Democracy, Populism, and the Tyranny of the Minority

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[00:00:03.4] Jeffrey Rosen: Hello, friends. I'm Jeffrey Rosen, President and CEO of the National Constitution Center, and welcome to We, the People, a weekly show of constitutional debate. The National Constitution Center is a nonpartisan non-profit chartered by Congress to increase awareness and understanding of the Constitution among the American people. In November, the NCC convened a great town hall on democracy, populism, and the tyranny of the minority. I was joined by three of America's leading political scientists on democratic instability, backsliding, and demagogues. Frances Lee of Princeton, Stephen Levitsky of Harvard, and Kurt Weyland of the University of Texas at Austin. We explored threats facing American democracy in a global and historical perspective, including some possible solutions. Today, we're re-airing the conversation on We the People. Enjoy the show.

[00:00:53.8] Jeffrey Rosen: It is a great honor to introduce our panel on an extremely significant topic, which is populism and democracy in America. Frances Lee is jointly appointed in the Department of Politics and the Princeton School of Public and International Affairs, where she's Professor of Politics and Public Affairs at Princeton University. She's the author of many books, including most recently, the *Limits of Party, Congress*, and *Lawmaking in a Polarized Era*. Stephen Levitsky is David Rockefeller Professor of Latin-American Studies and Professor of Government at Harvard University. He is the co-author of two New York Times bestsellers, including *How Democracies Die*, and most recently, the book that we'll be focusing on today, *Tyranny of the Minority: Why American Democracy Reached the Breaking Point*. Kurt Weyland is the Mike Hogg Professor in Liberal Arts in the Department of Government at the University of Texas at Austin. He's the author of many books, including most recently, his forthcoming book, which we'll be discussing, *Democracy's Resilience to Populism's Threat*.

[00:02:01.8] Jeffrey Rosen: Welcome and thank you so much for joining, Frances Lee, Steven Levitsky, and Kurt Weyland. Steve Levitsky, let's begin with you, if we may, in your new book, *Tyranny of the Minority: Why American Democracy Reached the Breaking Point*. You argue that the threats to democracy are even worse than you imagined when you wrote *How Democracies Die* in 2018. And you say that part of those threats comes from the minoritarian features of the United States Constitution, which allows partisan minorities to routinely thwart majorities and sometimes even govern them. Tell us why you believe that the most imminent threat facing us today is minority rule.

[00:02:49.2] Steven Levitsky: I'm not sure it's the most imminent threat. I think we also face a threat of sheer instability, a period in which we slide in and out of pretty severe constitutional crisis, and that could be accompanied by a fair amount of violence. So minority rule is one threat, and we can talk about it, but it may not be the most imminent one. Our book very briefly takes on two big questions. First of all, why a mainstream political party, one that's competed peacefully in elections for more than 150 years, would suddenly go off the rails and suddenly turn away from democracy. That's actually a really rare event. And so, a democracy cannot remain stable if one of two major parties is not fully committed to playing by democratic rules of the game.

[00:03:44.5] Steven Levitsky: And when we wrote *How Democracies Die* just six years ago, we did not consider the Republican Party to be an anti-democratic party. We thought that it had made a major error in sort of gatekeeping error in allowing Donald Trump to be its nominee. But we didn't consider the party to be anti-democratic. But since 2020, '21, the Republican Party has violated what we consider sort of the three basic tenets of democratic behavior for political parties. One, accept the results of elections, win or lose; two, unambiguously reject political violence; and three, break completely and unambiguously with anti-democratic extremist forces. When mainstream political parties of the center left or the center right do not do those three things, democracy gets into trouble. And since 2020, the bulk of the Republican party has not been committed to those three things.

[00:04:48.9] Steven Levitsky: Second half of the book very quickly has to do with our institutions, as you mentioned, Jeff. You could find throughout advanced Western democracies a plurality of the electorate, a minority electorate, 25, 30, maybe 35%, maybe a third of the electorate that is sort of on the illiberal right. But only in the United States has that one-third of the electorate been able to govern on its own and been able to begin to threaten democracy on its own. And that, we think, is due to a set of excessively counter-majoritarian institutions that, unlike any other established Western democracy, allows partisan minorities, as you said, to systematically thwart and occasionally even govern over majorities. And these go back, most of these institutions are constitutional. The electoral college is one. The structure of the US Senate is another. Some are not constitutional, the Senate filibuster. But these add up to a system in which minorities can thwart minorities in ways that you don't see in any other established democracy.

[00:06:07.0] Jeffrey Rosen: Thank you so much for that. Frances Lee, in your article on democracy and populism, you take a more optimistic view, and you argue that although populist insurgency threatens the inclusive norms of liberal democracy in the US as it does elsewhere, the same features of the US system that impedes responsiveness to national popular majorities, federalism, bicameralism, and separate elections for national offices also help insulate the United States against would-be authoritarian leaders' centralized control. Tell us why you believe that populist insurgency is more likely to be checked in the US than it is in other systems.

