

Post-Communist Democracy and the Problem of Accountability

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Introduction

The record of stability and durability of liberal democracy among modern political systems is based on its ability to provide for its own self-enforcement without recourse to an exterior ultimate power. Recourse to an exterior authority for enforcement is always dangerous as any loss of self-restraint by that authority contains the seeds of dictatorship. In liberal democracy, the major actors keep each other accountable to the rule of law. Classic accounts of democratic accountability focus on two long-identified classic types: the vertical and the horizontal. Here I will also discuss a less-discussed variety – social accountability – which I will argue is key to the problem of containing and resisting contemporary populist threats to liberal democracy. I begin with a short recapitulation of the three forms of democratic accountability. I then turn to a discussion of the construction of Eastern European liberal-democracy in general using this framework. This is followed by a discussion of the crisis of European democracy which began with the Great Recession of 2008 with a focus on Hungary and Poland and how accountability was dismantled by populist governments. It will then conclude with a discussion of the assertion of social accountability as a means by which societies subject to populist democratic backlash can resist and move to restore full accountability under liberal democracy.

The Three Accountabilities

The most commonly discussed form of accountability is the vertical, based on the responsiveness of elected politicians to the citizens because of the power of the electorate to sanction politicians who perform poorly or misrepresent constituents' interests. While it is quite often seen as the main source of accountability in democracy, it has never been made clear why politicians should be accountable between elections, or why they would prefer to lose the next election rather than subvert elections (Przeworski, Stokes and Manin 1999). On its own, vertical accountability is probably only capable of sustaining a minimal form of majoritarian or Schumpeterian democracy in which relatively autonomous leaders are periodically ratified by the electorate. This was identified by O'Donnell as a pathology known as delegative democracy (1994).

Horizontal accountability lies in the ability of government institutions to hold each other to the rules of democracy. Well-designed democratic institutions include the power to monitor the activities of other power holders and to sanction them for non-compliance with the law (O'Donnell 1998, Merkel 2004). The origins of horizontal accountability go back to Montesquieu and the notion of separation of powers, first put into place forcefully in the checks and balances between the legislative, executive, and judicial branches of government in the American constitution. The combination of vertical and horizontal accountability has long been seen as the essence of liberal democracy. Specifically, horizontal accountability serves to contain majoritarian abuses of power. While an independent judiciary is

deemed necessary to horizontal accountability, the absence of a formal separation of executive and legislative power, a feature common to parliamentary regimes, can be compensated for by other features of institutional design such as cabinet or coalition government. One potential pathology of liberal democratic rule based exclusively on vertical and horizontal accountability is relative elite autonomy from the electorate, which can lead to what has been termed democratic elitism or elite bias in the legislative outputs of system (Bachrach 1967, Gilens and Page 2014).

For the longest time, the significance of the third form of accountability, the social, has been underappreciated. Social accountability is produced through the advocacy and protest activity of citizens in civil society organizations before, during, and after elections. Advocacy allows citizens to convey their demands to the political system between elections, more directly connecting politicians to citizens and cultivating responsive behavior on their part (Chalmers, Martin and Pister 1997). Protest allows citizens to pressure politicians by focusing on unpopular, unsuccessful, and controversial policies. Such actions impose audience costs on office-holders cutting into their bases of support (McAdam and Tarrow 2010). Civil society organizations can also engage in monitoring of government operations to keep government more transparent, and making sure that government agencies are living up to their responsibilities (Smulovitz and Peruzzoti 2000). In cases of policy negligence or failure they can make use of bureaucratic and legal accountability mechanisms to try to compel the state to live up to its legal responsibilities (Cornell and Grimes 2015). In cases where popular initiatives exist, civil society groups can also attempt to circumvent elite agenda control (Altman 2019). While the channels of social accountability are subject to capture by anti-system parties and movements antithetical to democracy (Berman 1997, Riley 2010), recent large-n research has shown that social accountability generally enhances democratic durability (Bernhard, Hicken, Reenock, and Lindberg 2014; Cornell, Skaaning, and Møller 2016), and that the interaction of social and other forms of accountability enhance government responsiveness to citizen preferences (Hegre, Bernhard, and Teorell 2019; Mechkova, Bernhard, and Lührmann 2019).

