

DEMOCRACY V. AUTHORITARIANISM 3.0

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As Russia presses its aggressive invasion of Ukraine and China crushes dissent in Hong Kong, threatening to absorb Taiwan, the world is confronted once again with the stark choice between democracy and authoritarianism as a preferred governing system. The choice is as old as civilization. Ancient Greeks, for example, could look to the democracy of Athens¹ versus the military authoritarianism of Sparta.² Although Thucydides admitted the efficiency of the latter, his history included an Athenian politician's passionate defense of the cumbersome, messy nature of the former because it generates much wiser decisions and ensures freedom³—a key quality often sorely lacking when one lives under a dictatorship. Faced with a similar choice four centuries later, Romans rallied behind Caesar's dictatorship instead of Cicero's senate.⁴ Efficiency is very attractive.

American colonists went the other way when they rose up against the tyranny of George III,⁵ establishing the United States as the first modern

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1. For a more nuanced description of Athenian democratic principles, see A. H. M. Jones, *The Athenian Democracy and Its Critics*, 11 CAMBRIDGE HIST. J. 1 (1953).

2. For a more nuanced description of Spartan constitutional structures, see Mogens Herman Hansen, *The Mixed Constitution Versus the Separation of Powers: Monarchical and Aristocratic Aspects of Modern Democracy*, 31 HIST. POL. THOUGHT 509, 521 (2010).

3. THE BROADVIEW ANTHOLOGY OF SOCIAL AND POLITICAL THOUGHT: ESSENTIAL READINGS: ANCIENT, MODERN, AND CONTEMPORARY TEXTS, 3–6 (Andrew Bailey et al. eds., 2012).

4. See LUCIANO CANFORA, JULIUS CAESAR: THE PEOPLE'S DICTATOR, xiv–xv, 290–91, 319 (2007). See generally Victor Ehrenberg, *Caesar's Final Aims*, 68 HARV. STUD. IN CLASSICAL PHILOLOGY 149 (1968).

5. See THE DECLARATION OF INDEPENDENCE (U.S. 1776).

democracy which, for all its flaws, still thrives after nearly 250 years. Another precursor to our modern struggle, the Civil War, was fought largely over freedom versus slavery.⁶ But it was Woodrow Wilson who framed America's entry into the First World War as a struggle against authoritarians, insisting "the world must be made safe for democracy."⁷ For the United States, despite active suppression of women and minorities at home,⁸ this was democracy versus authoritarianism 1.0. The aftermath delivered a mixed bag of successful self-determination movements and not-so-successful doubling down on colonial empires.⁹ It was the Second World War, however, that sparked the paradigmatic struggle that dominated the latter half of the 20th Century and evolved into the Cold War. Fascism and National Socialism were bitterly fought off by an unlikely alliance of democracies and communists, which, after the war, fell apart into the Cold War rivalry of democracy versus authoritarianism 2.0.¹⁰

The Cold War lasted four decades.¹¹ It was waged through elaborate political contests at the United Nations,¹² via proxy conflicts throughout Asia and Africa¹³, and in university lecture halls and pubs and across dining room tables. Dining room tables? Yes, because the Cold War was about ideas.¹⁴ Communism was a philosophy, and it contended against capitalism. This debate lurked within the larger debate between democracy and authoritarianism. Just like Fascism and National Socialism, the "isms" that underpinned authoritarianism during this period were actually about *something*, vile as they were. The authoritarianism of today is about *nothing*. Power is the animating

6. Michael E. Woods, *What Twenty-First-Century Historians Have Said about the Causes of Disunion: A Civil War Sesquicentennial Review of the Recent Literature*, 99 J. AM. HIST. 415, 415 (2012).

7. Woodrow Wilson, Speech to Congress (April 2, 1917).

8. E.J. Dionne, *A New Progressive Era*, 87 NAT'L CIVIC REV. No. 1, Spring 1998, at 5, 23, 25–26.

9. See MARGARET MACMILLAN, *PARIS 1919: SIX MONTHS THAT CHANGED THE WORLD* (2003).

10. See *Timeline of the Cold War*, HARRY S. TRUMAN LIBR. & MUSEUM, https://www.trumanlibrary.gov/sites/default/files/TrumanCIA_Timeline.pdf.

11. *Id.*

12. See, e.g., Fidel Castro's Speech to the United Nations (September 26, 1960), https://s3-eu-west-1.amazonaws.com/s3-euw1-ap-pe-ws4-cws-documents.ri-prod/9781138824287/ch7/10_Fidel_Castro_At_the_United_Nations_1960.pdf (last visited Oct. 20, 2024).

13. See Kathryn O'Neill & Barry Munslow, *Ending the Cold War in Southern Africa*, 12 THIRD WORLD Q. No. 3, 2010, at 81; BRUCE CUMINGS, *THE KOREAN WAR* (2011).