[00:06:53.9] Frances Lee: Thanks for the question. I see our political system as one that's designed for circumstances, circumstances when, in the words of the Federalist Papers, enlightened statesmen will not always be at the helm. It's a system that was very suspicious of concentrated power. So, it has a whole series of institutions that have the effect of fragmenting power. So, an extensive system of checks and balances, including strong bicameralism. Layered on top of that are staggered elections, which tend to operate so that presidents suffer a referendum on their performance two years in, one that routinely dilutes their strength in the legislature.

[00:07:46.4] Frances Lee: Federalism adds to this fragmentation of power. Presidents governing parties at the national level routinely face states controlled by the opposing party. And federal state cooperation is generally necessary for all-important domestic policy-making. So, this is another way in which power is checked in the American political system. You have a national government of limited powers, which then in turn entails a great deal of litigation about where those boundaries are, and the role of an independent judiciary in policing those boundaries, and a rigid constitution that's very difficult to change. So all of these factors make it less likely that you'd see an authoritarian concentration of power, even under the circumstances when a populist leader gains the reins of power.

[00:08:52.0] Frances Lee: Now, there are numerous trade-offs involved with a political system designed this way. It often prevents decisive leadership, especially in the domestic realm. Gridlock is not unusual in American politics. A high bar of consensus is generally necessary for major legislation. But it's a system that's pretty well-designed to check the excesses of a populous leader. Now, unfortunately, we combine a system like this with a party system that has no such protections. We radically open-nominations process. There's nothing to stop racist or ethno-nationalist forces from taking over one of the major parties. There's a limit to what national party leaders can do to affect who receives party nominations in a system that is radically open, remarkably open in comparative terms. So populists can get nominated in American politics, the presidential level, at the congressional level, but they'll be checked in office due to the basic structure of the constitutional system.

[00:10:08.7] Jeffrey Rosen: Thank you so much for that. Kurt Weyland, in Chapter 6 of your forthcoming book, you argue that many of the features of the American system, in particular, the tripartite separation of powers enshrined in the presidential system of government, continues to impose firm constraints on the head of state that impede any serious power grab by what you call a personalistic plebiscitarian leader, and that's an important part of your definition of a populist leader, of a populous leader. And you say all of those features in the US limited the degree to which president Trump was able to subvert liberal democratic institutions in his first term. Tell us more about that.

[00:10:54.6] Kurt Weyland: When you look at the US case, you see that a number of the features of this tripartite separation of powers played a very important role in reining in what Trump could do. The judiciary, for example, that was involved very frequently, and that blocked a number of Trump's initiatives. And Trump actually, despite his transgressive tendencies, complied with judicial rulings. Federalism, not only in the challenges that state governors and

mayors posed to Trump's initiatives, but also, federalism of course prevents the federal government from having complete control over the electoral system. And so when you think of the challenges that Trump posed to elections after his defeat, he would've gotten much if there hadn't been state control over the electoral system. And so in a number of ways, you see that, for example, senate Republicans are less in line with President Trump's initiatives, have blocked some of them, and dragged their feet more than the house. And so bicameralism, I think, played an important role.

[00:12:00.3] Kurt Weyland: I also come to that of course, from my perspective as a comparative politics scholar, because what you see is when you look at the country which is most advanced country that recently moved to authoritarian rule under populist, that is Hungary, and one way how Viktor Orban could do this in Hungary with surprising ease is that it's a very majoritarian democracy and doesn't have the tripartite separation of powers that is nearly as clear and made change of the constitution fairly easy. Here, Viktor Orban can easily, with almost perfect legality, dismantle a democracy. So if I compare/contrast to international experience, you see the importance of the tripartite separation of powers in the United States.

[00:12:52.7] Kurt Weyland: And just one last point from a comparativist perspective, also from the perspective of a foreigner that Americans often, I think, don't see that much, I think that the United States' tight constraints on presidential leadership is one reason why the United States is the country that has maintained a liberal democratic system for the longest time in the world. No other country has achieved that for 236 years. Americans often take that for granted and forget about it. But of course, constraints on presidential power limit, in some sense, the most dangerous actor that can undermine democracy from the inside, and it lowers the stakes of politics. And all of that, I think, helps with the stability and survival of a democratic system. And I think that's often not sufficiently appreciated that, despite all the troubles and travails that American democracy has undergone during those more than two centuries, you're the one country that has really maintained democracy for such a long time. And I think that is partly due to that tightly balanced check-and-balance institutional system.

[00:14:00.3] Jeffrey Rosen: Thank you so much for that. Well, Steve Levitsky, I'm so eager to hear your response to your two colleagues. I know that you are all friends and indeed, you and Professor Lee were students of Kurt Weyland, so this is very much a friendly difference of views. But you've heard your colleagues argue that it was constitutionalism that prevented President Trump from descending further into authoritarianism in his first term. You argue in your new book that it was constitutionalism that prevented President Trump from descending further into authoritarianism in his first term. You argue in your new book that both those counter-majoritarian features make it easier for an authoritarian to win, and then once in office, easier to dismantle liberal norms. Tell us why you think that you're right and you're not convinced by their arguments.

