



***Impeachment* de Donald Trump.
Chroniques de presse par des professeurs
de droit constitutionnel de la *Harvard Law School***

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Laurence Tribe: ‘I’d be amazed’ if vulnerable GOP Senators vote against calling witnesses

Sen. Schumer said he’s hoping to get some Republican Senators to join him in asking for witnesses and documents in Trump’s impeachment trial. **Laurence Tribe** tells Lawrence O’Donnell that “the evidence supporting the impeachment articles is extremely strong” but adds that there are no good reasons not to hear from additional firsthand witnesses in the Senate trial and thinks it will be a hard sell from some vulnerable Republican Senators.

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Democrats can prevent a sham trial in the Senate if they hang tough

Senate Majority Leader Mitch McConnell (R-Ky.) had a plan to quickly dispose of the articles of impeachment just approved by the House: He would hold a two-week sham trial without any witnesses, and then the Senate Republican majority would acquit President Trump, despite the overwhelming weight of evidence showing that he is guilty as charged of abusing his power and obstructing Congress. But House Speaker Nancy Pelosi (D-Calif.), acting on an idea suggested by Harvard Law Professor **Laurence H. Tribe** in a Post op-ed, has thrown a spanner into the works by refusing to appoint impeachment managers until there is some guarantee of a fair trial in the Senate.

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Harvard Law Professor Explains Why Pelosi’s Plan To Delay Impeachment Trial Is Brilliant

Harvard constitutional law professor **Laurence Tribe** on Thursday explained why House Speaker Nancy Pelosi’s (D-Calif.) decision to delay sending the articles of impeachment of President Donald Trump to the Senate is smart. Tribe, appearing on MSNBC’s “The Last Word,” told host Lawrence O’Donnell he believed Pelosi was handling the situation “just brilliantly.” In an op-ed for The Washington Post published Monday, Tribe suggested the House vote to impeach Trump over the Ukraine scandal, but then hold off on transmitting the articles. He predicted it would strengthen Senate Minority Leader Chuck Schumer’s (D-N.Y.) hand “in bargaining over trial rules” with Senate Majority Leader Mitch McConnell (R-Ky.) — amid concerns of potential bias in a trial by Republicans — because McConnell and Trump want “to get this whole business behind them.” McConnell has vowed to continue working with Trump’s defense team for the trial. O’Donnell on Thursday asked Tribe if this is “where you hoped we would be at this stage after passing the articles of impeachment?” “Exactly,” Tribe responded. “I hoped that my op-ed would encourage a dialogue generated by the fact that for

the first time we have a majority leader who is going to be essentially the foreman of the jury and who promises to have his fingers crossed when he takes the oath.”

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Alexander Hamilton Had Faith in a ‘Dignified’ Senate Trial

An article by **Cass Sunstein**: Senator McConnell, meet Alexander Hamilton. In the last weeks, a lot of people who followed the hearings in the U.S. House of Representatives became familiar with Hamilton’s definition of an impeachable offense as “the abuse of violation of some public trust.” But nearly everyone has neglected Hamilton’s brisk, essential discussion of the obligations of the U.S. Senate in impeachment trials – a discussion that casts a bright light on what Republicans and Democrats are obliged to do. The date was March 7, 1788. The occasion was the Federalist Papers – specifically, No. 65.

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What if the House doesn’t send the impeachment articles to the Senate? Idea championed by Harvard Law’s Laurence Tribe garners attention

Some House Democrats are pushing Speaker Nancy Pelosi to withhold the articles of impeachment that are expected to be approved by the House Wednesday, an idea that has been championed by Harvard Law School Professor **Laurence Tribe**. The notion of impeaching Trump but holding the articles in the House, which could delay a trial in the Senate for months, has gained traction among some of the political left... “Senate rules requiring the House to ‘immediately’ present its articles of impeachment to the Senate clearly violate the constitutional clause in Article I giving each house the sole power to make its own rules. It’s up to the House when and how to prosecute its case in the Senate,” Tribe said.

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Pelosi threatens to delay Senate impeachment trial

Speaker Nancy Pelosi refused to commit Wednesday to delivering articles of impeachment to the Senate, citing concerns about an unfair trial on removing President Donald Trump from office. Senior Democratic aides said the House was “very unlikely” to take the steps necessary to send the articles to the Senate until at least early January, a delay of at least two weeks and perhaps longer...Pelosi’s remarks follow similar comments from House Majority Leader Steny Hoyer, the second-ranking lawmaker in the House, who said Democrats must discuss a last-ditch gambit to delay sending articles of impeachment to the Senate...Hoyer said Democratic colleagues have approached him in recent days, citing an op-ed by constitutional lawyer **Laurence Tribe** in which he calls on Democrats to delay sending impeachment articles to the Senate until McConnell agrees to run a fairer process. “Under the current circumstances, such a proceeding would fail to render a meaningful verdict of acquittal,” Tribe wrote. Notably,

House Judiciary Committee Democrats huddled with Tribe earlier this month as they practiced behind closed doors for their series of impeachment hearings.

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“I Pray for the President All the Time”: In Praise of How Nancy Pelosi Has Navigated Impeachment

On Wednesday, Nancy Pelosi, a Democrat from California and the Speaker of the House, opened the floor debate in an irreconcilable House of Representatives on the impeachment of President Donald Trump...The final tally will also exhibit anew the country’s unrelenting political divisions. In all likelihood, Trump will be acquitted next month, in a similarly one-sided, partisan manner, in the Senate. It is a depressingly predictable set of outcomes and one that will, inevitably, raise questions about both the point of the entire exercise and the wisdom of Pelosi’s decision to pursue impeachment in the first place...For all the second-guessing of Pelosi’s actions, it is difficult to conceive of a responsible alternative path to the one she chose...impeachment cannot function properly in an age of hyper-partisanship. “To succeed, an impeachment must transcend party conflict,” **Laurence Tribe** and Joshua Matz write in their book “To End a Presidency.” “Since the 1990s, however, impeachment has become increasingly entangled with the daily grind of partisan politics. As a result, the president’s political opponents are quick to frame their major disagreements in terms of impeachment. The president’s supporters, in turn, are quick to dismiss even legitimate impeachment talk as a partisan conspiracy to nullify the last election.”

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Trump’s Impeachment Letter Gets Constitution Wildly Wrong

*An article by **Noah Feldman**:* Impeachment seems to have struck a nerve in President Donald Trump. On the eve of the House’s impeachment vote, he sent a six-page public letter to Speaker Nancy Pelosi, replete with self-justification, recrimination, and accusation. I will leave the psychological profiling to others. My job is to address the constitutional arguments, such as they are, in the extraordinary document. They may or may not be made again on the floor of the Senate in the upcoming trial; regardless, Trump has now made them part of the historical record. The constitutional talk starts right up top, in sentence two, in which Trump writes that “the impeachment represents an unprecedented and unconstitutional abuse of power by Democrat Lawmakers, unequalled in nearly two and a half centuries of American legislative history.”

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Giuliani Hints at New Defense: So What If Trump Did It?

*An article by **Noah Feldman**:* Slowly but perceptibly, the Trump administration is moving towards a concrete defense in the president’s Senate impeachment trial: Not that Donald Trump didn’t pressure Ukraine to investigate Joe and Hunter Biden, but that he did — and that there’s nothing wrong with it. The latest indication of this direction comes from the president’s

personal lawyer, Rudy Giuliani, who in a couple of press interviews has acknowledged his role in advising President Trump to arrange the firing of the U.S. ambassador to Ukraine, Marie Yovanovitch, because Giuliani believed she stood in the way of getting those investigations. If Trump wanted to focus on the impeachment defense that there was no quid pro quo and that he innocently asked for the investigations in order to fight corruption, then it would be genuinely crazy for his personal lawyer to reveal the specifics of how and what he communicated to the president. Giuliani's statements are terribly harmful to Trump's case — and he has now effectively waived attorney-client privilege, so he could be called to testify.

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Mitch McConnell wants a show trial — but Democrats don't have to give him one

Republicans have handed Democrats a political gift by making it clear they plan on acquitting President Trump after the most minimal Senate impeachment trial possible. The question is whether Democrats can seize this opportunity. In a divided Congress, House Democrats control one important weapon...they can withhold the articles of impeachment from the Senate — meaning that no impeachment trial can occur until the Republican Senate leadership agrees to some approximation of a fair and thorough process...Harvard Law professor **Laurence Tribe** recently tweeted that if McConnell “rejects these reasonable ground rules and insists on a non-trial, the House should consider treating that as a breach of the Senate's oath and withholding the Articles until the Senate reconsiders.” He later clarified in a follow-up tweet that “by ‘withholding’ the Articles I don't mean not voting for them — I mean voting for them but holding off on transmitting them to the Senate.” Tribe elaborated on this idea further in an email to Salon, comparing this process to a corrupt trial in criminal court: “Imagine this scenario: A prosecutor about to obtain a grand jury indictment learns that the foreman of the trial jury (whose members, for purposes of this thought experiment, we'll have to assume are known in advance, as is the case with the Senate though not in the typical criminal case) has threatened to let the accused decide how the trial will be conducted — and has intimated that it will be a ‘trial’ in name only, one orchestrated in close coordination with defense counsel. Other key jurors also announce that they don't intend to listen to any evidence but have already made up their minds to acquit.”

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Don't let Mitch McConnell conduct a Potemkin impeachment trial

*An op-ed by **Laurence Tribe**:* For some time now, I have been emphasizing the duty to impeach this president for abuse of power and obstruction of Congress regardless of what the Senate might end up doing. Now that President Trump's impeachment is inevitable, and now that failing to formally impeach him would invite foreign intervention in the 2020 election and set a dangerous precedent, another option seems vital to consider: voting for articles of impeachment but holding off for the time being on transmitting them to the Senate. This option needs to be taken seriously now that Majority Leader Mitch McConnell (R-Ky.) has announced his intention to conduct not a real trial but a whitewash, letting the president and his legal team call the shots. Such an approach could have both tactical and substantive benefits. As a tactical matter, it could strengthen Senate Minority Leader Charles E. Schumer's (D-N.Y.) hand in bargaining over trial rules with McConnell because of McConnell's and Trump's urgent desire

to get this whole business behind them. On a substantive level, it would be justified to withhold going forward with a Senate trial.

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A Brief Guide to the Weird Constitutional Rules on Impeachment

*An article by **Noah Feldman**:* The jockeying has already begun over the structure of President Donald Trump’s Senate trial. Senate Majority Leader Mitch McConnell has discussed it with the White House counsel; Senate Minority Leader Charles Schumer has sent McConnell a letter proposing detailed protocols. All this action, even before the House of Representatives has formally impeached Trump, might be making you wonder: Isn’t there some pre-existing trial protocol required by the Constitution? Do we really have to have a debate about how the trial is going to run before it actually happens? The short answers are no, there isn’t a clear constitutional mandate for what the Senate trial should look like; and yes, there really does have to be a fight about what procedures the Senate will use in trying Trump. This seems like a crazy way to do things, but it reflects the framers’ recognition that impeachment as they knew it from England had always had a political side, and their reticence about putting too much detail in the Constitution.

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Bloomberg Opinion Radio: Weekend Edition for 12-13-19

Hosted by June Grasso. Guests: Liam Denning, Bloomberg Opinion energy columnist: “Saudi Aramco’s \$2 Trillion Dream Isn’t About Oil.” **Noah Feldman**, Harvard Law Professor and Bloomberg Opinion columnist: “We Know What the Framers Thought About Impeachment.” Leonid Bershidsky, Bloomberg Opinion columnist: “Facebook Just Can’t Seem to Beat the Russians.” Faye Flam, Bloomberg Opinion columnist: “Satellites Are Changing the Night Sky as We Know It.” Joe Nocera, Bloomberg Opinion columnist: “Fannie and Freddie Make 30-Year Mortgages Possible.”

