Judge Napolitano: Midterms Fallout & the Great Unraveling of Trump and America First

Judge Andrew Napolitano is a former New Jersey Superior Court Judge and the Host of Judging Freedom with Judge Napolitano. Follow Prof. Glenn Diesen: Substack: https://glenndiesen.substack.com/ X/Twitter: https://x.com/Glenn_Diesen Patreon: https://www.patreon.com/glenndiesen Support the research by Prof. Glenn Diesen: PayPal: https://www.paypal.com/paypalme/glenndiesen Buy me a Coffee: buymeacoffee.com/gdieseng Go Fund Me: https://gofund.me/09ea012f Books by Prof. Glenn Diesen: https://www.amazon.com/stores/author/B09FPQ4MDL 00:00 Introducing Judge Andrew Napolitano and the midterm question 01:07 Napolitano reads the election as a repudiation of Trump 05:28 How congressional control could constrain Trump 09:05 Could funding cuts create an exit from the Iran war? 11:47 A possible Middle East and Ukraine policy compromise 14:55 Why Napolitano says America First fell short 18:16 Who actually directs US foreign policy? 21:18 The intelligence community's reach and accountability 24:25 Intelligence agencies and the military-industrial complex 30:42 Trump, the JFK files, and the unanswered question of "they"

#Glenn

Welcome back, everyone. Today is November 4th, 2026, and we have the great privilege of being joined by Judge Andrew Napolitano, a former judge, attorney, legal scholar, author, and political commentator. I think most people know him as a former New Jersey Superior Court judge or as an analyst at Fox News, while others probably know him from his excellent podcast, Judging Freedom. I've left a link in the description, so make sure to follow it. Thank you for coming.

#Judge Napolitano

Well, it's a pleasure to be with you, Professor. Thank you for inviting me.

#Glenn

So you've just had the midterm elections, and I think it's safe to say they delivered a very predictable punishment to the Republican Party, which many consider to be essentially a referendum on Donald Trump. I was wondering, though, what are your takeaways from this referendum in terms of the state of democracy and also the position of the U.S. in world politics?

#Judge Napolitano

Professor Diesen, I think this was a personal repudiation of Donald Trump for his corruption, depravity, and incompetence on a monumental scale that even he and his closest advisers and

pollsters never anticipated. It produced a realignment of the parties. The information coming out this morning is showing that vast, vast numbers of young people, many of whom were part of the MAGA, Make America Great Again movement that supported him in his three runs for office, have totally deserted him and voted for the Democrats—not because suddenly they've become liberals or progressives or hard lefties, but because they're sick and tired of the war in Iran, its effects on the American economy, and Trump's indifference to those effects.

I believe that the Democratic victory was so overwhelming that this will result in a setback for Republicans that will probably outlast Donald Trump's life, much less his presidency. It'll probably take 15 or 20 years for them to recover from this. When the votes are finished being tabulated, the Democrats will probably control the United States Senate by 55 to 45 or 54 to 46—a significant change of about 10 votes. Right now, it's 53 to 47, with the Democrats at 47. In the House of Representatives, where there are 435 seats, the Democrats will probably end up with 255 and the Republicans with 170. We know from history that if a party...

#Judge Napolitano

Has fewer than 200 seats in the House of Representatives, they really can't accomplish anything because they are overwhelmed not only on floor votes, but also on committees and subcommittees. Add to that the subpoena power that the Democrats in the House and the Senate will now have to investigate almost everything about Trump's presidency. They can seize his bank accounts. They can compel him to explain how he earned his $2 billion and from whom. They can interrogate his bankers and his accountants. They can do the same with his children, his son-in-law, and his other business associates. They can do this to Kushner and Witkoff. They can do it to the Secretary of Commerce, who boasted that he earned a billion and a half during his two years as Secretary of Commerce.

I hope they don't impeach him because that will produce madness and blowback, but I do believe they will begin gradually by impeaching members of his cabinet. The first will probably be my former colleague at Fox, who's now the Secretary of Defense and calls himself the Secretary of War, Pete Hegseth. The charge against him will be war crimes: killing innocent boat people on the high seas. Sorry, my answer is so long. This is nothing short of a mess for Trump's presidency. As of this morning, he's a lame duck, and he's probably miserable. So miserable that at 8:30 this morning, Eastern Time, he posted a picture of himself leaning over his desk, scowling, with a one-liner: "I am still the President of the United States, Donald J. Trump. Please take notice." This is the manifestation of a mentality that fails to grasp the gravity of what just happened.