[00:14:49.5] Steven Levitsky: Look, I actually agree with them in many important respects. First of all, the United States has very strong institutions, a very effective rule of law, as both Frances and Kurt pointed out, a robust federalism and a strong independent judiciary, which... It is very difficult to kill US democracy. And the fact that Donald Trump, particularly given that he

did not fully control his party, didn't kill US democracy in four years, probably should not surprise us. Our institutions did, in fact, muddle through and prevent a personalization of power. No question about it.

[00:15:36.4] Steven Levitsky: A couple of points. First of all, my concern or our concern in the second book is less a personalist or populist plebiscitarian leader than a political party that has turned away from democracy, which I think can do more damage than an individual leader, particularly if it gains control of national institutions. And the process that concerns me, first of all, it's just very important in playing a very important role in defending our democracy. But democracy can be threatened through our regime institutions, but also through other channels, including the state and society. And some of the threats that we have to watch are not so much from the Congress or the Supreme Court, but rather from society and from transformations of the state. In terms of society, one of the very troubling signs in recent years, because US democracy has not remained intact over the last six or seven years, all major global democracy indices register a decline in the overall level of US democracy over the last six, seven years in a way that is different from all of Western Europe.

[00:17:07.8] Steven Levitsky: One thing that concerns me a lot is the level of violence that's occurring from below. So, one of the most fascinating revelations of Mitt Romney's recent biography, something that I confirmed in interviews with other retired Republican congresspeople, is that Republican politicians now routinely make decisions based on fear and threats from their so-called base. So when the decision to either convict or acquit Donald Trump in the Senate is influenced by fear of violence, that's not especially democratic. And that's a process of societal radicalization that's operating outside of our institutions. With respect to the state, we have a pretty effective civil service, and that civil service did us a lot of good during the Trump presidency. But it's possible, given the growth of the administrative state over the last century, for an elected president outside or largely outside of the Congress or with the support of one's party, to purge and pack the state and begin to wield it against opponent.

[00:18:22.6] Steven Levitsky: Now, Trump did not do that much, thank God, during his first presidency. But he has made abundantly clear that he plans to do that in his second term. How much he will get away with is very, very difficult to say. Again, I think our institutions will remain strong, and the most vibrant defender, I think, protector of our democracy is less our institutions than the strength of the political opposition, which makes us very, very different from, say, Hungary.

[00:19:00.5] Steven Levitsky: But in general, I agree with both Frances and Kurt, that US institutions are strong and that counter-majoritarian institutions help to check the power of individual leaders. But there are areas in which the United States is excessively counter-majoritarian that have nothing to do with protecting us from authoritarian plebiscitarian leaders. So, the electoral college does nothing to protect us from authoritarian leaders. A severely malapportioned Senate does not necessarily protect us from plebiscitarian leaders.

[00:19:48.0] Jeffrey Rosen: So I think there are some checks and balances that are absolutely essential to democracy. It needs to be difficult. It should be difficult to reform the Constitution. That was one of the problems in Hungary, is that it was too easy to reform the Constitution. Two-thirds of a single legislative body is too low a bar, in my opinion. The United States Constitution is much harder to change. So some kind of majoritarian institutions are absolutely essential, but we need to separate essential kind of majoritarian institutions from non-essential ones and ones that can, in fact, be deleterious or at least antithetical to democracy. And unfortunately, the United States has a number in this latter category.

[00:20:30.3] Jeffrey Rosen: Thank you so much for that. Frances Lee, in helping us understand areas of agreement and disagreement, help us understand your definition of populism and the role that you say it's played in American history. You define populism as an effort to empower executives, weaken checks and balances, restrict civil liberties, manipulate electoral institutions to cement their power against challenges, and appeals against an elite in the name of a homogeneous people. And you say throughout American history, starting with Andrew Jackson, it's operated within the framework of the American party system rather than fundamentally threatening the liberal order. Tell us why you think that's the case and why you believe that even a second Trump term might continue to operate within that liberal order rather than fundamentally threatening him.

[00:21:27.4] Frances Lee: It is interesting, that was one of the first contrasts I noted when I began to study the comparative literature on populism during the Trump era, that Americanists, in reflecting on populist leadership had seen populism as a democratizing force, as a way of involving more of the people in self-government that there was a very I'd say neutral or even positive valence towards populism in the literature that American politics scholars had produced on populism. It's a relatively small literature, but at any rate, the great populist leaders of American history are often portrayed in a positive light, including even Andrew Jackson with his best ambiguous history, as we might look at it now, has historically been presented in rather heroic terms.

[00:22:34.9] Frances Lee: So that contrast was quite notable, and it was why I found the comparative literature so helpful in understanding how populism presents a threat to democratic institutions, that all of those corrosive effects of populism had been that we observed during the Trump years. The disrespect for institutions, including even electoral institutions, the disrespect for civil liberties. All of that is characteristic of populist rule. And that was part of the literature long before Trump rode down that golden elevator and declared himself President of the United States. So, I found it very helpful to take in that broader global perspective on those questions. But as discussed, I see American institutions as helpful, as resilient against some of the most important threats that populism can pose.