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Mr. Feldman goes to Washington

This week, the House Judiciary Committee announced and approved two articles of impeachment. Why two instead of 10? Why is this process moving so quickly? And why are Democrats prioritizing trade deals the same week as impeachment? Vox’s Jen Kirby answers the key questions on Impeachment, Explained. **Noah Feldman** is a Harvard Law professor and one of the constitutional scholars who testified at the House Judiciary Committee’s hearing. He joins me to talk about what he saw, what he learned, and the Republican argument that truly scared him.

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Harvard Law Professor Dismantles Key GOP Argument Against Impeachment Of Trump

Harvard constitutional law professor **Laurence Tribe** on Wednesday took apart a key Republican argument against the impeachment of President Donald Trump over the Ukraine scandal. Tribe, appearing on MSNBC's "All In with Chris Hayes" said some Republicans were "missing the point" by claiming abuse of power (one of two articles of impeachment that House Democrats have released against Trump, the other being obstruction of Congress) is "not a crime." "It is the highest crime against the Constitution," said Tribe. "And in this case the impeachment articles are carefully written to show the aggregating circumstances." "This isn't just using the president's power to benefit himself," Tribe added. "But it's doing that in a way that endangers our national security and that corrupts the electoral process by inviting foreign involvement." Tribe, who advised the House Judiciary Committee on how to draft the articles of impeachment, earlier explained why the articles were "the classic high crimes and misdemeanors."

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Impeachment articles are 'high crimes' Founders had in mind

*An op-ed by **Noah Feldman**:* The articles of impeachment under consideration by the House clearly allege high crimes and misdemeanors under the Constitution. Apart from the factual truth of allegations, the articles comport with the definition of impeachable conduct. Start with abuse of office for personal advantage or gain, directly aimed at distorting the electoral process. For the Framers, this conduct was the classic form of a high crime or misdemeanor. Their words demonstrate as much. At the Constitutional Convention in 1787, George Mason of Virginia warned of the "danger" that presidential electors could be "corrupted by the candidates." Corruption meant the conferral of improper benefits for personal gain. James Madison worried about the presidency being used for a scheme of "peculation," in other words, self-dealing or embezzlement for personal advantage. What is more, the two impeachment trials best known to the Framers both involved abuse of office for improper personal gain.

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This is the silent political revolution of 2020

*An op-ed by **Lawrence Lessig**:* As the Democratic Primary kicks into high gear, it is increasingly clear that 2020 could give America a choice that it has not had since Richard Nixon resigned: An election that promises critical change to our political system. At least 7 of the remaining candidates in the Democratic primary have committed to making fundamental government reform their first priority in office. We have not been this close to real change of America's politics since the Voting Rights Act of 1965. It is therefore time that the candidates' plans — and how they differ — become the focus of more media attention. Michael Bennet, Pete Buttigieg, Tulsi Gabbard, Amy Klobuchar, Tom Steyer, Elizabeth Warren and Andrew Yang have promised both to make this reform happen, and to happen first. This itself is a first in the history of American politics.

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Experts on impeachment: Is this the express-lane version — or a Democratic masterstroke?

On Tuesday, Democratic leaders in the House of Representatives announced that they would move forward with two articles of impeachment — involving abuse of power and obstruction of Congress — against President Donald Trump...Those two articles, in the words of **Laurence Tribe**, the eminent Harvard Law professor and constitutional expert, “charge President Trump with massive crimes against the Constitution and against the American people.” Tribe shared his thoughts on the House Judiciary Committee’s proposed articles with Salon by email on Tuesday morning, saying they lay out the most serious abuses of power ever alleged against a sitting president. “The abuses of power they charge, including unforgivable and ongoing obstruction of congressional efforts to invoke the impeachment power to hold the President accountable to his Oath of Office, with ‘actions . . . consistent with [his] previous efforts to undermine United States Government investigations into foreign interference with United States elections’ in 2016, are the most serious ever charged against any sitting president. And the evidence supporting the two charges, which the Articles clearly and unambiguously summarize, is so overwhelming that only an unwillingness or inability to face the facts could lead anyone to conclude that President Trump is innocent of the accusations soberly leveled in the Articles.”

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The Legal Strategy Behind Keeping Impeachment Simple

*An article by **Noah Feldman**:* The House Judiciary Committee has announced plans to consider two articles of impeachment against President Donald Trump. Because Democrats control the Committee and the House, it is now very close to a foregone conclusion that Trump will be impeached. It’s remarkable and historically significant that the committee will consider just two very focused articles of impeachment. Andrew Johnson’s impeachment featured 11 articles. Richard Nixon, who managed to resign after the House Judiciary Committee approved articles of impeachment but before the House adopted them, faced three. Bill Clinton was impeached with two articles — but they contained four and seven subparts respectively, corresponding to four alleged grand jury lies and seven alleged acts of obstruction of justice. In contrast, Trump will face charges that are extraordinarily simple and compact.

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What Are High Crimes and Misdemeanors? Here’s the History

On Tuesday, House Democrats unveiled two articles of impeachment against President Donald Trump, marking only the fourth time in American history that a President has faced impeachment charges. They included two specific accusations — one of abusing the power of his office and another of obstructing Congress’s investigation into his relationship with Ukraine — that fall under the umbrella of “high crimes and misdemeanors.”...To understand what the framers thought “high crimes and misdemeanors” meant, Harvard Law professor **Jennifer**

Taub points to Alexander Hamilton's Federalist Paper No. 65, in which he explains the impeachment process. "The subjects of its jurisdiction are those offenses which proceed from the misconduct of public men, or, in other words, from the abuse or violation of some public trust," Hamilton wrote in 1788.

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Lawmakers And Counsel Clash In Judiciary Committee Hearing

House Democrats summarized their case for the impeachment of President Donald Trump before the Judiciary Committee in a sometimes contentious hearing Monday, as Republicans repeatedly issued motions that interrupted the proceedings, and pushed back on both the process and the body of evidence. To discuss, Jim Braude was joined by retired federal judge **Nancy Gertner**, now a senior lecturer at Harvard Law School, and former state treasurer Joe Malone, who supports Trump.

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Evidence Points To Trump Impeachment: Harvard's Feldman (Radio)

Noah Feldman, Harvard Law professor and Bloomberg Opinion columnist, on impeachment and his testimony to Congress. Hosted by Lisa Abramowicz and Paul Sweeney.

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Justice Roberts Will Avoid Partisanship At All Cost (Podcast)

Noah Feldman, Harvard Law professor and Bloomberg Opinion columnist, on the impeachment of President Trump, and his testimony to Congress. Anand Srinivasan, Senior Semiconductor and Hardware Analyst for Bloomberg Intelligence, on China pushing for more removal of foreign tech. Luca Paolini, Chief Strategist of London-based Pictet Asset Management, on his 2020 market forecast and why [...]

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Constitution, not Trump, at the core of American democracy

It was Donald Trump's calculation that a large percentage of Americans resided in a vegetative state that spawned his candidacy for president...So it no longer shocks that nearly half of America remains untroubled by what House Judiciary Committee member Jamie Raskin (D-Md.) described last week as a "one-man crime spree," conducted by the president of the United States...The Constitution, Trump has proclaimed, permits him "to do whatever I want as president." Whatever points he earns for candor should surely be subtracted for the open confession to a totalitarian, wholly un-American ideology. This was the point the constitutional scholars called by the Judiciary Committee made effort upon effort to drive home to the American people. The purpose of impeachment, Harvard Law School Professor **Noah**

Feldman noted, was to prevent a monarchy, to ensure that “Congress could oversee the president’s conduct, hold him accountable and remove him from office if he abused his power.”

[Lire le texte intégral sur !\[\]\(869f8db8cb6058a4d20fc99f4521bf06_img.jpg\) Boston Herald »](#)

This isn’t a partisan hit job; Trump deserves to be impeached

An Op-Ed by Nancy Gertner: While an impeachable offense is, as Gerald Ford said, “whatever a majority of the House of Representatives considers it to be,” and while the usual rules of courtroom evidence don’t apply in impeachment proceedings, Ford’s description doesn’t do justice to the House Intelligence Committee’s impeachment report released Tuesday. The White House and many Republicans on the House Judiciary Committee say — wrongly — that the impeachment of President Trump is a partisan hit job. But the report outlines evidence of presidential misconduct that would be compelling in any court. In fact, if the evidentiary rules were what Republicans say they are, hardly anyone would ever be convicted of a crime. No, the president isn’t out of the woods because he didn’t fall on his sword and confess, although he came very close. The argument that the case against Trump can’t succeed without a confession by him reminds me of the drug dealers who believed that they couldn’t be convicted if they spoke in code and didn’t say the word “cocaine.”

[Lire le texte intégral sur !\[\]\(f024d36410e36011059c73f7d7908105_img.jpg\) Boston Globe »](#)

Trump and the Meaning of Impeachment: My Testimony Before Congress

An expanded form of the testimony Noah Feldman delivered to the House Judiciary Committee on December 4, 2019. Mr. Chairman and Members of the Committee: I’m here today at the request of the Committee to describe why the framers of our Constitution included a provision for impeaching the president; what that provision means; and how it applies to the pressing question before you and the American people: whether President Donald J. Trump has committed impeachable offenses under the Constitution. I will begin by stating my conclusions: The framers provided for impeachment of the president because they wanted the president, unlike the king, to be controlled by law, and because they feared that a president might abuse the power of his office to gain personal advantage, corrupt the electoral process, and keep himself in office. “High crimes and misdemeanors” are abuses of power and public trust connected to the office of the presidency. On the basis of the testimony presented to the House Intelligence Committee, President Trump has committed impeachable high crimes and misdemeanors by corruptly abusing the office of the presidency. Specifically, President Trump abused his office by corruptly soliciting Ukrainian President Volodymyr Zelensky to investigate his political rivals in order to gain personal advantage, including in the 2020 presidential election.

[Lire le texte intégral sur !\[\]\(2becda4813f27b5edb43f5299d7596ac_img.jpg\) The New York Review of Books »](#)

America’s ‘Founding Fathers’ star in Trump impeachment hearing

The framers of the 232-year-old U.S. Constitution played a central role in Wednesday’s impeachment hearing as constitutional law professors outlined the case for, and against, ousting Republican President Donald Trump...Harvard Law School professor **Noah Feldman** said he

believed the framers of the Constitution “would identify President Trump’s conduct as exactly the kind of abuse of office, high crimes and misdemeanors, that they were worried about. “And they would want the House of Representatives to take appropriate action and to impeach.”

[Lire le texte intégral sur !\[\]\(8c38bcc0fae4558cd7ebc6fc44ec565d_img.jpg\) Reuters »](#)

Bennington College to host conversation on impeachment

In an effort to educate the community about the impeachment process of President Donald Trump, Bennington College will host Vermont Law School professor **Jennifer Taub** in a public conversation on the impeachment hearings this Sunday at 6 p.m...Taub told the Banner she plans to orient people to where the impeachment process stands now, look at language pertaining to impeachment in the Constitution, and consider what the articles of impeachment were in the cases of former presidents Bill Clinton and Richard Nixon. “And [we’ll] talk about where I think the House Judiciary Committee is going to head, in terms of articles [of impeachment] here,” Taub said. “And then I also want to answer people’s questions,” she said. “I want to spend a lot of time doing that, because I think folks have a lot of questions. There’s a lot coming at us.”

[Lire le texte intégral sur !\[\]\(2c3352433bff267ed8ae00945ed009eb_img.jpg\) Bennington Banner »](#)

Once Trump thought Mueller exonerated him — he was at it again with Ukraine: Harvard’s Laurence Tribe

Harvard Law Professor **Laurence Tribe** explained during an MSNBC appearance that the reason Democrats are so intent on a speedy trial is that President Donald Trump is trying to fix the election for 2020 right now. Speaking to Lawrence O’Donnell, Tribe said that one of the strongest reasons for impeaching Trump is that he continues to do what he did with Russia because special counsel Robert Mueller said that he couldn’t indict Trump. In the case of Russia, there was an argument that the Trump team didn’t know what they were doing. By now, they should know that it is illegal to work with a foreign government on a US election. Yet, that’s what they’re doing by trying to manipulate Ukraine.

