America After Trump: From "Clean" to "Dirty" Democracy?

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Abstract: In recent years, the debate about the state of democracy in the United States has split political scientists into two camps: those who believed that American democracy was stable, and those who feared that former President Donald J. Trump might engage in significant violations of executive authority, such as using a declaration of national emergency to postpone elections. In this article, we argue that this debate rests on an overly simple juxtaposition between democracy and authoritarianism, and has misidentified the true danger faced by American institutions. The United States is in the process of becoming a less functional democracy in which both major parties retain a feasible prospect of winning elections but the nature of their competition is transformed in a manner that undermines the informal norms of healthy democratic life. This entails a shift from "clean" forms of competition which largely take the rules of the democratic game for granted towards what we term "dirty" democracy, in which competition consists, to a significant extent, of attempts to change the rules of the democratic game.

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1   Introduction

For many decades, political scientists assumed that American democracy was consolidated. Because of the country's long democratic history, its deep constitutional traditions, and its high level of economic development, the survival of its core institutions was not in doubt (Lipset 1994, Lijphart 2012). Two or four or six decades hence the United States would, on this account, still remain a perhaps imperfect but undoubtedly democratic country (Schedler 1998). The election of Donald J. Trump in November of 2016 called those certainties into doubt. Throughout his campaign Trump broke core democratic norms, including the repudiation of violence against political opponents and the commitment to respect the outcome of the election should he lose (Lieberman et al. 2018; Abramowitz and Repucci 2018; Shattuck et al. 2018). In the days after Trump's upset victory, many commentators predicted that he would "grow into his job" (Brooks 2017); but in the weeks after the inauguration, it became apparent that his demeanor would not change.

This produced a dramatic reappraisal of the former orthodoxy, as scholarly tomes on the death of democracy, the dangers of tyranny, and populist authoritarianism reached large audiences (Levitsky and Ziblatt 2018, Mounk 2018, Albright 2018). Rather than being certain to remain democratic, the United States was now said to be on a perilous path that could, or would, end in dictatorship (Walt 2016).

In this article, we suggest that this framing of America as either "consolidated" or at varying degrees of slippage towards "autocracy" has been unhelpful both for understanding the dynamics of the Trump presidency, and for diagnosing the risks facing American democratic life in the years to come. The key issue raised by the Trump presidency, in our view, is not whether America will forever remain democratic, or soon risk democratic breakdown. Rather, it is what *kind* of democracy America has already become, and will become in future. Even prior to 2016, there was a sense that something fundamental had eroded in the quality of America's democratic governance due to rising affective polarization, recurrent institutional gridlock, and the politicization of formerly impartial institutions, such as the judiciary (Fukuyama 2013, 2014). Donald Trump's willingness to violate democratic norms and his incendiary personal style supercharged this shift in democratic conduct and discourse in a shocking manner; but it was also a reflection of developments that had begun well before he entered the political scene.

In developing this argument, we make a distinction between two "ideal types" of democratic governance, based on the informal norms that govern the behavior of political actors. We term as "clean" democracy a country in which politicians largely choose to "play fair." They tend to acknowledge the legitimacy of their opponents, compete for power by seeking to attract voters to their message or policy program, and acknowledge the outcome of free elections as a judgment on their success or failure. By contrast, we term as a "dirty" democracy one in which politicians reject this imperative. They habitually engage in forms of "dirty politics" including attempts to change electoral rules and campaign

finance regulations, making partisan judicial appointments, and amending key legislative procedures to favor their own partisan interests. To varying degrees, they may also refuse to be bound by the outcome of free elections. Instead of accepting that winners have a moral mandate to govern, they seek to stop them from being able to implement policy, attempt to remove them from office prematurely, or interfere with the orderly transition of power.

The easy juxtaposition between democracy and autocracy has outlived its usefulness. The real threat to the American Republic consists not in a full-scale dissolution of its democratic institutions but rather in a fundamental degradation of their quality – a shift from from a relatively "clean" to an increasingly "dirty" model of democratic competition that is likely to continue or accelerate in the coming years.

2   Rethinking Democratic Quality: "Playing Clean" Versus "Playing Dirty"

How should we judge the "quality" of a democratic system of governance? The most thorough field of empirical research on democracy stands in relation to authoritarianism, with political scientists situating countries on a dimension running from fully democratic to fully autocratic, based on the extent to which there exist formal institutions such as regular free and fair elections and civic rights protected by law (Lührmann et al 2018, Mainwaring and Bizzarro 2019, Diamond 2021). It is therefore natural that in the wake of the Trump presidency, commentators have approached the issue through this framework, asking whether America's democratic institutions will continue to remain intact, or instead be at risk from some form of democratic backsliding (Carey et al. 2019; Freedom House 2018; Mickey et al. 2017; Kaufman and Haggard 2018).