#Glenn

How do you think it will impact Trump, though? Because, you know, it could go both ways. On one hand, if you look at how the American system of checks and balances is set up, this would traditionally restrain the president in a big way. On the other hand, he's also a president who has

defined himself by strength. That's how he would make America great again and reverse the decline. So there are also reasons to think this might make him more unhinged. Or is it too soon to say which way he might go here?

#Judge Napolitano

Well, when it became apparent that the Democrats would control both houses of Congress, though we didn't know the numbers—this was at 10:30 last night—he accepted a phone call from The New York Times and gave them about a 15-minute interview. And the reporters who interviewed him reported in The Times that he said he would work with the Democrats. I don't think that's going to happen. Knowing him as well as I do, both personally and professionally from all the years he was on Fox when I was there, and observing him from my present perch, he is so hung up on this personal strength thing. I believe he will try to do as much as he can by executive action. Now, at some point—not yet, because they did pass a budget that began on October 1st of this year...

It ends on September 30th of ’27. At some point, he'll have to go to the Democrats for money. And one thing Congress could do, which it does very well, is to do nothing. Nothing. If they don't pass a budget, he can't spend any money. Or they could put a poison pill in the middle of defense authorization, which he cannot veto. I mean, he could legally veto it, but it would be catastrophic if he stopped funding the Defense Department. If the poison pill said all troops and military equipment must be out of the Middle East within 60 days of this law coming into effect, he probably would violate the law, but he'd be under tremendous pressure to comply with it. Look, he doesn't care about the law.

He signed into law the Lindsey Graham Act two weeks after Senator Graham died, which prohibited aid to Russia and made the sanctions permanent. A week later, he had an agreement—a handshake, a metaphorical handshake, because they weren't in the same room—with President Putin, which called for Russian big oil to sell diesel to American big oil, which doesn't need it. At the same time, the American CIA is showing Ukrainians how to bomb Russian refineries. You can't make this up, but that's the situation that he created. But my point is, he didn't bat an eyelash about violating the law, this Lindsey Graham Act. Yet spending money that isn't authorized is such a direct violation, not only of the law but of the Constitution. He might very well find himself in hot water with the federal courts.

#Glenn

I was thinking that this could offer Trump an off-ramp in the Middle East, though. That is, if he's looking for a way to save face, he can essentially argue, as he keeps arguing, that he already won the war. If they cut off the funding, then it's the Democrats who robbed America of a victory, essentially.

#Judge Napolitano

Very good point, Glenn. The Democrats, if they don't fund the war, actually give him an out, a political out. The Iranians, of course, will be rejoicing. He can claim that he won the war all he wants. The rest of the world will know this is just political chicanery, but it will be an out. I'm hoping, as I think you and most people watching us are, that he would just honor the document he signed, the memorandum of understanding, which the Iranians have said time and time again they will honor. And once he begins honoring it, the Strait of Hormuz will be open within 48 hours. I don't know where this is going to go.

The latest stunt that Benjamin Netanyahu is pulling—it's on the front page of this morning's New York Times—is claiming that Iran has chemical weapons. Now, the American CIA has told Trump that Iran doesn't. And most people react the way you did when I told you this was Netanyahu's claim. Nobody takes it seriously except Netanyahu and Mossad, who pretty much have Trump wrapped around their finger. How far this will go, I don't know. As you know, on Election Day, he said, without telling the Israelis he was going to say it, that the United States would begin phasing down aid to Israel. Well, no one here takes that seriously.

I don't know how it will affect Netanyahu's ability to form a new government. I hope he fails, even though Gadi Eisenkot won't be much better. At least we'll be rid of the monster with the track record of what he's been doing for the past 30 years. But it shows you his desperation. When he's desperate, he has strings he can pull on President Trump. And that's a danger, Glenn. Trump will never have to face the electorate again. And his party will never have to face the electorate again during his presidency. He's almost liberated to do whatever he wants, which means whatever Netanyahu wants.

