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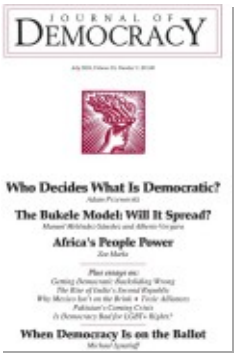

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WHO DECIDES WHAT IS DEMOCRATIC?

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What are we defending when we defend "democracy"? The distinction that organizes the answer to this question is between democracy as a *method* for processing whatever conflicts may arise in a particular society and democracy as an *embodiment* of values, ideals, or interests that different groups of people want democracy to realize. This is a distinction between minimalist and maximalist conceptions of democracy, where by "conception" I mean a definition that has normative connotations, which all definitions of democracy have.

Democracy is a system in which citizens collectively decide by whom and, to some extent, how they will be governed. This feature is definitional: A regime is democratic if and only if people are free to choose, including to remove, governments.

In the minimalist conception, this is all there is to democracy. As long as all the prerequisites for citizens to freely choose governments are met and political decisions are made according to established procedures, whatever the voters decide is democratic.[1]

True, voters decide only indirectly, by electing legislatures: Laws are adopted by legislatures, not voters.[2] But if the legislature is freely elected and follows procedures in promulgating laws, and if the laws are duly executed, democracy is not questionable.

In this conception, the value of democracy is intrinsic. It is the very capacity of the citizenry, as a collectivity, to choose governments. Yet this capacity is not ready-made: It does require prerequisites. Already John Stuart Mill thought that "the two elements of democracy" are "high

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wages and universal reading."[3] Democracy is a system of positive rights, but it does not automatically generate the conditions necessary for exercising these rights.[4] As Tom Ginsburg and Aziz Huq observe,

> For genuine electoral competition to be sustained . . . something more than a bare minimum of legal and institutional arrangements is necessary. In addition, there is a need for the civil and political rights employed in the democratic process, the availability of neutral electoral machinery, and the stability, predictability, and publicity of a legal regime usually captured in the term "rule of law."[5]

To this extent, therefore, the conception that reduces democracy to free and fair elections, sometimes criticized as "electoralism," is not so "minimal."[6]

While the minimalist criterion is conceptually clear, operational disagreements do arise: It is sufficient to see how different researchers have classified Russia or Venezuela over the past thirty years. Particularly slippery are measures that Ozan Varol classifies as "stealth."[7] These are seemingly democratic actions that are meant to increase an incumbent's electoral advantage. For example, both Italy's Silvio Berlusconi (in 2006) and Turkey's Recep Tayyip Erdoğan (in 2014) made it possible (or in the Turkish case, easier) for citizens residing abroad to vote in national elections. Each couched his action in democratic language about extending political rights to all citizens, but the obvious motive in both cases was to gain votes. Only after the fact did it become clear that Berlusconi had shot himself in the foot while Turks in Germany proved to be reliable voters for Erdoğan and his party.[8] Such measures are difficult to assess using minimalist criteria either before the fact (by motives) or after (by results). Hence controversies about measuring democracy abound: Just see the recent special issue of *PS: Political Science and Politics* on "democratic backsliding."[9]

In maximalist conceptions, democracy is a method for realizing certain extrinsic values. As Joseph Schumpeter observed, most people value democracy not per se but because they hope it will realize some superior values, ideals, or interests that they find desirable. Schumpeter gives examples but does not reduce the list to a fixed set of items:

> There are ultimate ideals and interests which the most ardent democrat will put above democracy, and all he means if he professes uncompromising allegiance to it is that he feels convinced that democracy will guarantee those ideals and interests such as freedom of conscience and speech, justice, decent government and so on.[10]

Indeed, almost all normatively desirable aspects of political life, and sometimes even of social and economic life, are credited to democracy: representation, accountability, equality, participation, justice, dignity, rationality, security; the list goes on. We repeatedly hear that "unless

democracy is X or generates X, then . . . .” The ellipsis is rarely spelled out, but it insinuates that a system in which governments are elected is nonetheless *not* a “democracy” unless X is fulfilled.

