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Ethics and Affect in Resistance to Democratic Regressions

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Abstract: In recent times, it has become increasingly common that elected parties and leaders systematically undermine democracy and the rule of law. This phenomenon is often framed with the term democratic backsliding or democratic regression. This article deals with the relatively little-studied topic of resistance to democratic regressions. Chief amongst the things it discusses is the rather central ethical issue of whether resisters may themselves, in their attempts to prevent a further erosion of democracy, transgress democratic norms. But the argument advanced in the article is not merely about the ethics of resistance. It begins, perhaps unconventionally, by addressing the affective dimension of resistance to democratic regressions, looking in particular at the powerful feelings of anger and despair that pro-democratic citizens living under a regressive government are likely to experience. As the article argues, these feelings have not only motivational but also epistemic potential, which must be adequately theorized in order to understand how resisters can respond to the ethical challenges facing them.

Keywords: democratic regressions, democratic backsliding, resistance, anger, despair, ethics of resistance

Recent times have seen a number of countries elect parties and leaders that systematically undermine democracy and the rule of law (e.g., Eatwell and Goodwin 2018; Huq and Ginsburg 2018; Levitsky and Ziblatt 2018; Norris and Inglehart 2019). Since Viktor Orbán's *Fidesz* party won the 2010 election with a two-thirds majority, for example, Hungary has gradually been transformed into what Orbán himself proudly calls an 'illiberal democracy.' Likewise, under Recep Tayyip Erdoğan's rule, Turkey has become increasingly authoritarian. Elections are no longer fair and civic liberties are routinely violated by state authorities. Poland, too, has witnessed sustained attacks on women's rights, independent courts, and the freedom of the press.

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The starting point of this was the electoral victory of Jarosław Kaczyński's PiS-party in 2015. And the list of cases does not end here.¹

Scholars typically describe these developments as 'democratic backsliding' (e.g., Bermeo 2016; Mechkova, Lührmann, and Lindberg 2017; Waldner and Lust 2018) or 'democratic regressions' (e.g., Ahlhaus and Niesen 2019; Schäfer and Zürn 2021). These normatively-loaded terms are meant to underline that we are faced with the undoing of hard-fought political achievements regarding individual or collective freedoms – achievements that many of those studying democracy would like to see preserved. While there is much to be said about how we can accurately identify democratic regressions (Wolkenstein forthcoming), my concern in this article is not with the identification of regressions but with the relatively little-studied topic of *resistance to democratic regressions* (useful exceptions are Kapelner 2019; Olsen forthcoming; Schedler 2013; Scheuerman 2022). By this, I mean actions that citizens take in order to stop on-going attacks on democracy and reverse already-completed undemocratic institutional changes.

Resistance to democratic regressions raises numerous difficult strategic and ethical issues. Chief amongst the things I will discuss in this article is the rather central ethical issue of whether resisters may themselves, in their attempts to prevent a further subversion of democracy, transgress democratic norms. And I will argue that democratic norm-transgressions are indeed permissible, though they should be measured and targeted. But the argument advanced below is not merely about the ethics of resistance. It begins, perhaps unconventionally, by addressing the affective dimension of resistance to democratic regressions, looking in particular at the powerful feelings of anger and despair that pro-democratic citizens living under a 'regressive' government are likely to experience. As I will argue, these feelings have not only *motivational* but also *epistemic* potential.

That anger can be motivational, in the sense of animating people to take to the streets, is not especially controversial. Less obvious is the fact that certain forms of despair can serve an epistemic function, disposing resisters to assess more carefully the situation they find themselves in. The knowledge thus gained can help them avoid collective action-blockages arising from disorientation, a common phenomenon in regimes where governments attempt to spread misinformation and obfuscate their actual political aims. And, perhaps even more importantly, the acquired knowledge can inform resisters about what sorts of democratic norm-transgressions may be needed and permissible in order for them to achieve their primary aims. This is where the affective and ethical dimensions of resistance to

¹ Attacks on democracy and the rule of law often also have a *transnational* dimension, in that regimes with anti-democratic governments routinely rely on structural, financial and political support from allies in other countries (e.g., Kelemen 2020; Wolkenstein 2022).

democratic regressions connect: often it is only the sort of deeper reflection on extant possibilities of action that feelings of despair can induce that puts resisters in a position where tough ethical choices need to be made.

While I am unable to resolve all of the difficult ethical challenges facing democratically-minded citizens who engage in resistance against regressive governments, I will defend the view that those citizens must be ready to overcome their commitment to *democratic purism*, renouncing the notion that systemic changes ought to be brought about by purely democratic means. Just as political actors who attack democracy and the rule of law ordinarily need to transgress democratic norms to achieve their goals, so pro-democratic citizens may have to transgress democratic norms in their struggle for a re-democratization of society. This, I suggest, is simply a matter of *reciprocity*, though resisters should aim to act in conformity with what I call—drawing on the recent work of Schedler (2021)—the principle of *democracy-restoring reciprocity*. This states that they are permitted to violate democratic norms in rough proportion to their government’s norm-violations, but only when doing so promises to advance the goal of democratic renewal.