[00:23:47.7] Jeffrey Rosen: Kurt Weyland, when we're talking about institutions and the degree to which populist leaders can threaten them and as a result, disrespect civil liberties, in a Trump second term, the former president has said that he would attack the deep state centralized power in the executive, go after enemies, and use the Justice Department to ensure his will. Do you believe that the institutions would hold the second time?

[00:24:21.5] Kurt Weyland: So, this is all in line with a unitary executive theory, which is a problem, right? And so, Trump was not prepared for the resistance he got from what he called the deep state and will try to purge the deep state much more than before. And that is of concern, because the Department of Justice is not really insulated from the executive institutionally. And so, I think that would be, from my perspective, one of the big problems and risks of a second Trump presidency, that he would push much harder and much stronger in the direction. But there still is, for example, an independent judiciary. So, think for example, many populist leaders that try to use administrative mechanisms in order to put pressure on their opposition.

[00:25:07.6] Kurt Weyland: So opposition politicians suddenly are discovered to have engaged in corruption. Of course, government politicians never do, and then you have the IRS going after them. But I think the judiciary in the United States would block any kind of very discriminatory use of the law in that way. And so you would probably, in a second Trump term, have less resistance, insulation, foot-wagging from the deep state, but there's still other lines of defense out there, the judiciary, federalism, Congress, civil society that in the United States is very vibrant. And Trump learns, but of course, his opponents learn as well, to use ways of challenging, limiting him. When you think of it, even during the first Trump term, you see that virtually every one of his initiatives was challenged in the courts. And it seems that courts, especially with democratically-nominated judges, were happy to block him and to limit him. And so, while Trump might learn, his opponents might also learn.

[00:26:14.1] Kurt Weyland: The other point is, I'm not an American politics specialist, but of course, Trump in his second term would in principle be a lame duck, because he can't get re-elected. And the charismatic authority on which populist leaders draw is not easily transferable. He couldn't easily anoint a successor. And so you would assume that already during his second term, his political clout might actually diminish and the maneuvering for who could succeed him would already start. So, while on the one hand, he has learned institutional strategies in political terms, I would assume that his clout might actually be lower than the first term. And so there would be a certain balance in that.

[00:26:58.7] Jeffrey Rosen: Thank you so much for that. Steven Levitsky, your Chapter 3, It Happened Here, begins with a dramatic story in Wilmington, North Carolina, where reconstruction is violently thwarted by the emergence of a party where there's a refusal to enforce federal law. Black voting rights are destroyed. Black people are murdered without remedy. And this white government union club on election day terrorizes Black neighborhoods, stuff the ballots, and as a result, Black voting disappears for nearly a hundred years. Tell us about the significance of this story and what it teaches us about the nature of the populist threat.

[00:27:54.6] Jeffrey Rosen: These were minority local mobs that were refusing to enforce federal law. And it was the reluctance of the national government to pass the Force Act that Henry Cabot Lodge proposed and to enforce the reconstruction amendments that let it happen. And what does the fact that the rule of law in America has been threatened by local mob, illiberal majorities say about the way that minority populism threatens constitutionalism?

[00:28:27.7] Steven Levitsky: Well, interestingly, getting back to Frances' point, the populists, in this case, in North Carolina, were on the other side. The populists were aligned with the Republicans in founding a very, very fragile, multiracial democracy in North Carolina in the late 19th century. The Democrats were really in no sense populist at that time; they were authoritarian. We think that that period, the Wilmington coup and the failure of reconstruction, is important in a couple of senses. First of all, it's important that most Americans don't know a heck of a lot about reconstruction and the failure of reconstruction. It's really important historically for a couple of reasons.

[00:29:18.0] Steven Levitsky: One, it was our country's first experiment with multiracial democracy, multiracial male democracy, anyway. And second, it was a period in which the United States suffered some pretty ugly political outcomes: Violent terrorism, coups, violent seizures of power, election fraud, and substantial amounts of extra-judicial killing. So when we talk about 236 years of liberal democracy, that actually isn't so. The US South was quite authoritarian for nearly a century, which had important implications for our national political regime. By the middle of the 20th century, the United States was considerably less democratic than most Western democracies.

[00:30:10.1] Steven Levitsky: The other reason why I think that that period is very important, though, is, as I said earlier, it's very rare that established political parties that have been competing peacefully in elections turn away from democracy. Daniel and I are comparativists. We have a fair amount of experience in countries in two different regions of the world, and we actually could not find very many cases of mainstream political parties that sort of radically turned away from democracy. There are a few. We ended up discussing a case in Thailand, but there aren't a lot of examples. And the Democratic Party in the US South in the era of Reconstruction is an example. The Democratic Party, by today's standards, was not fully democratic before reconstruction. But it turned towards violence and the open use of fraud and other authoritarian measures in a pretty radical way in the 1870s, 1880s, 1890s.

