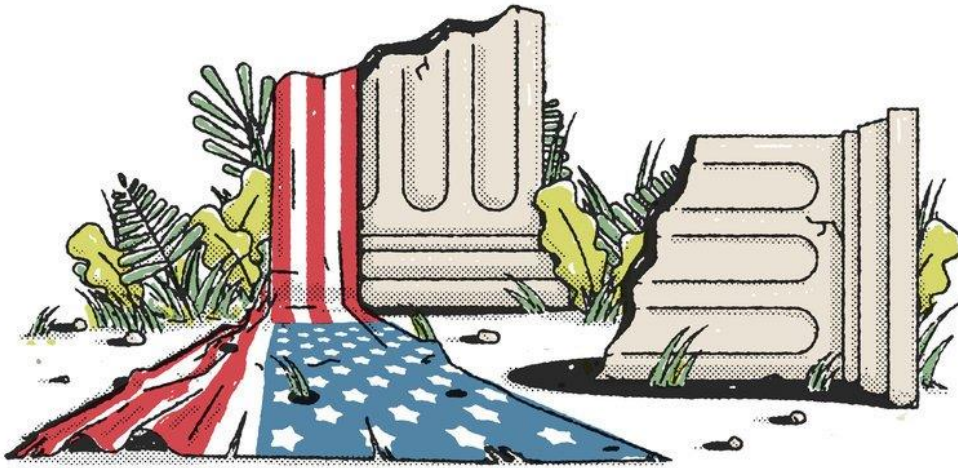


How Wobbly Is Our Democracy?

By STEVEN LEVITSKY and DANIEL ZIBLATTJAN. 27, 2018



Credit Michael George Haddad

President Trump hasn't destroyed the republic. This should not surprise us. Our democratic institutions are strong. And Mr. Trump, despite his reckless attacks on democratic norms, is a weak and inept leader.

But that doesn't mean democracy is safe. The problems we face run deeper than the Trump presidency. While Mr. Trump's autocratic impulses have fueled our political system's mounting crisis, he is as much a symptom as he is a cause of this crisis.

We should not take democracy for granted. There is nothing intrinsic in American culture that immunizes us against its breakdown. Even our brilliantly designed Constitution cannot, by itself, guarantee democracy's survival. If it could, then the republic would not have collapsed into civil war 74 years after its birth.

To function well, democratic constitutions must be reinforced by two basic norms, or unwritten rules. The first is mutual toleration, according to which politicians accept their opponents as legitimate. When mutual toleration exists, we recognize that our partisan rivals are loyal citizens who love our country just as we do.

The second norm is forbearance, or self-restraint in the exercise of power. Forbearance is the act of not exercising a legal right. In politics, it means not deploying one's institutional prerogatives to the hilt, even if it's legal to do so.

We rarely think about forbearance in politics, and yet democracy cannot work without it. Consider what American presidents could legally do under the Constitution. They could pardon anyone they want, whenever they want, undercutting congressional and judicial oversight.

They could pack the courts. With a congressional majority, a president facing an unfriendly Supreme Court could expand it to 11 or 13 and fill the new seats with allies. Or a president whose agenda is stalled in Congress could make policy unilaterally, via executive orders or proclamations. The Constitution does not explicitly prohibit these acts.

Or consider what Congress could do. It could, under the Constitution, routinely refuse to fund the government, effectively shutting it down. The Senate could exploit its right of "advice and consent" to block all of the

president's cabinet nominations. It could prevent the president from filling any Supreme Court vacancies. And a congressional majority could impeach the president on virtually any grounds.

America's constitutional system thus requires forbearance. If our leaders deploy their legal prerogatives without restraint, it could bring severe dysfunction, and even constitutional crisis. Mark Tushnet, a law professor at Harvard, calls such behavior — exploiting the letter of the law to undermine its spirit — “constitutional hardball.”

Look at any failing democracy and you will find constitutional hardball. In postwar Argentina, when President Juan Perón encountered Supreme Court opposition, his congressional allies impeached three of five justices on grounds of “malfeasance” and replaced them with loyalists. In 2004, when Venezuela's high court proved too independent, congressional allies of President Hugo Chávez added 12 seats to the 20-member court and filled them with loyalists. Both Perón's and Chávez's court-packing schemes were legal, but they nevertheless destroyed judicial independence.

Norms of forbearance have not always been strong in the United States: They were weak in the republic's early years and they unraveled during the Civil War. But for most of the 20th century, Democrats and Republicans accepted each other as legitimate and exercised power with forbearance.

There were no partisan impeachments or successful court packing. Congress routinely funded the government, obstructionist tools like the filibuster were used sparingly, and the Senate used its power of advice and consent with prudence, routinely confirming qualified nominees. There were instances of executive overreach (Franklin Roosevelt, Richard Nixon), but the most egregious abuses were checked by Congress and the courts.