The article divides into five sections. I begin by briefly clarifying what democratic regressions are (*Section 1*). Next, I distinguish between two modes of resistance to democratic regressions, which I call *pro-democratic* and *opportunistic* resistance (*Section 2*). In the sections that follow, I first discuss the motivational and epistemic potential of anger and despair, respectively (*Section 3*), and then examine the principle of democracy-restoring reciprocity, to which pro-democratic citizens resisting democratic regressions ought to commit (*Section 4*). The final section concludes (*Section 5*).

Before proceeding, a note of clarification is in order. Some readers might think it odd that I am putting the *affective* dimension of resistance to democratic regressions front and center, but I believe this makes good sense. Note that democratic regressions usually occur in polities plagued by toxic levels of political polarization, where rival political camps regard each other as enemies and exhibit little or no willingness to cooperate (e.g., Boese et al. 2022, 31–5; Gora and de Wilde 2022; McCoy and Somer 2019; Somer, McCoy, and Luke 2021; Vegetti 2019). A major driver of this sort of polarization is anger at one’s political opponents (which is often stoked by politicians), and if one side manages to win power and then goes on to dismantle the democratic system as a whole, then the other side is bound to get even angrier—which in turn may precipitate resistance (e.g., Gervais 2019; Huber et al. 2015; Vegetti 2019; Webster et al. forthcoming). Thus, strong, collectively-held negative emotions are both at the heart of the dynamics that lead to democratic regressions and likely to play a key role in animating resistance to regressions. Any

attempt to assess what is at stake in the latter, ethically or otherwise, must be sensitive to this.

The just-mentioned link between political polarization, emotions and democratic regressions also explains how this article contributes to a broader debate about deliberative democracy and polarization. Put simply, this is an article about pro-democratic citizens' reactions to anti-democratic institutional transformations that typically follow in the wake of a polarization-induced deterioration of the quality of deliberation, or near-complete breakdown of deliberation. Deliberative democrats today recognize that 'emotion has an important role to play' in such circumstances, inasmuch as it gives rise to forms of protest and resistance that grab people's attention and signal that the status quo is deeply deficient (Neblo 2020, 926). Deliberative democrats also allow, as I do, that some (deliberative) democratic norms are transgressed in these forms of protest (e.g., Fung 2005). What deliberative democrats have rarely attempted is to systematically unpack the complexities and internal connections between emotions, protest against the status quo, and legitimate democratic norm-transgressions. This is what this article seeks to achieve.

1 What are Democratic Regressions?

I define democratic regressions as temporally extended processes where democratically elected political actors intentionally take actions that either *suspend* constitutionally guaranteed basic rights that are meant to secure citizens' public and private autonomy, or *obstruct* the exercise of those rights (Wolkenstein forthcoming). This definition is deliberately abstract and general, since it is meant to apply to different institutional settings. Instead of assuming that a particular institutional configuration must be in place in order for a political system to qualify as democratic, I want to leave open the possibility that various institutional ensembles can guarantee citizens' public and private autonomy, and that democratic regressions, too, can take a range of different forms, depending on the institutional context in which they unfold.²

The emphasis on the *processual* nature of democratic regressions tracks the common empirical observation that deteriorations of democracy usually occur "through a discontinuous series of incremental actions, not a one-time *coup de grâce*" (Waldner and Lust 2018, 95; also see Haggard and Kaufman 2021, 27–41).

² This approach is faithful to Habermas (1992) as well as tracking the important concern that institutionally over-specifying our working conception of democracy holds the risk of making use lose track of what political institutions should actually achieve within a democratic political system, as argued by Warren (2017).

More often than not, the starting point of these series of democracy-undermining actions is a (more or less) free and fair election, where political parties and leaders with questionable democratic credentials win (just) enough power to transform the political system at large. These transformations can be initiated through the successive introduction of constitutional amendments that, taken together, considerably limit the degree to which fundamental rights can be exercised (this was the case in Hungary after the first electoral victory of Orbán's *Fidesz*-party, for example, see Bánkuti, Halmai, and Scheppele 2012; Scheppele 2013). Or they can be the result of unchecked emergency measures that allow the government to rule by decree, bypassing parliament and the judiciary (e.g., Huq 2006; Kolvani et al. 2020). Or something else entirely.

In short, democratic regressions may be conceived as gradual processes wherein a polity that is somewhat democratic at t_1 (e.g., the election that propels an undemocratic party into government) ends up being significantly less democratic at t_2 (e.g., the end of the undemocratic government's first term, where other parties want to enter the electoral contest but face a system of rules that is rigged against them). What *exactly* we call the less-democratic state of the polity at t_2 (e.g., an 'electoral autocracy' or an 'illiberal democracy') is not relevant for our purposes. It is important to underline, however, that the polity at t_2 is rarely a violently repressive authoritarian state, in which citizens' public and private autonomy are reduced to an absolute minimum. Instead, t_2 is usually a state where some of the polity's democratic mechanisms and institutions remain intact, while others have been dismantled; repression exists too, but it is seldom violent (see, e.g., Waldner and Lust 2018, 95).

