'With characteristic brio and intellectual resourcefulness, Jan-Werner Müller invites us to rethink our fundamental political notion'
PANKAJ MISHRA

Democracy Rules

Jan-Werner Müller

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House Republicans stand together alongside social distancing boxes prior to a press conference on Capitol Hill. (Saul Loeb / AFP)

JAN-WERNER MÜLLER

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Preface

> Democracy? It is a dream to suppose that we already know what it is, whether out of satisfaction with our present state or to attack its misery. It is simply a play of open possibilities, inaugurated in a past still close to us, and we have barely begun to explore it.
>
> —CLAUDE LEFORT

Everybody thinks they know that democracy is in crisis, but how many of us are certain what democracy actually is? The reasons for a pervasive sense of crisis seem plain: a steadily rising number of authoritarian regimes; increasing levels of dissatisfaction with politics within democracies; and, beyond abstract numbers, the double trauma of 2016, with Brexit and the election of a reality TV star as president of the world's oldest and (still) most powerful democracy.

Does the elevation of an evidently unfit candidate to the highest office in the land automatically prove that democracy is in crisis? Or was conclusive proof only supplied by the fact that this man-child, in the very last days of his presidential term, incited followers to storm the legislature? Or did American democracy on that occasion demonstrate its resilience, ultimately absorbing the shock to the political system? Not every shock signals crisis. In the original ancient Greek meaning, *krisis* denotes a moment of stark choice: a patient would either die or recover, a defendant would be judged guilty or innocent

(in fact, "judgment" was the other meaning of the term).[1] If so, was Trump's election perhaps a moment when it was voters who were judged—as unfit for democracy? As we now know, a president tweeting falsehoods or spouting them in live press conferences can certainly turn into a matter of life and death—if members of his audience take him seriously and literally during a pandemic. But did lying about Lysol undermine democracy? Does the decision to leave a supranational organization, following a referendum initiated by one of the world's oldest political parties, namely the Tories in the United Kingdom, constitute a fatal blow to democracy as such? There are plenty of outcomes in democratic polities one might find abhorrent, but to presume more or less casually that they'll kill the system is to engage in what Saul Bellow once derided as "crisis chatter." Just what are plausible criteria for declaring a "life-and-death moment"? And is there a way for such criteria not to look immediately partisan?

That question cannot be answered without a proper understanding of democracy to begin with. True, we think we know it when we see it. But many leaders determined to subvert democracy have become very adept at making us believe that there's something there long after it is in fact gone. What is truly essential for democracy? Is it one thing only, or perhaps more than one thing? Is it elections, or a set of basic rights such as free speech, or a more elusive matter of collective attitudes, for instance, citizens being disposed to treat one another in a civil, respectful manner?

We won't get very far in answering these questions without first returning to basics. It's the move Machiavelli recommended when he wrote that addressing a crisis requires nothing less than a *riduzione verso il principio*, a "return to first principles." This book seeks to offer such a route. Inevitably, we walk with our backs to the future, but having some sense

of where we're coming from and what the path so far has looked like can help in figuring out whether we have really lost our way (which is not to say there's necessarily only one way).

It's a mistake to assume that all thinking about democracy today needs to be fashioned as a response to the new authoritarians. Yet we also can't pretend that nothing happened. Thus, the first chapter of this book will revisit the question Hillary Clinton posed in her instant memoir: What happened? And why is it still happening, after so many self-declared defenders of democracy have sounded the alarm bells?

There have been two convenient but ultimately very misleading responses. One is to blame the people themselves. This has been true of liberals in particular, who prioritize individual rights, are more or less content with capitalism, and tend to value diversity as such, but who also labor under an inherited notion that democracy is perennially in peril of deteriorating into a tyranny of the majority. They have taken what is often dubbed "the global rise of right-wing populism" as license to revive clichés from nineteenth-century mass psychology—the kinds of ideas one should not really utter in polite company, even if one is convinced that civics-education pieties hardly ever match political realities: the masses bring all kinds of disasters on themselves; ordinary folks—ill-informed and, even if well-informed, plainly irrational—are always ready to be misled by demagogues. The obvious lesson is to re-empower what are gingerly called gatekeepers—which is often really just to say traditional elites.[2] More concretely put, we must reengineer political primaries so as to minimize the decision-making power of those who in the United States are often (strangely) called everyday citizens:[3] let's be done with referenda and other irresponsible exercises in direct democracy; let's just recognize that politics is a profession.[4] After all, we must not forget that two-thirds of Americans can name

at least one member of the jury of the TV show *American Idol*, but only 15 percent are able to identify the chief justice of the Supreme Court.[5] Amateurs may applaud a particularly virtuous performance of "politics" in a TV debate, but during and especially after the show they must be kept safely on the sidelines. Those holding such views—lest they be thought of as just indulging good old demophobia, that is, fear of ordinary people—usually rush to back up their suspicions about the masses with timeless insights from social psychology: the people are prone to tribalism; polarization, as in enmity between groups, is the default of all politics; and we should devise psychological exercises such as "mindfulness" to make ordinary people tone it all down a bit.[6] Those despairing of the masses also point to surveys supposedly proving that citizens across the globe are more and more inclined to back "strong leaders," or even military rule.

