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A little red-covered book with a dramatic title stamped in alarming bold letters is no surprise for readers of Philip K. Howard's books, such as "The Death of Common Sense" and "The Collapse of the Common Good."¹ Howard's provocative "The Rule of Nobody: Saving America from Dead Laws and Broken Government" provides readers with zealous arguments for reform of American government fueled by heaps of anecdotes. Although America has plenty of laws, no one is in control, and that is exactly what Americans think they want. The American people's deep fear of value judgments causes them to believe that rules will make decisions for them. This has resulted in an America that is drowning in laws—an America that is "losing its soul." As a big-firm lawyer himself, Howard uses this book to pull the curtain back, showing how Americans have forgotten that responsibility is imperative for democracy.

In Part I of "Rule of Nobody," Howard declares twelve propositions that readers must accept as precursors for the remaining six in Part II— an outline for "restoring human control of democracy." In Part I, Howard does a phenomenal job of depressing the reader into understanding that government can be completely useless. The problem ranges from the morale level—we live in a country where children are fined for selling lemonade without vendor's licenses—to the moral level – firefighters that were not recertified for water rescues watched from the beach while a man drowned. Numerous examples aid Howard's point that the excessive rules and laws created for this society are

¹ "Philip K. Howard," *Bio*, <http://philipkhoward.com/bio/>. Howard founded Common Good, a nonpartisan national coalition "dedicated to restoring common sense in America." He is a senior attorney at Covington & Burling, LLP and serves as a civic leader in N.Y. and adviser to national political leaders. His Ted Talk on *Rule of Nobody* is well known.

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not only inefficient but also immoral. Rule of Law is viewed as a tool for individuality and self-interest rather than protecting those who act reasonably. Therefore, he concludes, human responsibility is more influential than written laws.

The strength of the first half of this book is also its weakness. Although anecdote is a powerful illustrative tool, it can, at times, distract from the argument. The examples and stories often interrupt Howard's argument when it is still in the process of being developed. Secondly, Howard believes that his solution will create a government that the Founders envisioned. Howard says that, like the Constitution, laws should be general principles that protect fundamental rights rather than specified rules that control human behavior. He then concludes that Americans must let go of legal specificity and restore authority to officials and judges. The restoration of the rule of principle is attractive, but how exactly does giving more power to judges and officials do that? The same ambitious individuals who are often hungry for more power that are currently in our Congress and other governmental leadership positions will become and remain these "protectors of principle." The Founders seemed to be in favor of striking a balance between the power of the average citizen and governmental officials, recognizing that humankind is capable of both good and evil behavior. In Federalist 55, James Madison notes: "As there is a degree of depravity in mankind which requires a certain degree of circumspection and distrust, so there are other qualities in human nature which justify a certain portion of esteem and confidence." Madison then continues by reasoning that republican government presupposes the nature of mankind better than any other kind of government

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and that the people must trust that structure.² At no point does Madison say that man's virtue is to be trusted. Rather, a government system that balances the duality of human nature must be maintained to protect American citizens. However, Howard's argument that the legal aspect of government is grown too large to maintain liberty is indisputable. The question is, how do we solve this?

Howard presents his ideas of how responsibility should be restored to America in the second half of the book, explaining that an independent commission appointed by Congress should propose simplified codes in each area. This begs the question of what incentive Congress would have to approve these simplified codes. If Washington really is a "deviant subculture" like Howard says, the motivation for governmental upheaval is missing from this book. Even more importantly, if Washington, D.C. is the hyperbolic dark spot of America, why should we trust D.C. officials with even more authority? Furthermore, Howard claims that there should be a "Council of Citizens" acting as a new branch of government chosen by the President from a pool of one hundred highly distinguished people, partially nominated by governments and partially nominated by an independent committee. Although the intention to restore democracy by the people is heroic, this may be the most inane idea in the book. This council would have "no power," but would "issue reports and opinions" about policies and their long-term implications. First, there is no incentive for Congress or the president to listen to these people. Second, is there any way that these special citizens would not be the same types of people that

² James Madison, "Federalist 55," *New York Packet* (New York, NY), February 15, 1788.

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currently hold elected positions? It appears to be a crossbreed of miniature Congress and a cashless special interest group. For these reasons, the "Council of Citizens" would be unworkable.

The propositions that the president's executive power should be restored and that Judges should act as gatekeepers, the way they once did, dismissing invalid claims, is a much more appealing proposition, worthy of deeper thought. The implementation of these changes is the challenging part. The Appendix of "The Rule of Nobody" is titled "Bill of Responsibilities" where Howard suggests amendments to the Constitution. Some of them are unlikely to move lawmakers or citizens. For example, the Sunset Laws Amendment (Amendment XXVIII) would mandate laws to expire every fifteen years unless there were new reports and research done showing the usefulness of the law. Putting a numerical time cap on a law sounds like just the type of excessive lawful regulation that Howard was arguing against before. In contrast, Amendments XXIX and XXX give the President power to manage the executive branch and make personnel decisions. These proposals would shrewdly give presidents power to make domestic changes rather than simply act as foreign diplomacy figureheads. If, as Howard predicts, current government is going to spiral downward in the near future, some of these changes are worth taking into consideration.

Overall, Philip K. Howard may be considered a powerful commentator on American government and its effect on the citizenry. There is more truth and passion in this little book than many released in the past few years. "The Rule of Nobody" should stand as an example to the American people of what we, the American people, should be

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doing. Americans must become active rather than sedentary skeptics. It is a moral imperative that we take responsibility for the effects of laws we create. The idea that law might actually be making us lose our morality is a deeply profound observation. Furthermore, Howard's propositions for crucial change are an outstanding way of critiquing society. More authors should be taking the risk of recommendation. Regardless of its flaws, Howard's "Rule of Nobody" is worth the read. If you thought the government was fine as it is, then you should let Howard's revelation reach your mind. If America really is losing its soul, then Howard might be right to demand a little introspection.