this program."

"They have good lawyers," Roberts said. "I would have thought at some point they would have sat down and said, 'Well, why don't we insist upon an appropriations provision before we put ourselves on the hook for $12 billion?'"

Justice Samuel Alito suggested that if the justices were to rule against the government, it would be based on the court's "special solicitude for insurance companies."

"Has there ever been a case where this court has, in effect, required Congress to appropriate," for any stated purpose, "billions of dollars for private businesses?"

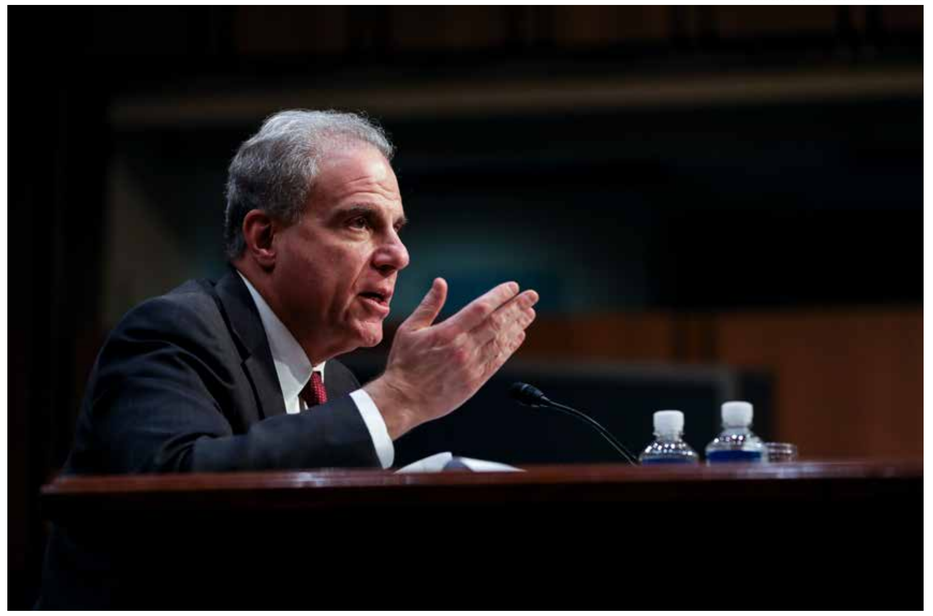
"I totally get the point that Congress has the power of the purse, but Congress is not disabled from making an enforceable promise to open the purse in the future on specified terms," Clement told Alito.

Justice Stephen Breyer seemed to think the case was clear-cut.

"I say to you: 'My hat's on the flagpole. If you bring it down, I'll pay you $10,'" Breyer told Kneedler. "You bring it down. I owe you $10. Now, how does this differ?"

Kneedler said, "A contract is very different from a statute." An agreement between two parties spelling out mutual obligations is not the same as a governmental commitment to provide subsidies, he said.

CHARLOTTE CUTHBERTSON/THE EPOCH TIMES



Department of Justice Inspector General Michael Horowitz testifies in front of the Senate Judiciary Committee in Washington on Dec. 11, 2019.

DOJ Watchdog Testifies in Congress About Report on Surveillance of Trump Campaign

IVAN PENTCHOUKOV

Department of Justice Inspector General Michael Horowitz told Senate lawmakers on Dec. 11 that the FBI's applications to surveil a Trump campaign associate included significant errors that implicated the bureau's entire chain of command in serious performance failures.

> Horowitz emphasized the failures weren't limited to a few individuals but were systemic throughout the entire chain of command across three separate investigative units.

Horowitz appeared before the Senate Judiciary Committee two days after releasing a voluminous report examining the FBI's applications for Foreign Intelligence Surveillance Act (FISA) warrants to surveil Carter Page, the Trump 2016 campaign associate. The report found that the initial application and the three renewal applications included 17 significant errors, several of which resulted from the FBI withholding evidence that would have harmed the chances of obtaining the warrants.

Republicans excoriated the failures and signaled that they would lose confidence in the FISA statute unless the secret surveillance court and the FBI implemented significant reforms to prevent future abuse. Horowitz included a list of suggested changes as part of the report. FBI Director Christopher Wray announced changes he plans to make at the bureau shortly after the report became public on Dec. 9.

Democrats underlined Horowitz's finding regarding bias among the officials in running the counterintelligence investigation of the Trump campaign. The inspector general didn't find evidence that bias played a role in the opening of the investigation, which the FBI code-named Crossfire Hurricane. Horowitz's team also didn't find evidence that bias played a role in the bureau's seeking to obtain a FISA warrant on Page.

The inspector general also responded, for the first time, to criticism of some of his office's conclusions lodged by Attorney General William Barr and U.S. Attorney John Durham. In a statement issued on the heels of the IG report, Barr said "malfeasance and misfeasance" detailed in the document reflected "a clear abuse of the FISA process." Durham, in a separate statement, disagreed with Horowitz's conclusion about whether the FBI had the grounds to open an investigation of the Trump campaign. Barr assigned Durham earlier this year to investigate whether the Crossfire Hurricane probe and the accompanying spying on the Trump campaign were free of improper motive.

Horowitz told lawmakers that neither Barr nor Durham have provided information to his office that would change his conclusions. According to Horowitz, Durham has specifically disagreed that the FBI had a legal predicate to start a full investigation and should have begun a preliminary investigation. While preliminary investigations allow for the use of confidential informants, FBI investigators are prohibited from seeking more intrusive surveillance methods, including a FISA warrant, which the bureau secured to spy on Page.

