
Critical Exchange

Political and ethical action in the age of Trump

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democratic polities are also resilient when they maintain public belief in and commitment to engaged citizenship that relies on debate, persuasion, and participation rather than resentment, cynicism, and violence.

Sometimes, as we learned from the rise of the Third Reich in Europe at the beginning of the 20th century, the polity will make catastrophic choices. But at others, it will author principles and construct institutions that bring future generations closer to the ideal of justice. For these reasons, it is important to take the current resistance against Trump and other social movements seriously as pragmatic political solutions to a real democratic problem.

Deva Woodyly

Does Donald Trump pose a special threat to democracy? Probably not

This past October, about a year after the election of Donald Trump, my mother gave me a call. In the course of our conversation she asked me whether I had read Jane Mayer's (2017) *New Yorker* article on Vice President Pence. If Pence became president, my mom explained, he might be even worse than Trump. I believe my mother might be correct. But if she is, it implies Donald Trump does not pose a special threat to American democracy. By special threat, I mean no graver a threat than would have been posed by the election, for instance, of his closest competitor in the Republican primary process, Ted Cruz, or the election of his Vice President. This is a perspective I outline in this brief essay. Doing so, I develop a deflationary account of Trump's triumph and of its meaning with respect to democratic political action.

My account has three premises (elaborated in Kirshner, 2014). First, generally speaking, it is not a bad decision or electoral result that unravels a democracy. The threat is the people who make and support that decision. Imagine that a group of people or its representatives create an anti-democratic law. By anti-democratic, I mean the law undermines or is conflict with one of the defining features of democracy (which I will assume is a set of institutions reflecting individuals' interest in political equality and popular agency). If the people themselves are not antidemocrats, if the anti-democratic law was a mistake or an oversight, it can be resisted and repealed. Indeed, it likely will be. The same logic applies if they mistakenly elect someone unfit for office. If the decision is truly an error, its harm can be minimized. Political officials and other actors can restrict the unfit official's influence – thus limiting the impact of that decision. This is what I mean when I say a decision, in itself, tends not to undermine democracy.

The deep and enduring problem with anti-democratic laws is not, generally speaking, the content of such laws – bad as they may be. It is that a large proportion of the population do not regard their fellow citizens as their equals. The same logic



applies to the election of antidemocrats. The problem is that, typically, those who have elected the antidemocrat do not think they have made an error. If for some technical reason the electoral decision was invalidated and citizens had to vote again shortly after the first election – I believe most would vote in the same way. Why? Because the voters are not committed to democracy. When this is the state of affairs, the moral rot will not be limited to a single law or electoral outcome. In these cases, anti-democratic decisions will not be undone easily, they will not be treated as errors to be corrected. The threat will unfold over time, affecting numerous decisions in ways large and small. There are, of course, plausible exceptions to this generalization. An erroneous decision can make a difference – especially when that decision cannot be rescinded. Launching a nuclear missile is one salient example. But I think most threats to democracy are not of this sort. At least that is what I will assume here.

Second, even if people are opposed to democracy, they have important interests in political participation and, in most circumstances, they have a claim to participate. Imagine there was a country not dissimilar to the United States. And imagine a large percentage of this country's population, but not a majority, held unreasonable and undemocratic beliefs: beliefs inconsistent with our reasons for valuing democracy. Perhaps these individuals believe someone's moral worth depends on her race. Would it be acceptable to permanently exclude these individuals from participating in political life because of their undemocratic views? If so, we would find a democratic form of apartheid acceptable. But if you find the idea of a democratic apartheid problematic, I think you share the intuition that even those who hold unreasonable views have an important claim to play a role in political life.

Third, it does not make sense to think of representative democracy in binary terms – democracy or non-democracy. Instead, we ought to think about regimes as being more or less democratic – depending on a complicated assessment of the circumstances. Once we make this allowance, as Loubna El Amine argues in this *Critical Exchange*, we will be better positioned to assess American political institutions and, by implication, to evaluate threats to those institutions.