What's wrong with this picture? To begin with, most surveys are ambiguous at best, and in any case surveys have hardly ever predicted either the life or the death of democracy; they certainly do not demonstrate conclusively that the people are thoroughly disenchanted with ideals of self-rule.[7] There's a reason why the instigators of military coups—be it in Thailand or Egypt—do not officially disavow democracy. Rather, they fake democracy, as in General Sisi's Egypt, or they promise a swift return to self-government as soon as the conditions are right, as in Thailand (even if there are always reasons to put that return off again).[8] It's wrong to assume that there is now an unstoppable wave of authoritarian populism—or, as the English Brexiteer Nigel Farage, who evidently felt the image of a wave didn't do justice to his world-historical role, put it, a "tsunami." True, parties that can plausibly be labeled populist—and I'll say more about that highly contested designation shortly—have increased their

vote shares in many countries. But the notion that majorities are inevitably clamoring for authoritarians fails to take note of one simple fact: until today, in no Western country has a right-wing populist authoritarian party or politician come to power without the collaboration of established conservative elites.[9] Moreover, the supporters of those elites don't think of themselves as getting rid of democracy when they vote for conservative and center-right parties.

A quick glance at history (and, of course, one shouldn't glance just quickly) would suggest that there are few—possibly no—instances of democratic majorities clearly deciding to be done with democracy. Fascist thugs marched on Rome, but Mussolini didn't: he arrived by sleeper car from Milan, because liberal elites and, not least, the king had decided that the future *Duce* should have a try at cleaning up the mess of parliamentary politics. Obviously, his Fascist Party had highly committed supporters, as did the National Socialists in Germany. But there as well, the crucial decision to empower Hitler was made by parts of what might as well be called the conservative establishment of the day. Those searching for one-line lessons from history should take note: apparently, it is not the people who decide to be done with democracy; it is elites.[10]

Of course, this notion would seem to play right into the hands of those who assign blame to the powerful for the political upheavals of our time. Indeed, there is much to criticize in what can be understood as a kind of *secession* of the most privileged from particular polities, but it does not do justice to the complexity of our moment simply to claim that its problems are all caused just by the rich and powerful being bad, corrupt, or, to coin a phrase, "crooked" characters, whether that claim is made by the left or the right. The powerful do what they do because they have the power to

do it, and the power was given to them ultimately through the institutions of our democracies. We must reexamine the latter, as opposed to getting stuck with shaming particular figures (even if doing so is often justified, and also fun: think of the billionaire on American TV prompted to tears by the specter of somewhat—in fact just *slightly*—higher taxes). In other words, the focus on individuals is misguided, whether it stresses the many—as in the casual contempt for the allegedly irrational and proto-authoritarian masses—or the few, as in the satisfying but ultimately cheap attacks on selfish elites.

To think about institutions is not to reduce politics to process and procedure; what matters is to probe the principles that animate and justify the rules of the democratic game and its informal norms.[11] One of the important insights from students of politics is that such uncodified norms can be at least as important as laws; they actually keep the democratic game going (and crucially constrain the players in ways not found in the rule book).[12] Yet neither rules nor norms are in and of themselves a good thing, and especially not when they enable a game that rests on spoken or unspoken injustices. Southern gentlemen in the twentieth-century U.S. Congress no doubt graciously observed norms of civility (and even an imperative to compromise on a range of issues, oiling bipartisan politics with bonhomie). But the system of racial exclusion that they defended was fundamentally incompatible with democratic principles. As the American law professor Jedediah Purdy has observed, "Norms are like the statues of dead leaders: you can't know whether you are for or against them without knowing which values they support."[13] We need to go beyond rules and norms and ask about the animating principles—or, as some political thinkers would have put it in a bygone era, the *spirit*—behind them. It's not enough to appeal to rule fol-

lowing in the hope that we can get going again a process (or game) that has been blocked by more or less authoritarian figures; after all, the point of democracy surely is not just for different elites to cycle in and out of power.[14]