#Glenn

I was going to say, both Netanyahu and Trump are in a bit of a desperate situation at the moment, which isn't the situation you want the leaders of Israel and America to be in. But how do you see U. S. foreign policy shifting overall on this? More specifically, its wars, because obviously it looks as if the Democrats would like to scale back or end the war against Iran. But when it comes to the war against Russia, they look like they would like to scale it up. Correct. Do you expect any big changes?

#Judge Napolitano

Well, I expect an effort to craft a compromise whereby the United States would stop aid to Israel and bring troops out of the Middle East, but resume aid directly to Zelensky. That will be the compromise. Trump will have to hold his nose and do that. I say "hold his nose" because, as you know, you and I have discussed this: he called for Zelensky's departure from office. I don't think the Kremlin believes anything Trump says. I draw that conclusion from my own on-air interviews and private, in-person interviews with Foreign Minister Lavrov.

I think the Kremlin believes that nothing can change materially in the relationship between the United States and Russia until Trump is out of office and we have normal diplomacy with normal diplomats rather than sending us two grifters. And “grifters” is Foreign Minister Lavrov's word—you've heard me use it—which is how he referred to Witkoff and Zelensky. So that might bring about a change: resume the Russophobia, the craziness of funding Ukraine, but get the heck out of the Middle East.

#Glenn

So it's not really a choice between war and peace, I'm thinking. It's a little bit like in the past when, you know, which war do we focus on: Afghanistan or Iraq? Now we have Russia or Iran. Right.

#Judge Napolitano

I mean, Trump has crazy ideas about war. The other day he said, “I could have won the Afghan war in a week.” Well, what is he talking about? He was the president of the United States during the last four years of that war. Then he said he could have won the Vietnam War in a week, which made Vietnam veterans howl with laughter. He has no idea what he's talking about. Then he said, “We should have bombed Ho Chi Minh City.” Well, Ho Chi Minh City is Saigon, which was on our side in the Vietnam War. So his knowledge of what you would expect a president to know is woefully, woefully deficient.

#Glenn

Yeah, that's a bit frightening, actually. But I was curious: how did he end up in this situation? Because he had the greatest comeback story in American history, coming back in this magnificent way. And he ran on this platform of America First. He was going to end all these forever wars in the Middle East. He was going to end the war with Russia. And, yeah, as you said, he didn't actually end the war with Russia. He didn't end the forever wars in the Middle East. Instead, he leans into the fantasy that he could have ended the Vietnam War, even though he doesn't have a lot of the basic knowledge about it. But why? Why do you think America First failed?

#Judge Napolitano

I think there are two possible reasons. Both may be relevant, or it may be either one. One is that there is very damning evidence of his personal behavior from many years ago in the Epstein files, and Epstein himself, obviously before he died, shared that with his friends in the Mossad. That is hanging over his head. I don't know if that's true. Obviously, I haven't seen this stuff. The other is that he is beholden to the Israeli lobby in the United States. Dr. Adelson—she's a doctor, the wife of the late Sheldon Adelson—funded many, many Republican campaigns, not the least of which was his.

Now, he spent a billion. She only gave $100 million, but still, that was the largest donation that went to his campaign. The third reason—I said there were two—is that he has surrounded himself with Russophobes and neocons, with the exception of the vice president, to a person. And these are the people he listens to. His chief of staff is the former campaign manager for Benjamin Netanyahu. So whoever whispers into his ear, with the exception of Vice President Vance, is whispering all this pro-Zionist propaganda. And he has succumbed to it. So those are the three reasons that people bandy about here in the United States.

I don't know if the Epstein stuff will ever become known. And AIPAC says it's not supporting political candidates anymore. That doesn't make any sense. They poured a ton of money into his campaign, and he is clearly beholden to them. His son-in-law is Jewish. His grandchildren are Jewish. He's terrified of being called an anti-Semite, which, of course, is what they call you when you oppose the regime of Benjamin Netanyahu. That has nothing to do with your feelings about the Jewish people. But that's their technique. And he's just terrified that he'll be painted that way.

#Glenn

Besides the Epstein files and the Israeli lobby—I mean, it's not just a lobby, it's Netanyahu directly—how much influence do you think the Pentagon, the intelligence agencies, defense contractors, or, you know, powerful interest groups have? Because we're seeing the election now, we see a huge shift in power, but where is America's strategic direction actually decided?

