

Defending Democracy^{*}

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Abstract

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1 Introduction

Is whatever voters decide in a free election "democratic"?

What is "democratic" depends on the values one attaches to democracy. The distinction that determines the answer is between minimalist and maximalist conceptions of democracy, where by "conception," I mean a definition that has normative connotations, which all definitions of democracy have.

2 Minimalism and Maximalisms

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 pre-requisites necessary for the citizens to freely choose governments are fulfilled (for their list, see Dahl 1971) and decisions are made according to established procedures, whatever voters decide is democratic. True, voters decide only indirectly, by electing legislatures:

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laws are adopted by legislatures, not voters (Kelsen 1928, Schumpeter 1942). But if the legislature is freely elected and follows procedures in promulgating laws and if the laws are duly implemented, democracy is not questionable.

While this criterion is conceptually clear, operational disagreements do arise: it is sufficient to see how different researchers classify Russia or Venezuela during the past thirty years. Particularly slippery are institutional measures to which Varol (2015) refers as "stealth": seemingly democratic measures intended to increase incumbent's electoral advantage. Both Berlusconi and Erdogan, for example, extended the right to vote to citizens residing abroad. This measure was dressed in a perfectly democratic language – "extending political rights to all citizens" – but the obvious motivation was to gain votes. Only ex-post it became clear that Berlusconi shot himself in the foot while Turks in Berlin voted overwhelmingly for Erdogan. Hence, such measures are difficult to assess either ex-ante, by motivations, or ex-post, by results, even by minimalist criteria.

In the minimalist conception the value of democracy is intrinsic, independent of all the contingencies. It is just the very capacity of the citizenry, as a collectivity, to choose governments. This capacity is valuable if one adopts Sen's (1988) conception in which achieving something by one's action is more valuable than the same outcome that occurs independently of it. But it also has valuable consequences: this capacity generates implementation of another value, namely civil peace (Popper 1962, Bobbio 1984, Przeworski 1991, 2005; Przeworski, Rivero, and Xi 2015). In Bobbio's (1984: 156) words, "What is democracy other than a set of rules ... for the solution of conflicts without bloodshed?"

As Schumpeter (1942: 242) observes, however, most people value democracy not per se but because they hope it would realize some extrinsic values, some superior ideals or interests they find desirable. He gives examples but does not fix their list: "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." Indeed, almost all normatively desirable aspects of political, 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 are repeatedly told that "unless democracy is x or generates x," The ellipsis is rarely spelled out, but it insinuates either that a system in which governments are elected is not a "democracy" unless x is fulfilled.

Obviously, the more values one attaches to democracy, the less is one prone to find it. The question, then, is what do we defend when we defend the extrinsic values we attach to democracy, say justice or gender equality. Are we defending democracy or the values we ascribe to democracy? And what is the answer to this question when different people attach different values to democracy?

3 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, although the epithet "fascist" is carelessly thrown around these days, they are now dead. Authoritarian postures are widespread, but authoritarianism is an instinct, not an ideology. In contrast to the Soviet Union, China does not propagate its political system to other countries. Democratic rhetoric is used across the entire political spectrum.

Here are some examples. A Putin propagandist, Mikhail Leontiev (2008) declares: "I do not understand what is undemocratic in the fact that some force which enjoys an overwhelming social support wins the elections." Trump claims that "Our movement tries to replace a corrupt and failed political establishment with a new government, controlled by you, the people of the United States." Even someone as far right as one can be these days, José Antonio Kast, the loser in the last Chilean presidential election, insists that "I am a democrat and I will always respect popular will." (France 24, 13 November 2021). The Swedish Democrats, a party with authentically fascist roots, now declare its commitment to democracy. So does the Austrian Freedom Party (FPÖ). So does Giorgia Meloni.

Now, Putin did adopt measures, overt and clandestine, that made his removal from office impossible. Trump tried but was too incompetent to make them effective. Such attempts are anti-democratic by the minimalist criterion. But Meloni, the Swedish Democrats, the Austrian Freedom Party have governed without undertaking any measures that would violate the minimalist norms. The Western European "extreme Right" is programmatically anti-Europe, anti-immigration, anti-Islam, and "anti-crime"; it makes vague appeals to "traditional way of life," but it respects pre-conditions for democracy.