[Lire le texte intégral sur !\[\]\(9cc80862e225935f5e2ce39495f8c582_img.jpg\) Raw Story »](#)

Pelosi to deliver public statement on Trump impeachment

House Speaker Nancy Pelosi announced Thursday she would deliver an unusual public statement on the status of the House impeachment inquiry into President Donald Trump. On Wednesday, Pelosi met behind closed doors with her Democratic caucus, asking, “Are you ready?” The answer was a resounding yes, according to those in the room...Three leading legal scholars testified Wednesday to the House Judiciary Committee that Trump’s attempts to have Ukraine investigate Democratic rivals are grounds for impeachment, bolstering the Democrats’ case...**Noah Feldman**, a Harvard Law School professor, said he considered it clear that the president’s conduct met the definition of “high crimes and misdemeanors.” Said Michael Gerhardt, a University of North Carolina law professor, “If what we’re talking about is not impeachable ... then nothing is impeachable.”

[Lire le texte intégral sur !\[\]\(a48045bf840f60e99d28ce32cf91bb81_img.jpg\) Chicago Tribune »](#)

Feldman: This is what the framers anticipated...

Noah Feldman of Harvard Law School testified in front of the House Judiciary Committee on Wednesday that the framers of the Constitution created impeachment for actions that align “precisely” with what President Trump is accused of doing. “The framers reserved impeachment for situations where the president abused his office. ... In particular, they were specifically worried about a situation where the president used his office to facilitate his own reelection,” Feldman said. “... That is precisely what the framers anticipated.”

[Lire le texte intégral sur !\[\]\(397cc4c04b5e7ea225dbaa029a5dee1f_img.jpg\) CBS News »](#)

Feldman: A President who doesn't cooperate puts himself above the law

When asked if there was sufficient evidence to charge President Trump with the high crime and misdemeanor of obstruction of Congress, Professor **Noah Feldman** of Harvard Law School argued that “putting yourself above the law as president” is an impeachable offense.

[Lire le texte intégral sur !\[\]\(b73fbe1f68c0c0158be408bb873fa9d8_img.jpg\) CNN »](#)

Harvard Law Professor Feldman: ‘The Words Abuse of Office Are Not Mystical or Magical’

Harvard Law Professor **Noah Feldman** testifies before the House Judiciary Committee on why he thinks President Donald Trump’s actions are impeachable.

[Lire le texte intégral sur !\[\]\(a5ce6bf60513915c4be97f191363167f_img.jpg\) NBC New York »](#)

Trump's Ukraine shakedown

*An article by **Michael Klarman**:* On Wednesday, the House Judiciary Committee will convene a panel of constitutional scholars to provide historical context for the impeachment inquiry and particularly the meaning of the Constitution’s impeachment standard of “treason, bribery, or high crimes and misdemeanors.” Were I appearing on that panel, this is what I would say: Much of the research for the statement derives from my work on “The Framers’ Coup: The Making of the United States Constitution.” On July 25, 2019, President Trump asked Ukrainian president Volodymyr Zelensky for “a favor.” Considering the evidence unearthed by the House Intelligence Committee in its totality, and keeping in mind that impeachment proceedings do not require us to suspend our common sense, it is clear that President Trump conditioned a much sought-after White House visit for the Ukrainian president, as well as the delivery of nearly \$400 million appropriated by Congress for Ukrainian defense, on the Ukrainian government’s doing Trump two personal favors.

[Lire le texte intégral sur !\[\]\(e088a60aba18ad7619b846dde34cd067_img.jpg\) Boston Globe »](#)

The Intelligence Committee's report is a triumph

Some observers of the impeachment hearings conducted under the auspices of the House Intelligence Committee bizarrely concluded that the proceedings lacked “pizzazz.” While that is a ridiculous metric for evaluating an inquiry into gross misconduct by the president, no one will find the report on those hearings and on other evidence boring. It’s got pizzazz to spare...Constitutional scholar **Laurence H. Tribe** comments, “The evidence of those suspicious Giuliani phone calls with [Vladimir] Putin-linked thugs reinforces the overwhelming case that the American president was directing a criminal conspiracy to conscript US military aid and the august powers of his office to benefit himself and his own reelection at the expense of the national security.” He adds, “If this isn’t impeachable and removable conduct, we’re done as a constitutional republic.”

[Lire le texte intégral sur ^{top}Washington Post](#) »

Stop calling Trump a ‘Russian dupe.’ The truth is much worse.

You hear it constantly: President Trump is a “Russian dupe.” Republicans spreading lies about Ukrainian interference in 2016 are Vladimir Putin’s “useful idiots.” By getting Trump to adopt those lies rather than admit to Russian interference, the Russian leader has skillfully played on Trump’s “ego.” As the impeachment inquiry heads into its next phase, such phrases will be everywhere. In a New York Times editorial that excoriates Trump and Republicans over the Ukraine lie, we get this: “In Mr. Trump, Mr. Putin found the perfect dupe to promote even the most crackpot of theories.” It’s time for a reconsideration of this concept... We now know that the lie about Ukrainian interference has been a mainstay of self-absolving Russian propaganda for years. But Trump hasn’t been duped into spreading it. He explicitly recognizes an alliance of his own interests with those of Russia in doing so (and in procuring whatever other outside help he can) in corrupting U.S. liberal democracy for his own malevolent self-interested purposes. This has implications for impeachment. As Harvard Law School professor **Noah Feldman** will argue to the Judiciary Committee, impeachment binds the president to the rule of law, as a remedy against abuses of power to advance nakedly corrupt self interest.

[Lire le texte intégral sur ^{top}Washington Post](#) »

Impeachment Proceedings Move to New Stage

House Democrats take on the task of deciding whether President Trump’s campaign for Ukraine to launch investigations aimed at American political players constitutes grounds for impeachment, an effort that will put the focus on a cornerstone of the U.S. Constitution and test the unity of the Democratic caucus. The Democratic-led House Judiciary Committee hears Wednesday from four law professors—three called by Democrats and one by Republicans—to help frame the debate...**Noah Feldman**, a Harvard University law professor who also testifies Wednesday, came to a similar conclusion. “President Trump’s conduct described in the testimony and evidence clearly constitutes an impeachable high crime and misdemeanor under the Constitution,” he said in prepared testimony. “President Trump abused his office by

soliciting the president of Ukraine to investigate his political rivals in order to gain personal political advantage, including in the 2020 presidential election.”

[Lire le texte intégral sur ^{WSJ}Wall Street Journal »](#)

Harvard professor who will testify before Judiciary Committee literally wrote book on constitutional law

Noah Feldman literally wrote the book on constitutional law. The Harvard Law School professor, who will be one of four academics testifying Wednesday before the House Judiciary Committee as it probes the legal grounds for impeaching President Trump, coauthored the textbook “Constitutional Law.” But that is only the tip of the iceberg of the prolific writing of the prominent public intellectual. He coauthored another textbook, on the First Amendment, as well as seven other nonfiction books that covered topics ranging from President James Madison to America’s “church-state problem” to the rise and fall of the Islamic State. The Boston native is also a Bloomberg News opinion columnist and hosts a podcast called “Deep Background.” He has contributed to the New York Times magazine and New York Review of Books. And he does not shy away from various media appearances. Feldman “specializes in constitutional studies, with a particular emphasis on the relationship between law and religion, free speech, constitutional design, and the history of legal theory,” according to the Harvard Law website.

[Lire le texte intégral sur ^BBoston Globe »](#)

Trump Impeachment Is Based on Law, Not Politics

*An article by **Cass Sunstein**:* With the coming impeachment vote in the House and a possible trial in the Senate, the U.S. has reached a rare defining moment...In the Federalist No. 65, Hamilton explained that impeachment is designed for offenses proceeding “from the abuse or violation of some public trust. They are of a nature which may with peculiar propriety be denominated POLITICAL, as they relate chiefly to injuries done immediately to the society itself.” That explanation was designed to assure We the People that their president, repository of the executive power, would not be a king.

[Lire le texte intégral sur ^BBloomberg »](#)

Dems eye taking fight over McGahn testimony to impeachment trial

Legal experts say the fight over whether White House counsel Don McGahn must testify under subpoena before Congress could be settled at the Senate impeachment trial before it finishes its path through the courts. A federal judge on Monday ruled against the Trump administration, deciding that McGahn must comply with a House Judiciary Committee subpoena seeking his testimony... “Technically, the Senate sets its own rules, including evidentiary ones, and has the power to reject the presiding officer’s rulings by majority vote,” said **Mark Tushnet**, a professor at Harvard Law School. He added that there’s no guarantee Roberts would be willing to go along with Democrats’ requests for witnesses, even in light of Monday’s ruling against the Trump administration. “The McGahn ruling won’t matter one way or the other, except to the extent that Roberts finds its reasoning persuasive,” Tushnet said. “And it may be worth

noting that Judge Brown Jackson has a pretty good reputation as a careful — though of course liberal — judge.”

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Politifact: Donald Trump Says Impeachment is a Coup

Amid the pressure of a House impeachment inquiry, President Donald Trump has continued to stoke the idea that he’s the victim of a coup — shorthand for “coup d’etat,” a French term that means the overthrow of the government...The key element of a coup is that it is carried out beyond the bounds of legality...Impeachment is explicitly described in the Constitution as the way to remove a president who has committed “high crimes and misdemeanors.” **Michael Klarman**, a Harvard Law School professor, told us that you can’t get much more within the bounds of legality than an explicit power outlined in the Constitution. “It’s obviously not a coup for the House to launch impeachment proceedings,” Klarman told us in early October.

[Lire le texte intégral sur !\[\]\(0e60d2d9b679b4cf53dbe1e685ee345d_img.jpg\) NBC Miami »](#)

WBUR Legal Analyst On The Impeachment Hearings

Nancy Gertner, retired federal judge, WBUR’s legal commentator, and senior lecturer at Harvard Law School, walks us through what we learned from the impeachment hearings last week and what’s next.

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If Pompeo doesn’t testify, he should be impeached

U.S. Ambassador to the European Union Gordon Sondland implicated numerous senior officials and President Trump in a plan to extort Ukraine: No White House meeting until the Ukrainians announced an investigation into nonexistent dirt on former vice president Joe Biden...Secretary of State Mike Pompeo, according to Sondland, played a key role in the plot and in obstruction of Congress. As such, Pompeo needs to appear as a witness or face impeachment himself... “The Sondland testimony puts Pompeo (as well as Trump, of course) squarely inside impeachment territory — and, under a normal Justice Department, in indictment territory as well,” says constitutional scholar **Laurence Tribe**. “There is no [Office of Legal Counsel] memo suggesting that a sitting secretary of state is immune from indictment and prosecution, and this one was deeply engaged, if Sondland is to be believed, in a conspiracy to commit bribery and extortion, to violate federal election law against foreign interference, and to obstruct justice, including obstructing congressional investigations.”

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Democrats pivot to ‘bribery’ term in Trump impeachment inquiry

House Speaker Nancy Pelosi was once very reluctant on impeachment, but has now used the term ‘bribery’ to describe communications between Donald Trump and Ukraine’s president, in

discussion of possible impeachable offenses. Harvard constitutional scholar **Laurence Tribe** joins Joy Reid to discuss this and more regarding the impeachment inquiry of the president.

