Bibliography
ON DEMOCRATIC DECAY
About Dem-Dec

Created by Dr Tom Gerald Daly (Melbourne Law School) and supported by a range of leading public law and policy organisations, the Democratic Decay Resource (Dem-Dec) focuses on the global challenge of the incremental deterioration of democratic rule and is primarily pitched at public lawyers, i.e. those working on constitutional, international and transnational law.

The resource is aimed at providing key information in one place, to frame the research area, to address conceptual confusion, and to bring scholars together in a collaborative project to drive the field forward, in a context where a lot of scholars are talking in silos, or past one another, where the literature is rapidly expanding, and research events and projects are proliferating across the world.

www.democratic-decay.org
democraticdecay@gmail.com

Tom Gerald Daly

Tom is an academic and consultant in the area of democracy-building, public law, and human rights.

He is Associate Director of the Edinburgh Centre for Constitutional Law, MLS Fellow at Melbourne Law School and Co-Convenor of the Constitution Transformation Network (Melbourne Law School). As a consultant on public law, human rights, and democracy-building he has worked on EU, Council of Europe, African Union and International IDEA projects.

His current book project concerns the role of public law in countering ‘democratic decay’ worldwide. He has written on democratic decay as a columnist for the I-CONnect blog and tweets @DemocracyTalk.

Partners

The Dem-Dec Resource enjoys the support of a number of partners, which are leading organisations in public law and policy:

Constitution Transformation Network (Melbourne Law School)
Centre for Comparative Constitutional Studies (CCCS)
Constitutionally Speaking (blog)
Democracy Reporting International (DRI)
Democratic Erosion: A Cross-University Collaboration
Edinburgh Centre for Constitutional Law
ICON-S-Israel
International Association of Constitutional Law (IACL) Blog
International Institute for Democracy and Electoral Assistance (International IDEA)
International Journal of Constitutional Law (I-CONnect) Blog
School of Transnational Governance (European University Institute)
Verfassungsblog
## Contents

1. Introduction ........................................... 5

2. Layout .................................................. 5

3. Themes .................................................. 7
   1 Framing the Research Field and Concepts .......... 7
   2 Background Reading: The Rises and Falls of  Democracy .......... 7
   3 The Global Crisis of Democracy: Recent Research .......... 9
   4 Endurance, Resilience and Transformation .......... 12
   5 Constitutionalism, Democracy, Liberalism and Rule of  Law .......... 12
   6 The 4 ‘isms’: Authoritarianism, Fascism, Populism,  Totalitarianism .......... 13
   7 Hybrid Regimes and Modern Authoritarianism .......... 14
   8 Law as a Weapon: Hollowing Out Democracy .......... 15
   9 Law as a Shield: Defending Democracy .......... 17

4. World Regions ......................................... 19
   1 Europe & Middle East .......................................................... 19
   2 North America ................................................................. 24
   3 Latin America ................................................................. 25
   4 Asia ............................................................... 26
   5 Africa ............................................................... 28

6. International Organisations ................................. 29
   1 General/comparative .......................................................... 29
   2 European Union (EU) ......................................................... 30
   3 Organisation of American States (OAS) ............... 33
   4 MERCOSUR ......................................................... 34
   5 African Union (AU) ......................................................... 34
   6 Commonwealth ......................................................... 35
INTRODUCTION

Rather than providing an extended introduction to this bibliography, it appears useful to highlight a number of key points and trends. The first is that there has been a veritable avalanche of new research in this area in the past three years, and it has increased year on year. The second is that a number of key countries are clear 'hot spots' for such research (i.e. Hungary, Poland, USA, Venezuela) while others are understudied, especially in English-language literature (e.g. Brazil). Third is that, outside policy reports, few works attempt a genuinely global perspective on the topic: although many analyses are based on exercises in comparative constitutional law, this is usually to serve extended analysis of 1-2 selected countries. Fourth, as far as the role of international organisations is concerned, the literature on the EU dwarfs that on any other international organisation, although a number of highly useful comparative works can be found.