The Construction of Liberal Democracy in Eastern Europe

In postcommunist Eastern Europe, liberal democracy was confined to only a small set of the countries. Immediately after 1989 reform efforts in this direction were mounted in Poland, Hungary, and Czechoslovakia, and they were joined by Slovenia after the collapse of Yugoslavia, and Latvia, Lithuania, and Estonia following the collapse of the USSR.¹ Several countries moved in this direction following inauspicious or stalled transitions, or even short bouts of dictatorship through a combination of internal and external pressures including Slovakia, Romania, Bulgaria, and Croatia. The remainder of the region has alternated between electoral democracy and competitive authoritarianism over time, with the exceptions of Azerbaijan, Belarus and Russia, which all became consolidated dictatorships.

The countries that undertook liberal democratic reform earliest did so on the basis of strong domestic democratic movements committed to liberal democracy. These countries quickly received the greatest

¹ I omit the former-DDR due to German Unification.

degree of Western attention and aid per capita, and the fastest consideration from the European Union as potential candidates for membership (Vachudova 2005, chapter 2). In the early movers, democracy and market reforms were put in place in relatively short order. A full range of formal accountability mechanisms were also put in place quickly -- regular free and fair elections, an independent judiciary, other independent regulatory agencies, and coalition government as the norm. And while the starting point for civil society in some countries of region was quite low (Linz and Stepan 1996, Howard 2003) due to the antecedent communist regime's monopoly on political and social organization, this was already under challenge in some countries under late communism and the deinstitutionalization of the party's leading role led to a regeneration of civil society in the region to levels no different from global norms for new democracies (Bernhard, et al. 2017; Foa and Ekiert 2017).

In the countries in which reform proceeded fastest, the ability of the post-communist successor parties to shape the political system following extrication were minimized by strong opposition movements which forced and won competitive foundational elections. This compelled postcommunist successor parties to learn to compete democratically to survive. Those that did largely took a reformist stance,² in which they duplicated much of the opposition's agenda, including democratization, marketization, as well as joining NATO and the EU.

The great irony of postcommunist liberal democracy is that it was created by consensus not contention, and thus spawned a party system in which the policy differences between parties on major issues were exceptionally narrow. Further, once these countries became applicants for membership in the EU, the variation in the way that liberal democracy could be constructed was subject to further constraint. And once they joined the EU, the policy options open to national governments, particularly with regard to fiscal, monetary and regulatory policy, were again constrained by the supranational framework of the EU. Eastern European liberal democracy was constructed with a full set of accountability mechanisms but in an environment in which there was limited room for political parties to signal and implement meaningfully different domestic agendas. However, prior to the global financial crisis of 2008, this was a price that the liberal democratic states of Eastern Europe and their populations seemed willing to pay.

Successive Exogenous Shocks: The Global Financial Crisis of 2008 and the Refugee Crisis of 2015

A second great irony of the crisis of liberal democracy in Eastern Europe is that it broke out and is now most advanced in the two countries that were the first movers in the collapse of communism, had been regional leaders in its building, and had been considered consolidated democracies (Freedom House 2018: 24).³ This is why I concentrate on Poland and Hungary.

And the third great irony is that this became much more likely after they successfully entered the EU in 2004. Prior to accession rightwing extremism was much more of marginal phenomenon in both

² With some variation – for instance in the Czech Republic the Communist Party of Bohemia and Moravia remained relatively orthodox, but the left of center reformist space was occupied by a legacy Social Democratic Party that reclaimed a good part of its property from prior to its forced merger with the Communists in the 1940s.

³ Hungary was seen as a consolidated democracy until 2015, whereas Poland still was as of the 2018 rankings.

countries. This is because the costs of tolerating such extremism in aspirant or candidate states is potentially more costly than it is for members, because of the highly ineffective and plodding procedures the EU has to sanction members (Kelemen 2017).

