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COMMENTARY

Democratic Backsliding Is a Symptom, Not a Disease

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Let's face it: if the founding fathers of the United States could survey the republic 250 years on, their first question would not concern the miracle of its endurance but who, exactly, authorized all the rest of it. Post-WWII Europe faces the same awkward séance: summon the architects of the liberal constitutional order and watch them squint at the politics of 2026, trying to locate their blueprints. The diagnosis offered by most commentators is "democratic backsliding" (Bermeo, 2016), and the pathogen usually named is populism.

The numbers behind the alarm are real enough. The V-Dem Institute's 2026 Democracy Report counts 92 autocracies against 87 democracies, finds nearly a quarter of the world's nations in episodes of autocratization, and concludes that the level of democracy enjoyed by the average global citizen has fallen back to where it stood in 1978, a year when the Bee Gees topped the charts and the Berlin Wall looked permanent. Six of the ten newly autocratizing countries are in Europe and North America (Nord et al., 2026, p. 4). The deterioration is, by any historical standard, dramatic.

But the standard diagnosis confuses the rash for the infection. Populism, along with the backsliding it allegedly drives, is not the disease. It is the fever produced by a much older pathology: the slow transformation of constitutional democracies from systems of *rules* into systems of *discretion*. Treat only the fever, and the patient will keep obligingly relapsing.

The Misdiagnosis of Populism

The conventional story runs as follows: demagogues arise, exploit grievance, win elections, and then dismantle courts, the press, and electoral safeguards. The remedy, accordingly, is to defeat the demagogues with better fact-checking, stronger guardrails, and more civic education, which is the political equivalent of prescribing breath mints for a heart condition.

The story is not false, merely shallow. It cannot explain why voters in dozens of unrelated countries, with different histories and party systems, simultaneously concluded that the existing rules of the game no longer served them. When the same symptom erupts across 44 countries at once (Nord et al., 2026, p. 4), the prudent epidemiologist looks for a common underlying condition, not 44 separate villains, each with his own mustache.

The underlying condition is this: the constitutional designers of the eighteenth century (and their European successors after 1945) aimed to bind politics with general, stable rules such as separation of powers, federal subsidiarity, enumerated competences, and an independent judiciary. Modern politicians, by contrast, get elected by handing out discretionary perks: targeted subsidies, tax carve-outs, regulatory favors, and transfers aimed with sniper precision at pivotal constituencies. A constitution of rules has been quietly converted into a marketplace of discretion: same building, new business model. Backsliding is what the renovation looks like once voters notice.

To see why the conversion was inevitable rather than accidental, run a simple thought experiment. An election approaches. A rules lover faces a discretionary redistributor. The rules lover's honest slogan is: *Vote for me; I will do nothing.* No ribbon cuttings, no checks with your name on them, only the diligent maintenance of general rules whose benefits are invisible, diffuse, and scheduled to arrive comfortably after the next election. The redistributor's slogan writes itself: *Vote for me; I will give you this, and that, and the other.* Every "this" has a face, an address, and a photo opportunity. Who wins?

The question embarrasses itself by being asked, and that is the whole problem. Democracy does not occasionally stumble into discretion; it systematically selects for it, because the rewards of rules are spread thinly across everyone and the future, while the rewards of discretion are

concentrated on the people standing in the voting booth today. The candidate who promises restraint is not running against an opponent. He is running against arithmetic, and arithmetic has never lost an election.

What Public Choice Diagnosed

The diagnosis is older than the discipline, embarrassingly so. Aristotle distinguished democracies ruled by law from those ruled by decree, identifying as the degenerate form the democracy in which the multitude "supersede the law by their decrees," for "where the laws are not supreme, there demagogues spring up," and "the people becomes a monarch, and is many in one," governing by impulse rather than constitution (Aristotle, 1943, p. 179). Twenty-three centuries later, the practice might be called a polling-driven legislative agenda.

Ibn Khaldun's *Muqaddimah* (1377) supplies the dynamics in its famous three-generation arc: the founding generation retains the hard "desert qualities" (austerity, courage, and partnership in authority) that forged its solidarity (*asabiyyah*); the second, raised in abundance, trades privation for luxury and shared glory for one-man rule, living off a cohesion it can no longer generate; by the third, luxury peaks, group feeling dissolves entirely, and the heirs become dependents of the very dynasty their grandfathers built. (Ibn Khaldun, 2005, p. 137). The fiscal corollary follows (Ibn Khaldun, 2005, p. 230): dynasties begin by taxing lightly and collecting amply, and end by multiplying levies and discretionary exactions that yield ever less. This is the Laffer curve, six centuries before Laffer (2004, p. 1), who, to his lasting credit, conceded the priority dispute without litigation. Strip away the medieval vocabulary and it is the same ratchet: discretionary extraction expands until it consumes both the legitimacy and the solidarity that fund it.