Even more, the Western European Right has generally stayed away from cultural issues and it varies in its positions of economic issues. In Eastern Europe cultural issues are more prominent, with several homophobic and anti-gender equality policies having been actually adopted.

Republicans in the United States are closer to their Eastern than to their Western European co-partisans.

Are the policies of the Polish PiS government – anti-abortion, anti-LGBT, refusal to sign a treaty on domestic violence – "anti-democratic"? Such policies violate norms of universalism, equality, or freedom, which many people consider to be essential for democracy. But these policies have been supported by a majority of voters in reasonably free elections. The French parliament just adopted an "immigration" law that says next to nothing about the flow of people across the border but severely restricts the rights of non-citizens who are already in the country, including children born in France. This legislation is clearly racist but it is supported by upwards of 70 percent of French survey respondents. I find it repulsive, but is it "anti-democratic"?

When values different people attach to democracy are in conflict, who can decide what is or is not "democratic"?

Courts play an important role in supervising that the pre-conditions for a free exercise of the collective will are fulfilled, specifically that the rules governing elections are observed. They are guardians of democracy in the minimalist sense. But even if something is "democratic" in the minimalist sense, it may still not be "constitutional." Constitutions are embodiments of "maximalism," in the sense that they specify some values that cannot be violated by transient majorities. The Preamble to the US Constitution mentions Justice, domestic Tranquility, and general Welfare. The Preamble to the Constitution of India refers 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 not constitutional. Appeals to such values can be directed to constitutional review bodies on the grounds that the "will of the people" resides in the constitution (Hamilton, Federalist #78, see Gargarella 2022), so that laws promulgated by legislative majorities are subject to being invalidated by courts on constitutional grounds. In France, for example, the Conseil Constitutionnel recognized in 1973 as legally binding the values embodied in the Preamble to the 1946 constitution.

But what if courts do not intervene or confirm majority decisions (in many cases because they are packed by the incumbent government) and some people still think that these decisions violate the values they attach to democracy?

4 Crisis of Democracy?

The past three decades or so witnessed a rapid rise of dissatisfaction with traditional representative institutions, an erosion of traditional party systems and their fragmentation, a rise of extreme right parties, and the emergence of "magicians," individuals or parties who offer miraculous solutions. This sudden transformation led to a widespread concern about the future of democracy, embodied in innumerable books and articles which sound alarm about "The Crisis of Democracy." I contributed one of them (Przeworski 2019), and this essay constitutes second thoughts.

Do these transformation constitute a threat to democracy or an advancement of democracy?

The intense and widespread dissatisfaction with representative institutions is often dismissed as "populism." But 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 the persisting inequality. Inequality offers *prima facie* evidence that representative institutions do not function well. From the seventeenth century on, people on both extremes of the political spectrum, those for whom it was a promise and those for whom it was 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 100,000 school kids who have no permanent residence and in the same city I once heard a conversation between two very rich people in which one asked another how many houses he has, 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 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 the demands of the Anti-Federalists in the United States expressed already in 1789: short terms, term limits, revocation of mandates, reduction of pay of legislators, and limitations on circulating between the public and private sectors. The Brazilian innovation that received worldwide attention was participatory budgeting. Other pro-

posals range from the inane, such as “survey democracy” advocated by the *Cinque Stelle* party in Italy, to increased reliance on popular initiative referendums, to convocations of “citizen assemblies” (bodies of randomly selected citizens that consider particular legislative proposals without having the authority to adopt laws). Yet, all these measures are no more than palliatives. They may restore some confidence in democratic institutions but they hurl themselves against the inescapable: the mere fact that each of us must be ruled by someone else and being ruled must entail policies and laws some people do not like. Some people would be unhappy with any decisions, even if they are made with full, equal, and effective participation of citizens. There is no such thing as “the people” in singular and people in plural have different interests, values, and norms. 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 they want, whether income growth or some ideological values or what not. True, even if people want just to be governed well, they must still care about their future ability to remove the incumbent when a better challenger becomes available (Luo and Przeworski 2023). But when the incumbent undermines democracy they face a trade-off: they can either keep the competent current government in office even when it violates democratic norms and lose the capacity to remove it in the future or protect democracy at the cost of policy outcomes they value. “Delegative” populism is the outcome in which people want the government to govern even if it dismantles constraints on its reeligibility and on the discretion on making policies. The result then is “democratic backsliding” (or “deconsolidation,” “erosion,” “retrogression”): “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” (Ginsburg and Huq 2018: 17). As this process advances, the opposition becomes unable to win elections or assume office if it wins, established institutions lose the capacity to control the executive, while manifestations of popular protest are repressed by force. The danger of delegative populism is that a majority would support a government that delivers what the majority wants even when the government is subverting democratic institutions.