While the study of the formal institutions of democratic governance provide a useful basis for distinguishing democratic from authoritarian government, they are less useful when it comes to the task of making distinctions among democracies with regard to their quality. Studies of the "quality of democracy" by and large focus instead upon democracy's informal institutions – the tacit norms and practices of democratic life that do not exist by law and are rarely, if ever, explicitly codified (Beetham et al. 2008; Helmke and Levitsky 2004). The most substantial application of this approach builds on a longstanding literature on social capital and civil society, examining those aspects of democratic culture permeating society as a whole, such as participation in civic and democratic processes, the willingness of citizens to tolerate those of differing opinions, and the absence of "anti-social" capital such as groups who engage in vigilantism against political minorities (Altman and Pérez-Liñán 2010; Mayne and Geißel 2018). A less extensive, though now rapidly burgeoning, literature also includes norms prevailing in the media, for example with respect to the degree of fair coverage and thorough investigative reporting, or the negative effects that social media news filtering can have upon democratic literacy and conduct (Persily

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and Tucker 2020; Benkler et al. 2018; Bachman et al. 2021).

Though these are all essential aspects of democratic quality, in this article we choose to focus upon a further dimension – namely, the informal norms that structure the behaviors and interaction among political elites themselves. These include, for example, the standard among politicians of being honest with the electorate and with each other, their respect for the moral mandate of opponents to govern following an election defeat, or their willingness to take responsibility for mistakes made in office, up to and including the sacrifice of their own political careers (Putnam 1973). Such norms are obviously salient when considering the legacy of the Trump presidency upon American democratic life. But they are also of broader importance in structuring how the drama of democratic politics plays out upon the public stage, and hence, to the legitimacy of the system as a whole (Foa et al. 2020a, 2020b).

What happens in countries where, by contrast, democratic institutions exist by law, yet such informal norms are absent among key actors? The result is a scenario familiar to scholars of emerging democracies in Latin America, Southeast Asia, and Eastern Europe. Elections occur, yet losers do not concede the winners a mandate to govern. Instead, they seek to frustrate the exercise of authority by whatever means possible, whether in the legislature, in the streets, or through the courts. Recurrent gridlock between the executive and legislative branch results in heads of government ruling by decree, arbitrarily expanding the scope of executive authority. Freedom of speech and assembly exist by law yet vigilantism by religious or political extremists inhibits civic enjoyment of these rights. And lack of agreement over democratic rules and standards results in opposing political actors competing not so much "through" the ballot box as "around" it – for example, by making continual alterations to electoral boundaries, the franchise, or voting methods and rules, so as to tilt the game in their favor, rather than winning through public persuasion and the formation of a political majority.

Because norms of elite civility and restraint are difficult to build and sustain in the context of continual inter-party competition, countries enjoying fully "clean" democratic politics are generally limited to a handful of countries in northern Europe, northeast Asia and Australasia. By contrast, there exist a much larger number of countries where the political system is undoubtedly pluralistic, in the sense that elections are regularly held and result in more or less peaceful transfers of power, yet which continue to fall short of the democratic ideal due to the norms prevailing among political actors themselves. Such "fractious pluralism" characterizes for example large developing democracies such as India, Nigeria or Brazil. Though the democratic processes of these countries are flawed, they leave power distributed between competing political actors at the local, state and federal levels, without any single individual or organization being able to monopolize the levers of government. However, the nature of democratic competition is rife with clientelism, disinformation, and vigilantism (Tillin 2017, Mainwaring and Pérez-Liñán 2015). Even in the context of significant violations of electoral integrity and civic rights, such polities remain pluralistic, in part, due to the sheer multiplicity of competing actors and parties

at differing levels of power, and in part because a number of competing political actors violate democratic norms when they get the opportunity. Though there is now a substantial literature on forms of "soft" authoritarianism such as competitive authoritarianism, hybrid regimes, and illiberal democracy, a system of government in which violations of democratic norms occur just as frequently as they do under authoritarianism, yet do not allow the party that happens to be governing at any one time to stymie regular transfers of power by tilting the playing field clearly in its own favor – remains undertheorized as a distinctive regime type in contemporary political science.

Which brings us back to the contemporary United States, and its regression from being a relatively "clean" democracy characterized by (relative) elite civility and fair play, towards a dirtier form of politics. Reflecting on contemporary America, Fukuyama (2014) has referred to this erosion as "political decay." Similarly, we have used the term "democratic deconsolidation" to refer to a situation in which the informal norms of democratic life appear to be eroding without having precipitated any backsliding of democracy's formal institutions (Foa and Mounk 2016, 2017).

This is a scenario that is familiar to scholars of democracies in Latin America, Africa, or Southeast Asia that have experienced transition, yet fall short of democratic consolidation, and whose pattern of politics bears substantial resemblance to that of the contemporary United States (Przeworkski 1991). Before continuing, however, it is important to acknowledge that such fractious democracies do retain a great many of the benefits of democratic governance. Citizens can sense that democratic life is deficient in important respects, yet they also know that their country is no authoritarian regime, and that there is only a remote prospect of the government violating their basic human rights. However because political competition between the parties centers not just on winning elections within the existing rules but, to a significant degree, also upon winning the "political game" over electoral laws, campaign financing, or the placing or removal of partisans in the judiciary, public broadcasters, and investigative agencies, the average citizen develops a justifiable cynicism towards the political process. Many participants in this struggle understand that democratic competition is a game set within arbitrary rules for the contestation of power, rather than a genuinely democratic process in which majority public preferences will set the agenda for public policy.

