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Weekly Must-Reads in the Press, June 29, 2018

*WEEKLY MUST-READS WILL BE ON VACATION IN THE MONTH OF JULY.  
KEEP READING, AND SEE YOU IN AUGUST*

Here we are again with our weekly news update. We know that you are busy people, and you probably do have a lot of news to sift through, online, on social media, on news feeds. But we will bring you a weekly update of news we curate from major news sources that may be of interest to you. We may even be able to introduce you to some new news sources you will enjoy exploring.

So read these on your devices, or print them out for your morning coffee reading this weekend. (We do not expect you will read these all at once: this is slow news, not Facebook news. So explore, linger, and share with friends—we mean share the links with actual, physical, real friends!)

1. **“Justice Anthony M. Kennedy announced Wednesday that he is retiring from the Supreme Court, a move that gives President Trump the chance to replace the court’s pivotal justice and dramatically shift the institution to the right, setting up a bitter partisan showdown on Kennedy’s successor.”** [emphasis added] Here is the *Washington Post* announcement: [https://www.washingtonpost.com/politics/courts\\_law/justice-kennedy-the-pivotal-swing-vote-on-the-supreme-court-announces-retirement/2018/06/27/a40a8c64-5932-11e7-a204-ad706461fa4f\\_story.html](https://www.washingtonpost.com/politics/courts_law/justice-kennedy-the-pivotal-swing-vote-on-the-supreme-court-announces-retirement/2018/06/27/a40a8c64-5932-11e7-a204-ad706461fa4f_story.html)

Our readers perhaps need no commentary on this stunning event, but some perspective may be useful. For a commentary that is authoritative and concise, read the op-ed by Jack Goldsmith, professor at Harvard Law School, who clerked for Justice Kennedy from 1990 to 1991. He wrote in Wednesday’s *Post*, “Justice Anthony M. Kennedy’s retirement from the Supreme Court after more than 30 years of service is the most consequential event in American jurisprudence at least since *Bush v. Gore* in 2000 and probably since *Roe v. Wade* in 1973. For three decades, he has been a guiding force on the court’s most consequential decisions, conservative and liberal. **His departure leaves the future of U.S. constitutional law entirely up for grabs.**” [emphasis added] [https://www.washingtonpost.com/opinions/justice-kennedys-retirement-is-the-biggest-event-in-us-jurisprudence-in-at-least-15-years/2018/06/27/746db704-585d-11e7-b38e-35fd8e0c288f\\_story.html](https://www.washingtonpost.com/opinions/justice-kennedys-retirement-is-the-biggest-event-in-us-jurisprudence-in-at-least-15-years/2018/06/27/746db704-585d-11e7-b38e-35fd8e0c288f_story.html)

Another of Kennedy’s former clerks, Joshua Matz, also wrote in *The Post*: “[H]is retirement will spark chaos. Keen to reshape American life on a startling scope and scale, conservatives will race to confirm a reliable vote. **Things will get ugly — very ugly.** *Roe v. Wade* hangs in the balance. So do many other famous precedents. Accordingly, the court’s very legitimacy is now up for grabs. **Signs suggest** that President Trump aims to move the court so far to the right that half the nation will inevitably deem it an avowed enemy.” [emphasis added] [https://www.washingtonpost.com/opinions/with-anthony-kennedys-departure-the-supreme-court-will-fall-to-chaos/2018/06/27/a052dfde-5a01-11e7-a9f6-7c3296387341\\_story.html](https://www.washingtonpost.com/opinions/with-anthony-kennedys-departure-the-supreme-court-will-fall-to-chaos/2018/06/27/a052dfde-5a01-11e7-a9f6-7c3296387341_story.html)

**Should Democrats have shut down the Senate to prevent McConnell’s shut-out of Obama’s nominee, Merrick Garland?** That is a question posed to some Senate Democrats by *The Huffington Post* on Wednesday. “Democrats didn’t control the Senate at the time. But as they watch the Supreme Court now hand down major victories for conservatives, with Gorsuch playing a pivotal role, some of them wonder if they could have done more to stop McConnell. ‘We should have shut down the Senate,’ Sen. Brian Schatz (D-Hawaii) said Tuesday. ‘We made a calculation that we were going to win the 2016 [presidential] election and confirm a nominee. And it didn’t work out.’ ‘Hindsight’s 20/20,’ said Sen. Martin Heinrich (D-N.M.). ‘I think I would have liked us to take an even harder line.’ Others weren’t so sure

Democrats could have done anything differently.” [https://www.huffingtonpost.com/entry/democrats-merrick-garland\\_us\\_5b33b0efe4b0b5e692f38738](https://www.huffingtonpost.com/entry/democrats-merrick-garland_us_5b33b0efe4b0b5e692f38738)

As for the future, as *The New York Times* reports on Wednesday, “Senator Mitch McConnell wasted no time on Wednesday and promised a Senate vote on a new Supreme Court nominee by the fall — and Democrats will have little power to prevent confirmation of President Trump’s choice on their own.... But because one of those Republicans, Senator John McCain of Arizona, is absent with cancer and unlikely to be on hand for future votes, the resistance of a single Republican could be an obstacle to confirmation.” <https://www.nytimes.com/2018/06/27/us/politics/mcconnell-supreme-court-vote.html>