[Lire le texte intégral sur !\[\]\(76571bca9499390beeae0a355d0e74a9_img.jpg\) MSNBC »](#)

Legal experts point out the giant flaw in Trump's claims about rooting out Ukraine corruption

Legal experts are noticing that President Donald Trump wasn't asking for a real investigation of Joe Biden, only one that could provide fodder for the news media. Witnesses in the impeachment inquiry have testified that Trump wanted Ukrainian president to announce an investigation into Joe Biden and his son Hunter in an interview with CNN, in exchange for congressionally approved military aid or a White House visit. "Trump demanding a Zelensky announce an investigation of Biden, 'in front of a microphone' gives the game away," tweeted **Jennifer Taub**, a professor at Vermont Law School [and visiting professor at Harvard Law School]. "If the real goal was to investigate corruption, a CNN announcement would be the wrong approach. Genuine investigations are kept secret."

[Lire le texte intégral sur !\[\]\(5f2ad55541d1c76614ad618336f6fa7b_img.jpg\) Raw Story »](#)

Democrats sharpen their message on impeachment

In a last-minute move, Democrats are shifting their impeachment rhetoric and talking points just days before the first public hearings into President Trump's handling of foreign policy in Ukraine. The televised hearings mark a crucial phase in an investigation conducted thus far behind closed doors, as Democrats seek to swing public opinion — and by extension, that of Republicans — behind the central inference of their impeachment inquiry: that Trump broke the law and should be removed from office... **Laurence Tribe**, professor of constitutional law at Harvard University, suggested the Democrats' references to a quid pro quo were a tactical mistake for a party hoping to sway public sentiment. And he welcomed the shift to more clearly defined terms. "It's easier for the public to understand English-language concepts like 'bribery' and 'extortion' than it is for most people to plumb the meaning of the Latin phrase 'quid pro quo,'" Tribe said Monday in an email, "and public comprehension is essential to the proper use of the impeachment power." Tribe, a frequent Trump critic, rattled off a host of additional reasons he thinks the more explicit terms will prove more effective for Democrats taking their impeachment case public.

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Harvard Legal Scholar Brings Historical Perspective to Impeachment Process

Cass Sunstein, a professor at Harvard Law School and one of the nation's top administrative legal scholars, spoke about the constitutional history of impeachment at a Harvard Coop lecture last Thursday... Sunstein's lecture was primarily focused on providing a historical perspective on the impeachment process. He explained how there was a great deal of debate amongst the Founders regarding how impeachment should be defined in the U.S. Constitution. "Virginia's

[Constitutional Convention delegate] George Mason was the most eloquent. He said ‘No point is of more importance than that the right of impeachment should be continued... Shall any man be above Justice? Above all shall that man be above it, who can commit the most extensive injustice?’...Sunstein did turn to the question of President Trump’s impeachability during the Q and A portion of the event. He said that many of the previous concerns over Trump’s presidency — that he’s unfit for the office, that he’s violating the oath of office — don’t meet the threshold for impeachable offenses.

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Will Giuliani be squarely in the middle of the impeachment inquiry?

Professor **Laurence Tribe** speaks with Anderson Cooper.

[Lire le texte intégral sur !\[\]\(7e158529ea7f91aa508dd203dce07ad5_img.jpg\) CNN »](#)

Legal experts: Gordon Sondland’s revised testimony could seal Donald Trump’s doom

According to several legal experts, the revised testimony on the Ukraine scandal by Gordon Sondland, the U.S. ambassador to the European Union, is highly damaging to President Trump. In his new statement, Sondland admitted that Ukrainian President Volodymyr Zelensky knew he U.S. would withholding military aid until his country granted Trump’s request for an investigation of the company that employed Hunter Biden, the son of former Vice President Joe Biden. This is a crucial piece of evidence suggesting that the U.S. president that committed a serious ethical violation, and perhaps a crime. Harvard Law professor **Laurence Tribe** told Salon by email that Sondland’s statement “contributes to the overwhelming evidence that President Trump abused his power and engaged in bribery and extortion by illegally conditioning the military aid Congress had voted for Ukraine upon President Zelensky’s willingness to help him in the 2020 election by announcing an investigation into Hunter Biden.”

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There’s nothing that should stop John Bolton from testifying

The Post reports, “Former national security adviser John Bolton is willing to defy the White House and testify in the House impeachment inquiry about his alarm at the Ukraine pressure campaign if a federal court clears the way, according to people familiar with his views.” Nothing prevents Bolton from coming to testify about his knowledge of the Ukraine scandal. Other, current administration officials have been told not to testify based on a bogus absolute immunity theory. Nothing — other than Republican attacks — happens to them as a result of responding to a lawful subpoena. They face no “defiance of a ludicrous executive directive” jail... “It’s particularly ridiculous for Bolton to await some judicial ruling about his obligations to testify under oath to what he knows about a presidential abuse of power so grave that he described it to colleagues as akin to a ‘drug deal’ when other civil servants have risked their careers and endured presidential taunts and threats to speak truth to power in the face of an unprecedented White House order that they all clam up,” says constitutional scholar **Laurence Tribe**. He observes that Bolton’s “oath to support the U.S. Constitution

should matter more to him than his loyalty to the person now occupying the White House and, frankly, his interest in maximizing the royalties from whatever tell-all book he plans to write.”

[Lire le texte intégral sur !\[\]\(e664663439e6ace920117d2b3d75b910_img.jpg\) Washington Post »](#)

Harvard Law Professor: ‘More Than Enough Evidence Now’ Against Donald Trump

Harvard constitutional law professor **Laurence Tribe** on Thursday warned that “the United States of America is in real danger” as he broke down the latest developments in the ongoing impeachment inquiry into President Donald Trump. “We’ve got a president who is willing to compromise our national security by hurting a country that is a buffer zone between an expanding Russia and the NATO alliance by undermining the Ukraine,” Tribe told CNN’s Anderson Cooper about the ongoing fallout from Trump’s July phone call with Ukraine’s president. During the call, Trump had requested his counterpart to dig up dirt on his potential Democratic 2020 rival Joe Biden allegedly in exchange for the release of military aid.

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Public Impeachment Hearings Will Start with a Bang

*An article by **Noah Feldman**:* It’s no surprise that Ambassador William Taylor is expected to be the first witness to testify when the House of Representatives opens public impeachment hearings against President Donald Trump next week. First, he’s an astoundingly credible witness — straight from central casting, as Trump himself likes to say about some of his appointees. As a matter of prosecutorial strategy, that makes him an ideal first witness for House Democrats to lay out their case for the first time to the public. Second, the content of Taylor’s deposition was extraordinarily damning. That’s because it nailed Trump’s abuse of power, the fundamental element of the “high crimes and misdemeanors” for which Democrats aim to impeach.

[Lire le texte intégral sur !\[\]\(825a36b09fc56e9eaf2c1cd6e83cbde6_img.jpg\) Bloomberg Opinion »](#)

Is John Roberts Going to Bail Out Donald Trump?

We’ve known for several weeks that John Roberts, as the presiding officer in any impeachment trial, is likely to have a major role in deciding the fate of Donald Trump’s presidency. The past few days, though, have crystallized just how significant a part the chief justice will play; not just in the Senate trial itself, but in determining what evidence House investigators will be able to collect even before there is a vote on whether or not to impeach Donald Trump... What will it do to the court’s credibility if Roberts opts to let his court play defense for this president based on Calvinball-grade legal arguments about shooting people in the street? In regard to the lower courts, one might expect there to be some set of rules governing when and how the judicial branch decides to fast-track litigation with such major implications for our democracy and the rule of law. Harvard Law School constitutional scholar **Laurence Tribe** told me, however, that the decision to hasten or slow-walk vital litigation turns on nothing more than the temperament and preferences of individual district court and appeals court judges who happen to be assigned a case.

[Lire le texte intégral sur !\[\]\(8c57b89803f96ec6a85c7bf6d7f021a5_img.jpg\) Slate »](#)

What Happens When a President and Congress Go to War?

In early October, President Trump’s White House counsel, Pat Cipollone, sent a defiant letter to four leaders of the House of Representatives. No one in the Trump administration, Cipollone declared, would participate in the impeachment inquiry that Speaker Nancy Pelosi opened in September after Trump’s phone call with President Volodymyr Zelensky of Ukraine came to light. “Because participating in this inquiry under the current unconstitutional posture would inflict lasting institutional harm on the executive branch and lasting damage to the separation of powers, you have left the president no choice,” Cipollone concluded...But what if an increasingly conservative judiciary — Trump has had more than 150 judges confirmed — comes down definitively on the side of executive power? “Be careful what you wish for,” said **Jack Goldsmith**, a Harvard law professor and alumnus of George W. Bush’s Justice Department. Congress has powers of its own that it has gotten out of the habit of using, he argued. “Literally everything the executive branch does requires funding,” Goldsmith said. “And of course the House controls spending.”

[Lire le texte intégral sur !\[\]\(eb3ff164f79f6658783ec1f6462fa176_img.jpg\) New York Times »](#)

Laurence Tribe: Trump “is not above the law and he will learn his lesson”

The White House tried to justify its refusal to comply with Democrats’ subpoenas by claiming that their impeachment inquiry is unconstitutional. **Laurence Tribe** explains to Lawrence O’Donnell why that White House argument is “legally vacuous” and would be rebuffed by the courts for putting the president above the law.

[Lire le texte intégral sur !\[\]\(ed6754fb969b73e72f998151e17d90e7_img.jpg\) MSNBC »](#)

Republicans Try Different Response to Ukraine Call: Quid Pro Quo Isn’t Impeachable

Since the impeachment inquiry into President Trump began, most Republicans in Congress have made the argument that the president’s decision to withhold military aid to Ukraine in exchange for investigating a political opponent was not a quid pro quo or an abuse of power. But after a partisan House vote last week opening up a public phase of the inquiry — and a parade of government officials who testified to Congress that there was a quid pro quo — some in Mr. Trump’s party are testing out a new refrain: Even if a quid pro quo existed, it is not grounds for impeachment. They are merely concerned...**Laurence H. Tribe**, a Harvard law professor and an author of “To End a Presidency,” a book on impeachment, said the gamble that the most vocal Republicans appeared to be taking was that Mr. Trump — who as a candidate boasted that he could shoot someone on Fifth Avenue and get away with it — had succeeded in essentially saying “so what?” before...“I think the logic is the logic of the big lie,” Mr. Tribe said. “That if you repeat something often enough loudly enough to people who are not being critical in their analysis of what they’re hearing, you may just get away with it.”

[Lire le texte intégral sur !\[\]\(e82bb7a73cab40c77fe69a7e55ffd735_img.jpg\) New York Times »](#)

Grondahl: Constitutional scholar outlines impeachable offenses

Cass Sunstein, a Harvard Law School professor and a leading constitutional law scholar, has written one of the most compelling books on impeachment. Just don't ask him if President Donald Trump should be impeached. "Of course he should be," Sunstein writes in the preface to a newly reprinted edition of his book, "Impeachment: A Citizen's Guide." He adds, "He obstructed justice not once but ten times." In the next paragraph Sunstein writes: "Alternatively: Of course he shouldn't be. The very question is ridiculous." He adds, "This book does not choose between these two views. It does not say whether President Donald Trump should be impeached."

[Lire le texte intégral sur !\[\]\(a81f8d41ac7696d4fce540895b15f10f_img.jpg\) Times Union »](#)

MSNBC LIVE | Impeachment: The White House in Crisis

HLS Visiting Professor **Jennifer Taub** comments on impeachment inquiry.

[Lire le texte intégral sur !\[\]\(528cbe9ac1a51f0d9458cf024e824c0c_img.jpg\) MSNBC »](#)

Attorney General Maura Healey On Impeachment, Vaping, And The Opioid Crisis

Massachusetts Attorney General Maura Healey joined us Thursday for a regular check-in as the state's top law enforcement official. We discussed the recent impeachment vote in the House of Representatives, Governor Baker's vaping ban, and her office's lawsuits against Purdue Pharma and ExxonMobil. But, first, we hear the latest on impeachment from our legal analyst. Guests: ... **Nancy Gertner**, former Massachusetts federal judge, senior lecturer on law at Harvard Law School and WBUR legal analyst.