Then what is the point? A conventional answer is that democracy can be justified only with an appeal to the principles of freedom and equality. A rule like "majority decides" isn't good because it produces the best results or is most efficient; it's right because it reflects respect for citizens' equality, and it takes the form of counting every individual vote. This rule is opposed to acclamation by crowds, as we affirm that everyone matters (and assume that everyone is capable of political judgment).[15]

Democracy is not exhausted by the equal freedom to vote. There are also freedoms of speech, assembly, and, not least, association. Organizations multiply the value of individual rights of political expression, but, less obviously, they also undermine equality; those with more resources or, for that matter, better and more eloquent arguments will have more influence when it comes to making collective decisions. Democracy is not just irenic equality; it's friction on the basis of people using their freedoms. Yet without associations—political parties, above all—there is also no way to rectify inequalities; sometimes the tools that built the master's house can be useful for remodeling it into a home for equals.

Whether one likes it or not, democratic conflicts are still predominantly structured by intermediary institutions, political parties and professional media in particular. These have been considered crucial for making representative democracy function properly ever since the nineteenth century. It is conventional wisdom that both are in deep crisis today, and by crisis I *mean* crisis, for plenty of media and parties *are* dying. Before we can even get to addressing this twin crisis,

however, we should take a step back and ask—*riduzione verso il principio*—in what ways exactly these institutions provide (or at least used to provide) a critical infrastructure for democracy: a way for citizens to reach others, and be reached by them in turn, comparable in a sense to the postal service that Trump sought to destroy, thinking that in a free and fair election with a proper infrastructure for mail-in voting he was bound to lose (a correct assessment, as it turned out). Once we see the principles behind this infrastructure, and democratic institutions more broadly, we'll also be less frightened of replacing some of them. Rebuilding democracy after authoritarian populism does not have to mean more of the same, but can include innovative machinery that is in fact more likely to work in tune with democracy's underlying principles.[16]

Yet it's naive political solutionism to expect that *one* product of what has become a kind of global democracy innovation industry—be it internet voting, assemblies of randomly chosen citizens, or what have you—will get us out of our difficulties. Nonetheless, the renovation of democracy's critical infrastructure is a crucial first step. *Pace* the demophobes, this can be done without simply reinstating traditional gatekeepers; rather, as I explain in the last chapter, the people themselves are able to determine the ways in which intermediary institutions—parties and media, above all—should be refashioned.

To be sure, intermediary powers—or, for that matter, any new democratic machinery—need to be constrained by one nonnegotiable principle: they cannot deny the standing of particular citizens as free and equal members of the polity. If one undermines such standing, the game—in which anything else, from material interests to sexual identities, can become subject to conflict without suspending the civic bond as such—will be over; one can say all kinds of unfriendly

things to other citizens in political battle without disrespecting them, but one can't say, "You're a second-class citizen" or "You don't really belong here" (as Trump did, for instance, when he told progressive congresswomen of color to "go back" to their countries). Some states have provisions to penalize, or even simply prohibit, parties that, in effect, seek to shrink the demos or in other ways violate fundamental rights. The banning of political actors goes back as far as the ancient Athenian democracy, but is it ever really justifiable, given the obvious danger that such apparent measures for democratic self-defense might bring about the very demise of democracy that they are supposed to prevent? After all, a country in which the basic right to free association is infringed on or someone is told they don't belong (and, as a result, ostracized and sent away, as happened in Athens)—albeit all in the name of saving democracy—can hardly claim to be a proper democracy anymore.

If rules enable and at the same time constrain the democratic game, rule breaking must be bad. But is it? Democratic politics is never exhausted by rule following and sometimes might positively require upsetting the game; it is not an accident that the ancient Athenians praised their polity for its capacity for innovation, while their enemies charged them with being capricious.[17] Not all norm breaking is the same.

Rules can be broken while one remains faithful to their underlying principles; sometimes, to preserve the very meaning of the game, people want to engage in forms of disobedience designed to serve or even deepen democracy. In the eyes of skeptics, such disobedience paves the road to anarchy or to authoritarianism, because no citizenry has ever put up with anarchy for long (and critics of democracy, from Plato onward, have warned that "too much freedom" results in tyranny). But, then again, many of those aghast at the antics of

today's enemies of democracy have at one point or another wondered, just why aren't we on the streets challenging authoritarians right now? Why aren't we stopping *this*? How come we're obsessed with lessons from history, and yet we seem to be standing by as passively as many of our ancestors did? Is there a threshold beyond which democratic disobedience becomes legitimate, as opposed to looking as if one were just a bad loser in electoral contests (or, in the worst-case scenario, risking civil war in fighting for one's partisan convictions)?