2. On Tuesday evening, a **federal judge in San Diego blocked the administration’s separation of families at the border and gave the government 30 days to reunite those already separated**. As reported by *The Washington Post* on Wednesday morning, “Judge Dana M. Sabraw of the United States District Court for the Southern District of California granted a preliminary injunction sought by the American Civil Liberties Union. **He said all children must be reunited with their families within 30 days, allowing just 14 days for the return of children under 5 to their parents**. He also ordered that parents be allowed to speak by phone with their children within 10 days.” [emphasis added]

The court found that the DHS process of removal “marked a sharp departure from ‘measured and ordered governance, which is central to the concept of due process enshrined in our Constitution.’ It faulted the Trump administration for ‘a chaotic circumstance of the Government’s own making’.... **He also said that adults could not be deported from the country without their children.**” [emphasis added] <https://www.washingtonpost.com/news/morning-mix/wp/2018/06/27/federal-judge-enjoins-separation-of-migrant-children-orders-family-reunification/> (The administration could appeal to the 9<sup>th</sup> Circuit Court of Appeals.)

In his ruling, Judge Dana Sabraw sharply rebuked the government. **Here is a quote from the judge**, in a Wednesday op-ed by Greg Sargent in *The Washington Post*: “The practice of separating these families was implemented without any effective system or procedure for ... tracking the children after they were separated from their parents ... and reuniting the parents and children after the parents are returned to immigration custody following the completion of their criminal sentence. This is a startling reality. **The government readily keeps track of personal property of detainees ... under the present system migrant children are not accounted for with the same efficiency and accuracy as property.**” [emphasis added] Sargent continues, “The ruling concludes that in part because the separations pass a judicial standard in which they ‘**shock the conscience**,’ the [ACLU lawsuit] is likely to succeed on the merits of its underlying claim, which is that the policy violates constitutional due process rights.” [emphasis added] <https://www.washingtonpost.com/blogs/plum-line/wp/2018/06/27/a-judge-just-sharply-rebuked-trumps-cruelty-and-incompetence>

3. Of course one of the biggest Court stories this week was the **Supreme Court’s upholding of the Trump travel ban** against mostly-Muslim countries.

For the facts of what the Court ruled, see the summary in Tuesday’s *New York Times*: <https://www.nytimes.com/2018/06/26/us/politics/supreme-court-trump-travel-ban.html>.

Also in Tuesday’s *New York Times*, legal scholar Leah Litman points out that “[i]n explaining its 5-4 decision, the majority invoked a set of legal rules that limit the ability of the federal courts to assess decisions related to immigration, and specifically, determinations about who may enter the United States. These rules have their roots in century-old decisions embracing the ‘plenary-power doctrine,’ which gives the political branches, and in recent times the president in particular, something of a blank check over immigration matters.”

She further remarks that this decision is in contrast to the *Masterpiece Cakeshop* decision, where the Court ruled that a hostility to religion was a basis to decide that the baker had been discriminated against.

But here, “[t]he majority of the justices avoided saying the entry ban was tainted by religious animus, even though President Trump had promised a total and complete shutdown of Muslims entering the United States and declared ‘Islam hates us.’” Read her important analysis of **the dangers now of limiting courts’ ability to oversee immigration decisions by the executive, a notorious doctrine, called “plenary powers,” historically used to bar racial groups from entering the country:** <https://www.nytimes.com/2018/06/26/opinion/travel-ban-hawaii-supreme-court.html>.

In a bold display of how the victory was achieved, “Senate Majority Leader [Mitch McConnell](#) (R) marked the Supreme Court [ruling upholding President Trump’s](#) travel ban by sharing a photo of him with Supreme Court Justice Neil Gorsuch....McConnell blocked the nomination of former President Obama’s Supreme Court pick [Merrick Garland](#) in 2016, paving the way for Trump to nominate Gorsuch.” So reported *The Hill* on Tuesday: <http://thehill.com/homenews/senate/394148-mitch-mcconnell-trolls-with-photo-of-gorsuch-after-travel-ban-ruling>.

As *The Washington Post’s* Jennifer Rubin points out, **the Court twisted itself around and around in its arguments to rule when there was a clear statement of prejudice**, though it used such statements of prejudice to deny the claims of the gay couple in *Masterpiece*. She quotes “[f]ormer White House ethics counsel Norman Eisen [who] observed, ‘The court has twisted itself into a pretzel to avoid having to address Trump’s openly and flagrantly unconstitutional purposes. Behind the doctrinal gyrations, hypocrisy is evident in the court turning a blind eye to Trump’s bias— still lingering here on his third attempt to obscure it and iterate a Muslim ban— while applying a deeply penetrating gaze to the government actor in the *Masterpiece Cakeshop* case.’” Rubin points out, however, that “the case can be cured by Congress and/or future presidents,” making our coming elections all the more urgent. <https://www.washingtonpost.com/blogs/right-turn/wp/2018/06/26/the-anti-muslim-travel-ban-is-constitutional-say-supreme-court-conservatives>

In a press statement on Tuesday, the ACLU quoted Omar Jadwat, director of the Immigrants’ Rights Project: **“This ruling will go down in history as one of the Supreme Court’s great failures. It repeats the mistakes of the *Korematsu* decision upholding Japanese-American imprisonment** and swallows wholesale government lawyers’ flimsy national security excuse for the ban instead of taking seriously the president’s own explanation for his action.

