The Pragmatics of Democratic "Front-Sliding"

Tom Ginsburg and Aziz Z. Huq

By many accounts, democracy in the United States today wobbles on the edge of a knife. At the national level, the 2020 presidential election ended with the incumbent refusing to concede after a clear loss, pressing claims of fraud without any credible evidence. Polls suggest that a majority of Republican voters still believe those claims—a delusion pervasive enough to stand on its own as evidence of a profound crisis of democracy's epistemic foundation.[1] A hyperpartisan Supreme Court, in addition, has continued to gut the Voting Rights Act (VRA) of 1965.[2] This judicial deregulation of election law has facilitated a raft of electoral restrictions enacted by Republican-dominated state legislatures, but when Democrats have sought to rely on the VRA in proposing electoral maps, they have been rebuffed by the Court.[3] As the 2022 to 2023 term of the court starts, there is a possibility that it will not just further hollow out the VRA but also interpret the Constitution using a fringe theory that would allow partisan state legislatures to manage and intervene in federal elections without regard to the constraints imposed by state constitutions and standing state law.[4] At the state and local levels, where American elections are administered, the faction of the Republican party aligned with former president Donald Trump has shoveled a large amount of time and resources into capturing the machinery of

Tom Ginsburg, University of Chicago, Chicago, Illinois, United States (tginsburg@uchicago.edu)

Aziz Z. Huq, University of Chicago, Chicago, Illinois, United States (huq@uchicago.edu)

vote counting. Candidates aligned with this faction ran in and won primary elections for secretary of state and governor offices in early 2022, and though most lost general elections as this article went to press, many election deniers remain in Congress. As these efforts gather steam, the integrity of the 2024 election cycle seems to be at grave risk. Meanwhile, legislative efforts to fix the federal statute that regulates the casting and counting of votes for the president through the Electoral College have (as of this writing) not yet been advanced out of Congress, despite apparent bipartisan agreement on the need for a fix.

This struggle over the endurance of meaningful democratic choice in the United States is but one chapter in a larger story of contemporary challenges to democratic norms playing out slowly across the globe. This global crisis of democracy has not, of course, emerged from nowhere. Nor has it manifested all at once. Instead, it has most often crept in slowly, taking many small steps—a process sometimes characterized as "erosion" or "backsliding."[5] This incremental decay can be tracked across several fronts—political, legal, epistemic, and psychological—all at the same time. As a result, any return to the democratic status quo ante is also likely to be incremental. We are unlikely to see the law, politics, and public psychology of democracy shift gears all at once. This poses the challenge of where to start: How does a democracy that has survived a close brush with authoritarianism start to recreate conditions of meaningful democratic political competition? What steps are to be taken? And in what order should they be pursued?

Though there is likely to be national variance in the answers to these questions, we contend here that there are lessons that can be gleaned from other countries' experiences. These can be usefully applied to future cases. To that end, we start by reviewing the observed dynamic of backsliding. We then confront the central puzzle of interest to us here. We call this the challenge of "front-sliding"—in other words, the process of rebuilding the necessary political, legal, epistemic, and sociological components of democracy. Along the way, we examine the distinctive and difficult question of punishing individuals who have been drivers of backsliding. Finally, we turn, albeit briefly, to the question of how to sequence different elements of front-sliding.

The Way Down

Democratic backsliding has a predictable set of agents, conditions, and vectors. In an earlier book of ours, we identified two broadly political forces at work called

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"charismatic populism" and "partisan degradation."[6] Charismatic populism is the more well-known phenomenon; it has been extensively discussed by various scholars in the literature. It involves a leader who claims the unique ability to represent the people and the power to bypass and undermine ordinary institutional constraints in doing so. Such figures are by now familiar on the world stage: Turkey's Erdoğan, Hungary's Orbán, the Philippines' Duterte, the United States' Trump, India's Modi, and Venezuela's Chávez rank among the most prominent. These figures draw upon a common stock of rhetorical tropes, arguments, and perceived enemies. They also share strategies across borders. Just as democracy has become a globalized phenomenon, propagated through transnational networks of people, organizations, and media, so too has backsliding. The networks working against democracy include cross-border associations of parties, think tanks, and social media platforms. In some instances, they receive resources and support from autocratic states.[7] In advancing their cause, the national leaders supported by these global networks have seeded parochial, nationalist reactions against that enabling dynamic, decrying open borders, free trade, and the free flow of ideas. In this way, a global movement seeds a retrenchment from certain forms of globalization. One does not need to be a Marxist to entertain the thought that globalization has thus birthed its own gravediggers here.

