

The Institutional Roots of Democratic Backsliding

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Authoritarianism and the Elite Origins of Democracy. By Michael Albertus and Victor Menaldo. Cambridge: Cambridge University Press, 2018.

Dictators and Democrats: Masses, Elites and Regime Change. By Stephan Haggard and Robert Kaufman. Princeton, NJ: Princeton University Press, 2016.

How Democracies Die. By Steven Levitsky and Daniel Ziblatt. New York: Crown, 2018.

The importance of political institutions for democracy governance is well founded. Institutions enable the aggregation of preferences. Agenda-setting powers in committees, legislatures, and political parties, for example, help prevent cycling among decision makers. Institutions also aid in the solution to the problem of time inconsistency. Without the institutional capacity to delegate or tie one's hands, societies would be stuck with suboptimal outcomes. Independent central banks and courts, for instance, enable leaders to make credible commitments. Institutions in democracies allow for the solution of a range of problems so that democracy can "run better." The proof is to be found in the fact that democracies, on average, produce better outcomes: higher economic growth, better welfare for citizens, and fewer wars (e.g., Russett 1994; Sen 1983). In short, institutions make democratic governance possible.

Both the third wave of democratic transitions in southern Europe and Latin America in the late 1970s and the fourth wave in eastern Europe, Africa, and Asia after the fall of the Berlin Wall seemed to corroborate the scholarly consensus. As Fukuyama (1995) explained, "The normative assertion that liberal democracy is the best available regime depends . . . not simply on a theoretical view of the adequacy of its moral and political arrangements, but also on empirical verification

of its workability" (30). Yet almost 40 years later, many people seem unsure of this proposition, not only in places where democracy's hold was doubtful from the beginning but also in countries where people, in some sense, take democracy for granted. In their recent annual report, the Varieties of Democracy project finds that for the first time since the third wave transitions, the number of countries experiencing advances in democratization is matched by an equal number of states undergoing democratic backsliding, and most of the declines in the quality are occurring in the oldest democracies (Lührmann, Mechkova, and Lindberg 2018).

Perhaps it is consistent with these times, then, that all three of these books implant the idea that all is not well with democracy and its institutions. On the basis of these works, we are forced to consider two troubling ideas. First, that democracy is a fragile creation that can be undone by unscrupulous elites who use the institutions of democracy to slowly but surely undo it. By asserting executive power prerogatives and relying on partisan allies within the legislature, leaders can pass laws that hamstring the press, disenfranchise voters, and weaken opposition parties. Moreover, the rules for institutional change can be used to enervate the institutions—courts, local governments—that dare challenge them. The uncomfortable truth is that this is not a problem just for new democracies. Old ones are susceptible to such pathologies as well. Second, that transitions to democracy are more likely to come about, not because elites have conceded defeat to popular forces but because they have figured out how to use institutions to entrench their political and economic power under democracy. The elite origins of democracy, then, result in less to "the people" than they might expect, facilitating the rise of demagogues who can use institutions to undo democracy. A vicious cycle ensues.

CAN DEMOCRACY DELIVER?

In understanding democratic transitions, one of the paradigmatic approaches is the distributive conflict model (Lipset 1960; Moore 1966; O'Donnell 1973). The most recent

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incarnations focus on a model society composed of a rich minority and a poor majority that struggle over taxation and redistribution. Under dictatorship, rich elites control political power and, hence, the ability to limit fiscal transfers to the poor. They, however, may cede political power to the masses, resulting in democracy—a regime in which the poor majority can engage in redistribution. Because higher levels of inequality entail more potential redistribution under democracy, the elite in a highly unequal society may be more resistant to leaving power. In this case, the relationship between inequality and the likelihood of a democratic transition should be strictly negative (Boix 2003). Alternatively, under very low levels of inequality, there may be very little demand for political and economic change. As a result, an inverted U shape would characterize the relationship between inequality and the likelihood of democracy (Acemoglu and Robinson 2006).

What both the Stephan Haggard and Robert Kaufman and Michael Albertus and Victor Menaldo books show is that the distributive conflict model has limited explanatory power. Democracy is rarely a concession by elites who feel threatened by the pitchfork-waving masses. Rather, it often comes about by elites who formally hand over the keys to the kingdom, confident that they have put the institutions in place to entrench their political and economic power. Haggard and Kaufman find that the empirical evidence for the relationship between inequality and democratic transitions is tenuous at best. Their cross-national results are consistent with those of others who find no systematic association between income inequality and democratization (Houle 2009; Teorell 2010). Haggard and Kaufman go on to investigate the almost 100 cases of democratic transitions since the third wave and find that in only half of those cases does anything resembling a clash between the rich and poor appear. In the remaining cases, interelite conflict—rather than the struggle between rich and poor—acts as the driver for democratization (Ansell and Samuels 2014; Przeworski 1991; Ziblatt 2017).