“It is ultimately the people of this country who will determine its character and future. The court failed today, and so the public is needed more than ever. We must make it crystal clear to our elected representatives: If you are not taking actions to rescind and dismantle Trump’s Muslim ban, you are not upholding this country’s most basic principles of freedom and equality.” <https://www.aclu.org/news/aclu-comment-supreme-court-muslim-ban-ruling>

#### **Could the Court decision impact court challenges to Trump’s other immigration policies?**

Perhaps. As Matthew Nussbaum suggests in *Politico*, “The victory for Trump on the travel ban comes as the administration is defending another of Trump’s most controversial policies: its strong crackdown on undocumented immigration. The ruling represents a significant setback for groups waging court challenges against Trump’s policies.” <https://www.politico.com/story/2018/06/26/trump-declares-profound-vindication-in-immigration-fights-674158>

4. Meanwhile, **at the border**, more reporters, lawyers, and lawmakers have gained access to the detention camps; what has come out already is grim. A detailed report was filed by a team of reporters for *The Washington Post* on June 24. They write, “U.S. authorities are compiling mug shots of the children in detention. Immigration lawyers who have seen the pictures say some of them show children in tears.

“At a facility in Crofton, Md., run by Bethany Christian Services, 10 children separated from their parents arrived in recent days. Half were younger than 5, according to Tawnya Brown, a regional director of the organization. Most appeared to be from Nicaragua, El Salvador, Guatemala and Honduras.

Each child got a drawstring 'arrival bag' containing a change of clothes and other necessities. The little ones got a teddy bear, too. They got to leave the shelter promptly, going to a new home with foster parents who speak to the children in 'love language,' Brown said.

"At first, the kids believe they will soon be back with their families. 'One of them said: "I'm not crying anymore. Tomorrow, I'll be with my dad," recalled an employee at the Brownsville shelter. But as it became clear that their release was not imminent, the children continued their routines — karaoke on Monday, cake for those celebrating a birthday, occasional group discussions about their future.

"Antar Davidson, who worked at Southwest Key's Estrella del Norte shelter in Tucson from February until he quit in early June, described a tense environment that grew worse as the number of separated kids soared. 'People were yelling at the kids all the time' in Spanish, said Davidson, 32. He said supplies were rationed so tightly that kids were given hair gel one spoonful at a time. 'It really wears on these kids, the level of institutionalization,' he said.

"Youth-care workers were told to discourage children from speaking their indigenous Central American languages, he said, before the policy was reversed. And when the number of separated kids rose from a handful to more than 50 in the 300-person shelter, employees were given a 'refresher' course in how to use physical holds on kids, Davidson said." Read more of this excellent investigation, if you can bear it: [https://www.washingtonpost.com/politics/separated-immigrant-children-are-all-over-the-us-now-far-from-parents-who-dont-know-where-they-are/2018/06/24/c9bc5ba6-7568-11e8-805c-4b67019fcfe4\\_story.html](https://www.washingtonpost.com/politics/separated-immigrant-children-are-all-over-the-us-now-far-from-parents-who-dont-know-where-they-are/2018/06/24/c9bc5ba6-7568-11e8-805c-4b67019fcfe4_story.html).

**A detailed report by NPR published on Thursday June 20, describes the process of separation and detention.** "The process begins at a Customs and Border Protection detention facility. But many details about what happens next — how children are taken from their parents and by whom — were unclear.

"According to the Texas Civil Rights Project, which has been able to speak with detained adults, multiple parents reported that they were separated from their children [and not given any information about where their children would go](#). The organization also says that in some cases, the children were taken away under the pretense that they would be getting a bath." Read the full report here: <https://www.npr.org/2018/06/19/621065383/what-we-know-family-separation-and-zero-tolerance-at-the-border>.

**There are also continuing reports of the difficulties of reuniting children with their parents, as well as both asylum-seekers and immigrants being deported without their children.** Sunday's *The Guardian* reported on one typical instance, a refugee from El Salvador's violence. Here is an excerpt from their report: "Arnovis Guidos Portillo holds his mobile phone away from his face as he struggles to hold back tears, but his six-year old daughter, Meybelin, can still be heard on speakerphone, asking when she will be released from custody in an American detention centre.

"Though he knows it's a lie, he tells her that she can't return to [El Salvador](#) because the US government's plane is broken; the truth is that he has no idea what will become of her.

"They're going to bring you home soon,' he says. 'They haven't fixed the plane.' Portillo, 26, was separated from Meybelin in McAllen, Texas, on 27 May — over three weeks after the attorney general, Jeff Sessions, announced the Trump administration's 'zero-tolerance policy,' mandating children of undocumented migrants would be removed from their parents. Since then, 2,575 have been separated from their parents.