Public choice gave this ancient intuition its microfoundations. Its theorists did not prophesy from the armchair; they took notes at the scene: Niskanen from inside the Pentagon's budget process (although any public university's dynamics would have been equally insightful, if not more so), Olson from the interest-group politics of postwar Washington, Tullock from the tariff lobbies. Their contribution was to show that the pathologies were structural rather than accidental, which is precisely what licenses extrapolating them forward.

Start with Mancur Olson's *Logic of Collective Action*. Small, concentrated interest groups organize cheaply and lobby effectively; large, diffuse publics (taxpayers, consumers, future generations) remain rationally ignorant and unorganized. Nobody has ever marched on the capital against a sugar quota (Olson, 2002). Over decades, stable democracies accumulate what Olson, watching the pattern harden by 1982 in *The Rise and Decline of Nations*, called "distributional coalitions" (Olson, 1982, p. 44): encrusted layers of privilege that each cost the median citizen a few euros and are therefore never individually worth fighting, but which collectively strangle growth and breed the suspicion that the system is rigged. The suspicion is not paranoid. It is arithmetically correct: the rare conspiracy theory with a bibliography.

Rent-seeking, in Gordon Tullock's formulation, explains where the discretion goes: when the state can grant privileges, talent and capital flow in a "wasteful" (Tullock, 1967, p. 228) manner toward capturing the grantor rather than serving customers. Why build a better mousetrap when you can license the mice? Every dollar spent lobbying for a tariff or a licensing barrier is a dollar of pure social waste, and a billboard informing ordinary voters that proximity to power, not productivity, is what pays.

Logrolling explains why legislatures cannot stop. Vote-trading allows coalitions of minorities to pass bundles of targeted benefits that no majority would approve individually. Each

legislator's pork is the price of everyone else's (Tullock, 1959). The budget thus grows the way a coral reef does: no single decision, just accretion, and equally hard to remove without dynamite.

Niskanen's theory of bureaucracy adds the supply side (readers employed at public universities may skip this paragraph; they live it): bureaus maximize budgets and discretion, not output, because budgets are what bureaucrats can observe and enjoy (Niskanen, 1971, p. 38). No agency in recorded history has celebrated its own redundancy, with the heroic exception of the Civil Aeronautics Board, which under Alfred Kahn legislated itself out of existence in 1978 and is remembered four decades later precisely because nobody has repeated the trick. Sponsoring legislatures, dependent on bureaus for the very information needed to oversee them, systematically over-fund them. Administrative states thus grow autonomously, beyond anything any electorate actually chose, which is exactly the "unelected deep state" grievance that populists later harvest at retail.

Finally, the *median voter theorem* explains why mainstream parties converged into near-indistinguishability. When two parties chase the same median voter, platforms collapse toward each other, and political competition shifts from ideas to the distribution of discretionary perks. Voters who feel unrepresented by a cartel of look-alike parties are not delusional; they are observing Hotelling's logic in action (Downs, 1985; Hotelling, 1929). Populism is the entrepreneurial entry the cartel invited; markets abhor a monopoly, and it turns out politics is no exception.

The Centralization Ratchet

Each of these mechanisms pushes in the same direction: upward and inward. Rent-seekers prefer one capital to fifty statehouses; lobbyists, like everyone else, appreciate economies of scale. Bureaus prefer national mandates to local experiments. Logrolling works best in a single, omnicompetent legislature. The result is a one-way ratchet of political centralization with almost no compensating decentralization. In the United States, competences have migrated relentlessly from states to Washington; in Europe, from member states to Brussels, often through judicial and regulatory channels that never had to trouble a voter.

The European variant deserves its own sentence of honesty. The EU was built deliberately as a polity of rules (competition law; the four freedoms of goods, services, capital, and people; fiscal criteria) precisely to insulate the postwar order from the discretionary (fascist) nationalism that had destroyed it. But competence creep has run far ahead of democratic consent: the doctrines of direct effect and supremacy were established by judges, not electorates; regulatory harmonization expanded under qualified-majority voting that no national voter can meaningfully sanction; and the euro crisis converted fiscal rules into discretionary bailout politics roughly over a long weekend. The old "permissive consensus" that allowed integration to proceed quietly has curdled into what scholars politely call constraining dissensus (Hooghe and Marks, 2009). Brexit, whatever else it was, was the exit option exercised by an electorate that had concluded its vote no longer reached the decisions that governed it. Europe's populists did not invent that grievance. They merely priced it.

Centralization, in turn, raises the stakes of every national election to existential pitch (if all power sits in one place, capturing that place is everything) while simultaneously moving decisions further from the citizens they affect. People in left-behind regions and towns feel, accurately, that nothing they decide locally matters anymore. Disenfranchisement here is not a mood; it is a description of the org chart. And disenfranchised people do not stop voting. They vote to burn it down.