In testimony, Horowitz stuck to the content of his report, but on occasion, used stronger language than the measured statements in the 476-page document. Horowitz said the surveillance of the Trump campaign was illegal because the Foreign Intelligence Surveillance Court (FISC) wasn't apprised, as it should have been, of all the relevant information about Page.

"If you don't have a legal foundation to surveil somebody and you keep doing it, is that bad?" Sen. Lindsey Graham (R-S.C.) asked Horowitz.

"Absolutely," Horowitz replied, adding that "it's illegal surveillance."

"It's not court-authorized surveillance," he added.

In testimony, Horowitz also confirmed that claims from the so-called Steele dossier made up the entirety of the FBI's argument for probable cause in the FISA warrant applications. This conclusion vindicates House Republicans who have since last year claimed that the Steele dossier played a crucial part in the bureau's obtaining the FISA warrants.

Former British intelligence officer Christopher Steele compiled the dossier using second- and third-hand sources with ties to the Kremlin. The Hillary Clinton 2016 presidential campaign and the Democratic National Committee ultimately funded Steele's work, a sensitive fact left out of the FISA applications.

The dossier's crucial role is significant because Horowitz found that the FBI was in possession of evidence that undermined the credibility of Steele and his sources, but withheld that evidence from the court. Horowitz testified that the FBI interviewed Steele's primary-level dossier source, who made several claims to the agents that contradicted the claims in the dossier. The source also cast doubt on the credibility of Steele's other sources.

The bureau never apprised the FISC about what it learned.

The testimony also brought to the forefront the differing views, even among members of the Republican Party, about the loopholes in the FISA statute that are ripe for the kind of abuse exposed in Page's case. Sen. Mike Lee (R-Utah) has long pushed to reform the FISA process to shield Americans against surveillance abuses. His colleague on the Judiciary Committee, Sen. Ben Sasse (R-Neb.), is a national-security hawk who believes that FISA is essential. During the hearing, Sasse conceded that the kind of abuses Lee has warned about for years all occurred in the FBI's surveillance of Page.

"As a national security hawk, I have argued with Mike Lee—in the four and a half or five years that I've been in the Senate—that stuff just like this couldn't possibly happen at the FBI and the Department of Justice," Sasse said.

Horowitz emphasized the failures weren't limited to a few individuals but were systemic throughout the entire chain of command across three separate investigative units. The FBI officials involved consistently failed to provide the inspector general's office with satisfactory explanations for the missteps, Horowitz said.

"We are deeply concerned that so many basic and fundamental errors were made by three separate, hand-picked investigative teams, on one of the most sensitive FBI investigations," Horowitz said, "after the matter had been briefed to the highest levels within the FBI, even though the information sought through use of FISA authority related so closely to an ongoing presidential campaign, and even though those involved with the investigation knew that their actions were likely to be subjected to close scrutiny.

"We believe this circumstance reflects a failure not just by those who prepared the FISA applications, but also by the managers and supervisors in the Crossfire Hurricane chain of command, including FBI senior officials who were briefed as the investigation progressed."

President Donald Trump has long derided the officials involved in the probe of his campaign, claiming that they conspired in an attempt to undo the results of the 2016 election. He reiterated his claim shortly after being briefed on the IG report.

"It's a disgrace what's happened with the things that were done to our country," Trump said. "It's incredible, far worse than what I ever thought possible.

"They fabricated evidence and they lied to the courts," Trump added. "This was an attempted overthrow and a lot of people were in on it, and they got caught."

Horowitz didn't find evidence to support the claim of a conspiracy. The Office of the Inspector General interviewed more than 100 witnesses and reviewed more than 1 million documents since launching the review in March last year.

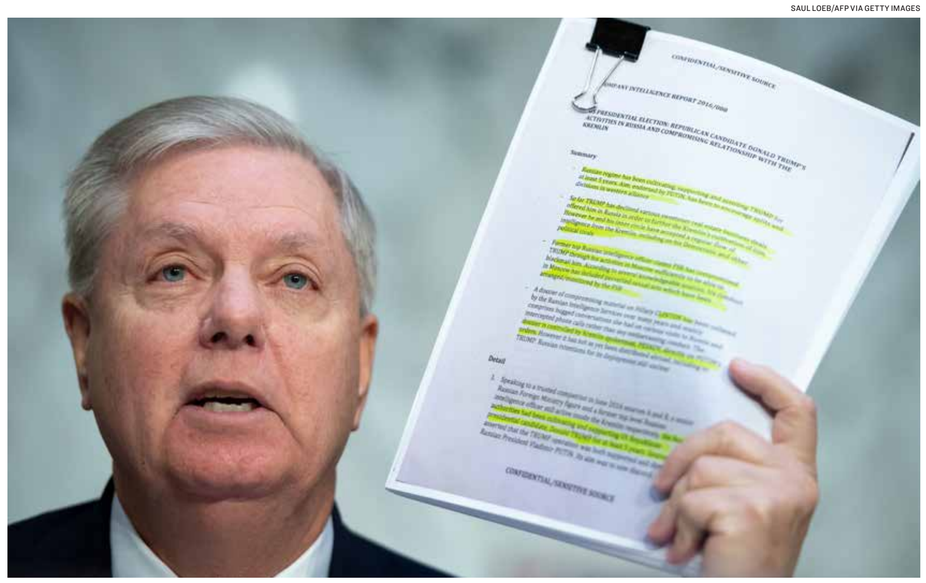
A number of FBI officials directly involved in preparing and signing the FISA warrant applications have all either left or been fired from the bureau, including Director James Comey, Deputy Director Andrew McCabe, and Deputy Assistant Director Peter Strzok.

Comey signaled on Twitter that Horowitz's report vindicated him, writing, "So it was all lies. No treason. No spying on the campaign. No tapping Trump's wires. It was just good people trying to protect America."