Partisan degradation is less common. It is found when one party, either dominant or not, abandons the ordinary constraints on partisan competition. Democracy requires a stable set of rules within which leaders are chosen and policies are adopted, challenged, and potentially rejected. If a party comes to believe it cannot win pending elections (say, because of demographic change), or comes to view an opponent as an existential threat (often because of a polarized understanding of racial, ethnic, or religious identity), leaders and rank-and-file members of the party may decide those rules are not worth respecting. A paradigm case is the Republican Party at the state level in the United States. In Wisconsin and North Carolina, to take a couple of the most extreme examples, the party stripped powers from executive offices to which the opposition had just been elected. In both states, it reduced the possibilities of voting for members of the other party. And it has locked in extreme state gerrymanders. In Arizona, Trump-aligned state legislators have even proposed a constitutional amendment that would allow them to submit an alternative slate of presidential electors in defiance of their own voters. All these moves imply a belief in the fundamental illegitimacy of Democratic Party rule—and a refusal to engage in the democratic

process. These developments raise the question of whether, at least in the American context, the same corrosive mentality will decisively shape reactions to future presidential election results.

The strategies of backsliding leaders and parties more globally are by now well documented. The leaders entrench themselves in political office, insulating themselves from changes in the preferences of the electorate. They shape the preferences of the electorate by degrading the public sphere through misinformation and hate speech. They seek to undermine the rule of law through nepotism and the allocation of opportunities to wealthy cronies, and then attack the independent, rule-bound bureaucracy. Through these steps, they undermine constitutional checks and balances through a combination of capture and bypassing those who oppose them; and they also try to control the election machinery itself.[8] The precise mix and timing of backsliding strategies vary across contexts. But one sees some elements of these strategies in every case.

There are few linear processes in politics, and democratic backsliding is no exception. We observe fits, starts, and reversals.[9] Recent political developments in Sri Lanka provide an example of nonlinearity. After winning the election for president in 2005, Mahinda Rajapaksa prosecuted and won the longstanding war against the Tamil Tigers, and was reelected in 2010. Parliament then removed term limits so he could run again in 2015. Rajapaksa concentrated enormous powers in his hands, appointing his allies to the Supreme Court and running an increasingly authoritarian, corrupt regime. Yet during his 2015 reelection campaign, an erstwhile ally, Maithripala Sirisena, decided to challenge him. To universal surprise, Rajapaksa lost. In response, he attempted to close some polling places, and allegedly considered a coup d'état. But the army chief resisted—resulting in what we have called a "near miss" for democracy.[10] The new Sirisena regime restored presidential term limits and once more empowered Parliament. Then, in 2018, in a still opaque decision, President Sirisena appointed Rajapaksa as prime minister and sought to dismiss Parliament. This move ultimately failed: The Supreme Court rejected the dissolution, and Parliament failed to give Rajapaksa a majority. Democratic institutions, it seems, had held firm. In a November 2019 presidential race, however, Mahinda Rajapaksa's brother Gotabaya Rajapaksa won the presidency. The following August, the family's closely controlled political party won a large majority in Parliament and Mahinda became prime minister.[11] A constitutional amendment restored broad executive power, and new allegations of corruption mushroomed. In 2022, mass

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protests erupted over economic mismanagement, driving the Rajapaksas from power. The protests have also led to significant constitutional reform, reducing executive power and restoring term limits.[12]