Hungary was a classic case of populist backlash triggered by economic crisis. While, the crisis predated the global economic meltdown by a couple of years, it was triggered by a combination of scandal and economic slowdown. The Hungarian Socialist Party (MSzP) government won reelection in 2006, but the celebration was short-lived. A taped confession by Prime Minister Gyurcsány in which he admitted that he lied about the state of economy during the electoral campaign (euphemistically speaking) triggered the system's social accountability mechanisms in a big way. The main opposition party FiDeSz and other activists further to their right, including the incipient far-right Jobbik party, took to the streets and this led to several weeks of major social unrest. On a number of occasions the demonstrations deteriorated into riots and clashes between demonstrators and the police (Seleny 2014: 48, Benziger 2008, 62-3). Despite calls for the government to resign, it managed to weather this crisis.

In 2007 and 2008 Hungary went into a drastic economic slowdown with growth falling from a sustained rate around four percent for a decade to less than one percent in both years. This was followed by an intense contraction of over six percent in 2009 (World Bank 2018). When the full brunt of the contraction hit, the Gyurcsány government finally resigned in March of that year. It was replaced by a minority government under Gordon Bajnai composed of independents and MSzP ministers. Horizontal accountability played an important role in the appointment of the new government. While the Free Democrats (SzDSz) did not wish to join the government, the MSzP needed its support in the vote of confidence to appoint the government. They used this leverage to veto a number of candidates that the socialists proposed for prime minister.

Following the utter failure of their second term in power, the MSzP was trounced in the general elections of 2010. The FiDeSz-Christian Democratic coalition won 263 of 386 seats in the Parliament, actually giving them a constitutional majority. The MSzP experienced a loss of 133 seats falling to a total of 59 seats and Jobbik came in third with 47 seats. The crisis of MSzP rule of 2006-2010 was a sterling demonstration that the accountability mechanisms of Hungarian liberal democracy worked as designed. The MSzP was caught in a lie to get reelected and this led to a scandal which triggered social accountability via intense protest. When the economic crisis hidden by the lie fully manifested itself horizontal accountability mechanisms kicked in and a new government with a diminished mandate was chosen. Finally, the government was replaced electorally in a classic exercise of vertical accountability by the electorate.

In Poland economic crisis played little role as the country has had continuous economic growth since 1992. The precipitating crisis that brought down and propelled Poland's populist Law and Justice (PiS) Party to power was the European refugee crisis of 2015. As in Hungary, the ruling party at that juncture, the Civic Platform (PO), had been damaged by a scandal despite ruling for two consecutive terms with robust economic results. Several prominent PO leaders were illegally tape-recorded in a restaurant in 2014 speaking in ways that were highly contemptuous of the public and cynical of politics and public

service generally. This led to several high profile resignations from the parliament and cabinet (Popieliec 2017).

The precipitating anxiety that crystalized populist backlash in Poland was social rather than economic (Kucharczyk and Fomina 2016, 66). Parts of Polish society are very traditional in orientation and the social stances of the Catholic Church are very hostile to the kind of social diversity routinely tolerated in the west. A large part of support for PiS is based on resistance to the kind of rapid social change that has accompanied economic prosperity. There has been extensive public agitation against LGBT+ rights, feminism, and potential immigration from Muslim countries (Ekiert 2019). By the time the general election campaign of 2015 was underway the government of Ewa Kopacz was under pressure from the EU to take a quota of refugees. In the Parliamentary elections of October, PiS was able to win 38 percent of the vote and take a majority of seats in the Sejm and form the first single party government in the history of the fourth republic. Once again vertical accountability had worked, a two-term government which was seen as unconcerned about the troubles of little people and was prepared to accommodate the EU on refugee policies, despite intense domestic anxiety on this issue, suffered a loss of popularity, lost power and was replaced.

Populists in Power

While both FiDeSz and PiS made use of the accountability mechanisms afforded by liberal democracy to come to power, once in power they moved to dismantle those very accountability mechanisms as potential constraints on their exercise of power. FiDeSz has been much more successful in this than PiS. It is already in its third consecutive term in power and it has had a supermajority throughout, allowing it to change the constitution at will. PiS is now commencing its second term and with only a simple majority.

