

Democratic Backsliding Below the Constitutional Threshold: Early-Warning Signals from Authoritarianism and Policing in the United States

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Abstract

This article presents policing and prosecution as important institutional sites for detecting democratic backsliding before formal constitutional breakdown occurs. It describes how political surveillance, selective enforcement, intimidation of lawful activists, aggressive crowd management, partisan charging decisions, and weak disciplinary systems may gradually alter political competition. The article mentions threats against election workers, judges, journalists, legislators, and local officials as indicators that can discourage participation even when incidents do not result in fatalities. It also emphasizes that strict policing or advanced equipment does not automatically establish authoritarianism. The decisive questions concern neutrality, accountability, necessity, proportionality, and access to independent review. Early-warning analysis should compare the treatment of different political causes, geographic areas, and institutional affiliations. The article concludes that reliable assessment requires triangulating protest data, administrative records, personnel turnover, court decisions, procurement information, disciplinary outcomes, and budget changes to identify patterns of selective coercion and declining institutional restraint.



Authoritarian drift is most noticeable when after large institutions have already changed. An alternative indicator for February 2025 focuses on warning signs in law enforcement and prosecution, monitoring, public order regulation, and law enforcement's response to opposition. These systems have wide discretion, function near to 'real-life' and can impact on political competition without altering in constitutional text. The true threat is not the standard police domain, but patterned selectivity favoring allies, having an impact on critics and escaping independent scrutiny.

Democratic backsliding does not typically start with an explicit cancellation of elections or declaration of a suspension of constitutional government. In more typical cases, the erosion of decline occurs in gradual, piecemeal steps, through which small administrative measures are implemented that are technically compliant with the law, but erode the bases of fair competition, public responsibility and institutional control. A prosecutor is subjected to selective pressure, an inspector general is no longer allowed to investigate, and election administration becomes more partisan or even public agencies begin dispensing with criticism and accuse it of disloyalty. Individually, these might seem to be minor rates, yet together, these can make it more affordable for larger misconduct. Constitutional safeguards are accordingly late in the game, following the winnowing of any protection that may have been given in the system, and accompanied by the political lesson that "test" of the boundaries has minimal repercussions.

One way of seeing a gradual process of authoritarianism is through the dynamics of policing: the coercive power permeates into everyday life well before constitution ceases to be in operation. Clues include intelligence-gathering against lawful activists, picking on certain groups with arms, trying to crack tough crowd-control, lack of accountability for misbehavior, and pressure on prosecuting political issues. Armin Muller-Stahl's work was created using primarily militarized equipment, without this militarism being present, per se, authoritarianism does not come to the fore and firm policing is not incompatible with democracy. The protection of accountability, neutrality, necessity and proportionality is the key question. Consistent enforcement toward allies burdening and not under external review turns policing from a public good towards the maintenance of public order into a political tool(s) used in political competition.

Early Warning needs to be about the behaviors, not the labels! Some of the factors that indicate whether or not an election is up for grabs are increased intimidation of local authorities and efforts by a variety of groups to discredit normal polling practices, selective prosecution of protest groups, high rates of turnover of professional civil servants, and public acceptance of political harassment. Another indicator is the portrayal of lawful opposition as an internal enemy – as one who is not a legitimate competitor. Polarization, disinformation, and attacks on freedom of expression are all near the heart of today's autogravitation as identified in V-Dem's 2024 democracy report. No single of these indicators alone suggests an authoritarian shift but, multiple indicators at a handful of institutions can suggest shifts that are not captured in the constitutional crisis words.

Political violence is “suspect” violence because symbolic victims, ideological reasons and public displays of intimidation are significant rather than just physical damage. ACLED's monitoring of the USA has encompassed incidents where extremist groups have been involved in violence, police use of excessive force, violent mobs, hate incidents and those related to political identities. While one attack on an election official may not send chills down the spine, a continuing pattern of such threats – even if infrequently resulting in death – may cause changes in people's attitudes. The resignations, decline in the recruitment of candidates, self-censorship and stricter security measures all limit democracy participation. So, not just any number of events but the chilling effect on those responsible for day-to-day democratic business, is the most important serious early-warning indicator.

Formal law alone cannot be the basis for democratic government. There is an informal operating system under the written rules, as institutional forbearance, mutual toleration, professional neutrality and acceptance of adverse outcome predominate. That is what

happens when all legal authorities are used like tools for political ends; when all appointments are appointments of yes-men and yes-women; when all investigations are investigations for political purposes. Courts may strike down the unlawful efforts, but this is usually litigation which has to happen after the damage; and relies on executive compliance.

