

STRIKE THREE: ON THE INDICTMENT OF FORMER U.S. PRESIDENT DONALD TRUMP

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August 04, 2023 12:10 am | Updated 12:10 am IST

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After facing prior charges relating to hush money paid to cover up an affair and the illegal retention of top-secret documents, former U.S. President Donald Trump has been indicted for the third time. The most recent felony charges stem from allegations that he sought to block the peaceful transfer of power by seeking to overturn the results of the 2020 presidential election, which current President Joe Biden won. The four charges at this juncture include conspiracy to defraud, witness tampering, conspiracy against the rights of citizens, and obstruction of and attempt to obstruct an official proceeding. The obstruction charges relate to the actions of Mr. Trump on January 6, 2021, when he is alleged to have incited a violent mob to march on the Capitol buildings in Washington even as lawmakers were meeting there to certify the election results, as required by law. The mob broke barricades and vandalised Congressional offices and property, injuring at least 140 law enforcement officers. A wide-ranging Justice Department investigation has led to the arrest and prosecution of more than 1,000 people said to be involved in one of the worst attacks on the very heart of U.S. democracy. Beyond the charges in the most recent indictment, Mr. Trump is also likely to be slapped with charges in the State of Georgia this month, relating to his attempts, in concert with allies, to overturn his 2020 election loss there.

Not surprisingly, Mr. Trump has denounced the indictment as evidence of the “corruption, scandal, and failure” of the Biden White House, and his lawyers have attacked it as being the “first time that the First Amendment has been criminalised”. U.S. politics is already shifting gear as it enters the deep end of the 2024 presidential election cycle. Mr. Trump leads by a significant margin the cohort of at least 14 Republican candidates seeking their party’s nomination for the election. Some legal experts say that even if he is found guilty in one or more of the indictment cases, there is nothing in the U.S. constitution that bars him from contesting the 2024 election. This could lead to the unprecedented situation of the U.S. being led by a convicted President, or a President who governs from prison, if not a President who takes office and then has all of his convictions dismissed. The bizarreness of this scenario is only exceeded by the extreme levels of political polarisation of the U.S. electorate across the liberal-conservative spectrum on a variety of critical issues including the role of the government in the economy, reproductive and civil rights, immigration, foreign policy and much more. Unless bipartisanship somehow gains a foothold in this deeply conflicted polity, there is a real risk that U.S. exceptionalism may soon be a thing of the past.

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