LAYOUT

Broadly following the approach adopted in Oxford Bibliographies, this bibliography is not divided by publication type (i.e. monographs, edited collections, articles, etc) but is organised thematically and geographically: see below.
A Themes

1. Framing the Research Field and Concepts
2. Background Reading: The Rises and Falls of Democracy
3. The Global Crisis of Democracy: Recent Research
4. Endurance, Resilience and Transformation
5. Constitutionalism, Democracy, Liberalism and Rule of Law
6. The 4 'Isms': Authoritarianism, Fascism, Populism, Totalitarianism
7. Hybrid Regimes and Modern Authoritarianism
8. Law as a Weapon: Hollowing Out Democracy
9. Law as a Shield: Defending Democracy

B World Regions

1. Europe & Middle East
2. North America
3. Latin America
4. Asia
5. Africa

C International organisations

1. General/comparative
2. European Union (EU)
3. Organisation of American States (OAS)
4. MERCOSUR
5. African Union (AU)
6. Commonwealth
A THEMES

1 FRAMING THE RESEARCH FIELD AND CONCEPTS

DALY TG,


2 BACKGROUND READING: THE RISES AND FALLS OF DEMOCRACY


DIAMOND L, In Search of Democracy (Routledge, 2015).


LEVITSKY S & WAY LA, Competitive Authoritarianism: Hybrid Regimes after the Cold War (Cambridge University Press, 2010)


PICCONE T, Five Rising Democracies: And the Fate of the International Liberal Order (Brookings Institution Press, 2016).


SCHMITT C, Political Theology: Four Chapters on the Concept of Sovereignty Schwab G edn (University of Chicago Press, 2010).


ZWEIG S

DIAMOND L & MORLINO L (eds), Assessing the Quality of Democracy (Johns Hopkins University Press, 2005).


O’DONNELL G,


2 THE GLOBAL CRISIS OF DEMOCRACY: RECENT RESEARCH


COOLEY A,

DALY TG,


FREEDOM HOUSE

— 'Nations in Transit 2018: Confronting Illiberalism' (Freedom House, 2018)


4 ENDURANCE, RESILIENCE AND TRANSFORMATION


5 CONSTITUTIONALISM, DEMOCRACY, LIBERALISM AND RULE OF LAW


6 THE 4 'ISMS': AUTHORITARIANISM, FASCISM, POPULISM, TOTALITARIANISM

Authoritarianism


**Fascism**


**Populism**


MUDDE C,


**Totalitarianism**


---

7 **HYBRID REGIMES AND MODERN AUTHORITARIANISM**

FRANTZ E & KENDALL-TAYLOR A,

LEVITSKY S Levitsky & WAY LA,
— Competitive Authoritarianism: Hybrid Regimes after the Cold War (Cambridge University Press, 2010).


8 LAW AS A WEAPON: HOLLOWING OUT DEMOCRACY

A. GOVERNING CONCEPTS

Abusive comparative law

SCHEPPELE KL,

Abusive constitutionalism


Autocratic legalism

Constitutional capture

MÜLLER J-W,


- 'Rising to the challenge of constitutional capture' Eurozine 21 March 2014

Constitutional retrogression


Populist constitutionalism


Stealth authoritarianism


B. SUB-CONCEPTS

NOTE: A number of additional sub-concepts may be added shortly, e.g. abusive judicial review.

Abusive impeachment


Permanent states of emergency

Unconstitutional constitutional amendments


ROZNAI Y,


9 LAW AS A SHIELD: DEFENDING DEMOCRACY

NOTE: Additions will be made to this section soon, including literature on the special counsel mechanism in the USA.

Civic education


Compulsory voting


Constitutional conventions


Courts


Militant democracy


Political party bans


KOGACIOĞLU D,
— ‘Dissolution of Political Parties by the Constitutional Court in Turkey Judicial Delimitation of the Political Domain’ (2003) 18(1) International Sociology 258.


Rights innovations


Self-enforcing constitutions


B WORLD REGIONS

1 EUROPE & MIDDLE EAST

General/comparative


MUDDE C, On Extremism and Democracy in Europe (Routledge, 2016).


Croatia

Hungary


KOVÁCS K & TÓTH GA,

— 'From an Imperfect Democracy to an Incomplete Autocracy' in Nowy konstytucjonalizm. Rzady prawa, politycznosć i sfera publiczna (New Constitutionalism. Rule of Law, the Political and the Public Sphere) 2017.