[Lire le texte intégral sur !\[\]\(d415b5172fecdbaea44b7ff6524f4d79_img.jpg\) Radio Boston »](#)

As Trump moves to bully witnesses and derail impeachment, Democrats see obstruction

President Trump has sought to intimidate witnesses in the impeachment inquiry, attacking them as "Never Trumpers" and badgering an anonymous whistleblower. He has directed the White House to withhold documents and block testimony requested by Congress. And he has labored to publicly discredit the investigation as a "scam" overseen by "a totally compromised kangaroo court." ... **Laurence Tribe**, a constitutional law scholar at Harvard Law School who has informally advised some Democratic House leaders, said Trump's actions are unprecedented. "I know of no instance when a president subject to a serious impeachment effort, whether Andrew Johnson or Richard Nixon or Bill Clinton, has essentially tried to lower the curtain entirely — treating the whole impeachment process as illegitimate, deriding it as a 'lynching' and calling it a 'kangaroo court,'" Tribe said.

[Lire le texte intégral sur !\[\]\(d712197455531032a2813693de4188a4_img.jpg\) Washington Post »](#)

Laurence Tribe: Democrats Should Focus On Simple Story In Making Their Impeachment Case

The U.S. House of Representatives on Thursday passed a resolution that formalizes the impeachment probe against President Trump. The resolution outlines the next steps of the inquiry, authorizing the chairman of the House Intelligence Committee to conduct open hearings and the president and his attorneys to cross-examine witnesses. ... For a discussion of the significance of the resolution, Harvard law professor and constitutional expert **Laurence Tribe**, who's long called for Trump's impeachment, joined WBUR's Morning Edition.

[Lire le texte intégral sur](#)  [WBUR](#) »

Harvard Law's Laurence Tribe Explains Significance Of Impeachment Probe's Next Phase

The U.S. House of Representatives is set to vote Thursday on a resolution that moves its impeachment probe against President Trump into a new phase. The vote could clear the way for articles of impeachment against the president for allegedly withholding aid from Ukraine unless that country investigated Democratic presidential candidate Joe Biden's family. For a look at the significance of the move, Harvard law professor and constitutional expert **Laurence Tribe** joined WBUR's Morning Edition host Bob Oakes.

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What the impeachment resolution does not say is as important as what it does

The Post reports, "House Democrats unveiled new procedures for the impeachment inquiry of President Trump on Tuesday, responding to Republican demands for due process by setting out rules for future public hearings delving into whether Trump should be removed from office." This will be the House Intelligence Committee Chairman Rep. Adam B. Schiff's (D-Calif.) show...Constitutional scholar **Laurence Tribe** tells me, "The procedures this resolution would put in place are well adapted to bringing the truth to light in a way that respects historical precedent, gives the president and his defenders a full and fair opportunity to challenge his accusers and to present his defense, gives members on both sides of the aisle an equal chance to test the evidence and finally gives the American people the opportunity they have been waiting for to decide whether the sitting president has shown himself to be a danger to the republic."

[Lire le texte intégral sur](#)  [Washington Post](#) »

What Do Scholars Say About the Impeachment Power?

An article by **Patrick McDonnell** ('21), **Jacques Singer-Emery** ('20), and **Nathaniel Sobel** ('20): Then-Rep. Gerald Ford once defined an impeachable offense as "whatever a

majority of the House of Representatives considers it to be at a given moment in history.” But legal scholars have concluded that impeachment is considerably more law-governed, and constrained, than Ford suggested. They draw on clues from the Founders, the text and structure of the Constitution, and the history of presidential impeachments (and near-impeachments) to make varying arguments about the impeachment power and the range of impeachable offenses. For this post, we read eleven of the leading scholarly works on impeachment so that you don’t have to...And of a more recent vintage, we cover a collection of Trump-inspired works, including books by **Cass Sunstein**, **Laurence Tribe** and Joshua Matz.

[Lire le texte intégral sur !\[\]\(b6caec9f099fb8657f94ea092216c378_img.jpg\) Lawfare »](#)

What Pelosi is up to with Thursday’s impeachment vote

The Post reports: “House Democrats said Monday that the House will vote Thursday to formalize procedures for the next phase of the impeachment inquiry into President Trump. Democrats said the move would ‘ensure transparency and provide a clear path forward’ as the inquiry continues.” Contrary to the claims of Republicans partisans and some sloppy reporting, this does not authorize the inquiry. The impeachment proceedings are already underway. The main purpose is to set forth how the inquiry will proceed and undercut Republican complaints of lack of transparency...So why bring this up now, especially after a court held in Democrats’ favor? One possibility is that in preparing an article of impeachment on obstruction of Congress, Pelosi does not want to leave a crack open whereby Trump’s lawyers would say, well, he had a good-faith belief the impeachment process was not officially underway. Constitutional scholar **Laurence Tribe** approves of Pelosi’s move. “This resolution makes perfect sense now that the House leadership has wisely decided to forgo further judicial jockeying and to move expeditiously to public hearings,” he argues. “Calling the Trump administration’s bluff this way will make it clear that the continued stonewalling of the administration — and of those current and former officials who use the administration’s gag order as an excuse for seeking what amount to advisory judicial opinions on whether to comply with congressional subpoenas — is just a stalling tactic, not a good-faith effort to resolve conflicting obligations when confronted with a subpoena from Congress and a directive from the White House to defy that subpoena.”

[Lire le texte intégral sur !\[\]\(befdcdf329f4bc1566e8bd49d7971740_img.jpg\) Washington Post »](#)

Trump Advisers Shouldn’t Be Immune From Impeachment Inquiry

*An article by **Noah Feldman**:* According to the White House, senior advisers who work closely with the president have “absolute immunity” from congressional subpoena on matters related to their official duties. That’s what the Trump administration is telling former deputy national security adviser Charles Kupperman — and almost certainly telling former national security adviser John Bolton. Kupperman, caught between a House subpoena and a presidential directive not to testify, went to the federal district court in Washington, D.C., on Friday to ask what he should do. To answer him, the court will likely have to rule on whether the claim of absolute immunity holds water or not.

[Lire le texte intégral sur !\[\]\(1c70f21f694d12b9fc928edb998ea27b_img.jpg\) Bloomberg View »](#)

Court Ruling on Trump Impeachment May Defuse Constitutional Crisis

An article by Noah Feldman: In an important development, a federal district court in Washington, D.C. has pointed the way to a possible resolution of the standoff between President Donald Trump and the House of Representatives over the legitimacy of the impeachment inquiry. The court's ruling signals that at least part of the judiciary is prepared to help resolve the emerging constitutional crisis — by deciding in favor of Congress and against the president.

[Lire le texte intégral sur !\[\]\(c7774dea93eb10ead3ed0542c77a8534_img.jpg\) Bloomberg View »](#)

Constitutional scholar issues dire warning: Impeach Trump or our democracy 'will fail'

A constitutional scholar tells CNN's Fareed Zakaria that American democracy is in real danger of failing if the House of Representatives fails to impeach President Donald Trump. In a clip aired on CNN Friday morning, Harvard Law School professor **Noah Feldman** tells Zakaria that the mechanics of the Constitution make it clear that impeachment is the sole way an American president can be held accountable for high crimes and misdemeanors. In particular, Feldman says that he believes it is wildly implausible to argue that Trump was not seeking a thing of personal value from Ukraine when he asked its government to launch an investigation into former Vice President Joe Biden. "It's extremely clear that it is a quid pro quo," he said. "It's laughable to think that the president was not trying to gain personally by investigating Joe Biden."

[Lire le texte intégral sur !\[\]\(675ef7f53d3bd4a69f2bfe6acc6c2026_img.jpg\) Raw Story »](#)

Democrats Have an Impeachment Momentum Problem

An op-ed by Noah Feldman: To understand where the impeachment inquiry has gone so far, and where it's likely to go next, you need to keep in mind one key concept. Hint: it's not quid pro quo. It's momentum. To date, House Democrats have built on the original whistle-blower's document by eliciting behind-closed-doors depositions from those officials in the State Department, Defense Department, and White House who are willing to defy Donald Trump's order not to participate. By leaking the headlines of their testimony, the Democrats have been able to dominate the news cycle for weeks.

[Lire le texte intégral sur !\[\]\(3d12067139d6a2b0989a839672a8beec_img.jpg\) Bloomberg View »](#)

Trump's Defense Playbook: From 'No Quid Pro Quo' To 'Hearsay'

Defenders of President Donald Trump have gone past their "no quid pro quo" claim to allege "hearsay" to denounce the testimony of acting ambassador William Taylor that further implicated the president in the growing Ukrainian scandal. Also on the defensive, Sen. Lindsey Graham told reporters Thursday that he and Senate Majority Leader Mitch McConnell will introduce a resolution to condemn the impeachment inquiry. He is urging the House to make the hearings public and allow for cross-examination — something Democrats are reportedly planning to do sometime in November. To discuss, Jim Braude was joined by **Jennifer Taub**,

a professor at Vermont Law School and a visiting professor at Harvard Law this semester who also serves on the Board of Advisors for the group Impeach Trump Now, and William Weinreb, former acting U.S. Attorney and lead prosecutor of Boston Marathon bomber Dzhokhar Tsarnaev.

[Lire le texte intégral sur !\[\]\(9ec46ccf39110b98e9de4be0362c59b6_img.jpg\) WGBH »](#)

Legal scholar: This is a model case for impeachment

Harvard law professor **Laurence Tribe** shares with CNN's Anderson Cooper why he thinks President Donald Trump's decision to withhold military aid from Ukraine amounts to an impeachable offense.

[Lire le texte intégral sur !\[\]\(1d44e689db7887f5f7d7a4ea2fb82e45_img.jpg\) CNN »](#)

What an impeachment trial of Donald Trump might look like

Alexander Hamilton warned in 1788 that impeachment risks “agitat[ing] the passions of the whole community” and spurring “pre-existing factions” to “animosities, partialities, influence and interest”. The process, he wrote, carries the “greatest danger” that “real demonstrations of innocence or guilt” will amount to little in the face of raw political calculations. But the constitution carves a path around the maelstrom, Hamilton insisted: the United States Senate will have the “sole power to try all impeachments” sent its way by the House of Representatives. ...Keeping the Senate proceedings “civil and orderly”—a task that the constitution assigns to the chief justice—may be a struggle, says **Laurence Tribe**, a Harvard law professor and co-author of “To End a Presidency”. The previous chief justice, William Rehnquist, said of his role in the impeachment trial of Bill Clinton in 1999 that “I did nothing in particular, and I did it very well.” John Roberts, the chief today, faces a more partisan environment but, Mr Tribe says, will seek to emulate his predecessor.

[Lire le texte intégral sur !\[\]\(11e336dad78f2436226fb664886901af_img.jpg\) The Economist »](#)

Forget Smoking Gun. Harvard Law Professor Says There's A 'Smoking Howitzer' On Trump.

Laurence Tribe on Wednesday suggested that Democrats are now in possession of the “smoking Howitzer” with which to impeach President Donald Trump. The Harvard constitutional law professor told CNN's Anderson Cooper he believed House Speaker Nancy Pelosi (D-Calif.) was “wise to hold off” until last month to begin an impeachment investigation, after she had “what amounts to not just a smoking gun, but a smoking Howitzer.”