"Is that a fair assessment of your report?" Graham asked, in reference to Comey's statement.

Horowitz responded, "I think the activities we found here don't vindicate anybody who touched this."

SAUL LOEB/AFP VIA GETTY IMAGES



The chairman of the Senate Judiciary Committee Lindsey Graham (R-S.C.) holds a copy of the Steele dossier during a Senate Judiciary Committee hearing on Capitol Hill on Dec. 11, 2019.

Millions of US College Students Still Denied Free Speech Rights, Report Says

BOWEN XIAO

NEW YORK—College campuses across the United States that stifle free speech, a right protected by the First Amendment, are an ongoing issue that continues to be thrust into the national spotlight—and has also caught the attention of the Oval Office.

About 6.4 million students across the nation have their free-speech rights restricted at institutions of higher learning, according to a Dec. 4 report from the Foundation for Individual Rights in Education (FIRE)—a nonprofit, nonpartisan organization founded in 1999.

Legal experts and constitutional scholars told The Epoch Times that the free speech rights of college students have indeed been threatened across the United States. They say that college campuses generally claim freedom of speech only when it fits their agenda, and indicate that administrative policies at educational institutions need to change.

Authors of the study investigated the written policies at 471 of the United States' top colleges and universities, as to how much they protect or didn't protect First Amendment rights. FIRE found 89 percent of U.S. colleges still hold policies that "restrict, or could too easily be applied to restrict student expression."

Laura Beltz, the lead author of the study and a senior program officer of policy reform at FIRE, told The Epoch Times that the number of institutions that restrict free speech is alarming. FIRE rated almost a quarter of institutions examined in the report with their "red-light" rating for maintaining speech codes that both "clearly and substantially" restrict speech. The group has released its annual "Spotlight on Speech Codes" report on the state of free speech since 2006.

> The reality is that no one has ever been in danger and these speech codes are really a way to limit the expression of ideas which conflict with leftist political agendas. It is putting feelings ahead of facts.
>
> Matt C. Pinsker, constitutional law professor, Virginia Commonwealth University

"Colleges should serve as centers of intellectual debate and inquiry, but if you have policies telling you can't protest unless you submit a request two weeks in advance, or you can't use words that other people find offensive, that ends up being impossible," she said.

Colleges or universities that earned a "yellow-light" rating from FIRE tripled in recent years, from 21 percent in 2009 to 64 percent in their latest report. Yellow-light ratings are given to policies that are less restrictive than red-light ratings, but still "prohibit or have an impermissible chilling effect on constitutionally protected speech."

Some of the worst examples of such policies that were implemented by schools include the banning of university resources, such as computers, if used in a "harassing, offensive, profane, or abusive manner." The ban at Murray State University claims that the perception of the person affected is a "major factor" in deciding if the action violated their policy.

"That so many schools limit free speech through their written policies is of great concern," Beltz said. "All schools earning our 'yellow-light' or 'red-light' rating must revise policies so that they better meet First Amendment standards."

Beltz said the most grievous policies limiting free speech were implemented at the University of Southern California, which forced students wanting to stage a demonstration to complete a permit application at least two weeks in advance.

Meanwhile, the number of institutions earning a "green-light" rating, FIRE's highest rating in which no written policies had compromised student expression, reached 11 percent (50 schools)—up from only 2 percent in 2009. More than 6.4 million students attend colleges that are rated yellow or red. And for the first time, more than 1 million students are now enrolled at green-light rated institutions, according to the group.

Matt C. Pinsker, a constitutional law professor at Virginia Commonwealth University and an attorney, told The Epoch Times that the First Amendment has "increasingly come under attack on college campuses."

"The reality is that no one has ever been in danger and these speech codes are really a way to limit the expression of ideas which conflict with leftist political agendas," he said. "It is putting feelings ahead of facts."

FIRE also highlighted the biggest missteps school administrators made when forming their policies. They included "poorly-written policies governing internet usage, civility, event security fees, harassment, and free speech zones."

"While the trend lately has been getting worse, where this is going is either it will blow back on universities and reverse itself, or this will become new normal," Pinsker said.

The Justice Department, meanwhile, on Dec. 9 issued a rare statement of interest in support of a former college student who sued his school over speech codes that deny students their First Amendment rights on campus.

Partisan Warfare on Campuses

Professors and lawyers said the college campus environment shouldn't be a partisan battleground, but instead a place of learning.

Andrew Selepak, a media professor at the University of Florida, told The Epoch Times there are legal limits to free speech such as inciting violence or engaging in libel, but in a class environment, it's important to learn different perspectives—even if the professor or students disagree personally.

"The college classroom is not a political debate waged against the beliefs of some, but a civil discussion of the merits to an argument or position," he said. "As a media professor, I taught my students that a reporter should be objective and equally report both valid sides to an issue. The same should be true of college professors."

When student's freedom of speech is restricted on campuses, college administrators are encouraging students to keep a closed mind, Andrew Jezic, an attorney and founding partner of Jezic and Moyse LLC, told The Epoch Times.

"[It is] essentially saying that they should not be subjected to the ideas of people they don't agree with," Jezic said via email. "This creates a rift where every group thinks their ideology is flawless, and nobody is willing to consider that their opinion might not be correct.

The 1964–65 University of California, Berkeley, protests involving students demonstrating against the university's administration, which had banned political activities on campus at the time, spurned on a "crucial, ongoing conversation about speech rights on American college campuses ever since," D. Gilson, an author and writer for ExpertInsuranceReviews.com who has taught writing and popular culture studies at the university level for more than a decade, told The Epoch Times.