TÓTH GA,


UITZ R,


**Israel**


*I-CONnect symposium on ‘constitutional capture in Israel’*


**Poland**

KONCEWICZ T.T.,


— ‘Living under the unconstitutional capture and hoping for the constitutional recapture’ Verfassungsblog 3 January 2017.

— ‘Constitutional Justice in Handcuffs? Gloves are off in the Polish Constitutional Conflict’ Verfassungsblog 3 September 2016.


PECH L & SCHEPPELE KL


SADURSKI W & STEINBEIS M, ‘What is Going on in Poland is an Attack against Democracy’ Verfassungsblog 15 July 2016.

Portugal


Romania

*See the relevant chapters in* VON BOGDANDY A & SONNEVEND P (eds), Constitutional Crisis in the European Constitutional Area: Theory, Law and Politics in Hungary and Romania (Bloomsbury Publishing, 2015).

Slovakia


Turkey


2 NORTH AMERICA


3 LATIN AMERICA

General/comparative


Brazil


DINERSTEIN AC, ‘Impeachment or ‘Soft Coup’?: The Revenge of the Right and the State of Democracy in Brazil and Latin America today’ DevLog@Bath Blog 19 May 2016.


ZAIDEN BENVIDIA J,


Venezuela


SANCHEZ URRIBARRI R,


— ‘Venezuela - the Left Turning Further Left?’ in J Castañeda & MA Morales-Barba (eds), Leftovers: Tales of the Two Latin American Lefts (Routledge, 2008).

4 ASIA

General/comparative

CROISSANT A & BÜNTE M (eds), The Crisis of Democratic Governance in Southeast Asia (Palgrave Macmillan, 2011).


India and Sri Lanka

HUMAN RIGHTS WATCH, Stifling Dissent: The Criminalization of Peaceful Expression in India (24 May 2016).


Japan


Philippines

GATMAYTAN D,


5 AFRICA


Kenya


South Africa


LOUW R, ‘Meddling with Constitutional Court Powers a Threat to All’, speech to the 2012 Rhodes University graduation, 22 April 2012.

PITHOUSE R, Writing the Decline: On the Struggle for South Africa's Democracy (Jacana Media, 2016)

Tanzania

1 INTERNATIONAL ORGANISATIONS (GENERAL/COMPARATIVE)


MCMAHON ER & BAKER, SH, Piecing a Democratic Quilt?: Regional Organizations and Universal Norms (Kumarian Press, 2006).

PEVEHOUSE JC, Democracy from Above: Regional Organizations and Democratization (Cambridge University Press, 2005).


2 EUROPEAN UNION (EU)


COMMENTS EDITORIAL, ‘The rule of law in the Union, the rule of Union law and the rule of law by the Union: three interrelated problems’ (2016) 53 Common Market Law Review 597.


JAKAB A & KOCHENOV D (eds), The Enforcement of EU Law and Values Ensuring Member States' Compliance (Oxford University Press, 2017).


KOCHENOV D & PECH L, ‘Upholding the rule of law in the EU: on the Commission’s ‘pre-article 7 procedure’ as a timid step in the right direction’. EUI working papers, RDCAS 2015/24.


PEERS S, ‘Protecting the rule of law in the EU: should it be the Commission’s task?’ EU Law Analysis 12 March 2014.


SCHULTE J (ed), The Other Democratic Deficit: A Toolbox for the EU to Safeguard Democracy in Member States (Friedrich-Ebert-Stiftung (FES), 2018).

SEDELMEIER U

— ‘Political safeguards against democratic backsliding in the EU: The limits of material sanctions and the scope of social pressure’ (2016) Journal of European Public Policy [Vol. and page number not yet available].


STEINBEIS M,


VON BOGDANDY A & IOANNIDIS M, ‘Systemic deficiency in the rule of law: what it is, what has been done, what can be done’ (2014) 51(1) Common Market Law Review 59.

3 ORGANISATION OF AMERICAN STATES (OAS)


4 MERCOSUR


5 AFRICAN UNION (AU)


6 COMMONWEALTH