A general lesson of the Sri Lankan story (which, of course, is not and will never be "complete") is the instability inherent in backsliding. Attempts to entrench one faction in power tend to generate a popular backlash. Sometimes, that popular defense of democracy prevails. More often, as Albert Hirschman famously sketched, intense engagement with public projects of governance gives way to disillusion and a retreat to the private sphere.[13] Economic malaise can drive popular resistance (as in Sri Lanka), or else empower backsliding leaders. The forces of counterdemocratic reaction can also wait out a popular reaction, or take advantage of the inevitable ebb tide of attention. Victories for democracy are temporary and, often, they hide the seeds of their own unraveling. Under these conditions, perhaps the democratic project demands more of its citizen members than people are commonly capable of giving. Perhaps democracy abides only when it does not demand too much of its participants.

One indication of this fragility is that in places where democracy has been eroded, the opposition to backsliding forces tends to be deeply divided. Israel's last government, which replaced the long-serving prime minister Benjamin Netanyahu in June 2021, was united by only one thing: a desire to get rid of him. That government lasted barely a year, and Netanyahu is now back in office. India's 1977 bout of emergency rule under Indira Gandhi, which was characterized by authoritarian practices, was thwarted only when the Janata Dal party organized a broad coalition against her. Within two years, however, that coalition had fallen apart as an effective opposition to the Congress party.[14] Venezuela's opposition, too, was deeply divided during the era of Chávez, enabling his success. Hungarian president Viktor Orbán also benefited from a divided opposition until 2022. By the time that the opposition had sorted through its differences, Orbán had been in power for more than a decade, and was able to leverage the powerful media and financial resources of the states to secure a majority of votes cast in that year's election. In each of these cases, the success or failure of the opposition to overcome fragmentation shaped the extent of backsliding. Even where the opposition initially wins (as in India), this may or may not ease pressure on democratic norms and principles, and the success may or may not last. If Trump were to run and win the U.S. presidency in 2024, for example, we can confidently predict substantial new backsliding in American democracy.

First Principles for Front-Sliders

Imagine that a country has survived a near miss and staved off immediate democratic erosion. What, then, should reformers do? It is not enough, of course, to stop erosion in its tracks by winning at the polls: the victory, as we noted, is a complex process with psychological, institutional, and legal aspects. The bigger contemporary challenge for reformers is to restore and renew democratic institutions back to (at least) prior levels of vitality. This problem is distinct from that of democratization; namely, it is the project of building democracy anew and from the ground up. As a relatively new challenge, there are few extant cases on which to anchor the analysis, so our inquiry is by necessity somewhat speculative.

We start with three general observations that condition our answers; we then reflect upon related comparative experience. The first observation (really a reminder) is that a democratic state is a "they" and not an "it."[15] A state's internal heterogeneity explains why the pathways of democratic erosion are so varied. Sometimes, a national legislature will be a force for democratic resistance (as was the case in Venezuela); at other times, it will be a force for erosion (think of the 2022 parliamentary vote that defenestrated Italian premier Mario Draghi, opening the door to a far-right coalition's rise to power). In some countries (such as South Africa), courts will play a role in holding office holders to account, while in others they will facilitate partisan degradation (such as in the U.S., at least with the Supreme Court as presently configured).[16] This means that the distribution of allies and enemies of democracy will vary from case to case.

A second, related observation concerns professionalism. A common feature of "near misses" is that institutions that are technical or neutral in orientation end up becoming critical in saving democracy: Courts, election officials, and the military all played roles in preserving Sri Lankan democracy, and myriad public election officials did their duty in the face of the Trumpist attack on democracy in 2020 to 2021.[17] What these institutions share is that they are not grounded in electoral legitimacy but in Weberian norms of rationality and legality. They rely on norms of professionalism to ground their work and constitute their organizational identities. Individual bureaucrats' normative orientation—their sense of duty and service to norms of law, their military responsibility to elected civilian rulers, and the ideal of impersonally and fairly administered bureaucracy—turns out to be central to democracy's survival. Democracy requires a certain measure of stability in the

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independent bodies responsible for managing political debate and choice. Backsliding in part entails an attack on independent institutions inside and outside the government (for example, the courts, the media, and election administrators). These bodies can resist attempts to capture them; their efforts on this front often turn out to be crucial to democratic survival.[18] But one does not always know in advance which institution will be critical in a particular democracy's defense.