Obviously, the more values one attaches to democracy, the less prone one is to find it. Moreover, as their lists indicate, the values that people attach to democracy may differ: This is why I refer to “maximalisms” in the plural. Most importantly, whenever people differ about the values or interests they desire democracy to realize, maximalist conceptions generate conflicts. True, as Lewis Coser emphasized, these conflicts can be “cross-cutting”: They need not pit class against class or religion against religion.[11] They can be attenuated by an “overlapping consensus” regarding practicalities that is compatible with differences over values.[12] The conflicts may also be moderated by public discussions at both the normative and the technical levels. Yet in the end, when all coalitions have formed, the outlines of practical consensus have taken shape, and arguments have reached their close, conflicts remain.

The question, then, is what are we defending when we defend the extrinsic values that we attach to democracy, say justice or economic equality. Are we defending democracy itself, or the values that we attach to it? And what is the answer to this question when different people attach different values to democracy?

The Difficulty

The difficulty today is that everyone is a “democrat.” Fascism and communism were rationally motivated, elaborate, and broadly appealing alternatives to democracy. Yet while the epithet “fascist” is carelessly thrown around these days, fascism is dead. In contrast to the Soviet Union, the People’s Republic of China does not seek to propagate its political system to other countries. Democratic rhetoric is used across the entire political spectrum.[13]

For example, Putin propagandist Mikhail Leontiev declares: “I do not understand what is undemocratic in the fact that some force which enjoys an overwhelming social support wins the elections.” Donald Trump claims that “Our movement is about replacing a failed and corrupt—now, when I say ‘corrupt,’ I’m talking about totally corrupt—political establishment, with a new government controlled by you, the American people.” The Sweden Democrats, a party with authentically fascist roots, now declares its commitment to democracy. So does the Freedom Party of Austria as well as Italian prime minister Giorgia Meloni and her Brothers of Italy party. José Antonio Kast, the right-wing politician who lost the December 2021 Chilean presidential runoff to leftist Gabriel Boric, congratulated his rival and tweeted that he deserved “all our respect and constructive collaboration.”[14]

Now, Putin did adopt both overt and covert measures that made his re-

moval from office impossible. Trump tried, but was too incompetent to make them effective. Such attempts are antidemocratic by the minimalist criterion. But Meloni, the Sweden Democrats, and the Freedom Party of Austria have governed without undertaking any measures that would violate the minimalist norms. The West European "extreme right" appeals vaguely to "traditional values" and is programmatically anti–European integration, anti-immigration, anti-Islam, and "anti-crime," but it respects preconditions for democracy.

Even more, the West European right has generally stayed away from cultural issues while rightist parties vary in their positions on economic issues. In Eastern Europe, cultural issues are more prominent, with several homophobic and anti–gender-equality policies having been adopted. In this respect, Republicans in the United States are closer to their right-of-center counterparts in Eastern rather than Western Europe.

Were the policies of the Polish government run by the Law and Justice (PiS) party (anti-abortion, anti-LGBTQ, against signing a treaty to combat domestic violence) "antidemocratic"? Such policies violate norms of universalism, equality, or freedom, which many see as essential to democracy. But these policies won the support of voting majorities in reasonably free elections. The French Parliament just adopted an "immigration" law that says next to nothing about cross-border people flows but severely restricts the rights of noncitizens who are already in the country, including children born in France. This legislation is clearly racist but upwards of 70 percent of French survey respondents support it. I find it repulsive, but is it "antidemocratic"?

When the values that different people respectively attach to democracy come into conflict with one another, who decides what is or is not "democratic"?

Courts play an important role in supervising the preconditions for a free exercise of the collective will, by seeing to it that the rules governing elections are observed. Judges, therefore, are guardians of democracy in the minimalist sense. But maximalists can still appeal to constitutionalism to claim that even if the prerequisites for the minimal conception are satisfied, democracy is not implementing the values that it should. Constitutions embody "maximalism" in the sense that they specify certain values which no transient majority may violate. The Preamble to the U.S. Constitution mentions not only "Justice" but "domestic Tranquility" and "the general Welfare." The Preamble to the Constitution of India refers, with capital letters in the original, to "JUSTICE, social, economic and political; LIBERTY of thought, expression, belief, faith and worship; EQUALITY of status and of opportunity; and to promote among them all FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation."