3   What is a "Dirty" Democracy?

More formally, we can specify four key attributes of a democracy in which the formal institutions of democratic governance exist, but its informal norms are absent.

1. The focus of political actors shifts from winning public opinion to winning the "game outside the game". This is the core, and perhaps the defining feature

of what we propose to call "dirty" democracy. In a "clean" democracy, the bulk of electoral competition occurs within the long-established and widely accepted rules of the democratic game. In order to win elections, political partisans need to accept the existing rules, and try to build the necessary majorities in order to win according to the conditions they stipulate (Przeworkski 2005, 2010). Since there is a consensus about the most important rules and regulations governing elections, they expend little time or effort in trying to change or reshape them to their advantage, and instead focus upon winning public opinion over to their policy platform in anticipation of the next election.

In a "dirty" democracy, by contrast, this has ceased to be the case. Instead, competing parties "play dirty" – by focusing less upon the democratic "game" of electoral competition, and more upon the "game around the game" – the broader norms, rules and institutions that can be manipulated to partisan advantage. While there remains real competition over who gets to rule, and the playing field between incumbents and challengers is sufficiently level so as to produce regular changes of power, the political game shifts towards such non-electoral means of competition. The most common such field of competition is through alteration of electoral rules, such as electoral districting, rules over ballot counting, the franchise, and campaign finance, so as to raise their chance of winning without necessarily securing greater public support. In many democracies, changes to the electoral system (such as between proportional and plurality systems, or addition of minimum thresholds to enter parliament) are commonplace when there is an alternation of power. Other governance reforms, such as federalism and devolution, can also become tools for gaining an edge over political rivals, for example through selective devolution to regions in which one's party has greater support, or recentralization away from regions that tend to favor the political opposition.

Another way in which parties engage in non-electoral competition is via the selection of external policy actors such as the composition of judges, central bank governors, civil servants, ambassadors, and (in countries where these are not directly elected) members of the upper house. In "clean" democracies, these positions are either entirely non-partisan, because office-holders are bound by strict rules of impartiality, or their dependence upon the winning party is accepted as part of the latter's political mandate, which replaces them during its initial investiture in office. Yet in democracies where these conditions do not hold, the means of control over such appointments risks becoming a core feature of the political game, independent of the electoral cycle.

A third means of political competition outside of elections is through influence over the media. This may include direct policies to render the media more favorable to one's own party, for example through the privatization or nationalization of media organizations; the selective use of competition authority powers to wrest ownership from one private owner to another; the replacement of the heads of publicly-owned broadcasters; and the strengthening or weakening of libel laws or other legislation so as to tilt advantage towards media forms that may improve a party's degree of favorable coverage.

At this point it is important to note a central difference between what is

sometimes called "flawed" democracy, in which institutions do not effectively translate public preferences into policy outcomes, and what we are here proposing to call a "dirty" democracy. Even if a country falls short of the democratic ideal due to features of its electoral system that mismatch the distribution of votes to seats in the legislature, or due to restrictions on the franchise, or due to regulatory powers that are ceded to unelected bodies, nonetheless its politics remain "clean" *so long as* there is inter-party consensus regarding these practices. As long as this condition holds, the legitimacy of governing institutions is rarely questioned or called into doubt. This has been the case historically in many democracies with plurality electoral systems and/or unelected heads of state or upper house, such as the United Kingdom, or restrictions on the voting rights of a substantial proportion of residents, such as Switzerland. Only once parties compete to implement institutional reforms that tilt the system to their favor, can a democracy be considered to have entered "dirty politics," and this remains the case even if party alternatives differ in their approximation to the democratic ideal, so long as each party pursues changes that reinforce their chances of securing and maintaining hold of political power.

2. Electoral competition weakens. In a "clean" democracy, elections are free and fair because both government and opposition agree on the basic rules of the democratic game. Electoral rules are regarded as fair by both sides. They change rarely. Reforms to them command cross-party support. Lawsuits over electoral procedures or disagreements over the rightful winner of a particular vote are rare but decisive. While every democracy violates each of these conditions in some ways small or large, this description comes close enough to the actual reality of democratic systems in countries such as Sweden, Australia, or Germany.

"Dirty" democracies differ both from high-performing liberal democracy and from competitive authoritarian regimes. They are similar to competitive authoritarian regimes insofar as institutions are tilted in favor of the governing party, but differ insofar as opposition parties retain power at different branches and levels of government, enabling them to prevent a ruling party from achieving a monopoly of effective control. As a result, the rules do not give a systematic advantage to the current incumbent (or, if they do so, this is not owed to the incumbent's ability to use the power of their office to reshape rules in their own interests). But nor do government and opposition agree on the basic rules of the democratic game. Rather than offering both parties an even-playing field because they have reached a consensus about what would make the rules fair, both sides compete to put obstacles in the other's path. But because both sides have had roughly equal success in this undertaking, the playing-field–though littered with all kinds of traps and landmines–presents significant obstacles to both.