THIS BOOK IS not a political manual. One of its wagers is that we still have time—and ought to make time—for thinking about first principles. The latter do not dictate highly specific institutions or detailed political rules; democracy isn't just one thing, and there's more than one way of doing democracy (just as there is more than one way of faking it). In line with the insights of the great French political philosopher Claude Lefort, some probably have not even occurred to us (though by the same token some strategies for undermining democracy have not occurred to *them* yet). Another wager is that democracy does still rule—in the sense that plenty of people around the globe view it as deeply desirable. They still dream it as a political system that has enormous problems but that remains best able to avoid domination, and to give people a chance to experience a decent life in common.

Democracy Rules

1. FAKE DEMOCRACY: Everybody Has Their Reasons

> The awful thing about life is this: Everybody has their reasons.
>
> —Octave in JEAN RENOIR, *The Rules of the Game*

> I have lived for the last month . . . with the sense of having suffered a vast and indefinite loss. I did not know at first what ailed me. At last it occurred to me that what I had lost was a country.
>
> —HENRY DAVID THOREAU

They do not all look the same; plenty of differences are obvious. But group them together and they clearly make up one political family: Orbán, Erdoğan, Kaczyński, Modi, undoubtedly ex-president Trump, perhaps Netanyahu, but Brazil's president Jair Bolsonaro for sure. It is imperative to understand what is often described as a global trend in authoritarianism.

The obvious danger is that the effort to do so will homogenize what, after all, remain fundamentally different national trajectories. The causes for the rise of right-wing populism in particular are not identical. But radical right-wing populists have developed a common strategy and even what might be called a shared authoritarian-populist art of governance—hence the family resemblances.

The spread of this populist art has put paid to a particular post–Cold War illusion: not that History had ended (did

anybody *really* believe that?), but that only democracies could learn from their own mistakes and from one another's experiences. Authoritarian regimes, so the assumption went, could not adapt to changing environments and innovate; they were all fated to end like the Soviet Union in 1991. The new Authoritarian International—whose members can try out and refine techniques of radical right-wing rule—puts that complacent liberal-democratic self-conception to rest; best authoritarian practices (or should we say worst?) can be copied across borders.

Broadly speaking, the authoritarian-populist art of governance is based on nationalism (often with racist overtones), on hijacking the state for partisan loyalists, and, less obviously, on weaponizing the economy to secure political power: a combination of culture war, patronage, and mass clientelism. To be sure, the nationalism often amounts to a simulation of sovereignty, a studied performance of collective self-assertion, when in fact not all that much is changing; plenty of anti-globalization rhetoric turns out to be perfectly compatible with the continued deregulation of capital flows across borders and other measures that enrich elites in other countries.

These specifics are missed by political diagnoses that equate contemporary right-wing populism with fascism, or see populism as a new, internationally successful ideology, or assume that "ordinary people" just brought all this on themselves with their supposed craving for authoritarianism. Historians have sought precedents for what we are witnessing, often with a view to drawing "lessons from the past." Of course, exercises in comparison are valuable, and there cannot be blanket prohibitions on finding parallels between the present and the atrocities of the twentieth century, for, without first comparing, we could not appreciate the differences. Still, analogies all too often lead to shortcuts in polit-

ical judgment; we are more likely to see the similarities, or even engage in motivated reasoning, that is, pick evidence in order to justify our preferred political strategy for today. As James Bryce—today virtually forgotten, but a highly influential diagnostician of democracies at the turn of the twentieth century—put it, "The chief practical use of history is to deliver us from plausible historical analogies." That's a note of caution which always applies; more specific to our age is Tony Judt's observation that we have become extremely skillful at teaching the lessons of history but probably quite bad at teaching actual history.

The truth is that today's threats to democracy barely even rhyme with many twentieth-century experiences. Many of those who after November 8, 2016, rushed to buy *1984* or *The Origins of Totalitarianism* might well have given up after a few dozen pages. Fascism specifically—as distinct from authoritarianism or racism in general—is not being revived in our era: we do not see the mass mobilization and militarization of entire societies;[1] and while hatred against vulnerable minorities is being fanned, no systemic cult of violence that glorifies mortal combat as the apotheosis of human existence is being instituted. Nor are states being thoroughly remade on the basis of racism, which is not to deny that racial (and religious) animus has been legitimated from the very top in Hungary, Brazil, and the United States.