Albertus and Menaldo accordingly start with a theoretical framework that acknowledges the importance of interelite conflict. In their transition game, aside from the masses, the key actors are political elites who control the autocratic state, their economic allies, and outsider economic elites who pose the primary threat to incumbents. Mass mobilization can sometimes result in a popular democracy controlled by the masses. But democratization also can be an elite-led affair, arising when incumbent political and economic elites form a coalition against outside economic elites and are able to guarantee their privileges under a new regime.

What determines whether popular or elite mobilization drives democratization? Both books show that the usual sus-

pects of economic performance and international factors sometimes play a role. But their cross-national analyses show that the institutional structures in place under dictatorship have a consistent and strong association with the type of transition. Albertus and Menaldo highlight the role of authoritarian legislatures in creating a stable set of rules that govern the distribution of rents and power between incumbent political and economic elites. These pacts enable them to counter the threats posed by the masses and outsider elites and facilitate the transition to an elite-led democracy. A strong positive correlation between autocratic legislatures and the likelihood of a transition to an elite-biased, rather than a popular, democracy emerges among regimes from 1816 to 2006. Haggard and Kaufman, in turn, find that since the third wave transitions (1980–2008), multiparty autocracies are more likely to enable elite-led transitions. The introduction of parties and semicompetitive elections allows autocratic elites to prepare for electoral competition under democracy. These findings show that legislatures and parties in dictatorships do not always preserve regime stability (contra Gandhi 2008; Magaloni 2006; Svobik 2012). These institutions, in fact, can facilitate democratic transitions and influence how transitions unfold—whether the masses or elites play the leading part.

In Albertus and Menaldo's account, authoritarian institutions have a complementary twofold role. Not only do they determine whether elites have the upper hand over the masses in driving the transition, they also become useful tools for the elite in cementing their position under a new democracy. What are the institutions that lend elites such power even under democracy? Albertus and Menaldo highlight a variety of them. Bicameralism, as the framers of the US Constitution noted, allows for elites to serve as a check on the popular will. But other institutions have more nefarious effects. Federalism allows for the creation of subnational autocratic strongholds (Giraudy 2015), while legal institutions may shield former autocrats from accountability for their past misdeeds (Nalepa 2010). Albertus and Menaldo point to constitutions, most importantly, as the guardian of elite interests. When new democracies inherit a constitution written by authoritarian elites, they are hamstrung in overturning elite power and delivering policies and outcomes that represent the interests of the masses.

The larger question is, if the leaders of new democracies inherit such elite-biased institutions, why do they not try to overturn them? New democratic leaders may refrain from such moves simply out of fear of triggering elite backlash in the form of a coup (Acemoglu and Robinson 2006) or of setting a bad precedent for institutional instability (Barros 2002). Nevertheless, such parchment boundaries may be

exactly that. After all, even though it took decades, democratic governments in Chile, Argentina, and Uruguay finally decided to prosecute leaders of former military regimes. Albertus and Menaldo show that while radical reform of the institutional rules under an elite-biased democracy is rare, it is more likely to happen after the previous autocratic leader has died and when the country experiences poor economic performance. A generational shift among elites accompanied by clear evidence that the status quo does not work seems key to institutional change. Yet even under these conditions, an effective way to protect elite interests may come in the form of political parties: ones that ruled during the authoritarian period only to become skilled competitors under democracy (Grzymala-Busse 2002; Riedl 2014; Slater and Wong 2013). As examples of this, the Institutional Revolutionary Party (PRI) in Mexico, the Kuomintang (KMT) in Taiwan, and Golkar in Indonesia are also consistent with Haggard and Kaufman's finding that multiparty autocracies are correlated with elite-led transitions.

Albertus and Menaldo go on to show that the elite origins of democracy are more than just a point of contention among scholars. They result in worse outcomes for citizens: smaller government, less social spending, and more regressive taxation. And while the deficiencies of democracy are not exactly unknown (e.g., Ross 2006), Albertus and Menaldo point out that comparisons between democracies and dictatorships may be premised on an inappropriate benchmark. The correct counterfactual is not how much worse citizens would be doing under dictatorship but rather how much better they should be doing if democracy really were a system "of the people, by the people, for the people." Even if scholars emphasize that the merits or defining features of democracy revolve around process, we cannot stop people from focusing on outcomes and wondering whether something other than democracy could provide more.

CAN DEMOCRACY DEFEND ITSELF?