Maximalists can thus claim that violations of these norms by temporary

majorities may be democratic, but are not constitutional. Constitutional-review bodies exist, both inside and outside legislatures, to hear appeals to values enshrined in constitutions. The premise is that the "will of the people" resides in the constitution rather than in some transient majority.[15]

But what if courts are silent or confirm majority decisions (in many cases because the incumbent government has packed the bench), and in response some people continue to insist that these decisions violate the values they attach to democracy?

Crisis of Democracy?

The past three decades witnessed a rise of dissatisfaction with traditional representative institutions, an erosion and fragmentation of traditional party systems, a rise of extreme-rightist parties, and the emergence of political "magicians" in the form of individuals or parties who offer miraculous solutions. These transformations have led to a widespread concern about the future of democracy, embodied in innumerable books and articles that sound the alarm about "The Crisis of Democracy." I wrote one of these books.[16] This essay constitutes my second thoughts.

Do these transformations pose a threat to democracy, or represent an advancement of democracy?

The intense and widespread dissatisfaction with representative institutions is often decried as "populism." The validity of the criticisms of representative institutions is manifest. It is disingenuous to complain about the widespread rejection of these institutions and at the same time bemoan persisting inequality. Inequality offers *prima facie* evidence that representative institutions do not function well. Since the seventeenth century, people at both extremes of the political spectrum—those for whom equality was a promise as well as those who saw it as a threat—believed that democracy, specifically universal suffrage, would generate equality in the economic and social realm. This belief is still enshrined in the workhorse of contemporary political economy, the median-voter model. Yet in New York City there are about a hundred-thousand schoolchildren who have no permanent residence, and in the same city I once overheard one very rich person ask another how many houses he owned, to which the answer was "fourteen, of which one is a family compound." If our representative institutions functioned well, this would not have been possible.

"Populism" comes in at least two varieties: "participatory" and "delegative." Participatory populism is the demand to govern ourselves; delegative populism is the demand to be governed well by others. As a political phenomenon, the first variety is salutary but largely inconsequential, while the second is dangerous for democracy, as democracy is understood in the minimalist sense.

The agenda of participatory populism consists of institutional reforms that would make louder "the voice of the people." Some proposals return to demands that U.S. Anti-Federalists were already expressing in 1789: short terms for elected officials, term limits, the ability of voters to recall officials before their terms are over, pay cuts for legislators, and limits on circulation between public and private employment. An innovation from Brazil, and one that has received worldwide attention, is participatory budgeting. Other proposals range from the inane "survey democracy" that Italy's Five Star Movement advocates, to increased reliance on popular-initiative referendums and randomly selected assemblies of citizens charged with pondering proposed laws without having the authority to adopt them.

Yet all these measures are merely palliatives. They may restore some confidence in democratic institutions, yet all such measures hurl themselves against the inescapable facts that each of us must be ruled by someone else, and being ruled must entail policies and laws that some people do not like. Every conceivable decision is going to displease somebody, even if it is a decision made with the full, equal, and effective participation of citizens. There is no such thing as "the people" in the singular and people in the plural have different interests, values, and norms.[17] Moreover, is it true that people want to govern by themselves? Some obviously do, otherwise we would have no politicians, but do most or even many?

The alternative to governing by ourselves is to be governed by others, but being governed well. What people want most is to be governed by governments which deliver whatever the populace wants, whether income growth, the promotion of certain ideological values, or whatnot. "Delegative" populism occurs if people want the government to govern even when it dismantles constraints on its continuance in office and discretionary authority. The result is "democratic backsliding" (also known as "deconsolidation," "erosion," or "retrogression"). Ginsburg and Huq describe this as "a process of incremental (but ultimately still substantial) decay in the three basic predicates of democracy—competitive elections, liberal rights to speech and association, and the rule of law."[18]

As this process advances, the opposition becomes unable to win elections (or assume office if it does win), established institutions lose the capacity to control the executive, and manifestations of popular protest are repressed by force. The danger of delegative populism is that a majority will support a government that delivers what the majority wants even when that government is subverting democratic institutions.