[Lire le texte intégral sur !\[\]\(d1714a7609c81149f0a84903636f0f81_img.jpg\) Huffington Post »](#)

Impeachment bombshell: Trump's top aide 'absolutely' admits Ukraine bribery plot

Trump's Acting Chief of Staff Mick Mulvaney admits Ukraine aid was withheld over a political investigation Trump wanted. Mulvaney said the White House "absolutely" tied the funding to a DNC probe and told critics to "get over it." The quid pro quo revelation reportedly has Trump lawyers "stunned" as Trump's impeachment strategy crumbles and more Ukraine witnesses come forward to testify. [Featuring **Jennifer Taub**, Bruce W. Nichols Visiting Professor of Law at Harvard Law School]

[Lire le texte intégral sur !\[\]\(c60ce5f1586b7dcb9ed6bccf6949cf15_img.jpg\) MSNBC »](#)

Testify or Not? It's a Legal Pickle for Trump Officials

*An article by **Noah Feldman**:* Your boss, the president of the United States, directs you not to help Congress in the impeachment inquiry he considers illegitimate. Then you get a subpoena from the House of Representatives Intelligence Committee ordering you to appear and testify under oath — or face contempt charges if you don't. Other than call a lawyer, what are you supposed to do next? For growing number of Trump administration officials, this isn't a hypothetical situation. Since White House counsel Pat Cipollone's Oct 8 letter refusing Trump administration participation in the House impeachment inquiry, five current or freshly resigned foreign policy officials have chosen to testify before the inquiry despite being told to keep quiet. Meanwhile, some officials under subpoena haven't yet agreed to testify. And the White House has so far blocked the release of many, but not all, of the documents subpoenaed by the House. It's possible to depict the subpoenaed officials who have agreed to appear as heroes, choosing service to the republic over personal loyalty to the president. That may even be true of some of them. But the legal reality of their dilemma makes things a little more complicated.

[Lire le texte intégral sur !\[\]\(540594218497cab4bac946b0ce928b87_img.jpg\) Bloomberg Opinion »](#)

Trump actions look 'clearly' impeachable, says leading conservative legal figure

Jack Goldsmith, a former top Justice Department lawyer in the George W. Bush administration, thinks that President Trump deserves to be impeached, but the conservative legal scholar is also critical of how the Democrats are going about the process. President Trump's actions in the Ukraine scandal appear to be "clearly" impeachable and are "probably the 300th thing Trump has done that's an impeachable offense," Goldsmith told Yahoo News in an interview on the "Long Game" podcast. But he also lamented the impact of a few Democratic mistakes, such as House Intelligence Committee Chairman Adam Schiff's misleading answers on whether he or his staff had been in touch with the whistleblower whose complaint sparked the impeachment inquiry. "In the general scheme of things, what Schiff did doesn't even compare to what the president did," Goldsmith said. But, he said, it nonetheless "was deeply unfortunate." "It's significant because 40-some-odd percent of this country believes that the Democrats and the deep state have been violating norms and skirting norms to try to reverse the election [of 2016]," Goldsmith said. "I don't think that's the proper characterization, but when the president's opponents cut corners, don't tell the truth, seem like they're in league with bureaucrats to try to bring down the president, it just fosters that narrative and I think it's a very destructive narrative."

[Lire le texte intégral sur !\[\]\(38c152d00a877a70f84c28a2599081db_img.jpg\) Yahoo News »](#)

The Role of OMB in Withholding Ukrainian Aid

*An article by **Jacques Singer-Emery JD '20** and **Jack Goldsmith**:* One of the most damning allegations in the whistleblower complaint is that President Trump pressured Ukrainian President Volodymyr Zelensky to investigate former Vice President Joe Biden and his son by withholding congressionally approved military aid. The amounts include \$250 million from the Defense Department and \$141 million from the State Department. As debates swirl over the existence and significance of a presidential quid pro quo, it is worth examining the underlying mechanics of how the White House might have withheld the money. The answer lies in the Office of Management and Budget (OMB), which is responsible for overseeing all executive agency spending. That is why on Oct. 7 the chairmen of three House Committees—Oversight and Reform, Intelligence and Foreign Affairs—sent letters to subpoena documents from the acting director of OMB, Russell Vought, in addition to Secretary of Defense Mark Esper. The subpoena to Vought ordered him to produce “all documents and communications in your custody, possession, or control referring or relating to” various matters linked to the withholding or deferral of congressionally appropriated funds to Ukraine. The deadline to respond to the subpoena was Oct. 15, yesterday, and Vought made clear that he would not comply.

[Lire le texte intégral sur !\[\]\(9744027c2462738a4b8ec7d9c6615183_img.jpg\) Lawfare »](#)

The Trump Impeachment Inquiry Should Become Public

*An article by **Noah Feldman**:* If you’re following the House of Representatives impeachment inquiry into Donald Trump, you may be wondering why you aren’t seeing video clips of testimony by crucial witnesses. The answer is: it’s all happening in secret, not so much to protect national security, but to manage the political process of the inquiry. There are some plausible reasons to justify the ongoing secrecy of depositions being made before the House Intelligence Committee. But the secrecy can’t go on indefinitely. As the contours of the case against Trump become known, it’s time for House Democrats to start moving towards public testimony and a more transparent inquiry.

[Lire le texte intégral sur !\[\]\(43c95d78c31334a179428700d39030ee_img.jpg\) Bloomberg Opinion »](#)

Impeachment Brings A Week Of High-Profile Testimonies

The impeachment inquiry of President Donald Trump is proceeding apace this week with closed-door testimonies each day from various actors within the Trump administration, including former Europe advisor Fiona Hill yesterday and Ambassador Gordon Sondland on schedule for Thursday. Hill’s testimony yesterday revealed the sharp divisions within the White House this summer over Rudy Giuliani’s shadow agenda in Ukraine, including former National Security Advisor John Bolton’s deepening distrust of Trump’s attorney’s activities. To discuss all this and more, Jim Braude was joined by Jennifer Bracer, a senior fellow with the conservative organization Independent Women’s Forum, and retired federal Judge **Nancy Gertner**, now a professor at Harvard Law School.

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Trump's Procedural Rights Curbed During Impeachment Inquiry, Legal Scholar Says

Attorneys for President Donald Trump were wrong to think they should have the right to cross-examine witnesses, and call their own individuals, in the impeachment inquiry from Democrats in Congress, prominent legal scholar **Cass Sunstein** said Tuesday evening. That was part of Sunstein's comments at an event held by the New York State Bar Association at Fordham University School of Law in Manhattan. Sunstein, a professor at Harvard Law School, was invited to speak by the State Bar to talk about the legal process and ramifications of impeachment, which has been on the minds of many as Democrats continue their formal inquiry into Trump this week... "The argument was that the president has been denied due process because there's no cross examination going on in the House," Sunstein said. "The first thing to say is that it's not a criminal trial and there's no right in these things to cross examination."

[Lire le texte intégral sur !\[\]\(7e46b98862b032bac4dfd70e25da77c3_img.jpg\) Law.com »](#)

Hamilton Wouldn't Impeach Trump

An op-ed by Alan Dershowitz: What is an impeachable offense? Rep. Maxine Waters, chairman of the House Financial Services Committee, says the definition is purely political: "whatever Congress says it is—there is no law." She's wrong. At the Constitutional Convention of 1787, the Framers debated impeachment of a president. Some argued for the power of Congress to remove the president for "maladministration" or other open-ended terms that appeared in several state constitutions. Others, including James Madison, opposed such vague criteria, fearful that they would turn the republic into a British-style parliamentary system, in which Congress could remove a president over political differences—effectively a vote of no confidence. That, Madison argued, would be the "equivalent to tenure during pleasure of the Senate." The Framers wanted an independent president who could be removed only for genuine wrongdoing. So they agreed to the criteria that became part of the Constitution: "treason, bribery, or other high crimes and misdemeanors."

[Lire le texte intégral sur !\[\]\(51fa12e9938db9b91c0132320af2b84a_img.jpg\) Wall Street Journal »](#)

Impeachment Primer

Dahlia Lithwick is joined by all-star SCOTUS experts to walk us through this week's biggest legal and constitutional developments. First, **Laurence Tribe** answers the questions Amicus listeners have been asking about the next steps in the impeachment process. Next, Pamela Karlan takes us inside the chamber for Tuesday's oral arguments in a trio of Title VII cases at the high court.

[Lire le texte intégral sur !\[\]\(a30b5314efefb0416f322d92d9011828_img.jpg\) Slate »](#)

Trump impeachment support grows in new polls

Donald Trump's refusal to cooperate with the House's impeachment inquiry, in addition to his decisions on Syria, are the types of actions many believe could drive the president towards being impeached as an inevitable consequence. Constitutional law professor **Laurence Tribe** joins Joy Reid to discuss. Oct. 12, 2019

[Lire le texte intégral sur !\[\]\(15c9cca23297adb811cdb4a21b95fab3_img.jpg\) MSNBC »](#)

Giuliani Is a Sideshow. Trump's Abuse of Power Is the Main Event.

*An article by **Noah Feldman**:* The news that two associates of Rudy Giuliani have been charged with funneling illegal campaign contributions from Ukraine to the United States is inevitably intriguing to Democrats leading an impeachment inquiry against Donald Trump. But it's important to avoid going down a rabbit hole of Ukraine-Trump connections. That could distract the public from the core issue: That Trump pressured the president of Ukraine to investigate Joe Biden in exchange for releasing military aid.

[Lire le texte intégral sur !\[\]\(001db52133ab4d4e6f33ee52d8a36710_img.jpg\) Bloomberg Opinion »](#)

Impeachment: Legal Guide

Cass Sunstein, Harvard Law School professor and the author of *Impeachment: A Citizen's Guide* (Penguin Books, 2019), and **Henry Greenberg**, president of the New York State Bar Association and partner at Greenberg Traurig, LLP, discuss the legal issues surrounding impeachment.

[Lire le texte intégral sur !\[\]\(f985c1b56f6a89991588bb83755d7e08_img.jpg\) WNYC »](#)

Noted conservative lawyer on Trump: 'This man terrifies me'

Harvard Law School professor **Charles Fried** and Case Western Reserve Law professor **Jonathan Adler** explain why a speedy impeachment inquiry is necessary.

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Stalemate This Week In The Impeachment Inquiry. What Happens Next?

A war of words and a stalemate in Washington this week, after the White House declared that it will not cooperate with the impeachment inquiry. President Trump tweeted that the Democratic-led House inquiry was “a totally compromised kangaroo court.” Democrats said the president is obstructing justice, and vowed to press on. So, what happens now? Guests: **Noah Feldman**, professor at Harvard Law School. He tweets @noahfeldman. His piece in the New York Times is called “This Is a Constitutional Crisis. What Happens Next?” He tweets @noahfeldman. **Nancy Gertner**, former Massachusetts federal judge, senior lecturer at Harvard Law School and WBUR legal analyst. She tweets @ngertner.

[Lire le texte intégral sur !\[\]\(bfc7ba4486737525edb6839028ede2e8_img.jpg\) Radio Boston »](#)

Trump's Defiance of the House Inquiry Is Hard to Defend

*An article by **Cass Sunstein**:* The White House's fierce response to the impeachment inquiry by the House of Representatives, calling the enterprise “an unconstitutional effort” and a violation of “constitutionally mandated due process,” seems to make one commitment:

noncooperation. The key sentence in the eight-page letter, signed by White House counsel Pat A. Cipollone, is this: “Given that your inquiry lacks any legitimate constitutional foundation, any pretense of fairness, or even the most elementary due process protections, the Executive Branch cannot be expected to participate in it.”

[Lire le texte intégral sur !\[\]\(25569caef9d46f0e37a5ba4bb4eaed0e_img.jpg\) Bloomberg »](#)

This Is a Constitutional Crisis. What Happens Next?

*An op-ed by **Noah Feldman**:* For the first time since President Richard Nixon refused to turn over the White House tapes, the United States is facing a genuine constitutional crisis. To be sure, Donald Trump had already created a crisis in the presidency by abusing the power of his office to pressure foreign governments to investigate his political rival Joe Biden. But that act on its own didn’t count as a constitutional crisis, because the Constitution prescribes an answer to presidential abuse of office: impeachment. Now that President Trump has announced — via a letter signed by Pat Cipollone, the White House counsel — that he will not cooperate in any way with the impeachment inquiry begun in the House of Representatives, we no longer have just a crisis of the presidency. We also have a breakdown in the fundamental structure of government under the Constitution. That counts as a constitutional crisis.