The implications of the elite origins of democracy for citizen welfare is troubling in its own right. But it is even more disquieting for what it means for the defense of democracy. When people feel that democracy is a political system controlled by the rich and powerful, and elections offer candidates who appear the same with little hope of change, they may withdraw from the political system altogether. Alternatively, citizens may support what they perceive to be more radical forces for change. It bears remembering that not all outsider candidates are would-be autocrats. Reform from the outside, as Albertus and Menaldo observe, is not necessarily a bad idea—especially when democracy has elite-biased insti-

tutions. For this reason, as Steven Levitsky and Daniel Ziblatt illustrate in one example after another, the promise to "drain the swamp" of corrupt elites who preserve their privileges by manipulating the rules of the game is one that resonates in both old and new democracies.

The problem emerges when executives use the guise of populism to carry out institutional reforms that take aim at the opposition. One of the easiest ways in which they can build support for institutional modifications is by claiming that such changes are designed to diminish the power of elites. Hugo Chavez in Venezuela promoted wholesale constitutional change as the only way to realize "a transfer of power to the people" (McDermott 2007). The Law and Justice Party (PiS) in Poland and Fidesz in Hungary appealed to the necessity of weakening the influence of former Communist elites in order to justify their attacks on the judiciary. Having won elections, leaders claim a mandate for such wholesale changes. An executive working with a legislative majority, as in the cases of PiS in Poland, Fidesz in Hungary, and the Justice and Development Party (AKP) in Turkey, is able to attack the institutional strongholds of the opposition, whether they lie in the courts, the legislature, or the media. And while alterations of formal institutions may inspire significant outrage, they also may fail to trigger a robust response on the part of citizens. The result is a regime with fewer political choices and less access to power for citizens.

Relentless formal institutional change designed to enervate the opposition seems the hallmark of democratic backsliding. Levitsky and Ziblatt highlight some of the critical ingredients in making this happen: actors who enable executive takeovers, attacks on norms, and the stealthy use of institutional rules. An important warning that emerges from the book is in how democracy's institutions can be used against it.

First, the enablers. One of the most important points underscored in the literature on autocracies is that while we often reference autocratic regimes by the names of their chief executives (e.g., the Franco dictatorship, Saddam Hussein's regime), no dictator stages a coup or survives in power by his own efforts alone. Support from elites is critical for the emergence and survival of autocratic rule (e.g., Geddes 1999; Magaloni 2006; Svobik 2012). Levitsky and Ziblatt offer the same important insight for the study of democratic backsliding: Chavez, Recep Tayyip Erdoğan, and their kind could not have carried out executive takeovers without the complicity of others, and these enablers usually are tied to the leader through a political party. If the leader's copartisans do nothing to defend the prerogatives of institutions designed to check executive power, then they are actively subverting democracy. In this regard, Levitsky and Ziblatt point out that

congressional Republicans in the United States have had a mixed record as a first line of defense against the Trump administration. An obvious example is in the treatment of the special counsel appointed to investigate possible foreign tampering in the 2016 presidential election: it has received support but not a full-throated defense from the whole party in a context that is arguably worse than our last constitutional crisis over executive power.

Second, norms. Levitsky and Ziblatt also argue that attacks on norms and informal institutions are as important and, in some circumstances, pave the way to troubling changes of formal institutions. No formal rule governs the timeline for consideration of a president's Supreme Court nominee in the United States, for example. Nevertheless, Senate Republicans violated an important norm by refusing to hold hearings on President Obama's nominee, Merrick Garland. The violation of informal rules sets a precedent that encourages political actors to keep pushing the envelope. The implication is that all the attention to formal institutional design does not get around the fact that democracy rests heavily on how actors operate in "gray areas"—areas in which there are no written rules about how to process disputes. These gray areas inevitably must exist in any polity because it is impossible for constitution writers or institutional designers to anticipate every possible contingency. So actors develop informal rules and institutions, and Levitsky and Ziblatt claim that deviations from them can be detrimental for democracy. The difficulty is in discerning which deviations are reasonable adjustments to the status quo and which ones pave the way to authoritarianism.

Third, and relatedly, the use of stealth. Attacks on the opposition are effectively disguised as institutional reform by following established procedures for modifying laws and institutions. In Poland, for example, the government has carried out politically motivated attacks on the judiciary by passing laws through the PiS-controlled legislature. In the absence of a legislative majority, Nicolás Maduro in Venezuela created a constitutional assembly that amassed wide-ranging powers to write ordinary legislation apart from changing the constitution. In Turkey, Erdoğan and the AKP have moved to control the media by using libel, terrorism, and tax evasion charges to silence critical journalists and media outlets. While certainly all of these regimes engage in force and extraconstitutional activities to advance their agendas, what is striking is their common success in using the rules and procedures already in place to establish control over other institutions.