2 Two Modes of Resistance

In polities facing democratic regressions, resistance is a very real possibility. This is firstly because often a fairly large number of citizens have *not* actually voted for the government party or parties (in countries like Hungary or Poland, for example, citizens who did not vote for the government parties form a numerical majority). Secondly, as I have just noted, in contrast to fully authoritarian regimes, where citizens are deprived of virtually all political liberties, regressing regimes usually leave some room for voicing discontent. Rarely do the governments of those regimes impose an outright ban on rival parties, in part because they want to maintain a democratic appearance. Demonstrations also tend to be permitted, though most or all forms of political protest are tightly policed. Thus, those citizens who do not support the government have some opportunities to organize and make their voices heard.

Broadly speaking, resistance to democratic regressions usually comes in two different forms:

- ***Pro-democratic resistance*** denotes acts of resistance aimed at stopping the dismantling of democracy and, ultimately, restoring the democratic status quo ante. Those who engage in this form of resistance see democracy not just as a means to ‘get what they want’ from the state, but as a form of rule that is valuable in its own right and, despite all its flaws, preferable to its alternatives. They oppose democratic regressions not simply because they want to replace the current government with another one, but because they seek to preserve or, insofar as they have already been eroded, reinstate democratic institutions. Pro-democratic resisters may have different political leanings and might even agree with some of the regressive government’s policies, but they put the value of democracy above other political preferences and disagreements.
- ***Opportunistic resistance*** refers to acts of resistance aimed at stopping the dismantling of democracy that are animated by a dissatisfaction with the present, regressive government that is more about policy than about regime forms. That is to say, those who engage in opportunistic resistance do not feel strongly about democracy, and are perhaps even willing to accept attacks on democracy if these were carried out by a government that was more aligned with them in terms of policy. The reason why they resist their government’s attempts to dismantle democracy is that they oppose the substantive policies that government implements (they might earn less as a result of those policies, have lost their job, etc.). This is no doubt rational, for the likelihood that certain unfavorable policies remain in place is higher when the government makes it very difficult or impossible for other political parties to meaningfully compete in elections.³

In practice, of course, pro-democratic resistance is rarely disconnected from concerns about the policies that regressive governments implement. Pro-democratic protest and resistance are indeed often triggered by particular, newly-introduced policies—think, for instance, of the Polish government’s near-total ban on abortion, which in early 2021 set in motion a wave of nation-wide demonstrations against the PiS-government. Protest and resistance might also erupt in reaction to a palette of different policies that were introduced over time and need not be linked to one another, with the last of those policies perhaps

³ ‘Opportunistic’ refers here to resisters’ attitude toward democracy, not to any other disposition.

marking the point where, in the eyes of resisters, the regime had crossed a ‘red line.’⁴

The point to note, however, is that pro-democratic resistance is never *solely* about policy, even if concrete policies may set it off. It is always and necessarily also about larger concerns to do with the integrity of the democratic constitutional order. Some specific policies can also come to, as it were, signify the more general erosion of constitutionally guaranteed basic rights that is characteristic of regressing regimes. As one Polish woman protesting the PiS government’s near-total ban on abortion told the press, “[t]heoretically, we have all the rights, but we cannot take any decisions referring to our own bodies” (quoted in Scisłowska 2022). This just one way of saying that the government’s abortion ban is not just a policy like any other, but one that has a highly problematic *basic rights-obstructing* effect, which is a hallmark of democratic regressions.

At any rate, in the remainder of this article, I will limit myself to discussing *pro-democratic resistance* to democratic regressions. Committed democrats should be most interested in this mode of resistance. For one thing, pro-democratic resistance is generally more likely to be *sustained* resistance, and thus better-placed to bring about the desired result of restoring democracy: while opportunistic resisters may stop opposing their government once it performs policy shifts that end up serving their perceived interests, pro-democratic resisters will not be satisfied by a mere change of policy.⁵ Even if the government suddenly implemented policies that were

4 A *New York Times* article on the protests against the so-called ‘slave law’ that has been introduced by the Orbán government in Hungary tells the story of one Gyula Radics, who “is not easily angered. When Prime Minister Viktor Orbán rewrote the Constitution to give his party greater power, he stayed on the sidelines. When the party took over state media, he was silent. And when the government forced the internationally renowned Central European University out of Hungary, he did not join the protests. But after Mr. Orbán pushed through legislation compelling employees to work hundreds of hours of overtime without full or immediate compensation, he had enough” (Santora and Novak 2019). This nicely illustrates how citizens can come to see a particular policy introduced by a regressive government as a final ‘red line’ that government had crossed.