"He had hoped to ask for asylum, but says he was never given the chance before the pair were taken to a detention centre and he was charged with the misdemeanor of illegal entry. They were together for 24 hours before she was taken from him.... Agents told him they would be reunited after his court date two days later. She never showed up.... Several other migrants with whom he was held had also lost their children. **He describes seeing three agents hold a migrant down while another agent pulled the man's child away. 'All I hear is my daughter, crying. All I can see is her face when they took her —**

she was terrified,' Portillo says." [emphasis added] <https://www.theguardian.com/us-news/2018/jun/24/all-i-hear-is-my-daughter-crying-salvadoran-father-yearns-to-see-his-child-again>

**5. Need arguments about whether immigrants pose a danger to America, that they are unassimilated dangerous criminals, that they come here to sponge off welfare?** Read the demolition of all Trump's demagoguery by Catherine Rampell in *The Washington Post* for June 21. She begins simply, "It's all a hoax. A great big hoax.... The hoax is the premise that President Trump's administration has invented to rationalize [the caging of children, which are] crimes against humanity: his narrative that America has been 'infest[ed]' with hordes of crime-committing, culture-diluting, job-stealing, tax-shirking, benefits-draining 'aliens.' No part of that description is remotely true." **Get the facts.** Organizers especially, who will talk to our neighbors—get the facts: [https://www.washingtonpost.com/opinions/the-real-hoax-about-the-border-crisis/2018/06/21/5999c96e-7589-11e8-805c-4b67019fcfe4\\_story.html](https://www.washingtonpost.com/opinions/the-real-hoax-about-the-border-crisis/2018/06/21/5999c96e-7589-11e8-805c-4b67019fcfe4_story.html).

**6. In a stunning blow to organized labor, the Supreme Court ruled that public unions may not require workers who choose not to join to pay for collective bargaining.** As Wednesday's *New York Times* reports, "By a 5-to-4 vote, with the more conservative justices in the majority, the court ruled that government workers who choose not to join unions may not be required to help pay for collective bargaining. [The ruling](#) means that public-sector unions across the nation, already under political pressure, could lose tens of millions of dollars and see their effectiveness diminished." The Court based its decision on a First Amendment right for non-union members not to associate with a group that advocates against their political beliefs. But unions countered that non-members are already entitled to a refund of money that goes toward political campaigns; and as for collective bargaining, non-dues-paying employees reap the benefits of contract negotiations. The ruling will not affect private companies, but these represent only 6.5% of their employees. In the public sector 35% of workers are unionized, and only 11% of the total workforce overall, according to the [BLS](#). <https://www.nytimes.com/2018/06/27/us/politics/supreme-court-unions-organized-labor.html>

As *The Washington Post* put it succinctly, "It was a devastating, if not unexpected, loss for public employee unions, the most vital component of organized labor and a major player in Democratic Party politics. It capped a years-long effort by conservative legal activists to forbid states from authorizing the fees." The appointment of Neil Gorsuch, they point out, was crucial to winning this decision: [https://www.washingtonpost.com/politics/courts\\_law/supreme-court-rules-against-public-unions-collecting-fees-for-nonmembers/2018/06/27/ccdf6bf4-7a0c-11e8-80be-6d32e182a3bc\\_story.html](https://www.washingtonpost.com/politics/courts_law/supreme-court-rules-against-public-unions-collecting-fees-for-nonmembers/2018/06/27/ccdf6bf4-7a0c-11e8-80be-6d32e182a3bc_story.html)

*The Times* reports that "Though it is difficult to predict with precision, [experts](#) and union officials say they could lose 10 percent to one-third of their members, or more, in the states affected, as [conservative groups](#) seek to persuade workers to drop out." However, some union leaders say that they have mounted campaigns to offset losses, and they anticipate a more active, if smaller, union membership. <https://www.nytimes.com/2018/06/27/business/economy/supreme-court-unions-future.html> This view is echoed by Sarah Jaffe, in a Wednesday *New York Times* op-ed: "Workers are standing up and fighting, and they have been doing so in states where right-to-work is already the law, proving that the rules of Janus don't have to spell death." Read her analysis of the way forward here: <https://www.nytimes.com/2018/06/27/opinion/supreme-court-janus-unions.html>.

DNC co-chair Tom Perez, writing in *USA Today*, said, simply, "**We witnessed one of the most blatant and disgraceful examples of union busting in our nation's history on Wednesday.**" In a 5-4 decision in *Janus v. AFSCME*, the conservative justices on the Supreme Court took aim at the heart of public-sector unions in America. It's no secret who benefits from this decision. Once again, wealthy corporations and their Republican allies have used the Supreme Court to take away the rights of American workers." [emphasis added] <https://www.usatoday.com/story/opinion/2018/06/27/supreme-court-hurts-unions-workers-hands-power-corporations-column/708790002/>

**That this was at base a political, not a legal, decision is clear from the way Justices are nominated and appointed.** So says, *The Nation's* John Nicols, in a good analysis of the larger contexts: "It is no secret that GOP nominees for lifetime sinecures on the nation's highest court have for many years now been chosen with the purpose of achieving political ends. They are nominated and confirmed not with the hope of securing justice but with a win-at-any-cost focus on aiding the interests of electoral allies and, in so doing, on satisfying the demands of donors to the campaigns of those allies." <https://www.thenation.com/article/janus-decided-conservative-judicial-activists-legislating-bench/>

Indeed, none other than Justice Elena Kagan, in a stinging dissent, "said her right-leaning colleagues turned the First Amendment into 'a sword' used to influence politics and the economy." [https://www.huffingtonpost.com/entry/justice-elena-kagan-says-her-colleagues-turned-the-first-amendment-into-a-sword\\_us\\_5b33dc13e4b0b5e692f3cb79](https://www.huffingtonpost.com/entry/justice-elena-kagan-says-her-colleagues-turned-the-first-amendment-into-a-sword_us_5b33dc13e4b0b5e692f3cb79)

7. Also in the news this week, of course, is **the ongoing debate over civility in public discourse, and the practice of shaming Trump officials.** Do they deserve it? Most of the liberal press commentary acknowledges that in this unprecedented time of vile and abusive, even racist, language coming from the very top, shaming is a measured display of anger. But is it going to be a tactical error? Will it make Democrats and liberals seem to be...uncivil? "When they go low, we go...." Where?