14. See Nina Tannenwald & William C. Wohlforth, *Introduction: The Role of Ideas and the End of the Cold War*, 7 J. COLD WAR STUDIES 3 (2005); ANTULIO J. ECHIVARRIA II, *WARS OF IDEAS AND THE WAR OF IDEAS* 15 (2008).

factor.¹⁵ Absent is an underlying unifying political belief system. Racism,¹⁶ narcissism,¹⁷ and jingoism¹⁸ flow from today's authoritarianism as freely as water seeps down the walls of Plato's cave¹⁹ – blurring the shadows therein, but those are not what it's about. Today's authoritarianism simply uses those devices to keep people divided and, more importantly, democratic notions repressed.²⁰

The economic unsustainability of communism²¹ was not the only thing laid bare by the collapse of the Soviet Union. Its aftermath soon revealed the rule of law as an essential foundation necessary for democracy to succeed.²² Of the fifteen nation-states that emerged from the ashes of the USSR, only three—Estonia, Latvia, and Lithuania—proved sustainable democracies.²³ Why? They were rule of law societies before Stalin annexed them, and vestiges of these foundations remained strong through Soviet domination.²⁴ Consequently, they could build their new democracies on those structures in the 1990s in a way that none of the other new republics could. Russia's flirtation with democracy under Yeltsin was fleeting precisely because there was no foundation of rule of law in Russia to anchor it.²⁵ Putin encountered little trouble dragging his great prize back into authoritarianism.

15. See Kathryn Stoner, *The Putin Myth*, 34 J. DEMOCRACY No. 2, Apr. 2023, at 5, 12.

16. See Damon Linker, *Donald Trump's Post-Ideological Authoritarianism*, WEEK (May 25, 2016), <https://theweek.com/articles/625893/donald-trumps-postideological-authoritarianism>.

17. See Saira Asma-Sadeque, *Trump 'Deeply Wounded Narcissist' Says Former White House Lawyer*, GUARDIAN (Sept. 10, 2022, 5:37 PM), <https://www.theguardian.com/us-news/2022/sep/10/trump-narcissist-white-house-lawyer-cbs>.

18. See Bernard Orr & Yimou Lee, *China Launches 'Punishment' War Games Around Taiwan*, REUTERS (May 23, 2024, 3:30 PM), <https://www.reuters.com/world/asia-pacific/china-starts-military-drills-around-taiwan-days-after-new-president-takes-office-2024-05-23/>.

19. See PLATO, *THE REPUBLIC*, 220–23 (G. R. F. Ferrari ed., Tom Griffith trans., Cambridge University Press 2000) for the allegory of the cave.

20. SARAH REPUCCI & AMY SLIPOWITZ, *FREEDOM IN THE WORLD 2022: THE GLOBAL EXPANSION OF AUTHORITARIAN RULE* 6–9 (2022), https://freedomhouse.org/sites/default/files/2022-02/FIW_2022_PDF_Booklet_Digital_Final_Web.pdf.

21. See PHILIP HANSON, *THE RISE AND FALL OF THE SOVIET ECONOMY: AN ECONOMIC HISTORY OF THE USSR 1945-1991*, at 4–5 (Routledge, 2014) (2003).

22. Jeffrey Kahn, *The Search for the Rule of Law in Russia*, 37 GEO. J. INT'L L. 353, 353 (2006).

23. Henry E. Hale, *Regime Cycles: Democracy, Autocracy, and Revolution in Post-Soviet Eurasia*, 58 WORLD POL. 133, 133 (2005).

24. LAURI MÄLKSOO, *ILLEGAL ANNEXATION AND STATE CONTINUITY: THE CASE OF THE INCORPORATION OF THE BALTIC STATES BY THE USSR* 44–69 (2d ed. 2022).

25. Kahn, *supra* note 22, at 389–94.

Ukraine, alone among the non-Baltic former Soviet Republics, wobbled between authoritarianism and democracy for thirty years, occasionally laying down rule of law systems alongside endemically corrupt post-Soviet bureaucratic tendencies.²⁶ Russia's 2022 invasion ironically pushed Ukraine to firmly embrace rule of law as a means of securing its democracy. Anti-corruption efforts are now institutionalized in the judiciary, military, and financial sectors in partnership with European Union guidance,²⁷ and Ukraine is litigating against Russia in a wide array of international courts – a distinctly rule of law process.²⁸ Putin could not tolerate Ukrainian democracy on his doorstep, but by seeking to crush it, he strengthened it.

