

Democratic Decay Resource (DEM-DEC): Third Monthly Bibliography Update-October 2018

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2018-10-07T17:27:13

DEM-DEC is Having its Formal Launch on 22 October

DEM-DEC will be formally launched on Monday 22 October with a panel discussion and reception at the University of Melbourne. The panel discussion – titled ‘Is Democracy Decaying Worldwide? And What Can We Do About It?’ – will provide an overview of democratic decay across the globe, with experts providing detail on four selected states: Poland (Wojciech Sadurski); Venezuela (Raul Sanchez-Urribarri); India (Tarunabh Khaitan); and Australia (Cheryl Saunders). [The full programme and details are on DEM-DEC.](#)

The DEM-DEC Bibliography

The DEM-DEC Bibliography is provided on the Democratic Decay Resource (DEM-DEC) at www.democratic-decay.org, which was launched on 25 June 2018 by [Dr Tom Gerald Daly \(Melbourne Law School\)](#) and is supported by a range of partners, including Verfassungsblog (see the list of partners [here](#)). DEM-DEC aims to provide useful information on the deterioration of democratic rule worldwide through a mixture of curated, collaborative, and user-generated content including a Bibliography, Experts Database, Events Database, Links, and Concept Index.

The [main Bibliography](#) (finalised on 24 June 2018) presents a global range of research on democratic decay. It has a strong focus on research by public lawyers – spanning constitutional, international and transnational law – but also includes key research from political science, as well as policy texts.

Updates to the Bibliography will be issued on the first Monday of each month, based on new publications and suggestions from users of DEM-DEC. All updates should be read in conjunction with the main bibliography on DEM-DEC.

Third monthly update since DEM-DEC was launched

This third monthly update was issued on 1 October 2018 and is [now available on DEM-DEC.](#)

Additions in the October Update include:

- New Research Worldwide from September 2018
- Key Items from earlier in 2018 and late 2017
- A significant list of additions suggested by DEM-DEC Users
- Forthcoming Research

Identifying Themes

Each monthly Bibliography Update includes a section identifying themes from the update. The aim is simply to provide 'added value' by helping users to navigate the update, and to provide some limited commentary, especially on very recent research. Although it is impossible to capture every dimension of the issues covered in this Update, six key themes can be picked out.

1 Democratic Decay as an Increasingly Central Focus of US Scholarship

Various items in this Update, and the last two Updates, emphasise that democratic decay is increasingly becoming a central preoccupation of US scholarship (albeit under a variety of rubrics). A landmark book, Aziz Huq and Tom Ginsburg's '[How to Save a Constitutional Democracy](#)' will be published on 5 October, examining the possible threats to US constitutional democracy on the basis of wide-ranging comparative analysis: see an author interview [here](#). Many other items in this Update confirm this preoccupation, including September 2018 articles in the *Cardozo Law Review's* online *De Novo* publication on [Brett Kavanaugh and the judicial confirmation process](#). Additions suggested by DEM-DEC users for this Update include a special collection in the *Pepperdine Law Review* (March 2018) on the [US Supreme Court](#) strongly focused on how the Court can be depoliticised. [Gerrymandering and race](#) is the focus of a special issue of the *William & Mary Law Review* (April 2018).

2 Sweden: A Lesson in Avoiding Alarmism?

Since the last Bibliography Update was issued on Monday 3 September, much-anticipated general elections were held in Sweden. With the far-right Sweden Democrats rising in the polls, commentary became increasingly fevered in the week before the vote that the SD would become the second-biggest or even biggest party in parliament. As it happens, the party made gains, achieving 17.6% of the vote. However, this fell far short of many predictions and parties that took a strong anti-SD stance, such as the Centre Party, performed strongly. Two additions in this Update can be read together. A research paper by Ernesto Dal Bó et al., published at the end of August, analyses the [rise of the 'radical right' in Sweden](#) on the basis of a broad range of data. A much [earlier article from 2002 by Jens Rydgren](#) – suggested for addition by a DEM-DEC user – predicted the possible rise of authoritarian populist forces in Sweden, showing that – as elsewhere – contemporary developments have deep roots.