A third observation is that strategies and institutions alike diffuse across borders. Political rhetoric and its dominant idioms travel easily between countries. Right-wing populists such as Steve Bannon have become agents of viral transmission. Much in the same way that a Bolivarian "pink tide" washed over Latin America earlier this century, so too Bannon and his allies have disseminated nativist and populist ideas without regard to national borders.[19] When Viktor Orbán took advantage of his first election to decimate and capture Hungary's constitutional court, his actions provided a roadmap for the Law and Justice Party in Poland, which copied many of Orbán's moves once in office.

Diffusion is double edged, though. Strategies for depolarization, fighting disinformation, and restoring institutional integrity and public-mindedness can also spread from one context to another. A good American example is the nonpartisan (or bipartisan) redistricting commission, which has been adopted by referendum in some form in twenty-one states. There was no central authority coordinating or directing such efforts. Rather, prodemocratic reform emerged through experimentation, and then was copied across borders. Research suggests the resulting institutions can deliver more responsive electoral maps than those in states where a partisan legislature controls the process.[20]

With these three observations in mind, we can draw out three broader principles for democratic recovery. First, *defending the professional integrity* of democracy's necessary institutional intermediaries is important. Our populist era is one in which "elite" norms of this kind are under attack in election administration, in academia, and even in public health. These norms are necessary to maintain the institutions that supply epistemic and practical guardrails for democratic politics. At issue is the autonomous operation of norms of the military and the police, bureaucratic discipline, judicial ethics, the ethos of academic freedom, and journalistic standards. These professional norms differ from what Steven Levitsky and Daniel Ziblatt call "norms of forbearance." The latter are comprised of principles of restraint among politicians and parties, not bureaucrats and judges,

conditioning them not to push a transient political advantage to its limit.[21] We see little evidence that such norms of partisan restraint exist or have independent force as such, distinct from the incentives of parties engaged in repeat bargaining with each other. Exhorting politicians to "play nicely" runs into familiar challenges of incentive compatibility—and so leads us to look to other institutions.

A second principle is *preserving institutions* that have served and can serve in the future as nondemocratic bulwarks to defend democracy. Even in eroding democracies, there remain "islands of integrity" capable of maintaining professional and ethical commitments.[22] A varied array of institutions play this role.[23] One example is the Instituto Nacional Electoral in Mexico, which was created in 1990 (initially under a different name) to ensure electoral integrity. To date, it has withstood efforts by the country's populist demagogue, Andrés Manuel López Obrador, to capture it and has remained an independent electoral watchdog. Another example is the Supreme Election Council in Turkey. By 2019, Turkey's president, Recep Tayyip Erdoğan, had successfully purged academia, the judiciary, the bureaucracy, and the military of political opponents. Yet in March of that year, his party lost a race for the mayorship of Istanbul, the country's largest city, to Ekrem İmamoğlu, a businessman who ran on a platform opposing Erdoğan's regime. After that election was annulled by the courts in May, a new election was held in June. İmamoğlu won by an even larger margin. This would not have been possible without an election administration bureaucracy that had insisted on legalist norms in the teeth of an anti-democratic leader.

Yet when an institutional actor manages to push back against a backsliding process in this fashion, that does not mean that the larger institutional architecture of democracy will remain undamaged. Sometimes, one observes state bodies that manage to resist a general tide of democratic erosion located within a larger landscape of captured or "spoiled" institutions. The ensuing variation in institutional quality across such a landscape leads to challenges and opportunities for prodemocracy reformers. While it might provide leverage for backsliders to gain toeholds, it can also mean that an autocratization process remains incomplete. So, there are possibilities for reversal. These conditions create a challenge for advocates of democracy: On the one hand, they need to celebrate and defend unelected courts and bureaucrats as bastions of democracy. This can be counterintuitive for the public. It can also lead to (facetious) charges of elitism. On the other hand, democracy's advocates may be faced with an institutional landscape in which there is a considerable need for reform and rejuvenation of courts and

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bureaucracies. It is tempting for those advocates to fall back upon a comfortable posture of Burkean traditionalism—defending institutions for their own sake—without serious thought about where and how reform is needed.

