

How Democracy Ends: Not With a Bang But With a Whimper

In this fast-paced century, rife with technological innovation, we've grown accustomed to the impermanence of things. Whatever is here now will likely someday vanish, possibly sooner than we imagine. Movies and music that once played on our VCRs and stereos have given way to infinite choices in the cloud. Cash currency is fast becoming a thing of the past. Cars will soon enough be self-driving. Stores where you could touch and feel your purchases now lie empty as online shopping sucks up our retail attention.

The ever-more-fleeting nature of our physical world has been propelled in the name of efficiency, access to ever more information, and improvement in the quality of life. Lately, however, a new form of impermanence has entered our American world, this time in the political realm, and it has arrived not gift-wrapped as progress but unpackaged as a profound setback for all to see. Longstanding democratic institutions, processes, and ideals are falling by the wayside at a daunting rate and what's happening is often barely noticed or disparaged as nothing but a set of passing problems. Viewed as a whole, however, such changes suggest that we're watching democracy disappear, bit by bit.

Plenty of Checks But No Balances

A recent sign of our eroding democratic world was on display last month with the eradication of trust in the impeachment process. Impeachment, of course, was the Constitution's protection against the misuse of power by a president. When all was said and done and the Senate had let Donald Trump off the hook, it was clear enough that the power, the threat, of impeachment had itself been thoroughly hollowed out and made ineffectual.

On both sides of the aisle, senators agreed that the president had erred. Republican Lamar Alexander, for example, thought his actions were "wrong" and "inappropriate"; Republican Joni Ernst believed that he had "mishandled" things; while Rob Portman and Susan Collins, echoing Alexander's sentiments, also labeled his actions "wrong." It made no difference. The four of them like all the other Republican senators except Utah's Mitt Romney had, to say the least, no appetite for removing their party's president from office.

But the real lesson the country should have taken home was this: in the future, it would be foolish to place the slightest hope for protecting democracy in the process that Founding Father James Monroe once described as "the main spring of the great machine of government." Today, no matter the facts, impeachment is dead in the partisan waters, an historical anomaly that's long outlived its time.

The failure of impeachment also brought to light the weakness of the constitutional principle of checks and balances. In theory, when it comes to presidential behavior, Congress and the courts have the power to rein in the chief executive. But in this century, both congressional and judicial restraints have proven anemic. One of the many obvious things highlighted by the recent impeachment acquittal in the Senate is Congress's ultimate ineffectuality when it comes to presidential power.

Donald Trump's unabashed willingness to use his veto power in a fulsome, even autocratic, fashion only underscores this presidential reality. Recently, for instance, he confirmed that he will veto any bill passed by Congress requiring that he consult that body before launching military attacks on Iran. If recent history holds any lesson for us, it's that Trump will do no such consulting, especially given the historic weakness of the War Powers Resolution of 1973. Congress passed it to emphasize the necessity of getting its consent for war, but ever since its inception Presidents Ronald Reagan, George H.W. Bush, Bill Clinton, George W. Bush, and Barack Obama have all found ways around it.

Meanwhile, when it comes to the courts, Attorney General William Barr has boldly stated his belief that the president's power dwarfs that of the other branches of government. "In recent years," he claimed late in 2019, "both the legislative and judicial branches have been responsible for encroaching on the presidency's constitutional authority." True to his word, Barr has worked to ensure that the Justice Department has barely a scintilla of independence from the president, even as he lamented Trump's public display via tweet of controlling the attorney general and that very department.

Of course, Barr's modest protest about that tweeting rang hollow, given his actions. He played the central role in taking the sting out of the Mueller Report by publicly misrepresenting its conclusions before it was released. His Justice Department endeavored to give blanket immunity from testifying to Congress to individuals close to the president, decreeing that they were not compelled to appear, even when subpoenaed to do so -- an assertion overruled by a federal judge but left unresolved in the courts to date.

Barr has also publicly rewritten history to contest, as he put it, the "grammar school civics class version of our Revolution... [as] a rebellion against monarchical tyranny." Instead, he claimed, in making their new system, what the founders really feared was the tyranny of the "prime antagonist," the British legislative body or parliament. And within days of the Senate's acquittal of the president, Barr was once again on the march against obstacles to any presidential assertion of power. He even overruled his own prosecutors in the wake of a tweet by the president, and called for a reduction in the seven-to-nine year sentencing recommendations they were planning to make for presidential pal Roger Stone.

Like the impeachment process, the theory and practice of checks and balances now lies in ruin in a country whose billionaire president has written plenty of checks without balances of any sort. Think of him, in fact, as our very own unfounding father.

Questioning the Legitimacy of the American Election System



Tellingly, the failure of the impeachment process and the collapse of the system of checks and balances have coincided with the onset of the primary season for election 2020. And the anti-democratic virus is visibly spreading in that direction as well. Some Senate Republicans, especially Maine's Susan Collins, tried to hide behind the notion that, thanks to his impeachment, if not conviction, President Trump had "learned" a salutary lesson "from this case." Within 24 hours, however, it was clear that the president had "learned" nothing, except that he could do what he pleased.

It was, it turned out, the democratic system that had learned a lesson -- and not a good one either.

In the case of the caucuses and primaries, those building blocks of presidential elections, our institutions seem as frail and ineffectual as the impeachment process itself. Failing to produce a discernible result in a timely manner, the future not only of the Iowa caucus but of caucuses in general is now being reconsidered. That caucus has, since 1972, been the first moment in the electoral process. It has also long been questioned, given the way that state ill-represents the diversity of the country. But the catastrophic collapse of this year's version of the Iowa caucus process had nothing to do with issues of diversity and everything to do with interference, incompetence, and finally a disastrous "coding error" in an app.