Democracy versus authoritarianism 3.0 is what America now faces. The ideological hollowness of today's authoritarianism makes this a more difficult challenge. It's hard to win over hearts and minds when there's no philosophical debate to be had. The only question is about power – who has it and who does not. Rule of law societies place it in the people; authoritarian states place it in the person at the top. Globally, only a tiny fraction of the world's population lives in a democracy.²⁹ All the more reason to defend societies such as Ukraine struggling to break more firmly into the ranks of democracies and to shore up threatened ones such as Taiwan and Hong Kong.

26. Hale, *supra* note 23, at 149–58.

27. ORGANIZATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT, REVIEW OF ANTI-CORRUPTION REFORMS IN UKRAINE UNDER THE FIFTH ROUND OF MONITORING: THE ISTANBUL ANTI-CORRUPTION ACTION PLAN 22, 26–29, 33, 47–62 (2024), https://www.oecd.org/en/publications/review-of-anti-corruption-reforms-in-ukraine-under-the-fifth-round-of-monitoring_9e03ebb6-en.html.

28. Michael J. Kelly, *The Role of International Law in the Russia-Ukraine War*, 55 CASE W. RES. J. INT'L L. 61, 77 (2023).

29. *See infra* Figure 1.

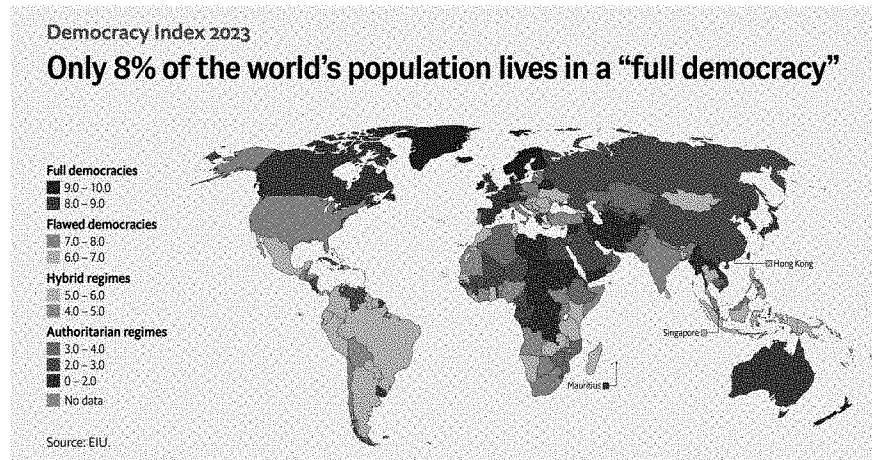


Figure 1. Economist Intelligence Unit, Democracy Index 2023: Age of Conflict (2023).³⁰

Unlike precursor contests America has faced, which were fought mostly externally, democracy versus authoritarianism 3.0 displays a more sinister internal dimension. Russia has fielded a candidate in America's upcoming presidential election. Anti-democratic by nature, anti-rule of law by conviction, and with a stranglehold on key party members in Congress, Republican presidential nominee Donald Trump is an authoritarian beholden to Moscow.³¹ On top of high-stakes financial entanglements,³² Russia intervened in the 2016 presidential election on behalf of Trump in exchange for a free hand in Ukraine later.³³ Although the latter didn't pan out for the Kremlin, the relationship persists. Most

30. Democracy Index: Conflict and Polarisation Drive A New Low for Global Democracy, Economist Intell. Unit (Feb. 15, 2024), <https://www.eiu.com/n/democracy-index-conflict-and-polarisation-drive-a-new-low-for-global-democracy/>.

31. William Saletan, *A New Report Adds Evidence That Trump Was a Russian Asset*, SLATE (Mar. 18, 2021, 12:07 PM), <https://slate.com/news-and-politics/2021/03/trump-russian-asset-election-intelligence-community-report.html>; Michael Crowley, *All of Trump's Russia Ties, in 7 Charts*, POLITICO (Mar./Apr. 2017), <https://www.politico.com/magazine/story/2017/03/connections-trump-putin-russia-ties-chart-flynn-page-manafort-sessions-214868/>; Sarah Siock, *Former Australian PM: Trump Acts Like 12-Year-Old Boy Around Putin*, HILL (Feb. 27, 2024, 2:30 PM) <https://thehill.com/policy/international/4491800-former-australian-pm-trump-acts-like-12-year-old-around-putin/>.

32. Michael Hirsh, *How Russian Money Helped Save Trump's Business*, FOREIGN POL'Y (Dec. 21 2018, 1:31 PM), <https://foreignpolicy.com/2018/12/21/how-russian-money-helped-save-trumps-business/>.