An example of this dangerous complacency is the approach of U.S. president Joseph Biden to the federal judiciary in the United States. In the face of demands from his own coalition that the Supreme Court be expanded or modified, Biden sought to downplay the issue, instead choosing to slow-walk and ultimately smother reform proposals. His presidential commission on the U.S. Supreme Court was a large body that only had advisory power. It deliberated at length on the federal courts' effect on American democracy, and ended up issuing a document too long and recondite to have any effect on public debate, and recommending nothing of real substance.[24] One might view all this as a political charade, part of an effort to reassure the political center that the Democratic Party was committed to institutions, rather than to escalating the partisan efforts by Mitch McConnell and Senate Republicans to pack the Court at the end of the Obama administration. But this defense of Biden's tactical choice rests on the assumption that Republicans would also deescalate their efforts at partisan capture. This seems, at best, overly optimistic and, at worst, extremely naive.

Another challenge here is the problem of time inconsistency. Institutions are subject to change and repurposing over time. A body that protected democracy at T_1 can undermine it at T_2. The literature on courts and politics over the last three decades underscores this point repeatedly. Whereas analysts a generation ago were bullish about the role of new courts in protecting constitutional democracy, as time has gone on these claims have become harder to defend. In part, this is because courts are susceptible to capture.[25] Even in established democracies, such as the United States, courts can migrate from defending to undermining democracy over just four or five decades. The U.S. Supreme Court, for example, has moved from being an ardent defender of voting rights in the 1960s to being a major catalyst of disenfranchisement in the early twenty-first century, in decisions handed down about voter identification, gerrymandering, campaign finance, and the Voting Rights Act.[26]

Even if proponents of democratic revival are able to overcome these challenges of positioning and tactics, there is a further political problem in explaining why some institutions need to be rebooted, and not others: Selective reform, after all, can look a lot like capture from the outside. The same agents of erosion

who have recently been booted from power will seize upon such superficial inconsistencies to assert their own (spurious) commitment to democracy.

A third principle is *contesting subnational offices.* Even when national institutions are captured, there may be opportunities to resist at a local level. Populists are often more popular in the countryside than in the city. In Turkey and elsewhere, municipal offices have proven to be the base of opposition politicians who then can contest offices at the national level. Just as we have previously seen pockets of authoritarianism persist within democratic states—for example, the Jim Crow south for nearly a century in the United States, or the state of Bihar in India—so too we can imagine pockets of democracy within generally authoritarian countries. Using these territorial islands of integrity to build outward and to sustain democratic norms can be a critical strategy even when national institutions have been compromised. Subnational-level democracy is also important as a training ground for national-level politicians. For a country such as the United States, which is increasingly sorted on partisan political lines, even a national-level takeover by a minority party that lost an election would not eliminate subnational democratic pockets. But this also means that preservation of democracy in all parts of the country requires a fifty-state response that, for now, remains unlikely.[27]

The Paradox of Punishment

What about the people and organizations that have been driving backsliding? Should they be allowed to continue to participate in the democratic process that they have betrayed? Or should they be punished? For example, after the January 6, 2021 attack on the U.S. Capitol, House Democrats moved to impeach and remove Donald Trump from office. Since then, they, along with numerous state attorneys general, have considered how to handle illegal acts by Trump and his allies. This highlights a general problem that arises during regime transitions and after a near miss: When and how should we punish the enemies of democracy?[28]