In turn, the decline of older parties and the rise of new ones is not antidemocratic by any criterion. Traditional party systems have eroded and become fractionalized: Across the political systems of Western Europe, the average number of effective parties rose from three in

1970 to four in 2020. The number rose in Latin America as well. But this means that voters have more choice and are being offered alternatives closer to their preferences—things that people do value.[19] At the same time, the rise in the numbers of parties seems not to have negative consequences.[20]

The emergence of political magicians is not antidemocratic. It just shows that when people become fed up with the established alternatives, they are willing to take the risk of embracing untried solutions.

The rise of extreme-rightist parties is not antidemocratic. The fear of the extreme right is justifiably fed by the worry that these parties might try to undermine democracy. Yet so long as these parties refrain from trying to undermine the possibility of their being removed from office, and so long as they observe the institutional rules that control policymaking, their participation in governments is not antidemocratic.

The emergence of political magicians is also not antidemocratic. It just shows that when people become fed up with the established alternatives, they are willing to take the risk of embracing untried solutions. When I studied elections that led to major shifts of policy paradigms—the accession to power of the Social Democrats in Sweden in 1932 and of neoliberalism in the United Kingdom and the United States in 1979 and 1980, respectively—I assumed that voters would only support a party proposing something unprecedented if this party could claim a record of responsibility, meaning that it had been in office before and had acted like all other parties while holding office.[21]

Yet the victories of Trump, Brazil's Jair Bolsonaro, and Argentina's Javier Milei show that when people are desperate, they are willing to seek any remedies and grasp at straws, even those offered by charlatans who sell "miracle cures." As a Rio de Janeiro Uber driver told an interviewer, "You see this decay, this moral crisis, these politicians who steal and don't do anything for us. I'm looking at voting for somebody completely new."[22] When people have nothing to lose, they embrace all kinds of delusions, like curing diseases by applying cottage cheese or making gold from base metals in Weimar Germany.[23] Trump's "Make America Great Again" campaign slogan was no more than that. So was Bolsonaro's "clean government, jobs, and guns." So is Milei's "Viva la libertad, carajo." So is "expelling immigrants," the battle cry of Europe's far-right parties. This is what we did not anticipate when we believed their victories unthinkable.

In sum, then, the rejection of representative institutions does present a conundrum. We cannot pretend that these institutions are functioning well, but the solutions are not obvious and some are dangerous to

democracy. In turn, neither the proliferation of parties, nor the rise of the extreme right, nor the emergence of magicians constitutes a threat to democracy in the minimalist sense, always with the same caveat that these democracies stay away from backsliding.

Defending Democracy

Declaring the advent of democracy in post-Franco Spain, Prime Minister Adolfo Suárez proclaimed that henceforth "The future is not written because only the people can write it." He hoped for a better world and I took him at his word.[24] But people can write whatever they want. Democracy does not guarantee anything other than that it is the people who will write the future. It is just a terrain on which somewhat equal and somewhat free people struggle for the realization of conflicting ideals, values, and interests. The only miracle of democracy is that these conflicts can be managed without repression and in peace.

When people disagree about which values democracy should strive for in the face of increasing polarization, democracy can be defended only as the best method for managing these disagreements. Yet methods are hard to defend without reference to the purposes they are intended to serve. As Eerik Lagerspetz observes, "there is something deeply disturbing in the idea that a purely mechanical, content-free procedure could determine what we should do."[25] Yet the very procedure of choosing governments by elections has merits that stand on their own.

One of these merits is precaution. Matthew Graham and Milan Svolik have gathered evidence suggesting that people may be willing to tolerate transgressions of democratic norms and procedures in exchange for some material or symbolic outcomes they value.[26] When the incumbents undermine democracy, their supporters face a trade-off: They can keep the competent but norm-violating current government in office at a cost to the ability to remove it in the future, or they can protect democracy now at the cost of policy outcomes they are receiving.[27] The frequent claim that "democracy is at stake" is accurate if governments are threatening to entrench themselves in office whatever might be the people's will.