[Lire le texte intégral sur !\[\]\(55b0a2686da11c3870ed1d6e9b9d2cd2_img.jpg\) New York Times »](#)

The time for waiting is over. The House must move on Trump impeachment articles now.

*An op-ed by **Laurence H. Tribe**:* The White House’s blanket stonewalling of the House impeachment inquiry into President Donald Trump isn’t just deeply troubling or further indirect evidence of the president’s underlying abuse of public power for private gain. It signals another clear ground for his impeachment: obstruction of Congress. Article III of the Nixon articles of impeachment provides the closest precedent to what Trump did here: He directed the State Department to prevent Gordon Sondland, the U.S. ambassador to the European Union, from testifying about what his texts revealed to corroborate the whistleblower complaint about a scheme to withhold military aid in order to extort Ukraine into meddling in the 2020 election. The White House counsel followed up by telling House leaders there would be no cooperation with an inquiry he called illegitimate and unfair.

[Lire le texte intégral sur !\[\]\(a14492e93ec06a030fa1190754ff1cf7_img.jpg\) USA Today »](#)

Impeachment: Chief Justice John Roberts would be the ‘umpire’ in Senate trial of President Trump

The late Chief Justice William Rehnquist was a busy man on Jan. 20, 1999. The impeachment trial of President Bill Clinton was in its second week, and Rehnquist had to stop presiding over an oral argument at the Supreme Court, cross the street, and preside over the Senate. One of the lawyers arguing before the high court that day was John Roberts. Once one of Rehnquist’s law clerks at the high court, Roberts could be juggling the same two jobs as his former boss soon. ... Restraint might be difficult in the current political environment, however. **Richard Lazarus**, a Harvard Law School professor and Roberts’ roommate when both were students

there in the 1970s, says Senate Democrats and Republicans worked together to set rules for the Clinton trial. That may be harder this time around. “He knows that when he crosses First Street, he’s going to be putting himself right in the middle of the workings of the political branch,” Lazarus says. “He’s going to work hard to keep above the fray.”

[Lire le texte intégral sur](#)  [USA Today](#) »

Trump’s Sweeping Case Against Impeachment Is a Political Strategy

Breathtaking in scope, defiant in tone, the White House’s refusal to cooperate with the House impeachment inquiry amounts to an unabashed challenge to America’s longstanding constitutional order. In effect, President Trump is making the sweeping assertion that he can ignore Congress as it weighs his fate because he considers the impeachment effort unfair and the Democrats who initiated it biased against him, an argument that channeled his anger even as it failed to pass muster with many scholars on Wednesday. ... **Jack Goldsmith**, a Harvard Law School professor and former senior Justice Department official under President George W. Bush, said Mr. Trump’s position was more political than constitutional. “The White House letter’s legal objections don’t have merit,” he said. “The letter, like the ‘official impeachment inquiry’ itself, is a hardball tactic designed to achieve maximum political advantage” before the public.

[Lire le texte intégral sur](#)  [New York Times](#) »

The Impeachment Loophole No One’s Talking About

A nugget of political arithmetic is suddenly everywhere: “Two-thirds majority.” This is the share of votes required to convict President Trump in an impeachment trial in the United States Senate. That’s 67 senators, if you’re counting—or, in the glass-half-empty variation, the number of Republican senators required to jump ship is 20. ... “The Constitution contains quorum requirements [elsewhere] and clearly distinguishes between percentages of a particular chamber and percentages of ‘members present,’” said **Laurence Tribe**, a professor of constitutional law at Harvard Law School and the co-author of the book *To End a Presidency: The Power of Impeachment*. “That language in the provision for Senate conviction on impeachment charges is quite deliberate, creating precisely the possibility” described above.

[Lire le texte intégral sur](#)  [Washingtonian](#) »

Laurence Tribe: Trump “Is Not Above The Law And He Will Learn His Lesson”

The White House tried to justify its refusal to comply with Democrats’ subpoenas by claiming that their impeachment inquiry is unconstitutional. **Laurence Tribe** explains to Lawrence O’Donnell why that White House argument is “legally vacuous” and would be rebuffed by the courts for putting the president above the law.

[Lire le texte intégral sur](#)  [MSNBC](#) »

These officials better lawyer up

Since the release of the astonishing transcript of the call between President Trump and Ukrainian President Zelensky, Democrats have, as one would expect, zeroed in on the multiple legal problems Trump created for himself. ... The Justice Department is trying to deny Barr has any role in this fiasco. (“An initial Justice Department statement on Barr’s role issued at the same moment the call notes were made public seemed only to rule out the attorney general being asked to work with Ukraine on such a probe, but a subsequent clarification broadened the denial to cover any presidential request to Barr to launch an inquiry into Biden.”) Even if this is true, the Justice Department found there was nothing wrong with Trump’s conduct. Are we to believe Barr didn’t know about that either? Constitutional scholar **Larry Tribe** tells me, “It’s inconceivable that Barr didn’t know, and the decision to treat the president’s manifestly criminal conversation with Ukraine’s leader, a mix of bribery and extortion, as not worthy of a referral for further investigation seems to me inexplicable unless one assumes either corrupt motives or gross stupidity or both.”

[Lire le texte intégral sur !\[\]\(05abdec45d3d9667a7f3c64e46754c68_img.jpg\) Washington Post »](#)

No, a ‘Failed’ Impeachment Attempt Doesn’t Nullify Donald Trump’s First Term and Let Him Serve a Third One

Legal experts have dismissed claims that President Donald Trump will be permitted to run for a third term if he is impeached by the House but the Senate fails to confirm it, branding them “categorically false.” ... Indeed, there appears to be an information gap generated by the announcement of the impeachment inquiry, given there are so few examples to draw from, explained professor at Harvard Law School **Cass Sunstein**, the author of *Impeachment: A Citizen’s Guide* and a former Administrator of the White House Office of Information and Regulatory Affairs in the Obama administration. “If a person is indicted by a prosecutor it’s not a trivial matter, even if there is no conviction, and you can see impeachment as similar to an indictment,” Sunstein told *Newsweek*. “It is a real mark on a human being and even more impeachment is a real mark on a president. There have only been two indictments in our history and they have both had a huge impact on what that person could do while president and also on their historical standing.”

[Lire le texte intégral sur !\[\]\(acbcc819a2c48b9c57ab40b0f53f2137_img.jpg\) Newsweek »](#)

Richard Nixon’s WH Counsel Sends ‘Urgent’ Message: ‘Trump Wants to End American Sovereignty’

... John Dean, the former Chief White House Counsel to Richard Nixon during the Watergate scandal, said Trump’s actions were contradictory to 230 years of American legal traditions. “URGENT: Trump wants to end America sovereignty by allowing foreign governments to help him win. It is against the law and 230 years of practice,” Dean Tweeted. “He wants American voters to choose elected leaders beholden to foreign powers, not Americans. The act of a dictator!,” he added. ... Harvard Law professor **Laurence Tribe**’s reaction invoked a similar tone. “So now Trump is openly asking CHINA to go after the Bidens!,” Tribe Tweeted. “He’s

poking the nation in the eye and daring us to hold him accountable for repeatedly violating American law and sovereignty. We have no choice but to remove him if we want to preserve our country.”

[Lire le texte intégral sur !\[\]\(deff98e7d21b22121d016f5c2fa86c38_img.jpg\) Law & Crime »](#)

What to Do If Congress Can't Get More Information

Since the Democrats gained control of the House, the Trump administration has taken the most extreme position on congressional oversight in American history: In essence, it has argued that no demand from Congress, for information about anything, to anyone in the executive branch, is binding on the president. While many presidents have struggled with the reach of congressional oversight, this administration has been particularly defiant. ... As I wrote on Tuesday, the beginning of a formal impeachment inquiry should strengthen Congress's hand as it seeks court enforcement of its demands for information. But should Congress even pursue such requests? **Laurence Tribe**, a professor at Harvard Law School, (whose recent book, *To End a Presidency*, co-written with Joshua Matz, explores many political and legal aspects of impeachment) told me in an email: The expectation that the evidence thereby made available will be explosive makes the impeachment process more difficult in circumstances like this, where the publicly known facts already justify a conclusion that the president committed high crimes and misdemeanors. That creates something of a paradox. The way in which a formal impeachment inquiry makes potentially incriminating evidence much more readily available tends to raise expectations and indirectly raises the bar for what it takes to impeach a president who abuses his powers for personal gain.

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The Founders Defined Treason to Protect Free Speech

*An op-ed by **Cass Sunstein***: President Donald Trump is not reluctant to accuse people of treason. On Sunday, Trump targeted Representative Adam Schiff, chair of the House Intelligence Committee, proclaiming on Twitter that he wanted the California Democrat “questioned at the highest level for Fraud & Treason.” On Monday, he elaborated, musing that a “fake and terrible statement” by Schiff might just be grounds for his “Arrest for Treason?” Trump's tweets are often over-the-top. But these were particularly heinous because they are inconsistent with a key provision of the U.S. Constitution, and call up the very concerns that motivated its drafting. Treason is the only crime specifically defined in the U.S. Constitution: Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort.

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'Uncharted Ground': All the Ways This Impeachment Fight Is Nothing Like Watergate

It's only natural for Americans wrapping their heads around the idea that Donald Trump might actually get impeached to think back to Richard Nixon. This was the premise of the first season

of the wildly popular podcast *Slow Burn*, the animating thread of so many late-night prognostications—on Twitter, at bars, at dinner with your parents—at the height of Robert Mueller’s investigation of Russian interference in the 2016 election. ... Well, for one thing, House Speaker Nancy Pelosi has formally launched an impeachment inquiry, a step Democrats never formally took amid Mueller Mania. And as **Noah Feldman**, a Harvard legal historian who has closely tracked the various investigations into Trump, explained over the course of two conversations this week, Pelosi’s reasoning was transparent: People can understand the idea of Trump bullying someone over the phone to go after a personal rival more easily than they can shadowy political consultants or dimwitted adult sons requesting the aid of hackers backed by Moscow. Or as Feldman—who said we are in “uncharted ground” at this point—put it, “The report produced by the [whistleblower] does in like four pages what Mueller couldn’t in 400,” adding, “So instead of the *Slow Burn*, we just had one big download... of the case to impeach.”

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Harvard’s Tribe on Why Impeachment Is Necessary (Podcast)

Constitutional scholar and Harvard Law Professor, **Laurence Tribe**, explains why the impeachment of President Trump is warranted and the path the House should take in drafting articles of impeachment. He speaks to Bloomberg’s June Grasso.

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If the House is going to impeach Trump, it better have a plan

*An op-ed by **Laurence Tribe**:* There is now powerful evidence that President Trump committed impeachable offenses by soliciting (and all but coercing) Ukraine’s president to interfere with the 2020 presidential election. House Speaker Nancy Pelosi has confirmed that the House will move swiftly to investigate this threat to democracy, national security, and the separation of powers. The first stages of that impeachment inquiry are already underway. It’s therefore important to think ahead about what should happen as the House inquiry unfolds — especially in the House Intelligence and Judiciary committees, chaired respectively by Adam Schiff and Jerrold Nadler. If the House is going to impeach the president, it better have a plan.

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How does impeachment work?

MSNBC’s Richard Lui outlines the process for impeaching a sitting U.S. President, and discusses the current impeachment inquiry into President Trump with **Cass Sunstein**, a Harvard University Law Professor and author of the book “Impeachment: A Citizen’s Guide,” Krishna Patel, a former assistant U.S. attorney, and Katie Phang, an MSNBC legal contributor. Sunstein provides background on what types of actions qualify as “impeachable offenses,” while Patel and Phang give their thoughts on what will happen next in regards to the impeachment inquiry. Phang also noted that while Senate Majority Leader, Mitch McConnell, could theoretically decide to go against a House impeachment vote and elect not hold a trial, that would be highly unlikely, as the optics would be very poor.