Surely if a violation is a criminal one, one might think that ordinary legal processes ought to be allowed to play out. But here yet another paradox of frontsliding arises: Criminal punishment can be counterproductive when the putative backslider still retains significant political support. The greater the political support, the more the prosecution will be under significant scrutiny, including

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potentially by partisan media forces. A rhetorical strategy of grievance-based populism is often deployed to portray the populist leader, and by extension his or her supporters, as a victim of elite forces trying to undermine him or her. Even neutral good-faith prosecutions and criminal investigations may strengthen a populist by lending support to his or her grievance-based complaints. Thus we are left with a paradox, whereby successful prosecutions might nevertheless "threaten the institutional foundations of democracy" by mobilizing anti-democratic responses—at the same time as the alternative of soft-pedaling past crimes also seems to risk damage to democratic life.[29] This may imply, somewhat counterintuitively, that a higher standard of proof for enemies of democracy than for ordinary criminals might well benefit democracy. The argument for this troubling conclusion is only bolstered when one reflects on the way that the risk of prosecution ex post generates incentives ex ante for backsliders to capture the apparatus of criminal law enforcement.[30]

Another method of punishing enemies of democracy is political disqualification of individuals from elected or nonelected state office. Separate from the processes of removing a bad leader, or prosecuting crimes, political systems will sometimes hold that people cannot run for office as a matter of law because of their past acts. These practices, as we have written elsewhere, come in both individually targeted and group-wide forms.[31] One example of the latter is the practice of banning from political office or competition political parties whose programs are undemocratic. This idea goes back to the political scientist Karl Loewenstein's Nazi-era account of "militant democracy."[32] Anticipating current concerns about democratic erosion by many decades, Loewenstein argued that democracy's very openness to debate and contestation created a risk of electoral victory by a party that aimed (overtly or secretly) to end democratic competition and remain in office. By the time this electoral threat manifested, it would be too late for new legislation to entrench democratic competition. As a prophylactic against this risk, Loewenstein argued that there had to be mechanisms for shutting such actors out of political competition before the fact. These ideas were instantiated in the postwar German Constitution, which famously entrenched democracy as a principle and empowered the Constitutional Court to ban undemocratic parties.[33] Another version of disqualification was adopted by victorious Union forces after the Civil War in the United States. Section 3 of the Fourteenth Amendment disqualifies any person who, "having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of

any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof."[34] Through this process, a number of former confederates were banned from running for political office. However, in another instance of the fleeting nature of democratic stamina, the restrictions were soon lifted. In 2022, a county official in Arizona who had participated in the January 6 attack on the Capitol became the first person in a century and a half to be disqualified under Section 3.[35]

Disqualification as a tool of democratic retrenchment, much like criminal prosecution, can also be a double-edged sword. Even as it allows the polity to keep those with a proven or suspected record of antidemocratic activity out of office, it also has the potential to be gravely abused. Like the similar tools of impeachment and removal, disqualification can lead to an escalation of partisan competition that is ultimately damaging to democracy. In the hands of a backslider, moreover, all such punishment mechanisms can be abused.[36]

Consider party bans. In the aftermath of the successful 2014 military coup d'état in Thailand led by General Prayuth Chan-ocha, the political forces loyal to populist leader Thaksin Shinawatra were stripped of office and pushed out of political life. With the new military regime banning any and all political groups still loyal to Shinawatra and his family, there was something of an opportunity for a fresh start. Indeed, when the new constitution of 2017 was finally adopted, several new political parties did form to compete. A leading challenger was the Future Forward Party, which sought the votes of urban and young voters in particular. It was led by the scion of a billionaire family, Thanathorn Juangroongruangkit. Yet when this party proved to be fairly popular, it came to be seen as a threat to the party led by coup leader Prayuth. On relatively thin evidence, the Thai Constitutional Court found that Thanathorn had violated campaign laws. The Court ousted him from his seat in parliament in 2019. The next year, the Future Forward Party was disbanded by judicial order.

