

## The future of democracy's unwritten rules

*Keynote speaker 2024: Mark Bovens*

Democracy has a bright future behind it. In the decades after the fall of the Wall, there was a sharp rise in the number of democratising countries. In more and more countries, free elections were held, there was freedom of the press, freedom of association, freedom of assembly. In more and more countries too, the exercise of state power became subject to law. At its peak, in 2009, there were 44 liberal democracies worldwide. In the last 15 years, all these gains have been lost and the world has returned to the situation pre-1989. Today, almost three-quarters of the global population lives in an autocracy and only 13% live in a fully-fledged democracy under the rule of law.

This is according to data from Varieties of Democracy - V-dem for short. For our geography and natural sciences colleagues in the room: V-dem is to democracy what the IPCC is to climate. V-dem, which is affiliated to the University of Gothenburg, annually tracks the state of democracy for every country in the world. This is done on the basis of expert opinions of over 4,000 correspondents who score the state of democracy in their country each year using a wide range of indicators. I myself am one of the correspondents for the Netherlands.

A fortnight ago, their latest report was published. The attached figure from the report shows how, particularly from 2012 onwards, global democratisation has turned into autocratisation.<sup>i</sup> A country democratises – that is the blue dotted line – when it scores better on the dimensions of free and fair elections, balance of powers, opportunities for political participation and deliberation, and the degree of political equality. In the case of autocratisation – the red dotted line – scores on these dimensions decrease. On the left: the number of countries democratising. On the right: the trend based on percentage of world population. From around 2010, the red line goes up sharply. The only good news is that the blue line went up slightly last year – mainly thanks to developments in Brazil.

If we look more closely at this autocratisation, a few patterns stand out. The first thing to note is that autocratisation today is not just achieved through coups d'état, with tanks in the streets and colonels in a junta. Autocratisation also occurs through the democratic process itself. Many autocratic leaders come to power through regular elections.

Then, and this is the second pattern, democracy is eroded from within. V-dem speaks of a transition from electoral democracies to electoral autocracies, by

which they mean that formal democratic institutions remain in place. There are still elections, political parties and a parliament, but that is all. All the preconditions for a living democracy – such as a free press, freedom of association and assembly, free and fair elections – are dismantled step by step.

Eventually, they become DINO, democracies in name only. Or perhaps zombie democracies is an even better term. For our biology colleagues: they are like the caterpillars that parasitic wasps have laid their eggs in. On the outside, they still behave somewhat like democracies, but on the inside, they have been completely taken over by the autocratic regime. Hungary, Turkey and Russia are nearby examples of such zombie democracies.

The third pattern is that this autocratisation begins with small, seemingly innocuous violations of the unwritten rules of democracy. Autocratisation is the inverse of resistance, as described in the first lines of the famous poem by Remco Campert:

Resistance doesn't begin with big words  
but with small deeds

like a storm with a soft rustling in the garden  
or the cat that suddenly goes off its head

Autocratisation doesn't begin with grand gestures, but with small words. Autocratisation begins with a soft rustling in the garden, with a cat suddenly going off its head.

A living democracy needs much more than formal institutions, enshrined in Constitutions, formal rules and rules of procedure. A democracy stays alive only by grace of democratic ways of doing things. Many of these ways of doing things are not formally defined anywhere. Indeed, one of the world's oldest liberal democracies, the UK, does not even have a written Constitution.

At negotiations for the formation of a new coalition government, those concerned about autocratisation should therefore reach agreements not only on the Constitution and the formal rule of law, but above all on the unwritten rules of democracy.

But then what are these unwritten rules of democracy?

In their book *How Democracies Die*, US political scientists Levitsky and Ziblatt discuss two unwritten basic norms of democracy.<sup>ii</sup>

First, political tolerance: the fundamental norm is that political parties recognise each other's legitimacy. Mutual toleration is the cornerstone of democracy. Political differences are legitimate and political conflict should not lead to the vilification of opponents.

Second, forbearance: the ruling majority should exercise restraint in the use of its powers. The incumbent government has a monopoly on the use of force and a range of sweeping powers, but in a democracy these are deployed as little as possible.

In the Netherlands, we recognise these basic norms in the rules of consociationalism that have been in place in our country since pillarisation. According to Arend Lijphart, the chronicler of pillarisation, tolerance is one of the central rules of consociationalism.<sup>iii</sup> This includes, for instance, trying to avoid painful losses for minorities as much as possible. The majority decides, but not against the minority. Another rule of consociationalism is proportionality. Social pluralism is taken into account in the distribution of subsidies, jobs, broadcasting time and seats. This means that the ruling majority does not use public resources solely to benefit its own voter base, but also takes into account political and social minorities.

From these two basic norms flow specific unwritten rules that can differ from country to country. In our country, for example, the first basic norm, political tolerance, is reflected in the following unwritten rules:

- Parties that lose elections congratulate the winners and do not question the result.
- Political conflict is limited to political debates. After parliamentary debates, people treat each other amicably. The opposition also congratulates a government minister when he gets a bill passed.
- Political debates are not turned into a personal issue. Politicians do not attack each other on physical characteristics, orientation or origin. Opponents are not threatened physically or otherwise.