3. Violations of democratic norms become more frequent, not only by the party currently in office, but also (when they have the opportunity) by parties that are now in opposition. In a "clean" democracy, violations of core democratic

norms are uncommon, and when they occur, elicit significant criticism from co-partisans as well as broader civil society and the media. As a result, violations of democratic norms tend to incur an electoral penalty, creating a strong disincentive for such behavior as well as a reasonable likelihood that such attempts will be contained and eventually reversed.

In competitive authoritarian regimes, violations of democratic norms are pervasive, yet also "one-sided" – that is, committed by the ruling party to the detriment of those in opposition (Levitsky and Way 2002). In a "dirty" democracy, violations of democratic norms may be similarly frequent, yet *both* governing parties *and* their opponents are willing (though not necessarily to the same extent) to use these in pursuit of a political edge. Key political actors are routinely engaged in attempts to shape the rules of the game in their own favor, even when this involves violations of democratic norms. Each of these violations elicits outrage among political movements and publications associated with the opposing party and its leading public spokespeople. But they are ignored, defended or celebrated by co-partisans. They may be criticized by political actors and institutions that have, in the past, been regarded as politically neutral– but these institutions are no longer regarded as neutral by large swathes of the population or cease to be seen as such as soon as they intervene on one side of a politicized dispute. As a result, violations of democratic norms do not elicit cross-partisan outrage or a significant electoral penalty. There is therefore no strong disincentive for violating democratic norms. Such violations are frequent and perpetrated–though to varying degrees–by multiple political actors.

4. Mutual toleration between opposing parties has broken down. In a clean democracy, major participants in political competition acknowledge each other's legitimacy. Though they may compete intensively in elections, making deeply emotional appeals to their voters and criticizing each other in harsh terms, they do not state or imply that a victory by the other side would pose an existential threat to the political system. Though every politician prefers to win rather than be defeated, losers of elections readily accept that they need to wait out four or five years in opposition until they have another chance to gain the necessary majority to govern.

In "dirty" democracies, by contrast, the main competitors for power frequently or usually lack this form of mutual toleration. Instead of recognizing that their adversaries are legitimate participants in the political system, and that a defeat at the next elections does not pose a threat to the country, they describe each electoral contest in apocalyptic terms. A loss to the adversary is portrayed as an existential danger to the nation and a potential end to the functioning of the political system.

The rise of populism is often a key moment in the breakdown of partisan toleration. Claiming that they, and they alone, truly spoke for the nation, populists typically portray opposing politicians and their supporters as "enemies of the people." Once in office, some may attempt to curtail the formal political rights of opposition politicians and independent media; almost all violate the informal norms governing democratic competition, such as refraining from incit-

ing supporters to engage in harassment or violence against opposing groups, or engaging in the deliberate spread of disinformation. Adversaries are portrayed as illegitimate, and in some cases prominent politicians even start to claim that anybody who voted for these parties or candidates is in some sense undeserving of equal moral worth, whether for normative reasons (such as a purported allegiance to foreign interests or the pursuit of illegitimate self-interest) or cognitive ones (being misinformed or "out of touch" with real people). Dirty democracies, as a result, suffer from a serious lack of mutual toleration. And the longer this state persists, the more likely it becomes that the lack of mutual toleration deepens.

4   Is American Democracy Getting "Dirtier"?

The America of the nineteenth and early twentieth century was not fully democratic because it excluded key groups of the population, including especially African-Americans, from political participation. But beyond that well-recognized fact, the American Republic has also, for much of the same period, had attributes of a "dirty" democracy: It lacked a settled consensus over executive-legislature relations or the role of the Supreme Court, while practising extensive restrictions on the franchise and abuse of electoral districting ("gerrymandering"). Northwestern University historian and political scientist Edward Gibson has even gone so far as to argue that many parts of the country could be described as "subnational authoritarianism" because of the overwhelming monopoly enjoyed by local political authorities over all levers of government (Gibson 2013).

The recognition that countries can move "in" as well as "out" of a liberal democratic consensus over the norms of political conduct is helpful for analysing the mechanism behind such shifts. Such a consensus can be described as an *equilibrium* in the strict sense that informal norms are self-reinforcing: that is, if other political actors "play fair," I will do so, but if others do not do so, then the logic of political competition determines that I follow suit. As a result, getting out of such an equilibrium is both historically rare and exceptionally difficult. It typically involves a major political reform effort, such as that of the American progressive movement of the early 20th century, or a moment of exceptional national unity, such as a major international war. Indeed, some scholars argue that elite socialization into co-operative norms of civility and restraint is so difficult under competitive politics, that in most cases it must be done prior to democratic transition itself (Fukuyama 2011).