Joseph Schumpeter saw the deeper dynamic in *Capitalism, Socialism and Democracy*. Democracy, he argued, is not the rule of the people but a competitive struggle among elites for the people's vote, and capitalism, by its very success, breeds an intellectual and bureaucratic class hostile to the system that feeds it, drifting toward an ever more managed, socialized economy (Schumpeter, 2003, chapters 12–13 and 21–22). One need not endorse every step of Schumpeter's march to socialism to notice its echoes today. Think of New York: the financial capital of global capitalism is now governed by an avowed democratic socialist elected on promises of rent freezes, public groceries, and fare-free buses. These are discretionary perks par excellence, each a textbook transfer to a mobilized constituency, each another increment of political control over economic life. Schumpeter, were he alive, would not be shocked. He would be asking about his royalties. Whatever one thinks of the policies, the electoral logic is Schumpeterian to the letter: competition for votes rewards visible, targeted benefits over invisible, general rules (see thought experiment, above).

Reading the Evidence

The data are consistent with the symptom-not-disease account, and inconveniently so for the rival story. V-Dem's indices show that what is eroding fastest is not elections as such but the *liberal* components: rule of law, constraints on the executive, freedom of expression. That is precisely the rule-bound machinery that discretionary politics finds inconvenient. Rule of law is deteriorating in 22 countries, including the United States (Nord et al., 2026, p. 13). The guardrails, in other words, are not failing at random. They are being dismantled in order of inconvenience, which is what you would expect if the underlying demand were for more discretion, and not at all what you would expect if the trouble were a few bad men with good slogans.

Skeptics will object that backsliding is better explained by executive aggrandizement and polarization than by redistributive discretion, and that the United States, a federal country, is backsliding fastest of all. Both objections mistake the mechanism for the cause. Executive aggrandizement is *how* democracies erode; the interesting question is why capturing the executive became so valuable, and the answer is that decades of accumulated discretion turned it into the single prize that controls everything else. Polarization, likewise, turns existential only when all distributive stakes are national: when losing in Washington means losing everywhere, every election becomes a war, and people behave accordingly. As for American federalism, it is by now a constitutional skeleton through which a thoroughly centralized bloodstream flows. Roughly a third of state revenue arrives as conditional federal grants (Pew, online), converting proud sovereign states into regional offices of federal priorities; federal preemption has hollowed out state policy autonomy; and party politics has nationalized so completely that local elections function as referendums on the president. The United States is not a counterexample to the centralization ratchet. It is the leading case.

Treating the Disease

If backsliding is a symptom, then guardrails, fact-checks, and cordons sanitaires are palliative care: comfortable, well-intentioned, and administered to a patient nobody intends to cure. The curative agenda is constitutional, in James Buchanan's sense: the choice of rules under which ordinary politics will later be played, made behind a veil thick enough that no faction can tailor the rules to its own advantage. Buchanan's distinction between the constitutional and post-constitutional levels (Buchanan 1975, chapters 3 and 4) is precisely what modern politics has misplaced. We now conduct constitutional change *through* ordinary politics, by judicial

interpretation, emergency powers, and budgetary fait accompli, which is to say through discretion itself. The fox has not merely entered the henhouse; he has rewritten the building code.

Concretely, the agenda runs through decentralization. Genuine fiscal federalism, meaning local electorates deciding and, crucially, *paying for* local choices rather than spending transfers raised somewhere conveniently else, restores the link between the vote and its consequences. Charles Tiebout's insight supplies the competitive discipline: when citizens can sort among jurisdictions offering different bundles of taxes and services, exit constrains governments in a way voice alone never has. Foot-voting is the one ballot no incumbent can gerrymander, no media environment can distort, and no demagogue can inflame (Tiebout, 1956). Add generality constraints and sunset clauses that make targeted privileges harder to grant and easier to kill, and Tullock's rent-seeking calculus begins, for once, to run in reverse.

Nor is this utopian. Switzerland, the most fiscally decentralized democracy in the OECD, where cantons and communes raise and spend the majority of public money and referendums discipline whatever discretion survives, registers no autocratization episode, low perceived corruption, and persistently high institutional trust, all while marinating in the same media environment, migration pressures, and populist temptations as its backsliding neighbors. Its reward for this institutional success is to be ignored by nearly everyone theorizing about institutional failure. One stable case proves nothing on its own. But it is exactly the case the symptom-not-disease account predicts should exist, and exactly the case the populism-as-pathogen account would prefer not to discuss.

The founders did not fail to anticipate demagogues; they anticipated little else. What they could not foresee was how thoroughly the machinery of discretionary redistribution would dissolve the rules they wrote: not by coup or conflagration, but by appropriation, one line item at a time. Until we rebuild those rules, every defeated populist will simply be replaced by the next, slightly better at marketing, because the fever is not the illness, and the patient is still infected.

Statement on the Use of AI

This commentary was drafted in collaboration with Claude, an AI assistant made by Anthropic, a division of labor the author found fitting: the machine supplied diligent rule-following, while all discretionary judgments, opinions, and errors remain, in the time-honored tradition of discretion, entirely the author's. Sources and quotations were verified by a human, who would like that noted before the bureaus take credit.

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