[00:31:13.9] Steven Levitsky: And so, we thought it was useful to look at why that's the case. And our interpretation, which is hardly the only interpretation, but ours is that this was primarily a response to a perception of existential threat by the main constituencies of the Southern Democratic Party. What reconstruction brought almost immediate widespread black suffrage. African-Americans were an outright majority in a small number of Southern states. They were a near majority in most Southern states, so combined with white Republicans, they could easily win elections. But not only that, Black suffrage meant a serious challenge to the entire racial order in the South. And that, for many Southern Democrats, was perceived to be an existential threat. That wasn't just differences over tax policy or healthcare; that was perceived to be an existential threat to their way of life. And we saw that as fueling the Democrat's radicalization. The situation with contemporary Republicans is not the same. It's very different in important ways. But we think there are important lessons and parallels to be drawn.

[00:32:35.2] Jeffrey Rosen: Thank you so much for that. Frances Lee, Steve Levitsky has argued that the Republican Party has turned away from a commitment to liberal democracy. To what degree does that break from the historical pattern you note, where populism has had a great sympathy among the American electorate, but has failed fundamentally to challenge institutions because it's operated within the two-party system which has basically been committed to upholding the institutions rather than threatening them. To the degree that the party itself has turned away from those values, might the historical pattern change?

[00:33:19.5] Frances Lee: I guess I disagree that the Republican Party has turned away from democracy. Not to say that there aren't elements within the Republican Party who have, but I see more internal complexity in the Republican Party on this question. Certainly during the post-January 6th period, there have been few profiles in courage among Republicans. What I see, though, if I look to the Congressional Republican Party, has been regular politicians trying to hold their coalitions together in the recognition that most of Trump's voters are also their voters and that they cannot hold on to the offices that they currently hold if they lose those voters. So, temporizing, playing both sides, refusing to take clear positions, the general approach to Trump among Congressional Republicans is to say, "No comment," or "I didn't see the tweet." Only a relative handful actually echo Trump's rigged election rhetoric.

[00:34:26.7] Frances Lee: The modal position among Republicans after January 6th was to raise some questions about pandemic voting rules and vote by mail, and then to change the subject as quickly as possible. Although most Republicans voted to uphold those objections to two states' electors on January 6th, most House Republicans voted to do so. They knew so with certainty that their actions could not change the outcome with Democrats in the majority. Meanwhile, 85% of Senate Republicans rejected those efforts and voted to uphold the contested electors. So that's a divided party, in my reading. Once the certification was done on January 6th, nearly all Republicans went on to participate in Biden's inauguration, which I see is quite significant. In doing so, they declined to attend the rally that Trump organized at Joint Base Andrews in order to compete with the inauguration. Virtually no one went to that rally.

[00:35:27.7] Frances Lee: So, I see the Republican Party as heterogeneous on this question. I also see the Republican Party in Congress as having taken quite a hard line on those who broke into the Capitol and rioted on January 6th and have refused to lift a finger to criticize any of those prosecutions. In fact, have demanded harsh prosecutions in those cases. So, I see, looking back to what Steve identified as the three tenets that a party needs to uphold in order to continue to participate as a party in a democracy, to accept the results of elections, to reject the use of violence, and to break with extremists, I see them as meeting two of those criteria.

[00:36:23.2] Frances Lee: The Republican Party has not broken with extremists. And in fact, Republicans are not ruling out supporting Trump again, despite his action after refusing to respect the elections, the 2020 elections, to this day, refuses to accept the elections. There is no disavowing of Trump as leader of the party. Senate Republicans held it in their hands to prevent a second Trump presidency after the impeachment, the second Trump impeachment, and they declined to do so. And so I see them as failing on that third, but I don't see them as an anti-democratic force in American politics.

[00:37:14.1] Jeffrey Rosen: Many thanks for that. Kurt Weyland, your new book argues that President Trump's term in the presidency left US democracy intact, and that checks and balances held firm political competitiveness did not suffer any compression, distortion, or skew. And on the other hand, his populist challenges to US democracy have had the salutary effect of shaking up political fatigue and mobilizing participatory energies among the Democratic Party and civil society at large. If Trump were to be re-elected, what would failure look like? Would you use Steve Levitsky's three factors? And what would be signs that the institutions have failed in a second term in the way that they held in the first?

[00:38:03.0] Kurt Weyland: So, I think serious usage of the administrative state against the democratic opposition, but I call it an article discriminatory legalism. So use the law in a discriminatory way against the opposition. Put them on pressure, try to disqualify opposition, put serious pressure on civil society, on journalism, on the media, which is Trump rhetorically berated people, attacked people. But many governments had really moved towards authoritarianism, use much more serious measures of bringing legal charges, bringing tax charges, using these kinds of things. So seriously undermining the effectiveness of the opposition or institutional changes that would skew the field in the way that Steve and his book about competitive authoritarianism with Lucan Way analyzed that then the electoral playing field is really not even anymore, and there's a serious advantage of the incumbent party. So institutional change.

[00:39:18.5] Kurt Weyland: Steve mentioned the downgrading of the United States in a number of international democracy ratings. And in my view, these are partly problematic and exaggerated. And I think that people often look at policy measures. Also, Trump was anti-immigrant, and that's not very democratic. I mean, I think we have to look at institutional factors. We have to really be attentive to the procedures of liberal democracy. And I think, in this international democracy rating efforts, I think there is sometimes conflation with policy measures. There's also, I think, a certain bias, especially when these measures are subjective, since so many of our political science colleagues have their heart beating on the left, I think it tends to be that right-wing governments tend to be judged a little more harshly. There actually are statistical analysis of, for example, Biden ratings that show there is a significant, not huge, but significant bias against right-wing governments. And so, in my view, the downgrading of the US during the Trump years has I think gone too far.