If the forming of institutional equilibrium is, in Weber's phrase, a "slow boring of hard boards," its breakdown, by contrast, can be swift. In the contemporary United States, we can chart this breakdown in four stages. First, rising polarization has led to an increasing frequency of democratic norm breaches, as the major parties pursue power not simply via electoral appeals to the public but also by engineering changes to the franchise, electoral system, the system of

court appointments, and legislative procedures. Second, a "tit-for-tat" cycle has set in whereby these become a justification for responding in kind: because Republicans have played the legislative procedure to secure more Supreme Court appointments, for example, Democrats now discuss changing the court's composition via legislative fiat. Third, the parties no longer grant the other a moral mandate to govern, instead seeking to frustrate their exercise of political authority by whatever means possible. Finally, the upshot of this tit-for-tat cycle is that the atmosphere of intolerance between the parties has become more toxic, with partisans on either side increasingly willing (not necessarily to the same extent) to demonize their opponents, circulate misinformation, and engage in physical or virtual forms of vigilantism against their perceived ideological adversaries.

With specific reference to the United States in the years before, during, and now after the Trump presidency, we can consider each of these aspects in turn.

1. The "game outside the game" has become as important as the game itself. In poorly institutionalized democracies, changes in electoral laws and standards are common as parties seek to manipulate democratic rules for political advantage. In Italy, for example, the electoral system was reformed in 1993, 2005, 2015, and 2017, and similar proposals were rejected by referendum in 1991 and 2016 (Renwick et al. 2009). One consequence of such jockeying is to undermine the legitimacy of the democratic process as voters – with some justification – come to see the outcome of elections less as an expression of the popular will and more as a consequence of successful manouvering by politicians to tilt the system in their favor (Bardi 2007).

The United States has long excluded important demographic groups from the franchise; we are *not* arguing that its democratic institutions were free of serious flaws in the past. But to a surprising extent,major changes to the franchise such as the Voting Rights Act (VRA) of 1965 had secured bipartisan support; Republican Senate minority leader Everett Dirksen co-sponsored the VRA, while its main opposition came from Southern Democrats (May 2013). Similarly, the initial restrictions that persisted following the VRA, and in particular the exclusion of convicted felons, did not become a source of partisan disagreement until much later (Katzenstein et al. 2010). Just as the United States experienced a period of relative bipartisan consensus over the franchise from the 1970s to the 2000s, so too was there tacit agreement not to engage in electoral redistricting for partisan advantage. Though the United States had given birth to the term "gerrymandering" in the early nineteenth century, referring to the process of redrawing electoral districts so as to maximize one's own party's share of seats, the practice had all but ceased to exist for a good seventy years before the 1960s and 1970s (Engstrom 2013).

Yet over the course of two generations, bipartisan consensus over America's fundamental democratic rules – including who should vote and how voters should be represented – has severely weakened. Disagreements between Democrats and Republicans over such fundamental questions as who has a right

to vote, managing the trade-off between electoral integrity and citizen access to the ballot, and states' rights to manage their redistricting process without federal intervention do of course reflect genuine and earnest differences of political values and beliefs; but it is hardly a coincidence that party positions on these questions overwhelmingly align with their partisan electoral interests.

2. Electoral competition has weakened as the parties seek to bend rules so as to frustrate the other from enjoying an electoral mandate. In the past, American political life centered upon two key dates: the presidential election, every four years, and the Congressional midterms at their two-year interstice. A "good citizen" concerned with the political life of the nation had only to refresh their knowledge of national parties and candidates at such major episodes, leaving them free in the interim to revert to what Almond and Verba once termed "parochial" citizenship, concerned with the affairs of their local town, suburb, and people around them (Almond and Verba 1963).

Such "parochialism" is, in many regards, a sign of a well-functioning democracy. It means that national elections are predictable and governments stable, and the legitimacy of their outcome is rarely in doubt. Such consistency once made countries such as the United States, United Kingdom, or Australia enviable in the eyes of the world, not least of all in countries like postwar Italy or the French Fourth Republic, where lack of agreement over democratic rules resulted in an endless political drama in which rival parties disputed the integrity of elections and the composition of fractious yet fragile coalitions. By contrast, Anglo-Saxon democracies held elections with clear winners and losers, and this certainty helped depoliticize daily life during the intervening lull, contributing to a more rational, pragmatic, and ultimately mature relationship with politics (Putnam 1973).

In contemporary America, these certainties have eroded. With the "game outside the game" playing an increasingly important role, the country is subject to a never-ending contest in which no side ever establishes its legitimate right to govern. Foremost in this game are revisions to electoral rules and standards which, being subject to judicial interpretation, makes partisan control of the courts the first arena of struggle. With the Supreme Court the ultimate arbiter over such issues as electoral districting and gerrymandering, or whether states can impose voter laws and purges of electoral rolls that are ostensibly for the sake of electoral integrity, this makes the Supreme Court nomination process the most visible terrain of competition. Because of the great importance of the "game around the game", in recent years Republicans in the Senate ascribed as great a strategic priority to securing three additional Supreme Court justices as to the fate of their own administration, while some Democrats today openly propose the "nuclear option" of redesigning the country's constitutional court via legislative fiat – crossing what, for three generations, had been considered a "red line" of America's constitutional settlement.