A. We have some perspectives this week, from commentators with diverse opinions. We will review here a selection of the most representative opinions, since this is an important debate going forward. A good overview of the territory—and of the strategic questions raised by, for example, the ejection (however polite) of Sarah Huckabee Sanders from a Virginia restaurant—is supplied by *The Washington Post's* Aaron Blake. Blake headlines, "**Maxine Waters shows why the Sarah Huckabee Sanders-Red Hen story is extremely important.**" Waters, of course, called for continued harassment of Trump cabinet members. "Amid all the social media takes on whether that kind of thing is appropriate is one particularly passionate argument. What about the children? With more than 2,000 children still separated from their parents as a consequence of the Trump administration's zero-tolerance illegal immigration policy, many are crying foul over the fascination with what is being construed as a minor flap over dinner.

"To reduce the Sanders flap — and [similar developments over the past week](#) — to being about merely 'civility,' 'a beer' and dinner is to ignore the very important societal questions raised and the kind of seminal moment it could be in our politics. It may not be as important as children being separated from their parents, and it may quickly blow over. But to pretend it is some distraction that is unworthy of our time is to ignore the lessons of history and to gloss over the events of the past three years. And to suggest it will make us all forget about the family-separation policy is to have very little faith in a media that has, to its credit, helped force a change in that policy.... the Sanders-Red Hen situation has unearthed (or perhaps vivified) a growing sentiment in our society. It is seen in liberals and opponents of President Trump who are done with playing nice. It is apparent as the Democratic Party gradually sheds Michelle Obama's declaration that "[When they go low, we go high](#)" and trading it for "[We fight fire with fire](#)." It is borne of frustration and a lack of results after abiding by the norms of political discourse while Trump and his allies run roughshod over all the old rules. And from that standpoint, it's an understandable reaction.

"[C]learly this is a debate that the Democratic Party needs to have right now. It's a debate that has been repeatedly sparked by key cultural moments forcing people to decide whether the new territory that has been breached is okay to enter.... It's clearly [boiling over](#).... Democrats and Trump opponents as a whole need to decide where their line is for civil disobedience (or, in Waters's case, possibly going beyond civil disobedience). Refusing to serve the White House press secretary for no other reason than her politics and the White House's often dishonest defenses of its policies is a unique occurrence in our society and one that reflects a political discourse being stretched in new directions. But it's also a crystallizing moment for a much broader set of developments." This is, says Blake, a very important moment and a very

important debate to watch. <https://www.washingtonpost.com/news/the-fix/wp/2018/06/25/maxine-waters-shows-why-the-sarah-huckabee-sanders-red-hen-story-is-extremely-important>

It is perhaps mentioning at this point that Rep. **Maxine Waters reports that she has received serious death threats**, causing her to cancel events. So reported CNN Thursday evening: <https://www.cnn.com/2018/06/28/politics/maxine-waters-threatened/index.html>.

B. On one side of the issue, *The Guardian's* Gary Younge concludes that "It makes little sense to prostrate oneself at the altar of civility while others are gleefully desecrating democracy itself. Historical precedents abound where people, in retrospect, feel they should have done more when they had the chance." He believes that "When it comes to matters of [civility](#) in political discourse, the Trump administration and its advocates are in no position to preach: any plausible claim they may have staked for the moral high ground was torched very early on. Trump made a [Pocahontas joke](#) while addressing Native American servicemen; called protesting black football players '[sons of bitches](#)'; and, on Monday, tweeted that a black Congresswoman, Maxine Waters, was '[an extremely low IQ person](#).' **Having laid waste to decorum, tradition, convention and sensitivity, his administration should not be surprised when people respond in kind.** [emphasis added]

Younge argues strongly that "The issue here goes beyond etiquette. Both during his campaign and in office, Trump has [violated basic democratic norms](#). He has [encouraged violence](#) at his rallies, said he [may not accept the election result](#) if he lost, and thanked African Americans [for not voting](#). In office he has threatened to [pardon himself](#) if prosecuted; employed his family in key positions while authorising small children to be taken from their own families; endorsed and supported [an alleged paedophile](#) for the Senate; drawn an [abhorrent equivalence](#) between neo-Nazis and anti-fascist protesters; called for [due legal process to be denied](#) to immigrants; advised police to [physically abuse suspects](#); and, as [upheld by the supreme court](#) on Tuesday, barred people from several Muslim countries from entering the US.... While parents on the Mexican border are being told their kids are being [taken for a bath](#) only to find they have been abducted by the state and detained alone, there is only so much sympathy I can have for someone who actively promotes that policy from being inconvenienced in her dinner plans.... **If a group of fully robed Klansmen or neo-Nazis in full regalia walked in, some liberals would be far less squeamish about removing them. The question has never been whether you draw a line between what is and is not acceptable, but where you draw it.**" [emphasis added] This is a strongly made case, and our readers should take it seriously. <https://www.theguardian.com/commentisfree/2018/jun/26/donald-trump-sarah-huckabee-sanders-red-hen-restaurant>