Following the letter of the law to effectively change the spirit of the law makes it easier for governments to engage in

democratic backsliding. In democracies, constitutions are supposed to provide the rules of the game so that violations of their provisions serve as a red flag or "bright line" that signals to citizens the need to check tyrannical government behavior (Weingast 1997). But when the accrual of power is accomplished by following the rules to change laws and institutions or by taking advantage of the gray areas where formal rules are absent, for citizens, there is no bright line to coordinate around. For copartisans of the executive, the absence or dearth of blatant constitutional violations is justification enough to stand by and allow norms to be challenged. In the United States, for example, Bright Line Watch's public opinion surveys across 2017–18 show that partisanship increasingly colors citizens' perceptions of which government actions constitute democratic backsliding: "Those who disapprove of President Trump regard American democracy as declining on virtually all fronts, and steeply on many. Those who approve of the president regard democratic standards as improving nearly across the board" (Carey et al. 2018).

Ideological polarization may motivate some citizens to overlook antidemocratic behavior by those who represent their policy preferences (Sartori 1976; Svobik 2017). But even among those on the same side of the political spectrum, different views about which actions constitute democratic backsliding may exist. As a token anecdote, consider a recent conference on democratic backsliding in which a roomful of 40 political scientists emphasized the importance of democracy but could not agree on the meaning of the term "democratic backsliding" or which contemporary events constitute evidence of it. Because people have fundamental disagreements about what is democracy and what maintains it, there is disagreement about what constitutes a move away from it. What may look like a violation of a norm critical to democracy to some may appear, to others, as a legal—and even necessary—deviation from precedent. Since the late 1800s, the US Senate has held hearings on Supreme Court nominees of US presidents. So what to make of the Republican-controlled Senate's refusal to deliberate on President Obama's choice? What may seem like an assault on core democratic principles to some may be viewed as simply a policy choice by others. Is the refusal to recognize domestic or gang violence as justification for asylum a violation of basic human rights or simply a policy choice exercised by a branch of government that has wide latitude to make such determinations? When it becomes difficult for citizens to agree on the answers to these questions, it becomes hard to identify which government actions constitute democratic backsliding. Without common identification of violations, the mobilization of cit-

izens in defense of democracy becomes even more challenging. Only in hindsight are we able to identify democratic backsliding (Luo and Przeworski 2018; Nalepa, Vanberg, and Chiopris 2018).

CONCLUSION

These books, along with the contemporary political climate, encourage a view of democracy and its institutions that is less rose-colored than that of the third and fourth wave transitions. Institutions, such as constitutions, legislatures, and parties, enable elites to control regime transitions and cement their privileges under democracy. The result is poor outcomes for citizens who then might empower leaders who use established rules and procedures to fill institutions with their loyalists and destroy the ones they cannot pack. The skillful manipulation of institutions makes it difficult for citizens to mount a robust response against democracy backsliding.

While the view may be dismal, it is doubtful that any of these authors would advocate giving up on democracy and its institutions. Apart from their valuable theoretical and empirical work, they collectively offer two calls to action for those who study and care about democracy. First is a call to revisit the study of democratic transitions with a broader theoretical and empirical perspective. The third wave of transitions inspired groundbreaking work on transitions to democracy that over time was replaced by a focus on the politics of authoritarianism. The works by Albertus and Menaldo and Haggard and Kaufman point out the importance of connecting these two foci: what occurs under authoritarianism has profound effects on the transition and the democracy that follow. This lesson deserves to be taken to heart, given that our current theoretical workhorse, the distributive conflict model, seems limited in its explanatory power. On the empirical side, the work on regime transitions traditionally focused on developing countries. By discussing the contemporary United States in a wide comparative context, Levitsky and Ziblatt effectively show that the bifurcation of the study of established and consolidating democracies is an artificial one at best. Not only is the historical experience of old democracies directly comparable with that of new democracies, but both old and new democracies face similar challenges. With the emergence of more historical data (Knutsen, Møller, and Skaaning 2016; Przeworski 2009), we should be able to make these comparisons more easily. Second is a call to revisit questions related to the design of institutions. While the effects of institutions on political and economic equality has emerged more prominently as an intellectual agenda (e.g., Bartels 2008; Piketty 2017), these books are a sobering reminder that further in-

vestigation is needed. Moreover, as Levitsky and Ziblatt make clear, our grasp of the conditions that support democracy requires a better understanding of the relationship between formal and informal institutions as well as the interaction of institutional and partisan incentives to defend democracy.

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