The second arena of non-electoral competition in contemporary America is via the impeachment process, which has steadily become instrumentalized as a tool of securing partisan political advantage. This "normalization" of the im-

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peachment process is a relatively recent development, and yet one that has had an especially deleterious impact upon the tone and conduct of American democratic politics. In a "clean" democracy, political parties and candidates compete for power by persuading the public to vote for them in elections. When an election has been won, the winner acquires a mandate to implement the platform upon which they campaigned. In the United States, however, this norm has steadily eroded since Newt Gingrich, as House Speaker in the 1990s, attempted to use the impeachment process as a means of delegitimating and potentially removing President Clinton, who had recently been reelected, from office. By stretching interpretation of the phase "high crimes and misdemeanors" to cover the latter's private infidelities (and, more specifically, his denial of these facts under oath), a pattern was set whereby the primacy of any President's electoral mandate could immediately be set aside in search of any transgression that potentially met this vague and variable standard. By consequence, proposals for impeaching both Presidents George W. Bush and Barack Obama were considered by the House of Representatives, with the latter also subject to an extended campaign for his removal from office on the spurious grounds that he was born outside of the United States.

Once Donald Trump became president and started to abuse the powers of his office in much more blatant ways, impeachment may, finally, have been justified according to the original conception of the procedure; but by that time, the process of impeachment had effectively been reduced to partisan ritual.

3. Violations of democratic norms have entered a "tit-for-tat" cycle. Democrats and Republicans are not equally culpable for breaching the informal norms governing American democratic politics. But since both Democrats and Republicans blame the other side for initiating such breaches, both are increasingly willing to engage in further breaches, justifying such norm violations by reference to a perceived need to reciprocate in kind. For example, though the Republican Party used the 2010 redistricting cycle to engage in significant acts of gerrymandering, a report by the Brennan Center in 2017 found that in states where Democrats controlling redistricting, partisan bias was just as extreme as in states where Republicans did so – with the key difference being that Republicans enjoyed this power in many more cases (Royden and Li 2017).

A further area in which the tit-for-tat cycle presents a risk, not least given partisan differences over rules governing the franchise, is in regard to the growing frequency with which politicians refuse to accept the outcome of elections and engage in post-hoc challenges to their legitimacy: via courts if possible and in the "court of public opinion," otherwise. In and of itself, the refusal of a candidate to accept the legitimacy of an election result need not constitute a violation of democratic norms: in his 1962 primary campaign for the Georgia State Senate, former President Jimmy Carter alleged voter fraud, challenged the result in court, and won his lawsuit, leading fraudulent votes to be thrown out. Democratic norms fray, however, when candidates either seek to gain political capital from allegations of fraud that they are not able to substantiate in court or continue to deny their opponent a legitimate mandate even after such challenges have been mounted and defeated. President Trump's refusal to accept

the outcome of the 2020 election following failed legal challenges constitutes the clearest and most flagrant, but far from the only, violation of this norm. Indeed, American political life is now characterized by a broader pattern in which candidates in both primary and general elections refuse to recognize the legitimacy to their opponents. This stands in marked contrast to the ways in which earlier generations of politicians were, at times, willing to prioritize the protection of American democratic legitimacy over their own political career. In the 1960 presidential election, many scholars now believe that Richard Nixon would have beaten John F. Kennedy had he mounted a legal challenge against fraudulent ballots; yet he requested not to, stating privately that the "country cannot afford the agony of a constitutional crisis" (Phelps 1973). (Perhaps informed by that narrow defeat, Nixon became far less willing to prioritize electoral integrity over partisan political advantage later in his own career.) Similarly, in 2000, Vice President Al Gore graciously conceded the election to George W. Bush, and personally oversaw the certification of Electoral College votes in Congress, despite a strong claim to having won a majority of the vote in the key swing state of Florida (as well nationwide).

This failure to concede the electoral mandate extends beyond individual politicians, however, and now affects the entire party system. During the election confirmation hearings for President Joe Biden, more than half of the Republican members of Congress objected to the counting of the Electoral College votes before certification was interrupted by a violent riot that was incited by former President Trump. With Republican governors and legislatures expending enormous effort on redesigning state election rules to give more power over the certification of elections to partisan political actors, there is a serious risk of an unprecedented constitutional crisis, perhaps including further political violence, over competing claims to having won the presidential election in 2024, 2028 or beyond.

4. Mutual tolerance has eroded. An obvious factor underlying the above examples is the rise of affective polarization in the United States, which is already the subject of a large, and growing, research literature (Abramowitz and Webster 2016; Rogowski and Sutherland 2015; Iyengar et al. 2019). Some striking statistics illustrate the degree of partisan acrimony. For example, when in 1958 Gallup first asked Americans whether they would prefer a daughter to marry a Republican or a Democrat, almost three-quarters of Americans expressed no preference. By 2016, more than half objected to the idea of their family bringing in someone of an opposing political identity (Vavreck 2017). Moreover, Americans appear to have acted out these preferences in real life: by 2016, just 9% of marriages were between self-identifying Republicans and Democrats, a figure that is now down to just 3.6% (Hersh and Ghitza 2018; American Family Survey 2020).