Before-the-fact vetting is another tool that can be used to help build independent institutions—though it is just as easily deployed to select pliant judges and bureaucrats ready to bend to the will of an autocrat. When a state body is viewed as corrupt and deficient, there may be an opportunity to screen its members to determine whether they should be allowed to continue in office in light of any malfeasance. An example of such screening being used to positive effect concerns the Kenyan judiciary in the wake of the adoption of the 2010 Constitution. The

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document mandated the adoption of legislation providing for a vetting board. In 2011, a new board involving both Kenyans and foreigners began work to determine which judges would be allowed to continue to work under the new Constitution. A significant number of jurists were screened out. In this case, disqualification operated to maintain the necessary institutional support of democracy. To see how such a process could be abused, we might look to President Erdoğan's purge of the Turkish judiciary following an attempted coup against him in 2016. Around four thousand judges were fired, to be replaced by party loyalists—many of them barely out of law school.[37]

For supporters of democracy, then, the paradox of punishing anti-democratic actors is that it can often have the opposite of the intended effect. Rather than protecting democracy, it further galvanizes support for authoritarians. Furthermore, putative autocrats are quick to abuse these same techniques when given the opportunity. For these reasons, the tools of Loewenstein's militant democracy ought to be deployed with caution, and in carefully limited and legally structured ways. Finally, defending democracy can require the celebration of nonelected bodies, and a shifting attitude to (say) the courts or the military as they move from the pro- to the anti-democracy side of the equation, or vice versa. Given these complexities, a measure of tolerance for accusations of hypocrisy and excessive legalism may well be a necessary psychological concomitant of front-sliding.[38]

The Sequencing of Front-Sliding

With these myriad challenges in mind, what can we say about sequencing for reforms intended to shore up a flagging democracy? Obviously, the particular sequencing must depend on local opportunities and conditions, but there are some general points that will be helpful in all contexts. We believe that reformers and front-sliders should seek to identify "virtuous circles"—where a reform in one domain will push forward change in another, and this will in turn have feedback effects on democratic quality in general. Such relationships of entanglement and positive feedback are likely to be essential in any substantial move away from a backsliding dynamic.

A baseline strategy, without which no others can work, we believe, is the fight to preserve epistemic institutions that can produce broadly shared facts. Courts, universities, and census bureaucracies are all institutions that can generate such reliable and trustworthy knowledge, even in an era of "fake news" and partisan

disinformation.[39] Conversely, if we surrender to the tide of disinformation, there is little hope of any of the electoral mechanisms for course correction being effective. Naturally, in any particular context, one or more of these knowledge institutions may well be captured. A characteristic of completely degraded democracies, like Venezuela, is that *all* of these institutions have been captured. Thus, ensuring that some possibility of neutral information remains within the system should be a priority. This, in turn, requires reinforcement of professional norms in each of these spheres.

Relatedly, the good functioning of the election machinery itself must be a priority. Once captured, there is little hope of turning back. Fortunately, there are myriad international norms and resources that have buttressed the professional community of electoral officials transnationally and have preserved these institutions as islands of integrity even in many backsliding countries.[40] Regional courts and international institutions have in some instances played a supporting role.[41] These efforts must be supported and expanded.

With epistemic institutions and election machinery established as foundations, the second stage of reform can occur. This stage involves restoring or (if appropriate) entrenching the independence of the other knowledge institutions that have been captured (such as bodies that police corruption and ensure the integrity of public life), and contesting elections in subnational pockets of authoritarianism. In a situation of partisan degradation, depolarization strategies should focus on urging those members of the backsliding coalition who are likely to be the easiest to persuade to revert back to compliance with democratic norms. These may be conservative parties that have defected on democracy, or they may be coalition partners of left-wing backsliders. Of course, this will not be straightforward. If confronted with a charismatic populist, it is important to expose his or her corruption and hypocrisy, of course. Recent U.S. experience, however, suggests that this alone will not be sufficient. The only thing that tames a charismatic populist is decisive, and perhaps iterated, electoral defeat.