5 This *probabilistic* claim builds on a large body of empirical work that suggests that liberal, pro-democratic attitudes among a country’s citizenry are crucial for the resilience of democratic institutions and bottom-up resistance to democratic regressions. As Welzel, Kruse, and Brunkert (2022, 159) put it, using a slightly different language, “[w]hen global trends in regime dynamics send democracy on a downswing, the publics that cling the most firmly to emancipative values are also those most likely to withstand the downcycle and avoid democratic losses” (also see Ananda and Dawson forthcoming; Svobik et al. 2023; Welzel 2021). Conversely, citizens with a loose or contingent commitment to democracy are unlikely to defend democratic institutions under pressure.

very favorable to them, economically or otherwise, this would hardly make them acquiesce in subversions of democracy.

For another thing, committed democrats who live in relatively well-functioning democracies might want to gain a better understanding of the difficult issues that pro-democratic resistance raises because they may reasonably ask themselves how *they* would react to a regressive government in their own country? After all, if the vast literature on ‘democratic backsliding’ and ‘democratic regressions’ is any indication, then it seems that attacks on democracy and the rule of law can happen anywhere today. Even established and seemingly robust democracies can experience troublesome regressive tendencies. The foremost example is the United States of America, a long-standing democracy that is widely said to have experienced ‘substantial autocratization’ under the Trump administration (Boese et al. 2022, 37). And even if Western European democracies have proven slightly more resilient thus far, they too are increasingly affected by toxic levels of polarization, which, as argued above, often go hand in hand with the rise of more autocratic political figures that pride themselves on refusing dialogue or compromise with their rivals.

To be clear, none of this is to suggest that committed democrats should not be interested in the many complicated issues raised by *opportunistic resistance*. Not least because pro-democratic resisters often have to team up with opportunistic resisters to generate a sufficiently powerful counterweight to their regressive government, democrats cannot be indifferent to opportunistic resistance. But unfortunately, I cannot deal with this here. As we shall see, there are sufficiently many theoretically relevant complexities inherent in pro-democratic resistance to democratic regressions to warrant an article that brackets opportunistic resistance.

Nor am I naively assuming that a majority of those who resist regressive governments across the world are convinced and principled democrats. My claim is merely that we can plausibly presuppose that *some*, possibly many, citizens in such regimes will wholeheartedly support democracy and in principle be willing to defend it (and that there are good reasons to start an investigation of resistance to democratic regressions by looking at those citizens, as noted a moment ago). Since democratic regressions can, by conceptual necessity, only occur in countries with fairly well-established democratic practices and institutions, it would be implausible to suggest that none of those countries’ citizens have come to regard democracy as the most desirable form of government, and consequently have internalized a general commitment to democratic norms. Empirical research bears out this expectation (see, e.g., Ananda and Dawson forthcoming; Herman and Muirhead 2021; Welzel 2021).

3 The Motivational and Epistemic Function of Anger and Despair

Phenomenologically, resistance to democratic regressions is closely bound up with strong emotional reactions to the actions of an elected government. I start with this *affective* dimension of resistance mainly because, as I explained in the introduction, certain feelings that are experienced by democratically-minded citizens who live under a regressive government can induce deeper reflection about extant possibilities for political action—and it is in this context that difficult ethical choices about the permissibility of norm-transgressions need to be made. The two feelings that I want to examine are the ones that pro-democratic citizens living under a regressive government are perhaps most likely to experience: *anger* and *despair*. My primary focus will be on the rarely-acknowledged epistemic function of *episodic* forms of despair.

Let us begin with *anger*, however. It is obvious that many pro-democratic citizens in regressive regimes will be angry at their government. Anger may well be their very first reaction to the disrespect for the democratic ‘rules of the game’ that the government puts on display, say by adopting policies that obstruct the exercise of some constitutionally guaranteed basic rights. This anger can play a productive role in the formation of resistance to regressive governments: above all, it can animate citizens to *act*, individually as well as collectively. Anger can make some individuals try to organize anti-government protests, for example, and it can make many others heed their call and take to the streets to vent their discontent. In short, anger performs an important *motivational* function, without which resistance often will not form in the first place.

That anger can perform this function is fairly well-established: anger has always been a powerful driver of political protest and resistance, being “a part, probably, of our evolutionary equipment that usefully energizes us toward good ends” (Nussbaum 2016, 39; also see Lepoutre 2023). The conceptual properties of anger remain disputed (for a recent overview, see Cherry 2022, 2–3), but it seems clear that the anger felt by pro-democratic resisters in a regressive regime will mostly resemble what Martha Nussbaum calls ‘transition-anger.’ This species of anger is primarily directed at changing an undesirable, indeed infuriating, status quo, though without any desire for payback. People experiencing transition-anger may say: “This is outrageous, and how shall things be improved?” (Nussbaum 2016, 37)—or, as one Polish pro-democracy protester explained his motivation to demonstrate against the PiS-government, “I should make Poland the country I want

to live in” (quoted in Eriksson 2017).⁶ No wish to inflict pain on others is sensible here.