**C. On the other hand...** The wisdom of feeding more Trumpite resentment is questioned by both the editorial boards of *The New York Times* and *The Washington Post* (though by no means all their columnists). Frank Bruni, in a Tuesday *New York Times* column, agrees with the emotions but urges tactical caution: "[P]redictably, a significant chunk of the talk in the news and on social media focused on whether the country had descended to some unfathomed nadir of acrimony. Weeping children on the border ceded the stage to [screaming adults](#) in Washington restaurants. 'Inhumanity' made way for 'incivility,' a noun that was being applied to Trump's supporters *and* his detractors and was thus obscuring the maliciousness of the former. Nancy Pelosi took to Twitter to do damage control.... **Let's focus... on tactics. Does public shaming serve the cause of thwarting Trump and limiting his considerable damage to America? The answer is more likely no than yes,** and I don't think that we can take that risk when a man is this miserable and the stakes are this high.... [emphasis added] Bruni counsels that we should focus on taking back the House. <https://www.nytimes.com/2018/06/26/opinion/maxine-waters-public-shaming-trump.html>

D. **But:** the outrage may be useful, or its impact nugatory, argues Michelle Goldberg, in Monday's *New York Times*. Her headline: "**We Have a Crisis of Democracy, Not Manners.**" "Last year, the white nationalist Richard Spencer was [kicked out of his Virginia gym](#) after another member confronted him and called him a Nazi. This incident did not generate a national round of hand-wringing about the death of tolerance, perhaps because most people tacitly agree that it's O.K. to shun professional racists. It's a little

more complicated when the professional racist is the president of the United States. The norms of our political life require a degree of bipartisan forbearance. But treating members of Donald Trump's administration as ordinary public officials rather than pariahs does more to normalize bigotry than exercising alongside a white separatist." **The key words here are "ordinary public officials."**

"I'm somewhat agnostic on the question of whether publicly rebuking Trump collaborators is tactically smart. It stokes their own sense of victimization, which they feed on. It may alienate some persuadable voters, though this is just a guess.... On the other hand, there's a moral and psychic cost to participating in the fiction that people who work for Trump are in any sense public servants. I don't blame staff members at the Virginia restaurant, the Red Hen, for not wanting to help Sanders unwind after a hard week of lying to the public about mass child abuse. Particularly when Sanders's own administration is fighting to let private businesses discriminate against gay people, who, unlike mendacious press secretaries, are a protected class under many civil rights laws."

Moreover, she argues, "Whether or not you think public shaming should be happening, it's important to understand *why* it's happening. It's less a result of a breakdown in civility than a breakdown of democracy. Though it's tiresome to repeat it, Donald Trump eked out his minority victory with help from a hostile foreign power. He has ruled exclusively for his vengeful supporters, who love the way he terrifies, outrages and humiliates their fellow citizens. Trump installed the right-wing Neil Gorsuch in the Supreme Court seat that Republicans stole from Barack Obama. Gorsuch, in turn, has been the fifth vote in decisions on voter roll purges and, on Monday, [racial gerrymandering](#) that will further entrench minority rule."

And Goldberg concludes, "**Faced with the unceasing cruelty and degradation of the Trump presidency, liberals have not taken to marching around in public with assault weapons and threatening civil war.** I know of no left-wing publication that has followed the example of the right-wing Federalist and run [quasi-pornographic fantasies](#) about murdering political enemies. ('Close your eyes and imagine holding someone's scalp in your hands,' began a recent Federalist article.) Unlike Trump, no Democratic politician I'm aware of has urged his or her followers to [beat up opposing demonstrators](#). Instead, some progressive celebrities have said some bad words, and some people have treated administration officials with the sort of public opprobrium due members of any other white nationalist organization. Liberals are using their cultural power against the right because it's the only power they have left." [emphasis added] <https://www.nytimes.com/2018/06/25/opinion/trump-sarah-huckabee-sanders-restaurant-civility.html>

E. Perhaps the most intemperate remarks—if no doubt a widespread emotion on the left—came from Huff Post's Michelangelo Signorile, whose fiery column is titled, simply, "**F\*\*k Civility.**" It may be over the top, but as Blake, above, points out, it is important to hear all that the left is thinking and feeling, and to debate its effectiveness. Signorile offers up the success of the ACT-UP movement's aggressive tactics, shutting down the FDA offices in the name of saving lives during the AIDS epidemic. And it worked. "Acting up is not about impulsiveness and feeling good (though it does feel good to speak truth to power). It's about saving lives by strategically targeting people for protest. Yes, shaming does work.... It's not about changing the minds of Trump supporters. It's about lighting a spark under those who aren't paying attention — many of whom may have dropped out under the weight of the daily atrocities — or who might now feel hope when they see others speaking out. More strident protest also forces the media to cover issues — even as journalists carp and complain about the tactics — and to focus on the fact that many Americans see a national emergency unfolding."