Gilson said that First Amendment rights are complicated on college campuses, in part due to some schools being public, which requires the school to offer "absolute rights to its community members," while private schools are allowed in some circumstances to curtail those rights.

Private colleges and universities typically aren't directly bound by the First Amendment, but they are responsible for living up to their institutional commitments to free speech. Public colleges and universities already are legally bound to uphold the First Amendment.

Almost 92 percent of surveyed private institutions fall short on promises to protect the free speech rights of their students, according to Beltz.

The debate surrounding the silencing of conservative voices on campuses has also ramped up in recent years due to a number of high-profile cases in which conservative speakers were heckled or forced to cancel their events at colleges such as UC Berkeley and Middlebury College in Vermont.

Beltz said while protesters have the right to protest against speakers invited to speak at college campuses, they shouldn't be able to physically disrupt or prevent the event from occurring.

"Disrupting a speaker infringes on the rights of students who have invited that speaker to come and speak," she said.

Beltz suggested that students who take issue with a speaker could instead plan a counter-programming event that rebuts the speaker's ideas; attend the event but take part in a non-disruptive protest inside the event such as wearing a T-shirt with a protest message or turning their backs to the speaker silently, or to ask questions during a Q&A session at the event to get their message out and challenge the speaker's ideas.

Over the years, the number of red-light ratings has reduced, and Beltz attributes that to a combination of factors, including successful litigation that has overturned restrictive policies, state legislation that bans certain restrictive policies like free-speech zones, and policy reform work with schools by groups such as FIRE.

Free-speech zones are limited areas where students are allowed to speak or protest, often about political matters, and exist in certain colleges and universities across the United States. According to FIRE, these zones, in practice, "function more like free speech quarantines, banishing student and faculty speakers to outposts that may be tiny, on the fringes of campus, or (frequently) both."

"By treating campus expression as something to be hidden, regulated and monitored instead of encouraged and celebrated, colleges and universities that exile expressive activity to 'free speech zones' teach students the wrong lesson about life in our liberal democracy," FIRE stated in a blog post earlier this year.

Paul Engel, an author who has spent 20 years researching the constitution, told The Epoch Times that the ability to peacefully disagree with others and express oneself is "part of what keeps liberty alive in America."

"Sadly, college campuses and public discord in general, seem more than willing to claim freedom of speech when it fits their agenda, but few seem to have been taught the responsibilities that come with such freedoms."

Stifling free speech on college campuses will place students down the wrong path in the future according to Engel, who has spent more than 20 years studying and teaching about the Constitution. He questioned how people could possibly discover the truth if they weren't allowed to debate differing points of view.

"Rather than protecting students, restrictions of free speech on campus makes them unable to function in a free society where they will be exposed to ideas they do not like or do not agree with," he said.

"We are already reaping the whirlwind of these ideas where science cannot be questioned, viewpoints are met with violence, and even the freedom of this publication to print what it sees fit may one day be curtailed," he said. "Until we as a people are prepared to allow others the freedom of speech we wish for ourselves, that freedom will be a pale imitation of what was once one of the most cherished freedoms in America."

Executive Order

President Donald Trump signed an executive order on March 21 that instructed colleges across the nation to protect free speech on their campuses—or else risk losing federal research funding.

The order directs 12 federal grant-issuing agencies to ensure that schools abide by the First Amendment. The White House Office of Management and Budget also will work to ensure institutions that receive the grants "promote free inquiry through compliance with all applicable federal laws, regulations, and policies," a senior Trump administration official told reporters in a conference call.

"We're here to take historic action to defend American students and American values—they've been under siege," Trump said in the East Room before signing the order. "Universities that want taxpayer dollars should promote free speech, not silence free speech."

Pinsker said he agrees with Trump's executive order in that schools that don't protect the principle of free speech of all students—whether right-wing or left-wing—shouldn't receive federal tax dollars.

"Why should American tax dollars be going to schools which do not embrace the American principles of free speech and simultaneously violate the rights of its students?" he said.

FIRE, in a statement following Trump's order, said it would watch closely to see if it would "further meaningful, lasting policy changes that FIRE has secured over two decades."

Trump said his policy will send a powerful message to "professors and power structures" that want to keep young Americans and the general public "from challenging rigid, far-left ideology."

The government awards universities more than $30 billion annually in research funds.

Trump's order applies to certain education grants and won't affect federal financial aid that covers tuition and fees for students. Specifics on how the federal government will enforce the order are still being developed.

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JOSH EDELSON/AFP VIA GETTY IMAGES

JOSH EDELSON/AFP VIA GETTY IMAGES

1. President Donald Trump holds up an executive order he signed protecting freedom of speech on college campuses during a ceremony in the East Room at the White House on March 21, 2019.

2. Conservative commentator Milo Yiannopoulos climbs over a barrier as he is escorted out of the University of California–Berkeley campus, where he spoke to dozens of supporters on Sept. 24, 2017.

3. A woman stomps on a free speech sign after conservative commentator Milo Yiannopoulos spoke to a crowd of supporters on the University of California–Berkeley campus on Sept. 24, 2017.

MANDEL NGAN/AFP VIA GETTY IMAGES

Durham Throws a Monkey Wrench in Horowitz's Dumb Show

ROGER L. SIMON

Commentary

When Justice Department Inspector General Michael Horowitz published his report on the Hillary Clinton email investigation, some of us began to suspect that he was the deep state's most clever ultimate protector.

The IG's strategy was to find a long list of malfeasances with which to excoriate an institution, in this case, the FBI—abuses that might, under normal circumstances, land multiple people in jail—slap the miscreants firmly on the wrist, and then let everyone off at the end with a disingenuous excuse (in the Clinton affair, a supposed similarity to the vastly less-serious accusations against Alberto Gonzalez, for which Bush's attorney general was exonerated).