Starting from these ideas will lead one to endorse an account of Trump's election that is deflationary in at least two senses. First, as my mother claimed, President Trump is not a special threat to the democratic character of American political institutions. He is not forging a course independent from his party with respect to policy or democracy. In this *Critical Exchange*, Russell Muirhead argues that Trump is a 'hard demagogue,' one who builds influence by setting people against each other. But it is not clear that Trump's distinctive style will translate into a weaker democracy. Would a less-demagogic President Pence or Cruz chart a different path on voting rights – an issue of self-evident democratic concern? I don't think so. Take the recently established Advisory Commission on Election Integrity. If it has any impact, the commission will likely have a negative effect on



the democratic character of our institutions, lending popular legitimacy to long-standing and unjustifiable efforts to make voting costly, complex and confusing.

But who are the members of this commission? Are they hard-core adherents to a specifically Trumpian ideology? Are they Bannonite shock troops? Hardly. The vice chair and lead figure on the president's Advisory Commission is Kris Kobach. Kobach worked in the justice department under President George W. Bush (a period in which President Trump was a registered Democrat) (Gillin, 2015). Kobach is running for governor in Kansas. He was not created by Trump. He is not a populist revolutionary. He is a Republican. And he is not exceptional. Hans von Spakovsky is another member of the Advisory Commission. He is a fellow at the old-line conservative think tank, the Heritage Institute. And, like Kobach, he also worked at the Justice Department under George W. Bush. In other words, efforts like the President's Advisory Commission are not novel challenges to democracy dreamed up by Team Trump; they are extensions of long-time Republican party efforts, they are being carried out by long-time Republicans and they are supported by Republican voters, voters who elected George W. Bush before they elected Donald Trump (CNN, 2016).

Am I overstating my case? Does Donald Trump possess a special distaste for democracy and democratic institutions, a distaste that makes him a unique threat? Consider the state where I live – North Carolina. After the election of a Democratic governor on 8 November 2016, the legislature stripped the governor-elect of much of his power – a move that would be difficult to justify along democratic lines. Were these legislators inspired by Donald Trump or his demagogic style? The evidence suggests they were not. On 26 June 2013, many of the same legislators enacted a voter identification law that the Fourth Circuit Appeals Court has since ruled unconstitutional. This was years before Trump declared his candidacy and the very day after the Supreme Court struck down key elements of the Voting Rights Act. Considering the legislature's actions, the Fourth Circuit observed that the new law 'target[ed] African Americans with almost surgical precision' (*N.C. State Conference of the NAACP v. McCrory*, 831 F.3d 204 (4th Cir. 2016)). The Supreme Court upheld that decision. Since then, the Supreme Court has found two different redistricting plans approved by the North Carolina legislature to be unconstitutional. In 2013, Trumpism was not yet part of the American vernacular. Donald Trump was not an especially important mover and shaker in North Carolina. All of this would be happening even if he weren't president. Moreover, we cannot just pin this lack of concern for democracy on North Carolina's legislative majority. The legislators who voted for these unconstitutional and undemocratic laws have constituents. In light of an explicit judicial finding that their legislators had targeted African Americans for disenfranchisement, those constituents could have voted their legislators out of office. They did not do so. They re-elected them.

The upshot here is straightforward. If democratic institutions are threatened in this country, that threat should not be identified, fundamentally, with President



Trump. That threat should be attributed to those who voted for him. If he was not around, they would have voted for someone who would pursue the same basic course. Am I sidestepping something important? Might the election of Donald Trump actually be attributable to America's flawed and inegalitarian political institutions? Trump may well have lost if the electoral college did not exist, for example. In fact, we close our eyes to salient features of our political situation when we imagine that what ails us is an institution like the electoral college. Institutions are not *sui generis*. The electoral college is allowed to persist because some individuals think it is valuable. And, all else equal, if the electoral college did not exist, the large number of individuals who thought it was a good idea to vote for Trump would find other ways to kneecap democracy.