Whether anger that is not transition-anger *necessarily* has a payback component built into it, as Nussbaum and some others (including Aristotle) maintain, need not concern us here.⁷ Nor am I suggesting that pro-democratic resisters, insofar as they are angry at their government, will never toy with the idea of retaliation; they are human after all. My point is rather that, because pro-democratic resisters are committed democrats who seek to stop the on-going dismantling of democracy and restore the democratic status quo ante, their focus will not be directed at such things as ‘smashing the system’ and bringing “chaos and pain down around the heads of the people who upheld it,” but at working toward political change in a fashion that is compatible with the democratic principles they hold dear (e.g., by peacefully demonstrating) (Nussbaum 2016, 37). Instead of trying to make those who attack democratic institutions and the rule of law *suffer*, they will look to hold them *accountable*. Instead of wanting to *kill* their undemocratic head of government, they will urge them to *resign*.⁸

With this brief analysis of anger’s motivational role in place, I turn now to the second emotion that pro-democratic resisters are likely to experience in regressing regimes: *despair*. There are many reasons for democratically-minded citizens to despair when their government launches sustained attacks on democracy. One reason might be that it is palpably getting increasingly difficult to remove the government with democratic means. Another reason might be that legal paths to changing undesirable policies are blocked as well, for instance because the government has packed courts with party loyalists. A third reason to despair could be the weakness of the opposition, which is a problem in many a regressing regime. Of course, these sorts of things can also trigger *angry* responses, but despair is an equally, if not more, probable response. Indeed, many pro-democratic citizens will feel *both* anger and despair, without one emotion taking full precedence over the other.

6 On anger among Polish activists, see Blackington (forthcoming). The deep democratic commitments of many Polish protesters, and their links to a variety of pro-democracy organizations, are documented in Hall (2019).

7 Nussbaum’s influential account of anger is arguably revisionist and contested. Some argue that the desire for recognition is, empirically speaking, much more central to anger than the desire for revenge, see Silva (2021). Others suggest that anger always comes with a hope for repair, one that might not be fully reflected or present in our minds when we are angry but is nonetheless there (e.g., Stockdale 2021, 105–12). Still others claim that even a desire for revenge can be an appropriate response to willful harm and thus must be recognized as potentially morally legitimate (e.g., Muldoon 2008).

8 ‘Resign! Resign!’ is what Hungarian pro-democracy demonstrators chanted as they marched down Andrassy avenue in central Budapest in 2019, see White (2019).

It might at first appear as though despair is anything but a productive sentiment in the context of resistance to democratic regressions. Despair is ordinarily thought to involve feelings of hopelessness or, worse, a sense that nothing we do can make any difference (see, e.g., Steinbock 2007). Thus conceived, despair will most likely be an obstacle to collective political action, for agents who feel that nothing they do can make any difference will probably see no point in organizing, either. Another, perhaps even more troubling, possibility is that despair gradually morphs into a form of anger that is very different from transition-anger: the sort of anger experienced by people who have ‘nothing to lose,’ where the constructive democratic energies present in transition-anger give way to an unbridled wish to retaliate against the government or the ‘system’ as a whole. But note that despair, too, can be conducive to resistance, at least so long as it is not *fundamental*, as in a loss of all sense of agency.⁹

In fact, as Huber (2023) argues, temporary or ‘episodic’ forms of despair can serve an *epistemic* function and guard against different forms of “false hope,” thus helping resisters to better analyze the obstacles and challenges facing them. Drawing on evidence from psychology, Huber develops this point by engaging with the (supposed) opposite of despair—hope—suggesting that “hope *itself* can prevent us from seeing the evidence clearly” (Huber 2023, 89). It can do so because, when we believe in the possibility of betterment, “our visualization of a successful future may, as it were, ‘bleed into’ our perception of reality, thus obfuscating a distinction that is in turn critical for our ability to form beliefs on the basis of ... evidence” (Huber 2023, 89). The likely result, suggests Huber, is either *wishful thinking* (i.e., ascribing an exceedingly high probability to the occurrence of a desired outcome) or *complacency* (i.e., a tendency to lean back and rely on things working out without making any directed effort). And while the former is bound to lead to ineffective political action, the latter even licenses inaction. Against this, *episodic despair* can make agents disposed to “look at the evidence in a more sober ... way,” since they see the desired future from the “perspective of unlikeliness rather than possibility” (Huber 2023, 89). This will help them get a clearer idea of what needs to be done to achieve their goals, and of the probabilities of success.