Thus, the organization is preserved—they don't call Horowitz an "institutionalist" for nothing—and life goes on as before, with only the slightest cosmetic alterations.

> Government employees almost never speak out at moments like this, unless they have the goods. It's not the least bit collegial and could cost them their careers.

He has done much the the same with his "Review of Four FISA Applications and Other Aspects of the FBI's Crossfire Hurricane Investigation." He found "17 significant errors," one (we are assured low-level) attorney to have forged part of an email, and various other mistakes in the FISA process that (we are also assured) have already been corrected by FBI Director Christopher Wray.

All's well that ends well. Even former FBI Director James Comey was happy, dashing off an op-ed in The Washington Post touting his and the organization's vindication.

Except, within hours of the release of the report, along comes U.S. Attorney John Durham—who has been investigating much of the same territory but with a wider berth and prosecutorial powers—to spoil the occasion:

"Based on the evidence collected to date, and while our investigation is ongoing, last month we advised the Inspector General that we do not agree with some of the report's conclusions as to predication and how the FBI case was opened."

Predication is, of course, the heart of the matter. Just why did the FBI open an investigation of Trump–Russia collusion that proved, after nearly two years, to be nonexistent? Was there real justification somewhere, no matter how obscure, as the IG suggests, or was it a set-up, as implied in Lee Smith's recent book "The Plot Against the President"?

Durham apparently has found evidence of something untoward. He advised Horowitz of his information at least a month ago, but the IG apparently ignored it or disagreed. This isn't a minor difference of opinion. It's the essence.

So who's right here?

I'm betting on Durham. Government employees—people in his position—almost never speak out at moments like this, unless they have the goods. It's not the least bit collegial and could cost them their careers. Durham must have been extremely disturbed and concerned the public was being misinformed.

He and his boss, Attorney General William Barr, have journeyed to Europe on several occasions, gathering pertinent information from intelligence agencies. As Durham points out:

"I have the utmost respect for the mission of the Office of Inspector General and the comprehensive work that went into the report prepared by Mr. Horowitz and his staff. However, our investigation is not limited to developing information from within component parts of the Justice Department. Our investigation has included developing information from other persons and entities, both in the U.S. and outside of the U.S."

We will have to wait for details of what Durham learned in Italy and the United Kingdom and elsewhere, but I would suggest that it's time to step back and apply Occam's razor (i.e., common sense).

An investigation that went on for years produced nothing of any substance. What started it? It could have been an accident, though I'm not sure how. It could have been a trigger of some unknown sort, but a "low bar," as Horowitz infers. Or it could have been deception. Whatever it was—it was wrong.

It will take strong men such as Durham and Barr, not an obfuscator such as Horowitz, to make sure it doesn't happen again.

Roger L. Simon is The Epoch Times' senior political analyst. His most recent novel is "The GOAT."

Views expressed in this article are the opinions of the author and do not necessarily reflect the views of The Epoch Times.

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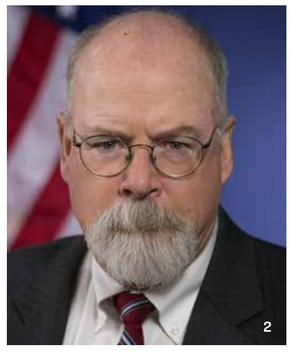

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SAMIRA BOUAOU/THE EPOCH TIMES

1. Justice Department Inspector General Michael Horowitz (L) and FBI Director Christopher Wray are sworn in before testifying to the Senate Judiciary Committee on "Examining the Inspector General's First Report on Justice Department and FBI Actions in Advance of the 2016 Presidential Election" in Washington on June 18, 2018.

2. John H. Durham, U.S. attorney for the District of Connecticut since February 2018.

3. Former FBI Director James Comey testifies before the Senate Intelligence Committee on Capitol Hill June 8, 2017.

4. The Department of Justice in Washington on June 17, 2018.

Wealth-Tax Theft Epitomizes Class Warfare

ALEX WONG/GETTY IMAGES

Sen. Elizabeth Warren (D-Mass.) speaks during the Democratic presidential debate at Tyler Perry Studios in Atlanta on Nov. 20, 2019.

FERGUS HODGSON

Commentary

It doesn't make a poor man rich, but it does make great rhetoric.

Six European nations have a wealth tax, but the policy has never been seriously discussed in the United States—until now. Sens. Elizabeth Warren (D-Mass.) and Bernie Sanders (I-Vt.) have picked up the eat-the-rich banner and made dividing us against each other a cornerstone of their presidential campaigns.

A parody of Sanders, as portrayed by Larry David on "Saturday Night Live," sums up his campaign promises as "free college, free health care, and free refills for all medium-size soft drinks." Similarly, Warren thinks she can pay for that and more with a wealth tax. Warren says her plan would raise $3.75 trillion over 10 years. Sanders says his "tax on extreme wealth" would raise $4.35 trillion.

Warren's "ultra-millionaire tax" would have a rate of 2 percent per year on wealth over $50 million, and 6 percent per year on wealth in excess of $1 billion. Her website says this tax would affect 75,000 households. The revenue raised would be used to pay for "Medicare for All," student-loan debt relief, and universal child care. She says the wealth tax could provide the down payment on the "Green New Deal," create 1.5 million jobs, and fund a housing program to bring down rents by 10 percent across the country.

While Warren seeks to fund a New Deal-style program to rebuild the middle class, Sanders has even more radical socialist goals: "Under this plan, the wealth of billionaires would be cut in half over 15 years, which would substantially break up the concentration of wealth and power of this small privileged class," he said.