#Judge Napolitano

You know, when you're on my show, I think tomorrow, I'm going to ask you: who runs American foreign policy, the president or the intelligence community? Now you're asking me. You know, the intelligence community is out of control, Glenn, and it has been for many, many years. The president of the United States who created the intelligence agency, Harry Truman—a reprehensible person, in my view, because he dropped two nuclear bombs on Japan—denounced the agency he created before he died, when he learned that they were not just spying but were engaged in covert action.

And you and I mentioned earlier in this interview the fact that while the U.S. is buying oil from Russia, the CIA is showing the Ukrainians how to kill Russian people and destroy Russian assets. The CIA is an entity unto itself. It has sources of revenue outside the budget of the federal government, which makes that illegal and unconstitutional. There is federal law directly on point prohibiting this very thing: people who work for the government taking funds from sources other than the government to do government work or to do work in the name of the government. They are a private army. They are deeply invested with MI6 in Ukraine.

And Trump can do very, very little to stop them. If he really tries to stop them, he probably doesn't even know how. He would have to fire the senior-level CIA officials and the level below them. Firing the head of the CIA won't change anything. The current head of the CIA is a two-bit political hack, a

former federal prosecutor and congressman from Texas who's totally beholden to the senior-level career CIA officers and to the Mossad and to MI6. I don't know if Trump even grasps all of this. If Trump were to leave office, I believe J.D. Vance—I'm not a fan of his, but I believe he's smart enough to understand all of this—would know how to unravel it.

#Glenn

So, yeah, I spoke to John Kiriakou, the former CIA counterterrorism chief who exposed waterboarding and served a prison sentence over it. And he also made the point that the CIA always had profound problems. But after 9/11, it just grew out of control in terms of its lack of accountability and, of course, becoming an army of its own. But do you think J.D. Vance, if he were the next one to represent the Republicans, would be someone who, you know, would address this issue?

#Judge Napolitano

You know, I mentioned Vice President Vance's name only because he's the vice president. He is one of the losers from yesterday because he was unable to deliver his own state, Ohio, a quintessential Republican state in middle America. The other quintessential Republican state, Texas, also went to the Democrats. But in Ohio, the Democrat won for governor, and the Democrat won Vance's old seat in the U.S. Senate. So he is hurting this morning. Just as an aside, somebody else who's hurting is Trump. It's hard to imagine him hurting financially. Elon Musk dropped $275 million in post-tax dollars into the Texas race, so he's obviously not happy this morning. But Vance suffered an enormous setback.

So I don't know if he's going to be the Republican nominee. I don't know if it's going to be him, Marco Rubio, Chris Christie, or somebody else that we're not even thinking of right now. But whoever it is, I mean, unless you're George H.W. Bush, who once ran the CIA, who knew all these senior people, who knew everything they did, who knew who to fire and who to keep on, who knew who to call on the phone—unless you have that level of familiarity with the intelligence community, which no American president except for George H.W. Bush has ever had, and which Donald Trump has less of than any other American president because he doesn't like to read and he doesn't like to listen to briefings...

They're not going to be stopped. Now, if Congress defunds them, that would be a very serious crisis for them. But I don't know that that would happen because the intelligence community has a lot of dirt on a lot of members of Congress, which is why they keep getting more and more money. And it's unaccountable and unconstitutional. I say unconstitutional because the American Constitution says no money shall be spent from the public treasury except that which is recorded in a public journal.

#Glenn

Where's the journal that records what the CIA spends?

#Judge Napolitano

If it exists, it's under lock and key somewhere, and the president doesn't have the key.

#Glenn

Besides the CIA, though, is it a problem that the permanent national security establishment has essentially developed, I guess, institutional and economic interests in sustaining military confrontation? I mean, even if it wasn't Trump, it must be difficult to be a peace president if you have that much economic interest built up around the intelligence arrangements and, of course, war. I mean, people often point to Eisenhower's farewell speech about the military-industrial complex. But even George Kennan wrote a book—I think it came out in 1987—and it was interesting, essentially arguing that even if the Soviet Union were to sink into the sea tomorrow, we would have to invent a new enemy very quickly because so much of the economy is tied up in this.