History suggests, however, that democratic norms are vulnerable to polarization. Some polarization is healthy, even necessary, for democracy. But extreme polarization can kill it. When societies divide into partisan camps with profoundly different worldviews, and when those differences are viewed as existential and irreconcilable, political rivalry can devolve into partisan hatred.

Parties come to view each other not as legitimate rivals but as dangerous enemies. Losing ceases to be an accepted part of the political process and instead becomes a catastrophe. When that happens, politicians are tempted to abandon forbearance and win at any cost. If we believe our opponents are dangerous, should we not use any means necessary to stop them?

This is how democracy died in Chile. Before the 1973 coup, Chile was Latin America's oldest democracy, buttressed by vibrant democratic norms, including a well-established “culture of compromise.” Chileans liked to say that there was no political disagreement that could not be settled over a bottle of Chilean cabernet. But beginning in the 1960s, Chile's culture of compromise was shattered by Cold War polarization. Mutual toleration eroded, and political parties eschewed forbearance for a “win at all cost” strategy. Chilean democracy fell into a death spiral, culminating in a bloody coup. (The intervention of the United States accelerated but did not cause this death spiral.)

Could it happen here? It already has. During the 1850s, polarization over slavery undermined America's democratic norms. Southern Democrats viewed the antislavery position of the emerging Republican Party as an existential threat. They assailed Republicans as “traitors to the Constitution” and vowed to “never permit this federal government to pass into the traitorous hands of the Black Republican Party.”

Norm erosion alters the zone of acceptable political behavior. Partisan violence pervaded Congress. Joanne Freeman, a historian at Yale, counted more than 100 incidents of violence (including fistfights, canings and the pulling of knives and pistols) on the floor of Congress between 1830 and 1860. Before long, the republic would be broken — and Americans would be killing one another in the hundreds of thousands.

America today is not on the brink of a coup or a civil war. Yet our parties are more polarized than at any time during the last century. Whereas 50 years ago some 5 percent of either Democrats or Republicans said they would be displeased if their child married someone from the other party, today 49 percent of Republicans and 33 percent of Democrats say so. [According to a recent Pew Research Center survey](#), 49 percent of Republicans and 55 percent of Democrats say the other party makes them “afraid.”

This is not a traditional liberal-conservative divide. People don’t fear and loathe one another over taxes or health care. As political scientists have shown, the roots of today’s polarization are racial and cultural. Whereas 50 years ago both parties were overwhelmingly white and equally religious, advances in civil rights, decades of immigration and the migration of religious conservatives to the Republican Party have given rise to two fundamentally different parties: one that is ethnically diverse and increasingly secular and one that is overwhelmingly white and predominantly Christian.

White Christians are not just any group: They are a once-dominant majority in decline. When a dominant group’s social status is threatened, racial and cultural differences can be perceived as existential and irreconcilable. The resulting polarization preceded (indeed, made possible) the Trump presidency, and it is likely to persist after it.

Extreme partisan polarization had already begun to eviscerate our democratic norms long before Mr. Trump’s election. By the time of Barack Obama’s presidency, many Republicans had abandoned mutual toleration. Prominent Republicans attacked Mr. Obama and the Democrats as anti-American. And of course, in 2016, the Republican Party nominated for president a man who questioned Mr. Obama’s citizenship and insisted that his rival was a criminal.

Polarization also encouraged politicians to abandon forbearance, beginning with the Gingrich-era government shutdowns and the partisan impeachment of Bill Clinton. Other examples include proliferating filibuster use, congressional refusal to raise the debt limit and President Obama’s use of executive actions to bypass Congress.

Perhaps the most consequential was the Senate’s refusal to take up Mr. Obama’s nomination of Merrick Garland to the Supreme Court. [Since 1866](#), every time a president had an opportunity to fill a vacancy before the election of his successor, he was allowed to do so (though not always on the first try). The Senate’s refusal to even consider an Obama nominee violated a 150-year-old norm.

Democrats are beginning to respond in kind. Their recent filibuster triggering a government shutdown took a page out of the Gingrich playbook. And if they retake the Senate in 2018, there is talk of denying President Trump the opportunity to fill any Supreme Court vacancy. This is a dangerous spiral.

American democracy retains important sources of strength, including vast national wealth, a vibrant media and civil society, and a robust judiciary and rule of law. But the norms that once protected our institutions are coming unmoored. President Trump has accelerated this norm erosion, but he didn’t start it. Intensifying polarization, driven by an extremist Republican Party, is making constitutional hardball a new norm for party politics.

The lessons of history are clear. Extreme polarization can wreck even established democracies. America is no exception. As long as Americans do not overcome their deepening partisan animosities, democracy remains at risk — President Trump or no President Trump.

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