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One Easy-to-Draw Line on Impeachment: Inauguration Day

*An op-ed by **Cass Sunstein**:* Soon the House of Representatives will have to decide what, if any, alleged misconduct by President Donald Trump should go into formal articles of impeachment. Some of those decisions will be hard. But here's an easy one: Under the Constitution, the House should not consider any actions, however terrible, that Trump took before he became president. (There's one exception; we'll get to it in due course.) This principle has bite. For example, it would exclude Trump's alleged involvement in his lawyer's hush-money payments to cover up sexual encounters with the porn star Stormy Daniels and the Playboy model Karen McDougal. It would also exclude misconduct by Trump's businesses before 2017.

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Trump's 'Civil War' quote tweet is actually grounds for impeachment, says Harvard Law Professor

President Donald Trump's recent tweet quoting a longtime evangelical pastor who warned of a "Civil War" if Democrats seriously pursue removing him from office could actually be grounds for impeachment, one Harvard Law professor said. "If the Democrats are successful in removing the President from office (which they will never be), it will cause a Civil War like fracture in this Nation from which our Country will never heal," Trump tweeted on Sunday night. ... The president's tweet was immediately met with backlash, and Harvard Law professor **John Coates** argued that the social media post itself is an "independent basis" for lawmakers to remove him from the White House. "This tweet is itself an independent basis for impeachment – a sitting president threatening civil war if Congress exercises its constitutionally authorized power," Coates wrote on Twitter on Monday.

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A Special Counsel Must Investigate Rudy Giuliani and Bill Barr

*An article by **Noah Feldman**:* Believe it or not, it's time for a new special counsel investigation. Not targeting Donald Trump himself: Congress can and will investigate the president in the course of its impeachment inquiry. But as a result of the whistle-blower complaint, a separate investigation does need to get underway immediately. The Department of Justice must investigate Rudy Giuliani's potential crimes in trying to get Ukraine to interfere in the 2020 U.S. election. It also needs to investigate whether White House officials criminally covered up evidence of Trump's call with Ukrainian president Volodymyr Zelenskyy. And because the whistle-blower complaint alleges that the top law enforcement official in the federal government, Attorney General William Barr, "appears to be involved" in these events, a special counsel must be appointed.

[Lire le texte intégral sur !\[\]\(efccc0d52dfe8a33dc3b8ca5f8ee5473_img.jpg\) Bloomberg Opinion »](#)

Whistle-Blower Memo Shows Impeachable Crimes Beyond Trump-Ukraine Call

An article by Noah Feldman: The whistle-blower complaint against Donald Trump, in just a few pages, establishes the evidence for a quid pro quo between Trump and Ukrainian president Volodymyr Zelenskyy — unfreezing aid payments in exchange for investigating Joe Biden and digging into an unsupported fringe theory about the origins of the Trump-Russia collusion allegation. Second, it provides strong evidence that some in the Trump administration understood that Trump’s call to Zelenskyy was wrong and potentially criminal — and, third, that they took steps to cover it up. Despite its brevity, the whistle-blower complaint does just about everything that Robert Mueller’s report failed to do over several hundred pages: provide proof of Trump soliciting interference in a U.S. election from a foreign government. The complaint also documents Trump abusing his office for personal gain. Abusing one’s office for personal gain is a textbook definition of the federal crime of bribery and extortion. It’s also a textbook definition of an impeachable offense.

[Lire le texte intégral sur !\[\]\(e1fb41f4b2b70194bf6a365468b84fdd_img.jpg\) Bloomberg Opinion »](#)

The Importance of Adam Schiff

The Democrats don’t have a stellar recent record of conducting congressional hearings. They couldn’t figure out how to respond effectively to Brett Kavanaugh’s righteous anger or to ask some of the probing follow-up questions that his testimony raised. Democrats also struggled this year to turn hearings on the Russia scandal into the kind of compelling television that would move public opinion...I am glad to see that the party has given a central role to Adam Schiff of California, the chairman of the House Intelligence Committee. He’s a much more effective questioner and speaker than most members of the judiciary or oversight committees...Schiff “is focused like a laser on national security. That’s at the heart of why Trump must be impeached. He endangers the nation for his own benefit,” **Laurence Tribe** of Harvard Law School wrote this week.

[Lire le texte intégral sur !\[\]\(f6662514069ff48bdef07a1000762f95_img.jpg\) New York Times »](#)

Did Trump Just Impeach Himself?

The White House memo reconstructing a July phone call between President Donald Trump and Ukrainian President Volodymyr Zelensky landed on the internet on Wednesday like a dress that is either clearly blue and black or clearly white and gold, depending on the viewer. ... We asked a group of legal experts what to make of it all. ...

“The phone call ‘clearly establishes high crimes and misdemeanors’ ”

Laurence H. Tribe is a professor of constitutional law at Harvard Law School. The White House’s reconstruction of the phone call clearly establishes high crimes and misdemeanors, even if no further evidence were available. It shows a president responding to a desperate request by an ally for military assistance that he is secretly withholding by indicating that he might be able to help but—and his use of the word “though” is telling—he would appreciate the ally’s help in going after the former vice president and his son. ...

Trump revealed ‘his intent to use U.S. government resources and power to further his personal agenda’

Jennifer Taub is the Bruce W. Nichols visiting professor of law at Harvard Law School. Placed in its full context, this partial summary of this single 30-minute phone conversation

between Donald Trump and Ukrainian President Volodymyr Zelensky provides compelling evidence of an impeachable offense. Remember at the time of the call, President Trump was withholding \$250 million in military aid to Ukraine. Furthermore, this document itself states it is not a literal transcript, but based on “notes and recollections.”

[Lire le texte intégral sur Politico](#) »

President Trump’s Ukraine call and the dangers of personal diplomacy

President Trump’s comments in a phone call with Ukrainian President Volodymyr Zelensky in July have prompted the House of Representatives to launch an impeachment inquiry. Trump reportedly pressured his Ukrainian counterpart to investigate Joe Biden and the former vice president’s son, Hunter Biden, who served on the board of Burisma, a Ukrainian gas company. He also offered to enlist U.S. Attorney General William P. Barr and his personal attorney, Rudolph W. Giuliani, in that effort. Trump’s action — far from the first controversy the president has created while interacting with a foreign counterpart — appears to be a flagrant abuse of power. But it is one enabled by a system that extends presidents enormous freedom in conducting personal diplomacy with limited transparency and few checks on their power...Similarly, Trump often abruptly shifts American policy with little consultation with his aides, U.S. allies or Congress. And legally, he’s free to do so. “Putting it brutally, Article II gives the president the authority to do, and say, and pledge, awful things in the secret conduct of U.S. foreign policy,” Harvard law professor **Jack Goldsmith** tweeted. “That is a very dangerous discretion, to be sure, but has long been thought worth it on balance.”

[Lire le texte intégral sur Washington Post](#) »

There’s Plenty of Impeachment-Worthy Evidence in the Ukraine Call Transcript

An op-ed by Noah Feldman: A White House memo recording Donald Trump’s July phone conversation with Volodymyr Zelenskyy is damning. Trump’s request that the president of Ukraine initiate a corruption investigation into Joe Biden and his son Hunter wasn’t incidental. On the contrary, it appears to have been the point of the call, along with an additional request to investigate the origins of the Russian collusion allegations against Trump. Trump brought up the investigations nearly every time he opened his mouth. Zelenskyy responded positively, suggesting he got the point. There is more than enough evidence here to support an allegation that Trump was not merely asking the president of Ukraine “to do us a favor,” as he put it, but rather proposing a quid pro quo in which U.S. aid for Ukraine would be reinstated in exchange for an investigation into the Mueller investigation, and into Biden. That would constitute an abuse of power by the president of the United States for his own benefit, since Biden was and is the leading contender for the Democratic nomination to challenge Trump in 2020. Such an abuse, if proven, would almost certainly qualify as an impeachable offense.

[Lire le texte intégral sur Bloomberg View](#) »

Donald Trump’s call with Ukrainian president drips with impeachable crimes

An op-ed by Laurence Tribe: Let us count the ways. The White House readout of President Donald Trump’s phone conversation with Ukrainian President Volodymyr Zelensky shows that

the American president has committed a multitude of high crimes and misdemeanors, all of them impeachable. Even without considering the many prior offenses that were surfaced in the Mueller report and in the special counsel's prosecutions of numerous Trump allies and associates, including in the Southern District of New York, this readout — which must be the least incriminating version the White House could compose despite its remarkable skills at shading the truth or falsifying it altogether — is utterly devastating. The “high crimes and misdemeanors” that the readout reveals — to use the Constitution's term for impeachable offenses beyond “treason” and “bribery” (both of which the readout comes close to establishing) — begin with Trump abusing the foreign policy powers entrusted to the president by Article II in order to serve his own political interests rather than the interests of the American people.

[Lire le texte intégral sur](#)  [USA Today](#) »

On the road to impeachment? Legal and political experts weigh in

Harvard Law faculty **Charles Fried**, **Nancy Gertner** and **Ronald Klain** weigh in on the significance of the move toward impeachment of President Trump, and whether it will matter in the end if it reaches the Republican-controlled Senate.

[Lire le texte intégral sur](#)  [Harvard Gazette](#) »

What the Law Says About Impeachment and Trump's Ukraine Phone Call

*An article by **Noah Feldman**:* If it's true (and we may soon find out) that Donald Trump froze U.S. government aid to Ukraine and made it clear to the Ukrainian president that he would unfreeze it if Ukraine were to investigate Joe Biden, that is certainly an outrage. Depending on how you define the term, it may also be a “high crime” deserving of impeachment under the Constitution. But is it a crime under existing federal law? The answer turns out to be tricky. And if history is a guide, the question will be hotly debated in any process of impeachment.

[Lire le texte intégral sur](#)  [Bloomberg Opinion](#) »

As Calls Grow Louder, What Would The Impeachment Of President Trump Look Like?

Cass Sunstein, professor at Harvard Law and author of ‘Impeachment: A Citizen's Guide’, explains what the process would look like for President Trump.

[Lire le texte intégral sur](#)  [Cheddar](#) »

President Trump's Call With Ukraine President Raises Questions

There are more reactions today to a July call President Trump made in which he asked Ukraine's leader to investigate former Vice President Joe Biden and his son. This weekend, the president admitted to discussing the vice president and his son, Hunter, with Ukrainian president

Volodymyr Zelensky. “The conversation I had was largely congratulatory, largely corruption, all of the corruption taking place. Was largely the fact that we don’t want our people, like Vice President Biden and his son, creating to the corruption already in the Ukraine,” the president said. The call raises a number of critical questions, including whether the president acted unlawfully. Guests [include]...**Nancy Gertner**.

[Lire le texte intégral sur !\[\]\(081c33931122b4c6b164b34c75fc75c4_img.jpg\) WBUR »](#)

Congress Can’t Ignore a Clearly Impeachable Offense

An op-ed by Cass Sunstein: There are a lot of misconceptions about impeachment. Incompetence isn’t impeachable. It’s terrible for a president to violate the oath of office, but doing so is not, by itself, an impeachable offense. Even posing a danger to the American people isn’t a legitimate basis for impeachment. Under the Constitution, what is necessary is a “high crime or misdemeanor,” meaning an egregious abuse of presidential authority. Some crimes would not count; consider shoplifting or disorderly conduct. An action that is not criminal might be impeachable; consider a six-month vacation, an effort to jail political enemies or an abuse of the pardon power (by, for example, pardoning associates who have engaged in criminal activity at the president’s behest). If you want to understand what counts as impeachable, read the Declaration of Independence. The Constitution’s impeachment provisions were written against the background set by the Declaration. Read against that background, one thing becomes blindingly obvious: If the president has clearly committed an impeachable offense, the House of Representatives is not entitled to look the other way.

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