The rise of affective polarization has not only done damage to the cohesion of American society but also to the health of American democracy. We can identify the severity of the problem by considering three issues, each of greater concern than the last: first, partisan news filtering and demonization; second, non-violent vigilantism; and finally, violent vigilantism.

i) *Partisan news filtering.* The transformation of the American media land-scape is by now the subject of extensive academic research (Persily and Tucker 2020; Benkler et al. 2018). Most scholars generally date its onset to the rise of right-wing talkshow radio and the establishment of Fox News, the first par-tisan television news outlet, in the mid-1990s. It then accelerated with the rise of internet media in subsequent decades, which has seen the breakthrough of new outlets prepared to dispense with norms of fact-checking or bipartisan commentary, forcing more established media names to follow suit.

As the media landscape has become steadily more partisan, it has abdicated its role of holding politicians accountable to the truth while accentuating the circulation of distortions and mischaracterizations. Its main consequence for elite political behavior is that politicians are no longer rewarded for attempts to reach out to voters on the opposing side, but instead for their success in mobilizing their own political base. Nor are politicians exposed by their own media allies for inventing or repeating falsehoods, such that when caught in a scandal, they need no longer atone or apologize; but are instead best served by going on the offensive, recasting the attention of their supporters and the public upon alleged wrongdoings by their adversaries.

The idea of a "post-truth" public space is not new, and as early as 1962 Daniel Boorstin had argued that America was a "pseudo-democracy" in which the media routinely fabricated "pseudo-events" – scandals and controversies around politicians' alleged acts or statements – in order to sustain public interest (Boorstin 1962). Yet at the time he was writing, both U.S. politicians and the media did remain bound to a set of informal norms that are not sustained to-day, including the rule of securing bipartisan commentary on an issue, engaging in diligent fact-checking, and making readers aware of factual corrections and inaccuracies in prior coverage. This placed firmer boundaries over the ability of political leaders to mischaracterize the positions of their opponents, or engage in outright distortions of the truth.

ii) *Non-violent political vigilantism.* When thinking about democratic erosion, scholars typically think first of the formal measures governments might take to constrain civil liberties, such as introducing laws of sedition, arresting activists or journalists, or banning opposing parties. However, in regions such as South or Southeast Asia the greater everyday threat to civil liberties comes not from the "big brother" of the state, but rather, from "little" brother – non-state actors and radical groups that routinely harass and intimidate dissident minorities, such as secular bloggers, women's groups, and members of religious and ethnic minorities.[‡]An undue focus upon the active role of the *state* in curtailing civil

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[‡]The line between political elites and such uncivic actors is often blurred, with politicians frequently inciting or implicitly condoning such activities by non-state actors, while the police and military stand by rather than intervene in order to provide rule of law and equal protection for all. Indeed, among Islamists in Indonesia or Bangladesh, or Hindu nationalists in India, for example, these are the preferred means of exercising societal control: as it allows them to adopt a "Janus-faced" strategy as their leaders project calm and civility while

liberties has inhibited an understanding of how, even in a political context with existing legal safeguards, non-state actors are often one of the key agents in eroding the enjoyment of such freedoms in practice.

The most common form of such vigilantism is when individuals co-ordinate in groups to harass individuals through non-violent means, such as online threats and insults, the circulation of slander, or coordinated sanctions on individual livelihoods – including boycotts of the services of family businesses or pressure on employers to force individuals from their jobs.

There can be little doubt that vigilantism has vastly increased in America over the past decade. The range of criteria over which individuals' private lives may be infringed for the expression of public views, the scope of individuals affected and the facility of coordinating such actions, as a result of social media and the internet, have all broadened substantially. In recent years activist groups have sought to police the opinions of journalists, academics, entrepreneurs, and even apolitical laborers like electricians, often resulting in career termination and business failure without any recourse to the rule of law. The result has been a measurable chilling of Americans' self-reported perception that they are able to speak freely on political matters. (Stouffer 1955; Mueller 1988; Ekins 2017). More strikingly, there is a worrying rise of willingness among partisans to engage in retributional vigilantism. In a recent survey, 50% of those identifying as "strong liberals" agree with firing executives who personally donate money to President Trump's reelection campaign while 36% of Americans identifying as "strong conservatives" felt the same way towards executives supporting Joe Biden (Ekins 2017).

In many democracies of the developing world, self-censorship in response to viligantism is a commonplace and widely-recognized occurrence. In Indonesia or Bangladesh, for example, both politicians and members of the public are careful in expressing support for overly secular positions, aware that such views may be denounced as "atheist" and result in harassment, ostracism, or at the limit acts of violence. When such vigilantism occurs elsewhere, western commentators are able to recognise the threat it entails to the exercise of civil liberties and the health of a civic culture, and yet a similar recognition has been delayed among political scientists studying the contemporary United States.

iii) *Violent vigilantism.* In many respects, violent vigilantism is simply the outgrowth of its non-violent forms. It occurs most frequently in states that lack sufficient capacity to constrain openly criminal behavior, leading a portion of extremists to cross the line into physical intimidation. However, insofar as unequal access to justice and political vigilantism go hand in hand, there is an important link to affective polarization in this respect: in developing democracies such as India, individuals or groups who harass opponents of the ruling party (either nationally or locally) may not be brought to court or charged, and it is precisely this complicity between politicians and radical groups that allows vigilantism to

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affiliated grassroots movement harass and intimidate their opponents. Yet the result is much the same as if the state had directly legislated to cordon civil liberties.

flourish and persist. By contrast, in clean democracies, politicians immediately denounce the use of political violence, intimidation, and harassment, above all if the perpetrator is close to them ideologically, if only to avoid being tainted by association.

