Democratic Decay Resource (DEM-DEC): Fourth Monthly Bibliography Update-November 2018

Tom Gerald Daly

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DEM-DEC was 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?' – provided an overview of democratic decay across the globe, with experts providing detail on four selected states: Poland (Wocjiech 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.

Fourth monthly update since DEM-DEC was launched

This third monthly update was issued on 5 November 2018 and is now available on DEM-DEC.

Additions in the October Update include:

- New Research Worldwide from October 2018
- A significant list of additions suggested by DEM-DEC Users
- Reading Guides on populism and the radical right
- 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.

1The Ever-Expanding Literature on Populism

The literature on populism is rapidly expanding. In this update alone we have Roger Eatwell and Matthew Goodwin's book on 'National Populism and the Revolt against Liberal Democracy' published in October, and three books suggested by DEM-DEC users: the Routledge Handbook on Global Populism and an edited collection on 'The Ideational Approach to Populism' published in September; and Benjamin Moffit's 2016 book on populism's global rise. There are two articles on populism in the latest (October) issue of the *University of California Law Review*: Stephen Gardbaum and Richard Pildes on 'Populism and Institutional Design' in selecting the executive; and David Fontana on 'Unbundling Populism', arguing that the anti-establishment part of populism can be empirically and logically decoupled from its authoritarian

and xenophobic dimensions. In addition, a special section of this Update on p.17 lists key readings on populism. Finally, in the 'Forthcoming Research' section the upcoming edition of the Democratic Theory journal contains a special section devoted to populism in, with three articles – one being by Benjamin Moffitt (author of the 2016 book mentioned above).

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

2Populism and the Radical Right: What's the Difference?

The tendency toward the use of populism as a catch-all term can obscure the clear differences between it and other terms. The election of Jair Bolsonaro as president of Brazil on 28 October has led to discussion of whether he is a populist leader, radical right leader, or even an outright fascist. The scholar Cas Mudde, for instance, has argued on Twitter that Bolsonaro should not be described as a populist but as 'far right' or 'populist radical right'. To aid understanding of the difference, this Update contains not only the readings on populism (p.17) mentioned above, but also lists – and compares – two leading bibliographies on the radical right on p.19. Understanding the difference is essential to understand other items in this Update, including van Hauwaert's new article on far right parties in Europe; and Nancy Maclean's book on the radical right's 'stealth plan' to take over US democracy.

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

3Reimagining Democracy

A central theme running throughout discussion of democratic decay concerns voters' wishes for disruption of the status quo – whether this relates to the way democracy works in an institutional sense, how elections do not lead to responsive government (as argued by the book 'Democracy for Realists' suggested for addition by a DEM-DEC user), calls for a greater voice for the majority, prevailing economic models or otherwise. This wish for disruption underlies, at least partly, the election of anti-democratic leaders promising change and to 'fix the system', and the ongoing reshaping of party systems worldwide. In a perceptive article in the *University of California Law Review* (October 2018) K. Sabeel Rahman asks not only how democracy has been degraded worldwide, but also "what kinds of new institutional and organizational forms do we need to realize democratic aspirations in the twenty-first century". Others take an even more radical approach: for instance, an edited collection published in July 2018, suggested for addition by a DEM-DEC user, revisits the "forgotten ideal" of 'council democracy' as a possible basis for a new democratic socialist politics.

4Democracy in the Digital Age

As well as being reimagined, democracy is being reshaped by real-world phenomena. In particular, the impact of the Digital Age on democratic governance is the subject of a range of items in this Update: Emily Berman in the *Boston University Law Review* (October 2018) warns of the implications of AI "machine learning" for the rule of law; the European Commission's new report addresses 'Election Interference in the Digital Age'; and Dipankar Sinha's 'The Information Game in Democracy' (March 2018), suggested for addition by a DEM-DEC user) examines the democratic implications and impact of information capitalism, new technology, virtual networks, cyberspace and media.

5Toward a 'Constitutional Role Morality' for the Political Branches

In the *Georgetown Law Journal* (October 2018) Neil Siegel argues that, having long elaborated frameworks of 'role morality' for judges and adjudication, US scholarship should now develop for presidents and members of Congress "a role morality that imposes normative limits on the exercise of official discretion over and above strictly legal limits." Siegel suggests such a 'constitutional role morality' would require elected officials to secure the American conception of democracy as collective self-governance and create a reasonably well-functioning federal government; and substantive components, including "a commitment to consult the political opposition before taking important actions and a rebuttable presumption in favor of moderation and com-promise." Siegel's argument resonates strongly with existing analyses of demo-

cratic decay in a wide variety of states, which point up the ways in which bad faith exercise of power can be used to attack or degrade the democratic system. It also resonates with other items in this Update – not least the special collection on states of emergency in the *Zeitschrift für Politikwissenschaft* (*Journal of Political Studies*)(October 2018), which highlights how all too often emergency instruments and measures can be misused by those in power.

6The Rule of Law and Constitutionalism: New Analysis

The entire phenomenon of democratic decay has required renewed and intensified focus on what we mean by, and value about, the rule of law and constitutionalism (as two separate but related concepts). Three items in this Update are helpful to push our understanding forward: the *Saint Louis University Law Journal* symposium issue on Paul Gowder's 2016 book 'The Rule of Law in the Real World'; Gowder's book itself, which is listed on p.9; and Nick Barber's 'The Principles of Constitutionalism' published in July 2018 (suggested for addition by a DEM-DEC user).

(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 3 December 2018) by filling out the form on DEM-DEC, or by emailing items 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 usingthe Subscription button on the DEM-DEC homepage (below the introduction video) or by e-mailing democraticdecay@gmail.com.

ABOUT THE AUTHOR

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