Notice that this productive effect of despair (which no doubt runs counter to how we ordinarily think of the feeling) has not been lost on scholars of activism. To cite just one example, in her well-known study of the AIDS Coalition to Unleash Power (ACT UP), a grassroots movement dedicated to ending the AIDS pandemic

9 Which may anyways not be warranted, since democratic regressions typically do not lead to full-blown repressive authoritarianism. An argument to this effect has been made in Bojar, Gáspár, and Róna (2022).

that was formed in 1987, Gould (2009, 398) observed that feelings of despair induced *creativity* in the movement's activists:

Desperate circumstances can inspire risk-taking, an abandonment of the tried and true (but evidently ineffective) path in order to strike out in new, untested directions. In this case, feelings of hopelessness and desperation, rather than foreclosing political activism, spurred lesbian and gay support for confrontational tactics that had long been abandoned by the mainstream, establishment-oriented gay movement. ... [Thus,] [p]eople's despair helped to wrench open the existing political horizon.¹⁰

That pro-democratic citizens who are confronted with a democracy-eroding government are susceptible to *wishful thinking* (e.g., about the prospects of regime change) or *complacency* (e.g., about an undemocratic status quo that they have principled reasons to reject)—the two risks that Huber identifies—seems of course unlikely. The challenge lies elsewhere. It lies in two potentially action-blocking dispositions that may be (but are not necessarily) linked to one another. The first is *disorientation*, a direct result of the fact that democratic regressions unfold gradually, in a piecemeal process. As Haggard and Kaufman (2021, 38), observe, the 'incremental nature' of democratic regressions can have "adverse effects through a ... social-psychological route":

Individuals anchor expectations in the status quo. The use of 'salami-slicing tactics,' or piecemeal attacks, can normalize abuses, disorient oppositions, and encourage acquiescence. Autocrats are masters of ambiguity and obfuscation, if not outright disinformation. As a result, ... the wider public may not recognize that the playing field has been decisively tilted until it is too late to mount a meaningful defense. (Haggard and Kaufman 2021, 38)

If *episodic despair* disposes democratically minded citizens to scrutinize more closely what those in power actually are doing, as I suggested above, arguably it can go some way in guarding against disorientation thus understood. True, because of the incremental nature of democratic regressions, a number of citizens may not even realize that democracy is under attack, and thus will not experience despair altogether. But disorientation is a matter of degree: it ranges from being completely oblivious to a government's regressive actions to overlooking, or misinterpreting the relevance of, some of those actions. And while it seems clear that *episodic despair* can only be experienced by those who already think that democracy is

¹⁰ The desire to "wrench open the existing political horizon" also seems to animate those activists who are currently calling for "embracing despair," such as the environmental activist group Extinction Rebellion, many of whose members stress "the necessity of facing this emotion and channeling it into action" (Westwell and Bunting 2020, 547). In this way, Extinction Rebellion's activists avowedly seek to challenge wishful thinking and complacency regarding the planetary threat from climate change.

at risk, if it leads the latter take a second look at what their government actually is doing and voice protest, those who remain oblivious to their government's intentions may be 'shaken up' as well.

The second disposition that may prevent pro-democratic citizens from forming effective resistance to undemocratic governments requires more discussion. What I call *democratic purism* is the honorable but potentially self-defeating disposition to believe that democracy-eroding governments must, always and as a matter of general principle, be fought with democratic means. Many pro-democratic citizens will be inclined to think this way, retaining a deep commitment to the notion that *only* democratic paths to change are justified, even when it is highly uncertain that they will bear fruit.¹¹ Remember that this is also what fuels their transition-anger and makes them direct their efforts and energies toward social and institutional betterment, not retaliation. Admirable though this mindset is, it can easily lead to a more fundamental loss of a sense of agency. For if one firmly believes that *only* democratic methods of removing a government are legitimate, but this path to regime change is foreclosed, then one is bound to see no future for one's oppositional project. A wholesale loss of hope and strong feelings of disempowerment are bound to ensue, and from there it is only a short step to either complete resignation or raw retaliatory anger, none of which is conducive to effective resistance.

To the extent that the 'episodic' kind of despair I have discussed above can lead agents to take a closer look at the relevant evidence, I suggest, it will be able to counteract this problematic sense of agency loss. The reason is simple. Once citizens with a principled commitment to democratic norms and procedures start taking a sober look at the changed nature of the regime they live under, they will quickly realize that dogmatically holding onto their democratic commitments is self-defeating. Put baldly, they will come to understand that if they stick to the view that the present, undemocratic government *must* at all costs be removed in a democratic fashion, they could end up living under an undemocratic government for the rest of their lives. A more promising way forward, then, is to loosen one's hold on to particular democratic principles, and look for alternative paths to removing the government. (This is exactly the kind of thought process Gould describes in her study of ACT UP-activists.)

¹¹ Few have given better expression to the mindset of democratic purism than Hans Kelsen (2006, 237), who, in 1932, as Europe was descending into authoritarianism and totalitarianism, argued that "[o]ne has to remain faithful to one's flag, even when the ship is sinking; and in the abyss one can only carry the hope that the ideal of freedom is indestructible, and the more deeply it sinks the more it will one day return to life with greater passion."