> Under this plan, the wealth of billionaires would be cut in half over 15 years, which would substantially break up the concentration of wealth and power of this small privileged class.
>
> Sen. Bernie Sanders (I-Vt.)

Sanders views the redistribution of wealth as an important economic and political goal, in addition to funding his large spending programs. His plan would apply to 180,000 households, more than double the number under Warren's plan.

Wealth Tax Versus Income Tax

Socialist politicos such as Sanders have traditionally argued that the rich should pay higher income tax rates. On the surface, a wealth tax of 6 percent per year would seem to be less burdensome than an income tax of 30 percent a year.

Alan Viard, an economist with the American Enterprise Institute (AEI), says that this is deceptive. "Under a 30 percent income tax, tax equal to 30 percent of each year's income would be paid each year and tax equal to 30 percent of each decade's income would be paid each decade."

That is not the case with a wealth tax. A 6 percent wealth tax would be paid the first year, "but a cumulative tax equal to 60 percent of wealth would be paid over a decade." The impact should be obvious. A decade of Sanders' wealth taxes would radically reduce the wealth of the 180,000 households in his gunsights.

Either wealth-tax plan would reduce savings and available capital for investment, and it would mark a significant move toward socialism. The U.S. economy, including common workers who need vibrant businesses to bid up wages, would be poorer as a result.

Sanders often likes to use Europe as an example for the United States to follow, but his wealth tax proposal is far more radical than anything even the Europeans have implemented. Belgium's wealth tax is 0.15 percent; the Netherlands has rates from 0.61 to 1.61 percent; Norway has up to 0.85 percent; Italy's wealth tax of 0.2 percent only applies to financial assets held abroad; Switzerland's varies from canton to canton; and Spain's varies from 0.2 to 2.5 percent, depending on the region.

Keep in mind, European taxes are filled with loopholes. If you live in Madrid, you don't pay any Spanish wealth tax. The Dutch wealth tax excludes one's primary residence, as well as substantial financial interests in companies.

Sweden and France gave up on their experiments with a wealth tax. Both had trouble with collection and enforcement, and many wealthy French and Swedes simply emigrated. In 2017, the French government estimated that "some 10,000 people with 35 billion euros worth of assets left in the past 15 years" for tax reasons. That was the end of France's wealth tax.

A Financial Berlin Wall

Both Sanders and Warren have already reacted to the prospect of the rich heading for the exits. Warren would charge expatriates 40 percent on wealth over $50 million, while Sanders would demand 60 percent of the wealth of a billionaire who wants to flee.

In contrast to France or Sweden, the United States government is better positioned to collect a wealth tax from expatriates. If a French citizen leaves the country to work in neighboring Germany, he is under no obligation to pay taxes to France. On the other hand, the federal government claims the right to tax the income of U.S. citizens over the whole world. If a U.S. citizen wants to move abroad to escape U.S. taxes, he must first renounce his citizenship. Under the Warren and Sanders' plans, this would trigger a 40 percent exit tax.

In addition, Warren and Sanders wish to increase the already formidable powers of the Internal Revenue Service, with more personnel and bigger budgets to process the returns of 75,000 and 180,000 households under the respective plans.

The exit tax—a virtual Berlin Wall—raises an obvious question about fundamental liberties, and it demonstrates the dangers of the mob ganging up on a minority. There already is an "expatriation" tax on people leaving U.S. jurisdiction, which hardly squares with the land-of-the-free moniker.

With shades of Argentina's freeze on U.S.-dollar bank accounts in 2001–2002, Sanders and Warren want to gang up on a few people and make the burden on their departure even more punitive: How dare they find a better deal elsewhere! Those still in the United States can look forward to increased surveillance and even more complicated tax compliance.

A Pipe Dream?

The wealth tax faces two major hurdles. The first is constitutional, and court challenges could be its undoing.

"The Constitution required that all 'direct' federal taxes be apportioned among the states according to their population. If the wealth tax were apportioned, the tax rate would be lower in states with high per-capita wealth in order to equalize per capital liabilities across states," AEI's Viard said.

With that in mind, the advocates are already arguing that the wealth tax is an indirect tax. Would the Supreme Court with a conservative majority uphold it? The issue is so important that any wealth tax would surely be litigated to the nation's highest court.

The second challenge is political. Sanders and Warren can count on fervent support from the progressive and hardline wings of their party, but there is less appetite in Congress. That could change, however. A public opinion poll early this year showed a surprisingly high 54 percent of Americans at least stated their support for a wealth tax. In line with the class-warfare dynamic, this was with a tax limited to 75,000 high-net-worth households, and some polls have shown even higher support.

Even if a Warren or Sanders candidacy has a slim chance of victory, their tax plans represent a dangerous and unsavory development for the United States. They're attempting to broaden the Overton window to an idea that is deeply un-American and against individual property rights.

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Views expressed in this article are the opinions of the author and do not necessarily reflect the views of The Epoch Times.

ALEX WONG/GETTY IMAGES

Democratic presidential hopeful Sen. Bernie Sanders (I-Vt.) participates in the fifth Democratic primary debate of the 2020 presidential campaign season at Tyler Perry Studios in Atlanta on Nov. 20, 2019.

Will Regionalism Trump Globalism?

What will globalism look like if the trade war with China extends beyond 2020 election?

JAMES GORRIE

Commentary

Things aren't looking good for globalism these days. With President Donald Trump signing the "Hong Kong Human Rights and Democracy Act of 2019," any pretense of a trade deal being signed by the United States and China before Dec. 15 is out the window.