[00:40:29.4] Jeffrey Rosen: Thank you for that. Steve Levitsky, your book ends in Chapter 8, Democratizing our Democracy, with a series of proposals to make America more democratic, including a series of voting rights reforms, beginning with passing a constitutional amendment, establishing a right to vote for all citizens, automatic voter registration, and so forth. You also would abolish the electoral college, reform the Senate, replace first pass the post system so that majorities can govern, eliminate partisan gerrymandering, abolish the Senate filibuster, establish term limits for Supreme Court justices, and more. An ambitious series of reforms, many unlikely to happen, as you note, given the constraints of the need for a constitutional amendment. How many of these amendments and reforms, if they pass, would prevent populous threats to liberal democracy? And how many would not?

[00:41:36.8] Steven Levitsky: I think most of them would not. I mean, all of us on this Zoom are, to some extent, institutions, we believe that institutions matter, that the design of institutions matter, that the strength of institutions matter. But institutions aren't the whole or never the whole story conflicts in society. Conflicts in society, extreme polarization and violence and society can distort, undermine, even wreck a democracy, no matter what the institution. So I don't believe that there is any set of written-down rules that can guarantee a democracy with the reforms.

[00:42:18.7] Steven Levitsky: And so, the democratizing reforms that we lay out in Chapter 8, I think are very important in the medium term. First of all, obviously none of them will occur prior to 2024, and they don't resolve our immediate threats. The resolving or dealing with the immediate threats to American democracy involve measures that go beyond institutional reform. But basically assuming that Kurt is right and that we muddle through 2024 and are even able to muddle through a second Trump presidency, which may well be the case, we recommend a set of reforms that would bring us more in line with other established democracies in the world in which electoral majorities routinely win power and are able to govern without threatening individual rights and without threatening the democratic process itself.

[00:43:22.0] Steven Levitsky: So, the United States has, over the last century, gradually become an outlier in terms of the excessiveness of our, is that a word, the excessive nature of our counter-majoritarian system. We are now the only presidential democracy in the world in which presidents are not directly elected with an electoral college. We have one of the most malapportioned senates in the world, I guess with the exception of Argentina and Brazil. We are the only established democracy in which a super majority rule, this is not the Constitution, but a super majority rule is employed for the passage of regular legislation. We are the only established democracy that does not have either term limits or a retirement age for Supreme Court justices. And we are one of the very few democracies in the world that doesn't have a constitutional right to vote.

[00:44:19.2] Steven Levitsky: In every other democracy I know of, governments make it easy for people to vote. Governments want people to vote. So, it's often a constitutional right, automatic registration when you're 18 is very common in democracies. Voting occurs on a Sunday or a holiday. Really, the United States, it's a very strange case of a democracy in which there have always been more obstacles to vote. Governments don't work to help people vote. Again, we are under no illusion that this is gonna happen overnight, but we think it's important to begin thinking about and publicly debating democratizing measures. The United States, even though our Constitution is very hard to amend, we have a long history of working to make our political system more democratic.

[00:45:16.2] Steven Levitsky: George Washington in 1787 wrote to his nephew that the Constitution was an imperfect document and would be up to future generations to improve upon it. And we did do that through the Bill of Rights two years later, to the gradual expansion of suffrage, to the very important reconstruction reforms, to the important reforms of the progressive era, direct election of the Senate, to the improvements to our congressional elections in the 1960s, and obviously the civil rights reforms in the 1960s. The last half century, the last 50

years, have been kind of unique in American history in that we've kind of stopped doing the work of making our democracy work better and making our political system more democratic. We've kind of froze things in the 1970s and have stopped discussing constitutional reform. And what I'm suggesting, or what we're suggesting is getting back to an earlier American tradition of thinking about and working to make our system more democratic.

[00:46:20.6] Jeffrey Rosen: Thank you for that. Frances Lee, the founders, both Hamilton and Madison and Jefferson, were afraid of populist demagogues in different ways. And when Jefferson got a copy of the new Constitution, he wrote to Madison that his main concern was that an a illiberal president might lose an election by a few votes, cry foul, refuse to leave office, enlist the help of the states who'd voted for him and install himself as a dictator for life. And Hamilton is afraid of majoritarian demagogues who, like Caesar, will be elected and then flatter the people, and even though they've won elections, will then install themselves as dictators for life. Why was it that the Constitution, which they designed to prevent that kind of populist demagogues, succeeded for so many years? And why is it that it's not until the election of President Trump that we're hearing claims that the system, for the first time, is failing?

[00:47:31.0] Frances Lee: That's an interesting question. I would say that if you look back at US history, there've been a number of occasions when presidents have pushed the boundaries of their power in ways that have provoked criticisms similar to those that Trump provoked, of authoritarian ambitions. So, that was true for FDR, that was true for Theodore Roosevelt, certainly true for Andrew Jackson. So, I see Trump as being subjected to many of the same institutional constraints that have been important for restraining presidents through US history.