This insight is important. There is really no good reason to commit to democratic purism under conditions of democratic erosion. Consider Kirshner's argument about the role of a committed democratic proceduralist in an undemocratic regime. If a proceduralist living in such a regime "cannot participate in the establishment of a democracy" Kirshner (2010, 416) argues, "then perhaps proceduralism is self-defeating. It is true that proceduralism cannot shroud inaugural acts of imposition in legitimacy. Yet this feature of proceduralism should not keep proceduralists from founding a democracy." The arguments Kirshner adduces in support of this claim apply also to the problem of democratic purism in regressive regimes. First, for any committed democrat, the value of acting *against* certain democratic principles in order to re-democratize an undemocratic regime will be much higher than the value of not violating those principles. For if one believes that democratic institutions and procedures are a distinctly valuable end, as committed democrats do, achieving this end must be more important than slavishly obeying democratic norms. This is especially so, second, in a context where non-democratic strategies of change (or a combination of non-democratic and democratic strategies) have become the most or only viable path to democracy. In such circumstances, no pro-democratic citizen can reasonably be expected to pursue strictly democratic strategies of regime change in the first place.¹²

Note that all of this is compatible with Nussbaumian transition-anger. After all, Nussbaum (2016, ch. 7 and esp. 212) is careful not to confuse improvement-focused, non-retaliatory anger with an unqualified commitment to principled views that risk being self-defeating when faced with regressive governments—her example is non-violence. Of course, in practice pro-democratic resisters may well think that their anger *ought not* translate into transgressions of democratic norms. In other words, they might indeed confuse the need to channel their anger into constructive efforts at improving political institutions with a strict moral requirement to do so only by democratic means. This, again, is where episodic despair can serve as an epistemic corrective, sensitizing resisters to the risks inherent in democratic purism.

Thus, if, as I have suggested, *episodic despair* can make pro-democratic citizens engage in more sustained reflection on the political circumstances they find themselves in, then it seems that this form of despair is distinctly valuable regarding resistance to democratic regressions. Arguably the most important function *episodic despair* performs is that it chips away at potentially deeply-held but ultimately unproductive assumptions about the moral necessity of combatting democracy-undermining governments with democratic means. Once pro-democratic resisters' commitment to democratic purism is loosened, they are

¹² I am of course aware that it may be contested what exactly counts as a democratic strategy of resistance. I am here merely referring to how resisters themselves think about it.

confronted with new ethical challenges that principled democrats will struggle to tackle head-on: if transgressions of democratic norms can be permissible, what *kinds* of norm-transgressions are permissible? In the next section, I want to make some provisional suggestions about how pro-democratic citizens might want to think about this question, without pre-empting their own situated judgments.

4 Democracy-Restoring Reciprocity

Pro-democratic resisters are, obviously, true democrats. Thus, when episodes of despair make them question whether their democratic values *really* oblige them to stick to democratic methods, they will feel a certain discomfort. How democrats should deal with non-democrats within their own political system is a difficult question that citizens and theorists alike are divided over. Things get even more complicated in a regressing polity that still carries the aura of a democracy, albeit an increasingly deficient one. Elections are still being held and opposition parties are not banned, yet the opposition's room for action is being curtailed—are these circumstances in which resisters may rightfully violate democratic norms? If so, what principles might guide their actions?

Let me be clear at the outset that there are no easy answers to those questions. In each concrete case, the only agents that can adequately evaluate and decide what is permissible in terms of norm-transgressions are the main protagonists of this article: pro-democratic citizens who live under a particular regressive government. But it is still possible to identify a general normative principle that can guide pro-democratic resisters' ethical reflections and deliberations. This is the principle of *democracy-restoring reciprocity*. It states that democratic resisters are permitted to violate democratic norms in rough proportion to the regressive government's norm-violations, *if and only if* this promises to be conducive to restoring democracy. To act in conformity with this principle, potential resisters must be aware of the different kinds of actions that undemocratic governmental actors have performed between t_1 and t_2 (or are performing as t_2 is approaching) in order to transform the political system in their image.¹³ They must have a clear sense of how their government has violated democratic norms, so that they are under no illusions as to what kind regime they are faced with, and can work out appropriate strategies of resistance that equally include (measured and targeted) norm-violations.¹⁴

¹³ Here, *episodic despair* can again prove helpful if it disposes pro-democratic citizens to subject the government's actions to close scrutiny.

¹⁴ These may directly mimic the *law-forging*, *law-breaking*, and *law-bending* moves of non-democratic governments, see Pirro and Stanley (2022).