A third stage of reform, to borrow terminology and concepts from a different field, is what we will term "transitional justice."[42] In the vast academic literature on transitional justice, there are two broad approaches: punishment and exclusion on the one hand, and truth and reconciliation on the other. The former is backward looking. It holds out the possibility of accountability for past wrongs against the democratic order. The latter is forward looking. It seeks to process wrongs and restore the fabric of society so that we can live together again. No doubt, elements

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of both are required for a complete transition. But we have noted the dangers of an excessively punitive approach or one that emphasizes disqualification too heavily, and we think that the practical opportunities at this stage will be very limited in the near to middle term.

Conclusion

Democratic retrenchment—the recovery of democracy as a political practice after experiencing substantial backsliding—has not been well theorized so far. Adding to the difficulty, there are relatively few cases on which to build a complete account. But if our democracies are to survive current challenges, a theory of "front-sliding," or rebuilding space for democracy, is needed.

We have set out here some first principles for such a theory of "the pragmatics of resistance": buttressing professional norms; preserving institutional islands, especially those involving the electoral machinery; and contesting subnational offices wherever possible. We also believe that the first two must get sequential priority in any process of front-sliding. The last stage, which is that of transitional justice, is in some sense the most delicate, and best left for the period in which democratic values have already been firmly reconsolidated. We are under no illusion that what we have said here is a complete account of the considerations to be taken into account for front-sliding, let alone the last word on the topic. But we hope it is a sufficient starting point to prompt deeper reflection and theorization on the topic.

Notes

1 Jon Greenberg, "Most Republicans Still Falsely Believe Trump's Stolen Election Claims. Here Are Some Reasons Why," Poynter, June 16, 2022, www.poynter.org/fact-checking/2022/70-percent-republicans-falsely-believe-stolen-election-trump/.
2 Brnovich v. Democratic National Committee, 141 S. Ct. 2321 (2021).
3 Wisconsin Legislature v. Wisconsin Elections Commission, 595 U.S. __ (2022).
4 On the underlying theory, and its many weaknesses and errors, see Vikram David Amar and Akhil Reed Amar, "Eradicating Bush-League Arguments Root and Branch: The Article II Independent-State-Legislature Notion and Related Rubbish," *Supreme Court Review* 1 (2021), pp. 1–51.
5 We use both terms interchangeably in Tom Ginsburg and Aziz Z. Huq, *How to Save a Constitutional Democracy* (Chicago: University of Chicago Press, 2018).
6 Ibid., pp. 78–90.
7 Christopher Walker, Shanthi Kalathil, and Jessica Ludwig, "The cutting edge of sharp power," *Journal of Democracy* 31, no.1 (2020), pp. 124–137.
8 Ginsburg and Huq, pp. 79–80.
9 Dan Slater, "Democratic Careening," *World Politics* 65, no. 4 (October 2013), pp. 729–63.
10 Tom Ginsburg and Aziz Huq, "Democracy's 'Near Misses,'" *Journal of Democracy* 29, no. 4 (October 2018), pp. 16–30.
11 For a useful survey of some of these events, see Neil DeVotta, "Sri Lanka: The Return to Ethnocracy," *Journal of Democracy* 32, no. 1 (January 2021), pp. 96–110.

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[40] The resources created by International IDEA are of particular value. See the handbooks collected at Handbooks, International IDEA, www.idea.int/publications/catalogue?keys=&field_news_date_value%5Bmin%5D%5Bdate%5D=&field_news_date_value%5Bmax%5D%5Bdate%5D=&field_pub_type_value%5B%5D=handbook.

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Abstract: How does a democracy that has survived a close brush with authoritarianism start to re-create conditions of meaningful democratic political competition? What steps are to be taken, and in what order? Certain lessons can be gleaned from comparative experience with the challenges of "front-sliding"—that is, the process of rebuilding the necessary political, legal, epistemic, and sociological components of democracy. This essay maps out those challenges, examines the distinctive and difficult question of punishing individuals who have been drivers of democratic backsliding, and reflects on how to sequence different elements of front-sliding.

Keywords: Democratic backsliding, populism, autocratization, separation of powers, transitional justice