33. Jim Rutenberg, *The Untold Story of 'Russiagate' and the Road to War in Ukraine*, N.Y. TIMES, <https://www.nytimes.com/2022/11/02/magazine/russiagate-paul-manafort-ukraine-war.html> (Nov. 7, 2022).

recently, Trump refused to condemn the killing of Alexei Navalny,³⁴ offered not to back NATO allies against Russia if they weren't spending enough on defense,³⁵ and attempted to thwart aid to Ukraine in 2024, the country about which he was first impeached,³⁶ until it became a politically untenable position.³⁷

Simultaneously, as Russia infiltrates America's political system,³⁸ China infiltrates the technology supporting America's vital infrastructure. As FBI Director Christopher Wray warned Congress, China has already cyber-infiltrated critical U.S. infrastructure and could effectively turn out the lights on American democracy with surprising speed.³⁹ Authoritarians in Moscow and Beijing have figured out they needn't defeat American democracy on the battlefield if they can do it from within. It is the nature of authoritarians to both lie and tell the truth about what they plan to do, creating a fog of uncertainty that inures to their advantage by hiding their motives.⁴⁰ Donald Trump, America's authoritarian, is no different. Amid his persistent lies,⁴¹ he telegraphs his intentions upon regaining the White House:

Former President Donald Trump has said he will be a dictator on "day one." He and his advisors and associates have publicly discussed hundreds of further actions to be taken during a second Trump presidency that directly threaten democracy, the rule of law, as well as U.S. (and global) security. These vary from Trump

34. Mariana Alfaro, *Trump Yet to Condemn Navalny's Sudden Death*, WASH. POST, <https://www.washingtonpost.com/politics/2024/02/18/trump-navalny-putin/> (Feb. 18, 2024, 2:37 PM).

35. Kate Sullivan, *Trump Says He Would Encourage Russia to 'Do Whatever the Hell They Want' to Any NATO Country that Doesn't Pay Enough*, CNN, <https://www.cnn.com/2024/02/10/politics/trump-russia-nato/index.html> (Feb. 11, 2024, 5:00 PM).

36. H.R. Res. 755, 116th Cong. (2019).

37. Jonathan Weisman & Michael Gold, *Ukraine Aid Divides Republicans, After Trump Tones Down His Resistance*, N.Y. TIMES (April 20, 2024), <https://www.nytimes.com/2024/04/20/us/politics/trump-ukraine-house-vote.html>.

38. Stephen Collinson, *Putin Looms Over a Third Successive US Election*, CNN, <https://www.cnn.com/2024/02/22/politics/putin-trump-us-election-analysis/index.html> (Feb. 22, 2024, 10:53 PM).

39. Glenn Thrush & Adam Goldman, *China is Targeting U.S. Infrastructure and Could 'Wreak Chaos,' F.B.I. Says*, N.Y. TIMES (Jan. 31, 2024), <https://www.nytimes.com/2024/01/31/us/politics/fbi-director-china-wray.html>.

40. See ANDREAS SCHEDLER, *THE POLITICS OF UNCERTAINTY: SUSTAINING AND SUBVERTING ELECTORAL AUTHORITARIANISM* 37–39 (Laurence Whitehead ed., 2013).

41. Glenn Kessler et al., *Trump's False or Misleading Claims Total 30,573 Over 4 Years*, WASH. POST (Jan. 21, 2021, 3:00 AM), <https://www.washingtonpost.com/politics/2021/01/24/trumps-false-or-misleading-claims-total-30573-over-four-years/>.

breaking the law and abusing power in areas like immigration roundups and energy extraction; to summarily firing tens of thousands of civil servants whom he perceives as adversaries; to prosecuting his political opponents for personal gain; to pardoning convicted January 6th rioters he views as “warriors,” “great patriots” and “hostages.”⁴²

Now is the time for Americans to clear away the fog, see this struggle for what it is, and join the fight for democracy. Congress finally embraced the distant but persistent echo from the Athenians—democracy is worth fighting for—by passing military aid packages for Ukraine, Taiwan, and Israel.⁴³ Supporting democracies abroad against authoritarians supports us and our governing philosophy.⁴⁴ Similarly, Americans should learn the lesson the Romans got so wrong two millennia ago. Let’s opt for Cicero this time instead of Caesar when given a choice in November 2024.

42. Norman L. Eisen et al., *American Autocracy Threat Tracker*, JUST SECURITY, <https://www.justsecurity.org/92714/american-autocracy-threat-tracker/> (July 22, 2024).

43. See Katy Stech Ferek & Lindsay Wise, *Senate Passes \$95 Billion Package to Help Ukraine and Israel*, WALL ST. J., <https://www.wsj.com/politics/policy/senate-pushes-ukraine-israel-aid-closer-to-finish-line-290c07ab> (Apr. 24, 2024, 12:47 AM).

44. See Louis W. Goodman, *Democracy, Sovereignty, and Intervention*, 9 AM. U. J. INT’L L. & POL’Y 27, 29–31 (1993).