We are all in favor of learning from history, but we implicitly assume that only good people learn from it. One of the reasons we are not witnessing the second coming of a particular antidemocratic past is that today's anti-democrats have also learned from history. They know full well that highly visible human rights violations on a mass scale should not form part of today's authoritarian repertoire: that would be too uncomfortable a reminder of twentieth-century dictatorships.

Large-scale repression, as perpetrated by Erdoğan since 2016, must be understood as a sign of weakness, not strength. Trump sending his "army" of far-right hobby warriors, conspiracy theorists, and the occasional country-club Republican in the direction of the Capitol was a matter of desperation, not proof of a master plan for a fascist takeover. Precisely because we might recognize it as a historical precedent, it by and large isn't happening. So, what then is happening?

But What Is Right-Wing (or, for That Matter, Left-Wing) Populism Anyway?

I've so far used the term "populism" as if its meaning were self-evident. It's not. It is positively misleading to equate populism with "criticism of elites" or "anti-establishment attitudes." While such an equation has become conventional wisdom, it's actually based on a rather peculiar thought. After all, any old civics textbook would instruct us that keeping an eye on the powerful is a sign of good democratic citizenship, yet, nowadays, we are told incessantly that such conduct is precisely "populist" (and, by implication, according to many observers, dangerous for democracy and the rule of law). Now, it's true that populists, when in opposition, criticize sitting governments (and, usually, also other parties). But, above all, they do something else, and that is crucial: in one way or another, they claim that they, *and only they*, represent what they often refer to as the "real people" or also the "silent majority."

At first sight, this might not look particularly nefarious; it does not immediately amount to, let's say, racism or a fanatical hatred of the European Union or, for that matter, the declaring of judges and particular media "enemies of the people." And yet this claim to a distinctly moral monopoly of repre-

sentation has two detrimental consequences for democracy. Rather obviously, once populists assert that only they represent the people, they also charge that all other contenders for office are fundamentally illegitimate. This is never just a matter of disputes about policy, or even about values; such disagreements, after all, are completely normal and, ideally, even productive in a democratic polity. Rather, populists assert that their rivals are corrupt and simply fail to serve the interests of the people on account of their bad, or indeed "crooked," character. What Donald J. Trump said about his rival in the 2016 election (and then also about his opponent in 2020) was extreme but not exceptional: all populists engage in talk of this kind.

More insidiously, populists also claim that those who do not agree with their ultimately symbolic construction of the people (and hence usually do not support the populists politically) might not properly belong to the people in the first place. After all, the suggestion that there is a "real people" implies that there are some who are not quite real—folks who just pretend to belong, who might actually undermine the polity in some form, or who at best are second-rate citizens.[2] Just remember Trump's habitual condemnation of his critics as "un-American," or think of Jarosław Kaczyński's railings against Poles who he said have treason in their genes, or listen to what's really being said with the pronouncement of BJP politicians that "the division . . . is just in the mind of certain politicians, but, as a society, India is one and India is harmonious."

Populists always claim to unify the people or simply uncover the unity that is always already there, but their de facto political business model is to divide citizens as much as possible. And the message that only some truly belong to the people systematically undermines the standing of certain citizens.

Obvious examples are minorities (whose status in the polity might already be vulnerable for one reason or another) and recent immigrants, who are suspected of not being truly loyal to the country. Think of Modi's policy of creating a register of genuine citizens. Ostensibly, this is supposed to help identify illegal immigrants (referred to as "termites in the soil of Bengal" by Amit Shah, when he was head of the BJP). Hindu nationalists understand perfectly well that the entire exercise is meant to affirm the "real"—that is, Hindu—people and put fear into one particular minority, namely Muslims.

Where populists come to power, one consequence of this exclusionary stance can be that some citizens no longer enjoy full equality before the law (or even protection of the law at all): they are treated differently in conspicuous ways, perhaps not necessarily by judges in court, but in many ordinary encounters with bureaucrats who have understood perfectly well what is expected from the very top.[3] That is not even to mention the unleashing of hate on streets and squares. There is significant evidence, for instance, that Trump rallies were associated with a local increase in politically motivated assaults; Asian Americans were attacked more frequently during the pandemic; Trumpist vigilantes clearly felt empowered by the Republican Party's showcasing a suburban couple training weapons on Black Lives Matter protesters; and, lest we forget, anti-Semitic "incidents" also hit an all-time high in the United States in 2019 (numbers for 2020 were not available at the time of writing).[4] The philosopher Kate Manne's term "trickle-down aggression" perfectly captures this phenomenon.[5]

Note how this radicalization of the right in the name of the people is not the same as nationalism per se. The latter implies that every cultural nation is entitled to its own state, that compatriots are owed more by way of moral and political obligations than foreigners, and that the imperative of