Trump's recent statements all but confirmed that reality.

After being questioned at the NATO Summit, Trump warned that the trade war could go on past the 2020 election. That's a high probability, given recent statements from China's Vice President Wang Qishan about waiting until Trump is replaced.

But what if Trump wins reelection in 2020? Will a trade deal be worked out between China and the United States then?

Who knows?

In the meantime, trade volume isn't just slowing down between the United States and China, but throughout the eurozone and in Japan, as well. On the plus side, the U.S. economy continues to do well. Overseas, business has grown in Vietnam and in other nations as they pick up China's manufacturing losses.

MARK WILSON/GETTY IMAGES

1. President Donald Trump speaks during a meeting with Chinese Vice Premier Liu He (L), in the Oval Office at the White House on Jan. 31, 2019.

2. A container ship sits docked at the Port of Oakland, in Oakland, Calif., on May 13, 2019.

3. Stacks of shipping containers sit in a storage area at the Port of Oakland in California on May 13, 2019.

4. Workers make pods for electronic cigarettes in Shenzhen, China, on Sept. 24, 2019.

Globalism Has Peaked

In retrospect, globalism more or less peaked under then-President Barack Obama with the variety of multilateral trade deals, climate agreements, and an unsigned but somehow legitimate nuclear accord with Iran.

For globalism to remain the dominant trend in the world, the United States must lead the way, and yet also cede the way to China. That curious, self-defeating dynamic, which began when the United States granted China most-favored-nation status in 2000, is no longer in play.

With the United States having adopted "America First" policies on trade and military alliances, it's now absent those agreements. As a result, the grand, globalist assumptions underlying globalism—especially China-centric globalism—have less force and credibility.

Given that fact, it's no stretch to say that the era of China free-riding the rest of the world is winding down. Or at least China-centric globalism is lessening in some critical parts of the world, i.e., the United States and Europe. China may well come to rely even more on its "One Belt, One Road" initiative (OBOR) to gain access to resources and markets.

What kind of global trade agreements can possibly emerge in a new, and a perhaps more fractured and riskier world?

It Was Never Just About Trade

The fact is, with China, the trade war was never just about trade imbalances. Trump, whatever his flaws may be, realized the threat that China posed not only to the U.S. economy, but to U.S. strategic interests as well.

His anti-China pronouncements and high tariffs highlighted the more sinister aspects of their adversarial trade policies, which include their plans to destroy the economies of the West. Sounds dramatic, but that's an accurate assessment.

That's why, whether Trump is in the White House in 2021 or not, the pre-Trump status quo is gone forever. The mystique of globalism has been shattered by China's own hubris, trade behavior, and inhumanity. The CCP's vast catalog of human rights abuses—from slave labor, mass imprisonment of minorities, and widespread police and paramilitary violence in Hong Kong and now the mainland—is now well known. Such behavior is disagreeable to the liberal democracies in North America and Europe, not to mention most of Asia as well.

Added to that dismal portrait are decades of technology theft, cyber-hacking, and an undisguised intent to tank the economies of Europe and the United States. Unlike in 1989, when the world overlooked the CCP's atrocities at Tiananmen Square in favor of the cheap labor and the seduction of China's billion-plus market, the bloom is off the China rose.

The bigger picture reveals the China-centric globalist picture as darker and much less benign than perhaps once imagined. Simply put, China is becoming much less alluring to Western economies than it has been in the past.

A Return to Risky Regionalism?

If globalism has peaked, what could replace it?

We will likely see a return, at least to some degree, of regional trading blocs and bilateral trade agreements. Regional trading blocs have existed for centuries, of course, but will likely play a larger role in trade going forward.

Of course, that doesn't mean all aspects of global agreements on trade, the environment, and strategic alliances will simply go away. Those that are beneficial to all sides and are stabilizing influences, to one extent or another, will likely remain in place. Those agreements that are too one-sided will be less successful over the long term.

For example, the eurozone, NAFTA/USMCA, and China's OBOR will all continue to function in one fashion or another. Other international agreements will likely continue, as well. But some, such as the Trans-pacific Partnership and the Paris Climate Accords, will lack the official approval and participation of the United States.

Going forward, new agreements will likely be renegotiated on not just a bilateral basis but on a security basis. That's what the Trump administration is trying to accomplish with its trade agreements with Japan and the eurozone, as well as Eastern European countries such as Poland, Hungary, Ukraine, and others.

Trump's spat with German Chancellor Angela Merkel regarding Germany buying Russian natural gas while the United States is paying for German security against Russia is a case in point. His promise to expand U.S.–UK trade after Brexit is another.

Would such agreements increase global trade or reduce it?

A good argument could be made either way, but certainly, it will alter some trade flows. That's already happening.

JUSTIN SULLIVAN/GETTY IMAGES

JUSTIN SULLIVAN/GETTY IMAGES

KEVIN FRAYER/GETTY IMAGES

> The mystique of globalism has been shattered by China's own hubris, trade behavior, and inhumanity.

James Gorrie is a writer and speaker based in Southern California. He is the author of "The China Crisis."

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History Lessons to Consider

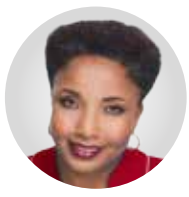
From a strategic standpoint, however, regionalism tends to increase global instability. Regional hegemonic powers tend to reject "external" actors—other, competing nations—that threaten their positions. Access to resources such as oil, natural gas, or agricultural assets plays a huge policy role in nations that lack them and so must acquire them from outside suppliers.

The 1930s are a good historical example of this. As a rising power, resource-poor Japan chose foreign conquest in China and Oceania as a means of sustaining its dominant economic and military status in the Far East. That necessitated driving British, Dutch, and U.S. presences out of the region. It also, in their minds, made it necessary to attack the United States at Pearl Harbor.