In turn, the emergence of new parties is not anti-democratic by any criterion. True, the traditional party systems have eroded and have become fractionalized: the number of effective parties in the electorate

increased from 3 in 1970 to 4 in 2020 in Western Europe and it also rose in Latin America. But this means that voters have more choice and that they are offered alternative closer to their preferences, which people do value (Przeworski 2003), while it seems not to have other negative consequences (Valentim, Vicente and Dinas 2024).

The rise of extreme right parties is not anti-democratic. The fear of the extreme right is justifiably fed by the specter that they would try to undermine democracy. But as long as these parties do not undermine the possibility of being removed from office and observe the institutional rules for policy making, their participation in governments is not anti-democratic.

The emergence of magicians is not anti-democratic. 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 some years ago I studied elections that led to major shifts of policy paradigms – the advent of Social Democracy in Sweden in 1932 and of neo-liberalism in the United Kingdom and the United States in 1979/1980 – I thought that one condition required for voters to support a party that proposed something unprecedented was that this party would have had a record of responsibility, of having been in office in the past and having acted like all other parties while in office (Przeworski 2014). Yet the victories of Trump, Bolsonaro, or Milei show that when people are desperate, like terminal cancer patients they are willing to seek any remedies, grasp for any straws, even those offered by charlatans who sell miraculous solutions. As a Rio taxi 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.” (<https://www.americasquarterly.org/content/system-failure-behind-rise-jair-bolsonaro>). 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, snake oil. "Make America Great Again" – Trump’s campaign slogan – was not 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 the European extreme-Right parties. This is what we did not anticipate when we believed their victories were unthinkable.

To summarize, the rejection of representative institutions does present a conundrum. We cannot pretend that these institutions function 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 constitute threats to democracy in the minimalist sense, always with the same caveat, namely that they

do not engage in backsliding.

5 Defending democracy

Declaring the advent of democracy in Spain, Adolfo Suarez proclaimed that henceforth "The future is not written because only the people can write it." He hoped for a better world and I read it as such. But people can write whatever they happen to want. Democracy does not guarantee anything other than that it is the people who would 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 still in peace.

When people disagree about the values democracy should realize, in the face of increasing polarization, conflicts concern the values democracy should implement, not democracy. And the only mechanism by which such conflicts can be processed peacefully are elections. Elections may generate outcomes that a minority finds repulsive. But democrats must be prepared to face defeats, even if their values are at stake.

What if people knowingly support anti-democratic governments? The question of whether democratic governments have the right to repress anti-democratic movements is not new. The German Federal Republic banned the Communist Party on these grounds. In Algeria in 1993, the second round of the election was called off because the Islamists appeared likely to win on the second round. What if people follow leaders who promise to empower them and then usurp power, depriving the people of the capacity to remove them if and when they so wish? 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 governments are doing. To imbue democracy with its values, the opposition must be more than an expression of ire. It must offer a positive program that appeals to at least some voters who are willing to tolerate transgressions of democracy because they find the current incumbent attractive. Defending democracy requires a positive, forward looking, program to reform it. This is not an easy task. Being against something unites, while being for something divides. When different groups in the opposition to violations of democratic norms attach different values to democracy, the rejection of

backsliding may be majoritarian but particular proposals for reform still minoritarian. The best evidence is that in many countries the opposition cannot unite against a common enemy. Minimalism unites, maximalism divides.

All of this is just food for thought.

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