#Judge Napolitano

Yes, you're 100% correct. And a lot of this—I'm putting my fingers together over my face—is an amalgamation of the intelligence community and the military-industrial complex. They feed off each other. And it's not just the CIA. There are 17 known, authorized, and statutorily created intelligence agencies. There probably are others that we don't know about, but it's not just the CIA. There are other intelligence agencies that are at fault in this respect as well, and they are tied up with foreign intelligence agencies. You know this as well as or better than I do: the CIA and MI6 work hand in glove. And the CIA often works hand in glove with Mossad.

And MI6 often works hand in glove with Mossad. Then there's the Five Eyes—E-Y-E-S—which is the English-speaking countries: the U.S., Great Britain, New Zealand, Canada, and Australia, which by statute share their intelligence information. So that creates another level of amalgamation with other intel agencies. I mean, it is a vast, unaccountable, underground government within a government. I don't want to sound like a conspiracy nut. I'm not one. But the more I talk to people like Larry Johnson and Scott Ritter and Alastair Crooke, the more I learn about how insidious this is, how broad-based it is, how unaccountable it is, how independent it is.

And again, unless you're President George H. W. Bush—unless we have some president who comes from this community but, like John Kiriakou and Larry Johnson, now renounces their former work and their former colleagues and understands what the intelligence community has done—this is going to go on and on and on and get worse and worse and worse. We need a president who has that mentality, which we certainly don't have now. The senator-elect from Michigan, the Muslim

physician Abdul El-Sayed, ran against a guy named Mike Rogers. Now, I know Mike very well. Mike is a former FBI agent and former congressman, and when he was in Congress, he was the intelligence community's guy. He was their point person.

He believed that they could do no wrong. I rejoiced when he lost. Not that I agree with everything the victor has to say, but the last thing we need in the United States Senate is a former member of this community. Nevertheless, they have so much information on so many people. The late, great Justice Scalia told me that the members of the court knew that they were being spied on. They knew that some entity in the government was capturing their keystrokes on their computers—much of which is very arcane academic analysis of the law—and their phone calls. But it is just reprehensible that the highest court in the land, an independent branch of government, is being spied on by the deep state, and they feel powerless to stop it.

#Glenn

I don't think you have to be a conspiracy nut, though, because I remember during the Russiagate years when it was proven that intelligence agencies were sabotaging the Trump presidency. And at that time, when Trump pushed back, I remember in January of 2017, Senator Chuck Schumer was arguing that Trump should be careful. He, of course, was an opponent of Trump and was making the point that if you try to take on the intelligence community, they will have six ways from Sunday to get back at you. I mean, for me, this was an astonishing remark. I know he was supposed to be in support of the intelligence services, but this claim that if the elected president, head of the executive branch, were to go after the intelligence community and criticize them, they would get him—I mean, it suggests that they have an autonomous function, an autonomous mandate, or even a policy. It is quite strange that this didn't have more of a...

#Judge Napolitano

You know, I'll tell you a story. I've said this publicly, even though it involves a private conversation, and I'm going to have to go soon. But one of the last conversations I had with President Trump was in January of 2021. He was just about to leave office, and Biden was just about to be inaugurated. He called me up because he was about to pardon some people, and several of them were my friends. He wanted to tell me about it. And we had a conversation, and I'm not going to repeat that, but I did say to him, "You know, you made one promise you didn't come through on." And he said, "Well, what's that?" I said, "The JFK files. You never exposed them."

Now, eventually they were exposed, and they had been denuded. There was nothing there. But that was four years afterwards. He said to me, "Judge, if they showed you what they showed me, you wouldn't have exposed those files either." We were on the phone. He was in the White House. I was in New Jersey or in New York City. I said to him, "Who's 'they,' and what did they show you?" And

he said, “Someday, when we're together and there aren't”—and then he raised his voice—“15 people listening to my phone calls, I will tell you.” Well, I never was with him alone, and he never told me. I don't know if he was making it up or if there really is a “they” that threatened him.

#Glenn

Well, Judge, thank you so much for taking the time. I know you're a busy man, so I appreciate it.

#Judge Napolitano

It's a pleasure, Glenn. I look forward to seeing you on the other side of the camera soon.