But it's certainly not the case that the world has only had either globalism or regionalism, or that either has prevented competition among nations. Globalism has predominated over the past several decades, but regionalism has existed forever, and will continue to do so.

The Left Might Be Losing the **Abortion War**

CAROL M. SWAIN



Commentary

A recent New York Times article lamented the left's loss of control over the abortion issue. Despite recruiting women to "shout their abortions" and sending activists to invade kid spaces such as HiHo Kids YouTube channel with pro-abortion propaganda, a fractured and confused left is discovering that most Americans have a distaste for the ugly business of abortion.

The New York Times is right to be concerned about the growing number of states that have passed or are in the process of passing new laws restricting the abhorrent practice of abortion. It reported that states in the South and Midwest have passed 58 abortion restrictions. With the U.S. Supreme Court is slated to hear an abortion case in spring 2020, it puts Roe v. Wade advocates on notice. The future of legalized abortion on demand could be at stake.

At this point in history, our nation has record-low fertility and birth rates. In 2018, according to the Centers for Disease Control and Prevention, only 3.8 million births were recorded. This represented the fourth year of decline in fertility rates and births. All races and ethnicities were affected, but the impact on black Americans was greater than for any other group. Fertility rates among blacks are dropping, and they are disproportionately aborting more of their unborn babies than other groups.

Let's pause to view the landscape. More than 40 years after the landmark Supreme Court cases of Roe v. Wade and Doe v. Bolton legalized abortion in the 50 states, we have reached a special moment in U.S. history. It's one in which thoughtful Americans finally question the morality of a government-sanctioned industry that revolves around killing unborn babies and selling their fetal remains. Societal changes such as these please me, but I am perplexed by the nation's silence regarding the racial and partisan dimensions of the abortion issue.

First, we should address attitudes that have been changing for a while. We got a glimpse of attitudinal change in May 2009, when Gallup Polls found that a majority of Americans described themselves as pro-life rather than pro-choice (the politically correct euphemism for pro-abortion).

MARK WILSON/GETTY IMAGES

Mother Loraine Marie Maguire, of the Little Sisters of the Poor, speaks to the media after arguments at the Supreme Court in Washington on March 23, 2016.

Let's muse on what brought about this change. Was it the sudden awakening of a culture of life accelerated by the 2008 election of President Barack Obama, who sought to expand liberal abortion laws? Maybe so. Under Obama's influence, Americans watched the federal government change its position on the funding of overseas abortions (Mexico City Policy) when he issued an executive order authorizing funding. Another government change came in regard to a loss of job protections for health care workers who had conscientious objections to participating in abortion procedures or being forced to supply their employees with abortifacients.

Many of us had a particular distaste for the Obama administration's strong-arming of the Little Sisters of the Poor as they fought valiantly against government rules aimed to force them to violate their sacred vows. The Little Sisters eventually won a 2016 Supreme Court case exempting them from having to offer the morning-after pill and other contraceptives to their employees.

American attitudes toward abortion also have been influenced by heinous cases such as Philadelphia abortion doctor Kermit Gosnell's 2013 conviction for killing three babies born alive, as well as his involuntary manslaughter conviction for the death of woman who had had an abortion.

We have reached the point that the debate is no longer about whether a human life is being snuffed out. New technologies allow doctors and parents to peer into wombs where we can watch unborn babies suck their thumbs, smile, and seemingly perform some interesting acrobatics.

Our society now has a greater appreciation for the contributions of children with special needs, such as those born with Down syndrome. We were first introduced to then-Alaska Gov. Sarah Palin's son Trig, who has Down syndrome, during the 2007–2008 presidential campaign cycle, when John McCain picked her as his running mate. More recently, many have seen and enjoyed "The Peanut Butter Falcon," a delightful 2019 film about a young man with Down syndrome who escapes life in an institution and achieves his dream of becoming a wrestler.

In many ways, the abortion issue has a partisan slant with a glaring racial tinge. Despite all the accusations of white supremacy hurled against President Donald Trump and his white supporters, it's the Democratic Party that embraces its status as the party of abortion and women's reproductive rights–a euphemism for abortion.

It has long been known that Planned Parenthood's clinics are disproportionately located in minority communities. Black women have the highest abortion rate in the nation with 27.1 per 1,000 women compared to 10 per 1,000 for white women. In some parts of the nation–New York City, for example–more black babies are aborted than are born alive.

The Wall Street Journal's Jason Riley in 2018 reported abortion statistics for black women in New York City and for the nation. According to Riley, NYC Health Department data from 2012 to 2016 showed that black mothers terminated 136,426 pregnancies and gave birth to 118,127 babies. Nationally, black women, who make up 13 percent of American females, receive 36 percent of abortions.

At what point does abortion in the black community become a civil rights issue begging black ministers and politicians to champion? As I read The New York Times' headline, "How a Divided Left Is Losing the Battle on Abortion," I hope it means the left is losing its battle on behalf of abortion. If the left loses and abortion becomes rarer and more difficult to get, the American people will be the winners. Certainly, black people will be among those who benefit.

Meanwhile, it's time for leftist organizations that love animals and trees more than they love humans to finally confront the contradictions of who they say they are and what they think and do. In the church world, this is known as a come-to-Jesus moment. In the secular world, I'm not sure what it's called. I just know an awakening is badly needed.

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Pro-life activist Jessica Meunier (R) and pro-abortion activist Luqman Clark hold up signs as they protest outside the Supreme Court during the "March for Life" in Washington on Jan. 24, 2005.

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