The New York Times' Maggie Haberman, Trump's bard, describes the President as possessing an 'active disinterest in learning [about] the separation of powers' (Lehrer, 2017). The same could be said about the rule of law or the interests of his party. And President Trump's uniqueness in these respects may lead one to conclude he poses a special threat to American democracy. But I think it is just as easy to cast these as reasons *to doubt* he poses a deep and abiding threat to the democratic character of the United States, such as it is. A president with a better appreciation for the workings of the separation of powers, the rule of law and the import of party would certainly have achieved more legislatively. The GOP failed to overturn Obamacare because the President personally insulted a former POW who happened to be a Senator. Would President Pence or Cruz have made the same error? I think it unlikely. Moreover, the President's institutional ignorance led him to fire the director of the FBI. As a result, he is being investigated by the two-time former director of the FBI. This is happening despite his party's total domination over the federal government. It is an ignominious institutional achievement. An astonishing one.

My deflationary account of Trump's election has a second element: his election does not warrant any special kinds of political tactics, tactics that would not be justified if Mike Pence had been elected in his stead. If someone earnestly believed that the United States was a democracy on 7 November 2016 and that it stopped being a democracy on 8 November 2016 or 20 January 2017 – then perhaps a radical new approach to the pursuit of justice and democracy would be warranted. If the president was the fundamental problem, that problem could be resolved with relative ease, perhaps using an institutional surgical strike, like impeachment. Some congressional Democrats and party funders seem to take this view, pressing for the House to consider whether the President ought to be impeached.

But I have suggested that the true problem with American democracy is that many of us are not especially committed to democracy. And if those of us who do not believe in democracy should not be excluded from the political process, then we face a deep problem, one that is not subject to the same easy resolution as bad elections or mistaken decisions. Impeachment will not solve it. Robert Mueller will



not solve it. And if, like me, you think that the United States is about as democratic today as it was on 7 November – burdened by severe political and economic inequality, a distorted electoral system and inhabited by many for whom democracy is just not that important, then the kind of political action required today is more or less the same as the activity required before 7 November 2016. On this account, the way to make things more democratic, to fulfill a duty to advance justice and establish institutions consistent with individuals' moral equality, is to defeat opponents of democracy electorally, despite the manifest imperfections of our institutions. And, as Deva Woodley argues in this Critical Exchange, the opposition should not limit itself to formal competition, it should protest, organize and develop lawsuits, increasing the costs of actions that make things less just and less democratic.

I saw a tweet recently which observed how ridiculous it was that the fate of democracy had become a partisan issue (Nyhan, 2017). But this has always been the case. As the Athenians understood, democracy is a sectional form of government. It is imposed by democrats on antidemocrats. And if people want our society to become more democratic than they just have to keep struggling to make it so. Indeed, I believe it is one of the signature failures of the Obama administration that they did not grant these issues appropriate priority. Members of that administration are now organizing to combat things like widespread gerrymandering and disenfranchisement at the state and local level. That they have left so much of this work until now is an ignominious achievement of its own. One that is shared by people who consider themselves partisans of democracy. People like me.

Alexander S. Kirshner

The 2016 elections and American exceptionalism: a view from the periphery¹

I arrived in Bloomington, Indiana, in the fall of 2004, just a couple of months before the elections that year. In my e-mails to friends and family in Beirut, I expressed my surprise at the number of pumpkins I saw around, and the near absence of signs or posters relating to the elections. For this was in stark contrast with the thousands of portraits of middle-aged men in drab suits that covered every exposed wall in Lebanon during the elections there, and the extravagant slogans painted on huge canvases that hung from one balcony to the other, upending the yearly competition between Ramadan and Christmas decorations.

But then came the elections of 2008, which were a completely different affair from those in 2004. And yet, amidst all the positive energy that indifference had given way to, it was difficult not to feel out of place again. Hope, reverberating