Will this point of view energize voters or turn them off? Columnists disagree. But for Signorile there is certainly a growing sentiment that, "Let it not be said that we stayed silent and '[let the Trump team eat in peace](#)' [as *The Washington Post's* editorial board cautioned], while it rather rapidly turned America into a fascist state." [https://www.huffingtonpost.com/entry/opinion-signorile-civility-trump\\_us\\_5b31ad0de4b0b5e692f0c7b8](https://www.huffingtonpost.com/entry/opinion-signorile-civility-trump_us_5b31ad0de4b0b5e692f0c7b8)

F. Finally, the debate among Democrats is nicely summarized in a story in *The New York Times* on Monday. **David Axelrod had warned of a possible backlash** against Democrats. “It’s totally counterproductive,’ said David Axelrod, the former chief strategist for President Barack Obama. ‘You’re making Sarah Huckabee Sanders a sympathetic figure.’ Mr. Axelrod, who received an avalanche of criticism online over the weekend after tweeting about his unease with how Ms. Sanders was treated, bristled at the criticism and noted his success in winning a pair of presidential elections. ‘Organize, run for office, donate and most of all vote,’ he said. ‘That’s how you change policy in a democracy.’”

But, clearly, not everyone agrees that this is just about policies. “Yet **a growing contingent of Democrats believes that up-for-grabs voters are scarcely paying attention to the Trump story du jour and that the president’s devotees are already roused.** There is little risk in speaking out about Mr. Trump’s demagogic conduct, these Democrats argue, and party elders should recognize how serious this moment is and not diminish the anger of activists.” [emphasis added] <https://www.nytimes.com/2018/06/25/us/politics/trump-liberal-activists-shaming.html>

8. “**It’s not just abortion: 5 issues likely to be affected by Kennedy’s exit**” is the headline on a *Politico* article on Wednesday. *Politico* details the most likely issues to be addressed by a new Court: abortion; affirmative action; voting rights and partisan gerrymandering; gay rights; and the death penalty. <https://www.politico.com/story/2018/06/27/anthony-kennedy-retirement-supreme-court-cases-680104>

For a **long-form discussion of the future of the Court**, see *The Atlantic* article subtitled “The justice’s retirement from the bench will almost certainly mean a retrenchment of federal enforcement in voting rights and affirmative action, and less chance for meaningful criminal-justice reform.” Author Vann R. Newkirk explains that “In the jurisprudence developed on racial justice and civil rights in the five decades since the close of the civil-rights era, Kennedy was enough of a wildcard to ensure that the Court often affirmed and protected core civil-rights victories, even as mainstream conservatism turned squarely against them. But now, the winds of change are blowing.” <https://www.theatlantic.com/politics/archive/2018/06/the-future-of-civil-rights-in-the-supreme-court/563957/>

A word of caution: there will be much speculation on these issues in the press, particularly on 24-hour news stations. The general outlines of the future Court are clear enough; but the full and specific impacts of any new appointment are hard to assess right now.

9. “**The Supreme Court on Monday largely upheld Texas congressional and legislative maps that a lower court said discriminated against black and Hispanic voters.**” That is the takeaway from the SCOTUS’s 5-4 decision, reported on June 25 by *The Washington Post*.

But, reports the paper, “Justice Sonia Sotomayor wrote a dissent that was longer than Alito’s majority decision. She said the decision ‘does great damage to the right of equal opportunity. Not because it denies the existence of that right, but because it refuses its enforcement.’

“She added: ‘Texas is guaranteed continued use of much of its discriminatory maps . . . After years of litigation and undeniable proof of intentional discrimination, minority voters in Texas — despite constituting a majority of the population within the state — will continue to be underrepresented in the political process.’” [https://www.washingtonpost.com/politics/courts\\_law/supreme-court-upholds-texas-redistricting-that-a-lower-court-said-discriminated-against-black-and-hispanic-voters/2018/06/25/bd09592a-7885-11e8-93cc-6d3becdd7a3\\_story.html](https://www.washingtonpost.com/politics/courts_law/supreme-court-upholds-texas-redistricting-that-a-lower-court-said-discriminated-against-black-and-hispanic-voters/2018/06/25/bd09592a-7885-11e8-93cc-6d3becdd7a3_story.html)

This was a racial gerrymandering case. But, earlier this month, in turning back Wisconsin and Maryland gerrymandering cases to the lower courts, the Court expressed skepticism that *partisan* gerrymandering would be unconstitutional. (This is different from racial gerrymandering, where courts have clear power to intervene. However, again, some conservative Justices have questioned whether the Voting Rights Act covers such cases.) See: <https://www.nytimes.com/2018/06/18/us/politics/supreme-court-wisconsin-maryland-gerrymander-vote.html>.

10. In other news, **the announcement by Harley-Davidson that it will move some operations to Europe**, in light of their retaliatory tariffs, was met with fury by Donald Trump. But **his supporters at Harley in Wisconsin are less troubled**, and suspect the company was going to move some production overseas anyway (which is true.) They remain loyal to Trump, says an article in London's *Economist* (helpfully reprinted by CNBC). "Mr. Trump's backing, especially in the Midwest, has so far proved remarkably resilient. Even those who might be directly hurt by his policies are not rushing to abandon him. 'He's making changes, trying to get the country back where it needs to be,' said one Harley worker, grinding a cigarette butt into the pavement before returning to work. The details of how he does so may matter less than the mere idea that Mr. Trump is trying to 'make America great again.'" <https://www.cnn.com/2018/06/27/harley-davidson-workers-back-trump-despite-jobs-shift.html>