If we take account of how much damage to liberal democracy the populists have done in power, the toll has also been much higher in Hungary. The three channels of liberal democratic accountability provide a useful organizing device to do so. Whereas FiDeSz has been able to change the electoral system to its advantage, use overseas Hungarian populations to increase its electoral margins of victory, and perhaps even falsify election results (Notz 2018, Bazsofy and Goat 2019), PiS has not even tried to change the electoral system to its advantage.

In terms of horizontal accountability, both governments have been able to reduce the independence of the constitutional courts. In the case of PiS, they have been able to partially pack the court with their own judges. FiDeSz has gone further, effectively disempowering the constitutional court, curtailing the independent power of judges, giving control of case assignments to a new head of a National Judicial Office with a nine year term, stacking other regulatory bodies with their appointees for long terms of service, and limiting the power of future legislatures to undo legislation by the designation of certain laws as cardinal laws requiring a two-thirds majority to repeal (Bugarič and Ginsburg 2016, 72-74; Bánkuti, Halmai, and Scheppele 2012).

Finally, in terms of social accountability, both parties have worked to create a public space that gives priority to their informational narratives. PiS has done so by turning state television into a propaganda arm of the party (Chapman 2017). FiDeSZ has not only accomplished this, but has had friendly oligarchs buy the remaining large news outlets in the country and install pro-FiDeSz editorial policies and news coverage (Bánkuti, Halmai, and Scheppele 2012; Dragomir 2017). Again FiDeSz has gone much further than PiS, asserting control of the academic sector by attacking Central European University and driving some of its programs out of the country to Vienna, and taking control of the Hungarian Academy of Sciences. Finally, it has made it more difficult for civil society organizations to receive funding from overseas, by making them declare themselves foreign agents when they do.

Taking stock, FiDeSz has worked to diminish accountability across all mechanisms, not only damaging liberal democracy but undermining electoral democracy as well by its actions in undermining vertical accountability. PiS has not gone nearly so far. Another reason why PiS has been less successful is that Polish civil society has been more effectively mobilized in opposition to the government and its policies than its counterpart in Hungary. The question remains whether this can be maintained and whether PiS will remain content with the current status quo or whether it will try to further undermine democratic accountability as a means to achieve its ends and extend its rule.

Social Accountability: Democracy's Firewall

The final issue that I will address here is what can be done when executive and legislative power is firmly under the control of populists, they are actively trying to neutralize democratic accountability and the next election is still a ways off. Because of the faux democratic nature of populism, populists in power are reticent to dispose of elections and the civil and political rights necessary for them to seem credible. As long as this holds there will be room for civil society to protest against attempts to curtail democratic accountability.

We have seen this in Hungary persistently and most recently in the protests to defend CEU, the Academy of Science, and in the protests against of the so-called slave law suspending the protection of workers against excessive overtime. In Poland we have also seen this in numerous protests to defend the courts and constitution, as well as the rights of women. Such protests have become ubiquitous globally and have played an important role in struggles to defend democracy, both liberal and electoral, in many countries where populist leaders hold dictatorial aspirations. It is highly visible all over the region. This summer a quarter of million Czechs protested in Letna Park in Prague against the self-serving and corrupt government of Andrej Babiš. In Slovakia the protests against the murder of journalist Jan Kuciak and his partner led to the resignation of the government of Prime Minister Robert Fico in 2018. Attempts by the government in Romania to reduce prosecutorial autonomy to pursue corruption and reduce penalties for conviction led to two large waves of demonstrations in the winter of 2017 and summer of 2018. Serbia has experienced a lengthy campaign (2018 to the present) demonstrating against the use of violence versus the opposition and the suppression of freedom of speech under President Aleksandar Vučić.

As much as populists would like to shut down their opponents in civil society, their rhetoric of democracy has the effect constraining their ability to do so. Thus civil society remains the last refuge of democrats to wage struggle against the anti-democratic practices of anti-liberal populists. Unless, they are willing to move to conventional dictatorships where they ban opposition entirely, something that has increasingly unpalatable since 1989, there remains room to resist and turn back democratic backsliding. Thus the social accountability that civil society provides remains the best tactic open to resist ruling populists until the next scheduled election allows for the exercise of vertical accountability. The ability to impose audience costs on aspiring dictators for inept and unpopular policies allows civil society to constrain their autonomy and set the stage for their future defeat at the polls.

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