[00:48:14.4] Jeffrey Rosen: We'd say that the Trump era has made me see the constitutional system in a new light, and in engaging with the comparative literature, appreciate the two-term limit for presidents in ways that hadn't previously seen how important that can be for protecting democracy. And it gets personalistic rule, as Kurt defines populism, that the US system seems to be uniquely well-designed. Not only do you have all of those pre-existing institutional constraints that date all the way back to the founders and their skepticism about unfettered democracy and the potential for populist demagoguery. But building on Steve's comments about the ways in which we've democratized the system, we might also add, it's almost paradoxical, but you might almost add the two-term limit as another institutional protection that was layered on after the original Constitution was established.

[00:49:23.6] Jeffrey Rosen: Thank you for that. Kurt Weyland, would you see President Trump in the history of American populist leaders like Jackson, Theodore Roosevelt, and Franklin Roosevelt, who were also charged with having demagogic ambitions, but were ultimately constrained by the system, or is he an outlier? And what does the comparative perspective, which you explore in your new book, tell us about whether or not President Trump is an outlier?

[00:49:49.5] Kurt Weyland: So, I'm of course not a specialist in American politics and American history, but I think there are many similarities to these earlier instances of populist leadership. No wonder that President Trump had a painting of Andrew Jackson in his office as a kind of inspiration. And like those earlier incarnations of personalistic, charismatic leadership,

Trump has also been constrained by this institutional framework. Now, Trump, of course, was much more of an outsider in many ways, and as Frances had mentioned before, it was in some sense a really terrible accident that he even made it to the presidency. And it's in some sense the one loophole, the surprising openness and democraticness of primaries were also, of course, the Republican primaries were more open, not having superdelegates than the Democratic primaries. And so Trump can get into office in that way, and in that sense, not having risen through party politics and coming on as a complete outsider in some sense had more of a transgressive and aggressive attitude than earlier ones, and no respect for not only liberal democratic civility, but also for institutional rules, institutional norms.

[00:51:13.0] Kurt Weyland: So in that sense, in my view, he is a bigger threat than the earlier incarnations. But in a comparative perspective, we've seen this coming from the left or from the right with Alberto Fujimori in Peru, Hugo Chavez in Venezuela, Viktor Orban in Hungary, Erdogan in Turkey. We've seen this kind of type of personalistic, domineering, headstrong leaders who have an anti-institutional transgressive bent and who draw on this plebiscitarian mass support in many different incarnations. A lot of political commonality despite a lot of contextual differences in terms of politics, ideology, electoral base. And one thing that is, I think, very noticeable that these populist leaders are very skillful at stringing together very heterogeneous parts of coalitions. Steve in the book emphasizes in some sense the impact of racial cleavages in the United States, but there are also a number of other cleavages that Trump appealed to, the culture, war, economic dissatisfaction. And so these populists are based on a very heterogeneous kind of coalition that can come in with a good amount of support and force and try to do this damage to democratic institutions. And fortunately, in the United States, with its strong institutional framework, managed to contain that transgressive force.

[00:52:47.3] Jeffrey Rosen: Thank you so much for that. Well, it's time for closing thoughts in this sobering and important discussion. Steve Levitsky, in *How Democracies Die*, you identified four behavioral warnings that can help us know an authoritarian when we see one. They're now famous. We should worry when a politician rejects in word or action the democratic rules of the game. Two, denies the legitimacy of opponents. Three, tolerates or encourages violence. Or four indicates a willingness to curtail the civil liberties of opponents. And in that book, you imagined an authoritarian leader standing at the helm of a party controlling both chambers of Congress and a majority on the Supreme Court, politicizing election law and entrenching permanent control of the federal government. Are you now more or less concerned that we might see President Trump, if he's reelected, meeting all four of those factors, and why?

[00:53:46.5] Steven Levitsky: Well, Trump clearly meets all four of those factors. In fact one thing that's occurred to me recently is I can't think of many candidates in competitive elections in the world since World War II who have been as openly authoritarian as Donald Trump. The folks that Kurt mentioned, who did much greater damage to their democracies than Trump, Erdogan, Orban, Fujimori, Chavez, none of them in campaigns were as openly authoritarian as Donald Trump. None of them promised explicitly to go after and lock up their political rivals. I cannot think of many candidates since World War II who have been as nakedly authoritarian as Donald Trump. So we can't say we weren't warned. I'm more worried than before, the variable

that's changed in the United States over the last, I guess it's seven years now, is the almost complete Trumpization of the Republican Party.

[00:54:56.0] Steven Levitsky: And here I differ with Frances a little bit. It's those regular politicians who are not openly Trumpist that make the difference. And those regular politicians, in their silence, in their speaking out of the two sides of their mouth, in their not seeing the tweet, and in their quiet enabling of Trump's authoritarianism, are excellent examples of what the great political scientist Juan Linz called semi-loyal Democrats, mainstream politicians who enable the work of authoritarian forces. Authoritarians cannot kill democracies on their own; they can only do it with the complicity, the cooperation of mainstream political parties. And in my view, the behavior of those regular Republican politicians, with a few very important exceptions since 2020, has been very, very dangerous.