The second virtue is the pacification of political life. The democratic method of processing conflicts by free elections is the only way to manage conflicts without recourse to violence.[28] In Norberto Bobbio's words, "What is democracy other than a set of rules . . . for the solution of conflicts without bloodshed?"[29] Elections are not the only mechanism for processing conflicts; so are the judicial and the collective-bargaining systems. Elections are unique, however, in that participation in them is open to all citizens.

Elections may generate outcomes that a minority finds repulsive. But democrats must be prepared to face defeats, even if their values are at

stake. The virtue of the democratic method is that, so long as democracy is preserved, defeats are always temporary. For many people in the United States, the election of 2000 was a disaster, but they knew that there would be another one in 2004. When the 2004 election turned out even worse, they could still hope for 2008. And, perhaps unbelievably, the country that elected and reelected George W. Bush and Dick Cheney then elected Barack Obama in 2008. Democracy survives when the winners do not abuse their power but also when the losers are willing to wait. This is the magic of the democratic method.

Defending democracy requires more than opposing whatever the government is doing. The opposition must be more than an expression of ire. Defending democracy requires a positive, future-oriented program to reform it.

What if people knowingly support antidemocratic governments? The question of whether democratic governments have the right to repress antidemocratic movements is not new. The German Federal Republic banned the Communist Party on these grounds. In Algeria in early 1992, the second round of the parliamentary elections—the first multiparty contests to be held since the winning of independence from France three decades earlier—was called off because the Islamists appeared likely to win. What if people follow leaders who promise to empower them and then usurp power, depriving the people of the capacity to remove them? To put it as sharply as I can: What if people vote against democracy? The constitution is not supposed to be a suicide pact, but who is to decide that we are committing suicide?

The specter that incumbents may undermine the electoral mechanism is ever present. Hence, vigilance in defense of democracy in the minimalist sense is a never-ending task. But defending democracy requires more than opposing whatever the government is doing. The opposition must be more than an expression of ire. Defending democracy requires a positive, future-oriented program to reform it.

This is not an easy task. Being against something unites, while being for something divides. When different groups opposing violations of democratic norms attach different values to democracy, the rejection of backsliding may command majority support while any given proposal for reform attracts only a minority. The best evidence for this is that in many countries the opposition cannot unite against a common enemy. The classic example is Mexico under the rule of the Institutional Revolutionary Party (PRI) from 1934 to 2000. The hegemonic PRI had both left- and right-wing critics, but the wings were too far apart ideologically to ever form a united front.

Minimalism unites, maximalism divides. Backsliding governments

often win elections with a minority of the popular vote: Erdoğan's party, the AKP, has never won a majority of votes in a parliamentary election, yet it has been reelected repeatedly. In Poland, PiS won reelection in 2019 with 43.6 percent of the vote, but lost in 2023 when several opposition parties succeeded in forming a coalition. Crucially, the parties forming the alliance agreed not to confront the major issue that divided them: abortion. They agreed that defending democracy was more important than whatever values divided them, and that conflicts over abortion would be managed once victory over PiS was secured. Hence, both the opponents and the supporters of the freedom of choice could promise their respective electorates that they would promote their values if democracy was restored, while claiming that the immediate task was to restore it.

The lesson of the Polish experience, I think, is that oppositions to backsliding governments can unite if they agree to rely on the democratic method to process conflicts over their maximalist values. The danger, however, is that unless representative institutions are reformed, democracy will reproduce the conditions that had allowed the antidemocratic forces to become successful in the first place. Here, I stand with Cas Mudde: "[Populism] is a symptom of a malfunctioning liberal democracy."[30] The achievement of "restoring" democracy is not sufficient to restore confidence in representative institutions.

In my view, the main culprit behind the widespread dissatisfaction with representative institutions is the political inequality generated by the influence of money over politics.[31] But others may differ. Moreover, the directions in which reforms can feasibly move will vary with circumstances. My conclusion is that to give clashing political forces renewed confidence in democratic methods, democracy's defenders must offer a forward-looking perspective that seeks to improve representative institutions.

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