



JIM'S READING CORNER

A fascinating insight into how democracy can be undermined or undermine itself. The authors draw on the history to provide examples of this. But their main emphasis is on the U.S, which, they say, is itself very vulnerable to democratic failure. The best constitution can fail if there are no longer any functioning "guardrails" for preserving democracy and decency.

Democracies can die as a result of a coup, but also at the hands of elected leaders who subvert it. By instrumentalising legal means, by using rhetoric calling for "a more efficient judiciary system, the fight against corruption or the cleaning up of the electoral process.", by trying to de-legitimize the opponent. They are often helped in this by entering into short term alliances with established forces that play the role of useful idiots: the liberal establishment in Italy helping Mussolini, big industry and conservative politicians (Brüning, Von Papen, Von Schleicher and Hindenburg) opening the way for Hitler.

The authors mention the four tests or criteria established by Linz in "The Breakdown of Democratic Regimes" that point to democracy breaking down, with people:

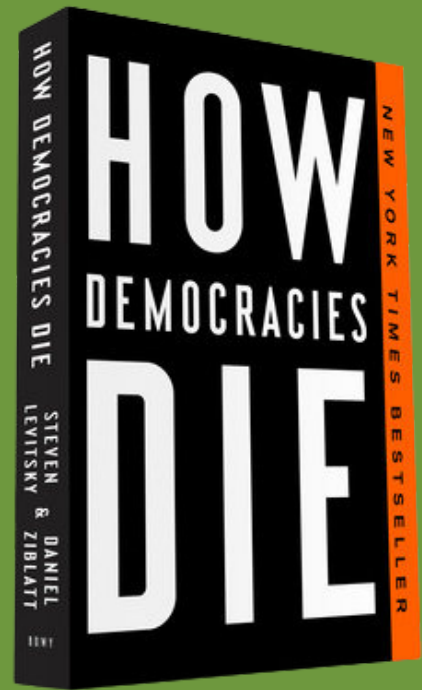
- rejecting the democratic rules;
- denying the legitimacy of the opponents;
- tolerating or even encouraging violence;
- cutting civil liberties.

Examples of some countries (SE, FI, BE, AT – the van Bellen election) show that democracies can defend themselves, provided parties root out extremism in their own ranks, avoid alliances with anti-democratic forces, and isolate extremists.

The main thesis of the book is one that holds a lot of relevance for the way the EU functions. Institutions and constitutions are of course important to preserve democracy but they're not enough. You also need the unwritten rules of what Levitzky and Ziblatt call **mutual toleration** and **institutional forbearance**. The latter is particularly interesting. It means self control and restraint in exercising legal rights, not playing "constitutional hardball". A good example of not exercising this restraint was the vote by QMV on the introduction of migrants' quotas in 2015. The vote was entirely legal, and the ECJ confirmed this later when the case was submitted to it. But pushing through with this against very strong objections on the part of some Member States was a political mistake. The decision was never applied

HOW DEMOCRACIES DIE (WHAT HISTORY REVEALS ABOUT OUR FUTURE)

BY STEVEN LEVITSKY AND DANIEL ZIBLATT





on the ground, and it caused lasting divisions in the EU. In disputes about external representation of the EU, the solution certainly does not lie in brandishing the treaties and detailed legal and protocol analyses; the only way to deal with this is to sit together in a spirit of mutual toleration and respect and forbearance and find a pragmatic way of sorting things out.

In the US, this worked for a long time, following the reconciliation between south and north after the Civil war. The Republicans and the Democrats found ways of cooperating and of playing the role of gate-keepers in their respective camps, keeping out the extremists. Sadly, this return to civilization was marred by the fact that it came at the expense of the black population, which was progressively disenfranchised and driven out of the electoral process across the south. This anti-constitutional engineering led to Democratic dominance in the South in every confederal state. Black voter's turnout in the south dropped from 61% in 1880 to 2% in 1912.

Examples of forbearance are many. For a long time, the two-term rule established by Washington was adhered to by Presidents; it is only after Roosevelt went to a third term that after WWII the limit was transformed into a legal rule. Court packing is another temptation that successive Presidents avoided overall. It means that you increase the number of members of the Supreme Court so as to create your own majority. Again, Roosevelt was the one who went furthest in trying to do just that, but was blocked by the Republicans and his own party. Other instances of institutional forbearance are the voluntary limitation executive orders or of the recourse to filibuster in the Senate.

All of this started unravelling in the seventies. The Civil Rights legislation under Johnson put an end to the outrageous situation in the south. But it led to the Democrats losing the south and being replaced by a very white and conservative Republican party. The result was growing polarization between the two parties. After 1978, the rise in the Republican party of Newt Gingrich, who talked about "the war for power", accelerated the movement. People like Tom de Lay and the writer Ann Coulter fueled the flames of discontent and de-legitimizing the political opponents. Then came the rise of the Tea-party with its extremist undertones.

Because of polarization and gridlock in the Congress, Presidents of both denominations have over the last decades increasingly had recourse to presidential decrees to govern. The arrival to power

of Trump led to the total collapse of gatekeeping by the Republican establishment. The latter proved incapable of stopping a man who ticked all of Linz's four boxes. When judge Scalia died in the last year of Obama's presidency, the Republicans blocked the President in his attempt to nominate a replacement; this had never happened before. Sadly, Trump would do far worse things at the end of his mandate, including calling for an assault on Congress.

In such a situation, the temptation is great for the other side to fight in the same way and to repay in kind. This, say the authors, would be terribly dangerous for democracy. It would mean the country slowly destroying democracy and even potentially drifting into Civil War. They recommend to use the law and rules, to appeal to the public in the fight to uphold norms and decency, to find common ground with opponents even if you disagree on many issues. They also warn against giving up on democratic values for the sake of compromise and for avoiding polarization.

I would add that the election of Biden has staved off the attack on democracy and gives reasons for hope. But the underlying problems described by Levitzky and Ziblatt are still there, and so is excessive polarization. Democrats have to show continued vigilance and maybe reinvent democracy to some extent. This is a challenge for the Americans but also for us Europeans. And we should do well to also heed the warnings of the authors with respect to the way we behave within the EU and the EU institutions.