As the New York Times reported, "the irregularities in the results are likely to do little to restore public confidence in the Iowa caucuses." As a result, its days as first in the nation may indeed be over. In fact, caucuses in general may be headed for the graveyard. As former presidential candidate Julian Castro recently tweeted, the lessons learned in Iowa surpassed that of a single state, revealing instead "that our democracy has been mis-served by a broken system." Even Tom Perez, the head of the Democratic National Committee, has weighed in, supporting a conversation about moving from caucuses to primaries in the remaining caucus states.

Once again, an established democratic institution is poised to be tossed into the trash bin of history.

Not surprisingly, an increasingly errant political process is being reflected in the culture at large. To take but one example: the newspaper candidate endorsement. This year, bizarrely enough, for the first time in its history, the New York Times chose to endorse not one candidate but two (Amy Klobuchar and Elizabeth Warren), a gesture that was tantamount to endorsing no one at all.

The paper's editorial board simply punted, stating that they didn't want to choose between two visions: "Both the radical and the realist models warrant serious consideration. If there were ever a time to be open to new ideas, it is now. If there were ever a time to seek stability, now is it." In fact, their endorsement of "the most effective advocates for each approach" suggested that they were really endorsing a category rather than a specific candidate; namely, a woman. As the last sentence of the piece revealingly stated: "May the best woman win."

The Boston Globe promptly followed suit, rejecting the very idea of a candidate endorsement, despite a 200-year history of providing them. The Globe's editorial board argued instead that the first two states in the primary season -- Iowa

and New Hampshire -- were insufficiently diverse to justify their position in the order of primary states. It was time, they explained, "to call for the end of an antiquated system that gives outsized influence in choosing presidents to two states that, demographically, more resemble 19th-century America than they do the America of today." Essentially, they did what the New York Times had done. They chose to take a stand on an issue rather than on a candidate. Are endorsements, too, no longer a piece of the disintegrating American political process? (A week later, The Las Vegas Sun likewise hedged its bet and endorsed two candidates rather than one; in its case, Joe Biden and Amy Klobuchar.)

The truth is that the very legitimacy of the American electoral system is now in question. Given Russian interference in the 2016 election (verified by a Senate Intelligence Committee report), not to mention reports on the same in the 2020 campaign, the increasing successes of aggressive voter suppression campaigns and lawsuits, and oft-repeated mantras from Donald Trump and his followers about potentially "rigged" elections, doubts aplenty are already afloat about the legitimacy of next November's election results, no matter what happens on the ground.

The Great Unraveling

This erosion of our democratic institutions hardly comes out of the blue. Democratic principles have been visibly eroding since the beginning of this century. The build-up in presidential powers began with George W. Bush who, after the 9/11 attacks, claimed that a "unitary" presidency was a more viable form of government than that prescribed by any separation-of-powers doctrine and its promise of checks and balances. Citing a national emergency that September, he would launch his "global war on terror" through a series of secret programs, including an offshore system of torture and injustice that left Congress, the courts, and the American public largely out of the conversation.

In the process, he removed the need for true accountability from the imperial presidency and the administration that went with it. Whether intentionally premising the decision to invade and occupy Saddam Hussein's Iraq on a lie, staunchly refusing to prosecute those who implemented a policy of torture for suspects in the war on terror hatched in the White House and the Justice Department, or allowing a vast, warrantless, secret surveillance program against Americans as well as foreigners after 9/11, the Bush presidency shredded the concept of executive restraint. In the process, it left its unchecked acts on the table for any future president.

Barack Obama chose to "look forward" not back when it came to the CIA's global torture program and continued to run the war on terror under the expansive Authorization for the Use of Military Force passed by Congress in September 2001. In the process, by avoiding accountability for the new version of an imperial presidency, he left the door open for Donald Trump to begin to create what could, in essence, prove to be a system of executive autocracy in this country.

Given the precedents created in the post-9/11 years, it really should be no surprise that President Trump ignores legalities and precedent, while refusing to observe restraints under the guise of security concerns, and expects not to face accountability. In the process, there is no question that the Trump presidency has already taken the template of the untethered executive and its anti-democratic excesses to a new level, simultaneously defying restraints while brazenly purging anyone who might disagree with him.

As Peter Bergen pointed out in discussing his new book, *Trump and His Generals: The Cost of Chaos*, with the resignations or firings of generals once in top cabinet positions, Trump has succeeded in surrounding himself with "a group of yes-men, a small amount of yes-women, and family members." Indeed, week by week, executive departments are rearranged and re-staffed to fill the administration with those willing to say yes, and only yes, to whatever the president wants.

Thirty-four years ago, Arthur Schlesinger, Jr., described American history as moving in 30-year cycles, alternating between liberal and conservative eras that, over the long haul, kept the Constitution and the country in balance. And indeed, there have been a few glimmers of light on the horizon recently, including a willingness of the courts, for instance, to halt an executive order allowing state and local officials to reject the resettlement of refugees in their communities.

But examples like that are too few and far between to qualify even as serious indicators of a cyclical return to normalcy, while, strand by strand, our democratic fabric is unravelling before our eyes. Unfortunately, Americans have all too often looked the other way as disappearing customs, principles, and institutions threaten to turn fundamental pillars of American democracy into relics from the past, as obsolete as the black-and-white television sets of my childhood.

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