3 The Impact of Populism on International Law

The rise of authoritarian populism is having an impact on international law, most clearly in the EU setting, as [an article in the latest issue of the *Journal of Common Market Studies*](#) discusses. Addressing the US context, a new addition to the 'Forthcoming Research' section is [Harold Koh's book on the 'battle' between the Trump administration and international law](#). He argues that international law is proving relatively resilient, by examining various fields: including immigration and refugee law, human rights, climate change, denuclearization, trade diplomacy, and

relations with North Korea, Russia and Ukraine. Two other items in this Update take a broader tack. Ingrid Wuerth's *Texas Law Review* article (December 2017) on [international law in a "post-human rights world"](#) discusses the end of an era of human rights expansion – partly due to the resurgence of authoritarianism – and argues that this is not necessarily a bad thing. [Eric Posner in an *Arizona State Law Journal* article](#) (September 2017) – an addition suggested by a DEM-DEC user – argues that the “populist backlash” poses the most acute threat to liberal international legal institutions since the Cold War, and that the public trust in technocratic rule by elite actors, on which international law is dependent, has been called into question by a series of international crises. This picks up the central themes of Tom Nichols' book on the role of experts in democratic governance, discussed below.

4 The Role of Experts in Liberal Democratic Governance

The role of experts in liberal democratic governance is a theme running – explicitly or implicitly – through much of the literature on democratic decay, whether one is discussing courts and judges, technocratic governance within and beyond the state, or the need for an informed and adequately functioning media. In an April 2017 book suggested for addition for this Update by a DEM-DEC user, Tom Nichols analyses [the 'Death of Expertise'](#) and mounts a strong defence of the need for expert knowledge in democratic societies. Tying the rise of anti-expertise sentiment and anti-intellectualism to the openness of the internet, the emergence of a customer satisfaction model in higher education, and the degeneration of the news industry into a “24-hour entertainment machine”, Nichols argues that when ordinary citizens believe that no one knows more than anyone else, democratic institutions are in danger of succumbing either to populism or technocracy-or a combination of both.

5 The Intensifying Focus on 'New' Authoritarianism

The urgent need to better understand the nature of new forms of hybrid authoritarianism has been seized with renewed vigour by constitutional law and political science scholars. Two articles in the *Hague Journal on the Rule of Law* (September 2018) address authoritarianism in different ways. The constitutional theorist [Gábor Attila Tóth](#) discusses how the “false justification” of new hybrid types of authoritarian rule can be identified through constitutional markers, which permits constitutional democracy to be distinguished from authoritarianism. The comparative politics scholar [Radosław Markowski](#) focuses on the dismantling of liberal democracy in Poland since the victory of the Law and Justice Party in the 2015 elections, and what drove the Law and Justice success in the first place.

(Note: For more discussion of concepts, see the [Concept Index](#) on DEM-DEC).

6 Revisiting Key Texts: Judith Shklar on the 'Liberalism of Fear'

A useful [list of key texts on liberalism](#), published by The Economist on 29th August, reminds us that gaining better understanding of democratic decay requires not just engaging with new research, but also revisiting older texts to mine them for every insight they offer. A particular text that warrants renewed focus is [Judith](#)

[Shklar's 1989 book chapter on 'The Liberalism of Fear'](#), in which she argues for an understanding of democratic government as a necessary shield for individuals, especially those with little power, from the abuses of the state —such as the armed forces and the police. Her 'liberalism of fear' rests on two pillars: freedom from cruelty and the division of powers.

(Note: For more discussion of concepts, see the [Concept Index](#) on DEM-DEC).

Suggest Additions and Subscribe to the Mailing List

You can suggest additions for the next Update (to be issued on 1 October 2018) by filling out the [form on DEM-DEC](#), or by emailing directly at **democraticdecay@gmail.com**.

You can also Subscribe to the DEM-DEC mailing list to receive updates of all new additions to the Resource by using the Subscription button on the [DEM-DEC homepage](#) (below the introduction video) or by e-mailing democraticdecay@gmail.com.