The second basic norm, forbearance, is also recognisable in a series of specific rules in our country:

- A first example is the great reluctance to use force in maintaining public order. In our country, for example, special security forces are not used during demonstrations and riots. Instead, attempts are made to de-escalate by deploying 'uniforms'.
- There is a great reluctance to ban expression, demonstrations, organisations, books and films.

- Political restraint is exercised in appointments of public officials, civil servants, and judges.

I want to dwell a little longer on this last unwritten rule. In our country, it is legitimate in itself for the government or Parliament to be involved in the appointment of members of High Institutions of State, such as the Council of State, Netherlands Court of Audit or the National Ombudsman, or members of advisory boards. Traditionally, the proportionality rule applies here: a sitting government does not only appoint people from its own party, but tries to maintain a certain degree of proportionality across the political spectrum. The rustling in the garden begins when a cabinet abandons that restraint and starts appointing only party members.

A special case is the appointment of members of the Supreme Court. Article 118 paragraph 1 of the Constitution stipulates that the government appoints the members of the Supreme Court based on a list of three candidates put forward by the House of Representatives. In practice, the Supreme Court itself draws up a list of six candidates and the House of Representatives and the government always adopt the Supreme Court's ranking. This is a fine example of forbearance. Nowhere is it written that the majority of the House of Representatives cannot come up with their own candidates or that the government cannot deviate from the House of Representatives' ranking. Yet that has never happened in our country in the last century: it is an unwritten rule that politics does not interfere with appointments of judges. Only once, in 2011, was there a stir after the PVV declared they had abstained in protest at the inclusion of a candidate with an alleged activist past on the list.

If a future government or a parliamentary majority deviates from this unwritten rule, and does not opt for the first on the Supreme Court's list, this will be the 'rustling in the garden'. In the Netherlands, political interference in the appointment of members of the judiciary is wholly unusual and undesirable, even if some degree of political proportionality were to be applied. In our country, unlike in the US, for example, in the relationship between the judiciary and the other two powers there is a greater emphasis on separation of powers than on balance of powers. Political interference in appointments of judges is therefore the cat suddenly going off its head.

In other words, the future of democracy in our country begins with the future of these unwritten rules.

How can we safeguard that future? The initial response, especially from academics, is of course to teach, for instance as part of civic education. But that

fails to appreciate the nature of these rules. You don't learn them by reading about them, but by experiencing and practising them at an early age.

Research by Avril Keating and Jan Germen Janmaat, a Dutch researcher in England, shows that pupils who were given the opportunity in secondary school to experience citizenship and democracy themselves, for example as class representatives, members of the school newspaper, or of the pupil parliament, are much more positive about democracy and political participation, than pupils who were only taught about it. Moreover, those positive effects persisted long after leaving secondary school.<sup>iv</sup>

Which brings me to our fine university. Universities, and Utrecht University in particular, have an important responsibility for maintaining an open society and democracy. In countries that autocratise, academic freedom is one of the first freedoms to come under attack. Conversely, in countries that are democratising, universities and students often lead the way. See, for example, the situation in Poland, where further autocratisation has been averted for the time being as young, university-educated voters have started voting en masse.

One of the ways universities can help safeguard the future of democracy is by letting students experience the unwritten rules of democracy as much as possible. This can be done by fostering rich social activities for all social groups, by broad participation for all sections of society, by providing plenty of opportunities for student participation in university journalism. This also includes maintaining a pluralistic and liberal culture of debate, where opponents are not vilified and there is room to hear research on uncomfortable topics. And finally, it also includes introducing students to different social environments through civil society placements, showing that political opponents are also ordinary people with ordinary concerns.

Ladies and gentlemen, to conclude, therefore, a small paraphrase of the last lines of Campert's poem:

asking yourself a question  
that's where democracy starts  
and then asking someone else the same question.

Thank you.

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<sup>i</sup> Nord, Marina, Martin Lundstedt, David Altman, Fabio Angiolillo, Cecilia Borella, Tiago Fernandes, Lisa Gastaldi, Ana Good God, Natalia Natsika, and Staffan I. Lindberg (2024). *Democracy Report 2024: Democracy Winning and Losing at the Ballot*. University of Gothenburg: V-Dem Institute: p. 20 (figure 10).

<sup>ii</sup> Steven Levitsky & Daniel Ziblatt (2018), *How Democracies Die*, New York.

<sup>iii</sup> Arend Lijphart (1976), *Verzuiling, pacificatie en kentering in de Nederlandse politiek*, 2<sup>nd</sup> edition, Amsterdam.

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<sup>iv</sup> Keating, A; Janmaat, G; (2016) Education Through Citizenship at School: Do School Activities Have a Lasting Impact on Youth Political Engagement? *Parliamentary Affairs*, 69 (2) pp. 402-429.