[00:56:00.1] Steven Levitsky: And let me very briefly contrast this to Brazil, after the 2022 election. Brazil had its Trump Jair Bolsonaro, was very, very similar to Trump in many ways. He was not a very popular or effective president. He lost his re-election bid. It was a close race. He didn't wanna accept defeat. He tried to maneuver to overturn the election. But unlike the United States, on election night, every major right-wing politician in the country came out and said, "Those are the results. Lula won. Too bad. Look forward to working with him." Brazil had its version of January 6th, the takeover of the presidential palace, the Congress. Right-wing politicians fiercely denounced the violence and actually supported, unlike the United States, an investigation into the events of January 8th. And when the Brazil electoral court ruled that Jair Bolsonaro would be prescribed from politics for the next eight years, right-wing politicians basically accepted it. They didn't run around saying that the institutions of the Justice Department had been weaponized.

[00:57:12.6] Steven Levitsky: So Jair Bolsonaro today is a fairly marginal figure in Brazilian politics, whereas Donald Trump is a Republican front runner for the presidency. So it doesn't have to be this way. Regular politicians can behave differently in ways that are much healthier for democracy. I don't think we're headed for fascism. I don't think we're headed for a consolidated autocracy. Our institutions, thank God, are too strong for that. But I think we're headed for a period of a lot of uncertainty, a lot of instability, and a fair amount of crisis which could be accompanied by a fair amount of violence.

[00:57:49.2] Jeffrey Rosen: We can't say we weren't warned, you note, and you say that you're more worried by the Trumpization of the Republican party and by the behavior of what he notes are semi-loyal Democrats and being complicit in the backsliding into authoritarianism. What are your final thoughts? Are you more or less concerned about the prospect of democratic backsliding than you were four years ago?

[00:58:15.5] Frances Lee: My level of concern is the same, I would say. Our institutions are the same. They held last time. I see Trumpism is in some ways weaker the second time around, as Kurt mentioned, he would be a lame duck from the start. I also foresee more trouble in staffing a second Trump administration, considering the fate of the careers of so many of those who served in Trump's first administration, that I think there'll be a hesitancy of regular Republicans to step

into those roles. There will be regular midterm elections in 2026. I expect a very ferocious backlash at that juncture. So I would anticipate many of the same factors that were critical in containing the damage to democracy after 2016 as being important should the system be tested again.

[00:59:25.3] Jeffrey Rosen: Many thanks for that. Kurt Weyland, last word in this great discussion is to you, are you more or less concerned about the prospect of authoritarian and democratic backsliding now than you were in 2016?

[00:59:38.8] Kurt Weyland: I'm not concerned about authoritarian backsliding, but I'm concerned. about conflict that I think there will be a lot of trouble. I think Trump will be more aggressive, will be more determined to take revenge and to push his transgressiveness. But I think there is also learning on the other side. And so I foresee a good amount of trouble, but I think that American democracy will once against survive fairly unscathed. And I do think there is this paradoxical effect that Trump's aggression does stimulate participation, does stimulate a certain rejuvenation of American democracy on the other side. We saw that in electoral participation, in candidacies going up. And so it's not all bad, what I think.

[01:00:47.0] Jeffrey Rosen: Thank you, Steven Levitsky, Frances Lee, and Kurt Weyland for an extremely significant discussion about populism and democracy. And thank you, dear National Constitution Center friends for taking an hour out of your day to educate yourself about these crucial issues involving the Constitution and the future of democracy. Continue your education by reading the books of our great panelists, Steven Levitsky's, Tyranny of the Minority, Frances Lee's important work on populism in the American party system, and Kurt Weyland's Democracy's Resilience, Populism's Threat: Countering Global Alarmism. Thank you again, and look forward to reconvening soon.

[01:01:31.2] Jeffrey Rosen: Today's episode was produced by Lana Ulrich, Bill Pollock and Tanaya Tauber, it was engineered by Kevin Kilburn and Bill Pollock. Research was provided by Yara Daraiseh, Cooper Smith, Samson Mostashari, and Lana Ulrich.

[01:01:41.1] Jeffrey Rosen: Friends, on February 13th, I released my new book, The Pursuit of Happiness: How Classical Writers on Virtue Inspire the Lives of the Founders and Defined America. I'm so grateful to those of you who are buying the book and reading it and writing to let me know what you think. And if you would like a signed book plate, I would be honored to send one to you. Please email me at jrosen@constitutioncenter.org and let me know a good address, and I'll put one in the mail.

[01:02:09.7] Jeffrey Rosen: Please recommend the show to friends, colleagues, or anyone anywhere who's eager for a weekly dose of civil and illuminating constitutional debate. Sign up for the newsletter at constitutioncenter.org/connect. And always remember, when you wake and when you sleep, that the National Constitution Center's a private nonprofit. We rely on the generosity, passion, and engagement of people from across the country who are inspired by our nonpartisan mission of constitutional education and debate. You can support the mission by becoming a member at constitutioncenter.org/membership, or give a donation of any amount to

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