Oversight is undermined by party loyalty, although legislatures have the authority to do investigations. The only way to achieve long-term protection, in other words, is for several of these actors to not take any advantage for themselves when it comes to harming the other ones' chances of long-term survival, certainly when acting in what is in the immediate best interests of one party at the expense of the other's long-term legitimacy.

There needs to be a democratic recovery plan with policing in the middle, coupled with constitutional protection, as well as operational reform. Independent complaint systems must be provided with the necessary access to records, the power to subpoena, transparency with regard to reporting and protection from retaliation. Crowd-management policies are needed to differentiate between violent behaviors and peaceful presence and training should focus on de-escalation and taking a non-partisan stance. Chief with the power to influence decision, civilian reviewer, union, municipal government, community organization play a part, Reforms must not be just a chief or a temporary consent decree. Publication of data on stops, force, arrests, surveillance, and disciplinary results can lead to an exposure of disparities, but unless eating the data, it won't lead to change.

Comprehensive comparative and in-depth institutional analysis. Event data can be used to detect time signatures and geographic clustering and administrative data can be used to show enforcement decisions and organizational responses. Survey experiments can help assess public tolerance and process tracing can be used to help identify and reconstruct key decisions. Other signs include court rulings, guidance, procurement files, staff changes, disciplinarians, and budget changes.

There is no one single indicator of democratic erosion and accountability. Triangulation is important because danger can be highlighted in the public discourse, official statistics may reflect underreporting, and there may have been a change without changes in laws. Where external actors converge on strengthening the same mechanism at various official and unofficial levels, confidence is boosted.

Warning should be grounded in a policing perspective: So, there ought to be comparisons of treatments between causes, locations and political affiliation and not based on one

controversial event. The documentation of opposition activity, which may be more aggressive than allied mobilization as is the case in the media and in selective data compilation can itself be a signal. There should be material that is critically analyzed in terms of the operational legality and the overall impact on political participation in the course of an independent review.

Particular attention should be paid to local variation, since there may be pockets of concentrated intimidation or selective enforcement, or there may be a failure to enforce the law. A credible warning system should set out clear criteria for warning, make it clear that there may be legal objections to being warned and not engage in partisan labelling of risk. Ordinary functions like record keeping, competent personnel, periodic audits, and secure avenues for dissent-dependent feedback are all part of institutional resilience as well.

Media can build up on spectacular incidents, and gloss over changes in procedure which can mean who can go in, and who can complain, is subtly changed. Comparative evidence is useful to provide clues to what is dangerous, but analysis of state and municipal institutions is relevant to federalism in the United States. The yardstick is not unanimous, but fair competition based on "rules of the game" which do not change when the "tide turns.

While the physical and legal security of those conducting elections is essential, no measure of security should prevent the administration from the public view and legitimate examination. The threat assessment only comes into use democratically if the criteria is the same for all ideology, identity, geography, and institutional affiliation. For political leaders, the impact of dehumanization is achieved through their use of language: repeated labelling of others as less than human can cause intimidation to feel like the natural or regular, deserving or necessary.

Civic groups can reduce stress by disseminating valid information, educating legal watchdogs, and by avoiding to muddy the waters by implying that rumors are indications of real institutional change. During periods of extreme polarization at the national level, a growing disenfranchisement of individuals can be temporarily mitigated by factions of the political party, support from other political parties, universities, unions, professional associations, and faith communities, as well as by local media. Rights-based approaches should also include public agencies documenting the reasons for exceptional decisions: this will enable a subsequent check both for the urgency of the occasion and for the partisan use of discretion for it is clear that far too many exceptional laws are being rolled

out under the guise of necessity.

Transparency isn't enough to deter abuse, but closed and remote authority means that it's even harder to correct the behavior and harder to produce evidence of it, and easier to tarnish public suspicion of it. It is crucial to have independent courts; however, judicial protection is best at work when the administration and legislature have a culture of respecting and honoring the adverse rulings and do not delay them with the aim of exploiting the situation. Finally, it is important to use both a combination of indicators from the national level and evidence at the individual level of incidents, because otherwise the reality of erosion can be hidden if there is no change at the annual level.

The main theme is that democratic defense ought to start when there is no reason for a constitutional crisis and that it must remain afterwards when the media stops focusing on the issue. Early signals are meaningful for identification not in isolation of controversy. Institutions are robust when citizens, officials, courts, legislatures, journalists, profession, civic organizations trade costs in the face of selectivity and reward restraint that sticks to the principles. The opposition with respect to political issues will continue to be high and the protest activity will keep on affecting the normal process of the activities of the protesting parties.

It does not need to be quiet on the streets, and it does not need to have everybody on board; this is part of a democracy's resilience. It needs institutions that can handle the process of conflict and turn opposition into disloyalty and coercion into routine, and some moments into an exemption forever.