A clear example of such norm-violation during the Trump presidency has been via the ways in which he has given subtle signals of endorsement to non-state actors, including militia groups such the "Proud Boys," his lukewarm condemnation of right-wing extremists gathering in Charlottesville in 2017, and the routine "doxxing" of individuals on social media expressing views opposed by his supporters, which has led to violence in many instances.

Yet an equally disturbing trend of recent years is how many politicians on the political left have shown a toleration for violent vigilantism that was previously unthinkable in American politics. During the 2020 election campaign, for example, few Democratic politicians spoke out against violence directed towards participants in the Republican National Convention. Nor was there any clear statement by the Democratic Party to denounce occupation of the Senate building during the Kavanaugh confirmation. Many leading politicians have also been oddly taciturn regarding violent acts by the Antifa movement. Though both President Joe Biden and House Speaker Nancy Pelosi have denounced the group's actions in specific instances, several Democratic city mayors limited law enforcement against the group during violent protests in 2020; some senior figures in the Democratic Party, including former DNC deputy chair Keith Ellison, even appeared to signal their support. While many of the informal norms that once structured American democratic competition had begun their erosion well before the political ascendancy of Donald Trump, the tacit acceptance and even encouragement of partisan vigilantism is unique to the latter's presidency, and may prove to be his most damaging legacy for American democratic life.

5   Conclusion

The presidency of Donald Trump has shown the extent to which American democracy is endangered. But rather than being on a path towards complete democratic breakdown, we argue that the real danger faced by the country is a continuing degradation in the quality of its democratic governance, away from the bipartisan consensus of earlier generations and towards increasingly "dirty" forms of party competition. Though it is true that American democracy has never been entirely "clean," it is now clear that unless a new consensus can be formed over the most basic institutional norms and standards governing inter-party rivalry, the "dirty" democracy of recent years may become a more enduring condition.

This naturally raises a question about the extent to which "dirty democracy" can prove to be stable over time. Will the Trump era come to be seen as a temporary low-point for civility in American politics, before honesty and calm are restored in the years to come? Or has it established the "new normal" for political conduct in twenty-first century America?

Though it is too early to know the final legacy of the 2020 election, for now, the signs are at best ambiguous. On the one hand, in his campaign for the presidency Joe Biden made civility a key component of his campaign message, and made initial efforts to court moderate Republicans, such as Utah Senator Mitt Romney, to secure bipartisan support and legitimacy for his agenda in office. Such moves at political reconciliation are a critical precondition for re-establishing shared democratic norms, which by definition, require leaders from both parties to agree a new consensus.

On the other hand, in many other respects the tit-for-tat cycle of partisan norm-breaking continues. Because the Republican Party was successful in nominating three Supreme Court Justices to the bench, proposals are being mooted to alter the composition of the court by legislative fiat. A recent legislative proposal to add four new justices to the court represents the most blatant attempt at court-packing in nearly a century; and yet, it has been cosponsored by influential Democrats in Congress, including the Chairman of the House Judiciary Committee.

While such measures may shift the balance of partisan advantage in one direction, the history of other weakly-institutionalized democracies suggests that permanent hegemony of one party is improbable, if not impossible, and that the eventual swinging of the pendulum may bring an even larger bulldozer to America's constitutional apparatus. Already, the Republican Party has staked its platform to a repudiation of the legitimacy of the 2020 election, and has introduced measures to this effect: HB 2720 in Arizona, for example, grants the (Republican) legislature authority by majority vote to "revoke the Secretary of State's issuance or certification of a presidential elector's certificate of election." If enacted, it could become the proximate cause for an even bigger legitimacy crisis in the 2024 or 2028 presidential elections.

In short, America has become a democracy in which the basic rules of the game are deeply contested. Republicans and Democrats are increasingly focused on the "game outside the game" in the form of changes to institutional rules governing electoral competition. This obviously raises the risk that one faction might one day enhance its power sufficiently to give it an unassailable advantage over its competitors, at which point "dirty" democracy could decompose into something resembling a hybrid regime. Yet this, in our view, is not the most likely outcome. In many democracies of the developing world, pluralism without consolidation has proved to be surprisingly durable. This seems especially likely to be the case in societies that share two key features with the United States: First, those that have a federal systems with multiple formal and informal centers of power, which limits the ability of ruling parties to reshape the rules of the democratic game. And second, those in which anti-incumbent sentiment tends to be strong, so that the advantages that election to high office confers may be overshadowed by countervailing disadvantages.For all these, reasons, "dirty" democracy in the United States may prove to be a surprisingly persistent condition.

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