Vox reported on Wednesday that "President [Donald Trump](#) has taken multiple swipes at [Harley-Davidson](#) in the past 24 hours over its announcement that it will [shift overseas some production](#) — and presumably jobs — because of Trump-induced tariffs from Europe. He's said he's 'surprised' at the decision and accused Harley of using tariffs as an 'excuse' to offshore jobs. But while the president is raging publicly about Harley's move and threatening to hit the company with a big tax, behind the scenes he hasn't been quite so active in preserving the motorcycle-maker's operations in the States. Trump has yet to offer any response to pleas from workers in [Kansas City](#) to keep the Harley-Davidson plant open there." The company's move to shift some operations to Thailand predated the tariffs. <https://www.vox.com/policy-and-politics/2018/6/26/17505578/trump-harley-davidson-union>

Moreover, as *The Washington Post* reported on June 26, "**Trump's angry insistence that Harley's products should be made in the United States is at odds with his own record as a businessman.** His branded products — clothing, vodka, home goods and hotel amenities — were manufactured in at least 12 countries outside the United States, including China, Mexico and Indonesia, according to a [2016 Washington Post analysis](#) of publicly available data. Likewise, Ivanka Trump, the president's daughter and unpaid White House adviser, [sourced her company's products exclusively](#) from low-wage factories in countries such as Bangladesh, Indonesia and China, *The Post* found." [emphasis added] [https://www.washingtonpost.com/business/economy/to-trump-harleys-tariff-decision-is-a-personal--and-unexpected--betrayal/2018/06/26/a662c718-796d-11e8-ae4e-4d04c8ac6158\\_story.html](https://www.washingtonpost.com/business/economy/to-trump-harleys-tariff-decision-is-a-personal--and-unexpected--betrayal/2018/06/26/a662c718-796d-11e8-ae4e-4d04c8ac6158_story.html)

In the end, the trade war will hit some weak companies in the US very hard. And Harley has had slumping sales for years. If you are interested in the economics of the trade war, and how it affects a marginal company like Harley, read "**Trump vs. Harley-Davidson: What's really going on?**" in the June 26 *CNN Money*. They report that "Americans are buying fewer motorcycles, people outside the United States are buying more, and Harley wants to build bikes closer to its international customers. But the tariffs probably hastened Harley's exit.

It makes sense for Harley to reposition its long-term strategy outside the United States: Last quarter, Harley's sales in the United States fell 12%, but they grew 6.8% in Europe, the Middle East, and Africa. In Latin America, sales grew 7%." <http://money.cnn.com/2018/06/26/news/companies/trump-harley-davidson/index.html>

And *Bloomberg News* summarizes the health of company this way: "Harley has been dealing with woes independent of Trump's policies. [CEO Matt] Levatich has struggled to attract younger buyers in the company's core home market: U.S. retail sales plunged 12 percent in the first quarter, the 13th decline out of the last 14 quarters. Overseas sales also have been stalling." [https://www.bloomberg.com/amp/news/articles/2018-06-25/harley-davidson-to-shift-production-of-motorcycles-out-of-u-s-after-eu-tariffs?\\_\\_twitter\\_impression=true](https://www.bloomberg.com/amp/news/articles/2018-06-25/harley-davidson-to-shift-production-of-motorcycles-out-of-u-s-after-eu-tariffs?__twitter_impression=true) More frankly, *The Street* said simply, back in April, 2016, "The chopper lifestyle may not be exciting to millennials. This could help explain why **Harley-Davidson (HOG)** is losing market share. While global growth remains strong, in the largest market, the U.S., sales haven't been good." <https://www.thestreet.com/story/13540081/1/3-reasons-why-harley-davidson-is-headed-for-a-crash.html>

11. For those interested in **the economic effects of the trade war in general**, The *Sunday New York Times* ran a feature article detailing the broad risks to the US economy, particularly on certain industries that are particularly vulnerable, with the subtitle, “How trade disputes play out will vary depending on the product and how hard it is to find a workaround. But tariffs on more countries mean more economic risk.” The authors point to certain industries, like LEDs, that can easily resupply from suppliers other than China; but for some, like motorboats and flat-screen TVs (the TVs are for now exempted), this will be an added cost to pass on to consumers.

The authors say, “How this will play out is idiosyncratic to any given product and unique to each supply chain,” said Daniel Rosen, partner at the economic research firm Rhodium Group. ‘Nobody can honestly claim high confidence that they understand what the overall impact will be. You may as well project the weather on a Tuesday afternoon a year from now.’” Some companies will find workarounds, experts say. “But the longer the trade dispute lasts, the more products will get pulled into it. **And the more the United States finds itself at odds not just with one other major economy but the entire world, the more it makes sense to worry. The workarounds that companies are using so far wouldn’t succeed in an open-ended, indefinite trade war.**” [emphasis added] <https://www.nytimes.com/2018/06/23/upshot/what-a-trade-war-with-china-looks-like-on-the-front-lines.html>

Best wishes, and Peace,  
Mark  
The Indivisible DuPage Research Team

***“Rise like lions after slumber  
In unvanquishable number—  
Shake your chains to earth like dew  
Which in sleep had fallen on you—  
Ye are many—they are few”***

—From "The Mask of Anarchy. Written on the Occasion of the [army] Massacre at Manchester [1819]", By British Romantic Poet Percy Shelley