Generally speaking, reciprocity, as a “core principle of democracy in its many moral variations” (Gutmann and Thompson 2004, 98), “is a self-limiting norm. It is not an escalating disposition, but an equilibrating one. It aims at balancing social relations, not at stretching charity or heightening hostility. Janus-faced, it encourages cooperation and permits conflict, while limiting both. It demands bounded (‘appropriate’) responses to kindness, as well as to nastiness” (Schedler 2021, 254). As scholars of comparative politics have argued, reciprocity thus understood plays a key role not only in the *stabilization* of democratic regimes, but also in *democratic breakdown*. Reciprocal political self-restraint and respect for democratic norms typically sustain democracy, while “an escalating tit-for-tat” (Levitsky and Ziblatt 2018, 75) of democratic norm violations often leads democracies to disintegrate—recall the aforementioned finding that ‘toxic’ or ‘pernicious’ levels of polarization are prone to generate a spiral of rhetorical escalation that typically benefits non-democratic leaders (e.g., Boese et al. 2022, 31–5; McCoy and Somer 2019; Somer, McCoy, and Luke 2021; Vegetti 2019).

Reacting to these observations, Schedler (2021, 259) usefully suggests a principle of ‘democracy-preserving reciprocity’ that demands limiting acts of retaliation and norm-transgressing self-defense in the name of democratic protection. “Blending normative sensibility with strategic intelligence,” the principle obliges political actors to “heed the norms of reciprocity in ways that safeguard the entire system of reciprocity.” Schedler (2021, 261) further notes that “[i]n contexts of democratic subversion, ... the asymmetric balancing of justice, self-protection, and democratic defense opens the door to exceptional breaches of basic rules. It gives democratic actors license to resort to measured normative transgressions in the name of democratic resistance.” What he has in mind, in particular, are “strategies that strive to *contain democratic norm transgressions* through *limited transgressions of democratic norms*” (Schedler 2021, 264, emphasis added).¹⁵ (Note that this implies renouncing what I called democratic purism.)

¹⁵ There are numerous overlaps between the theoretical literature on civil disobedience and the approach that I am defending in this article (also see Schedler 2021, 269–70). The kinds of actions that scholars of civil disobedience usually analyze (e.g., strikes or mass protests that disrupt the operation of government) will undoubtedly also be part of the repertoire of pro-democratic resisters in regressive regimes. One crucial difference is that pro-democratic resisters in regressive regimes are not subject to the kinds of normative constraints that conventional liberal theories of civil disobedience take to apply to disobedient citizens (see, canonically, Rawls 1971, esp. 366). Pro-democratic resisters in regressive regimes may indeed adopt more radical strategies of resistance as favored by non-liberal theories of civil disobedience (e.g., Celikates 2016) or advocates of ‘uncivil’ disobedience (e.g., Delmas 2018). However, the operative normative constraints are derived not from those theories but from the above-discussed principle of democracy-restoring reciprocity.

Where exactly does one draw the line between strategies of resistance that transgress democratic norms and strategies that do not transgress such norms? Without pretending away the difficulty of adjudicating whether some cases fall into the former or the latter category, Schedler (2021, 257) offers a relatively non-controversial list of widely-accepted “basic democratic norms, such as the non-violent resolution of conflict, the protection of civil liberties, the acceptance of elections, the respect of legal and constitutional constraints,” as well as the duty to publicly justify political proposals and decisions. Forms of resistance that make use of violence, infringe on civil liberties, involve the non-acceptance of elections or disrespect for legal and constitutional constraints, etc. may accordingly be classed as norm-transgressing. This is, of course, to say nothing about their permissibility.

Schedler’s approach is persuasive. Yet it is designed for societies with at least some functional democratic institutions left that could potentially be preserved. Indeed, the strategies of self-limiting ‘transgressive resistance’ that Schedler discusses are primarily geared toward *preventing things from getting worse*. They are meant to prevent existing democratic mechanisms from being *further dismantled*, residual trust between political adversaries from being *completely eroded*, and so forth (Schedler 2021, 266–70). Now, *if* pro-democratic resisters in a regressing regime judge that their polity’s central democratic institutions (e.g., parliament, elections, party competition) are indeed still relatively well-functioning and ‘merely’ under threat, then they may plausibly turn to Schedler’s principle of *democracy-preserving reciprocity* for guidance. Often, however, democratic institutions in regressing regimes are far from functional. They are not just being rhetorically delegitimated or slightly legally ‘modified’ to serve the interests of the ruling party, but mostly exist in name only.

Indeed, in many regressing regimes, it is at least an open question whether things could really get much worse. Of course, those regimes could descend into violent and openly repressive authoritarianism—but the risk of this happening, which will anyways be small given that regressing regimes typically want to ‘look’ like real democracies, hardly obliges oppositional actors to engage in self-limiting forms of resistance that might end up leaving intact a political system whose democratic institutions are crippled. Under these conditions, more assertive responses are arguably warranted, and here we need different guiding principles. Being designed for democracies that are under attack but not for regimes that have become something other than a democracy, Schedler’s principle of *democracy-preserving reciprocity* will be of little help. *Democracy-restoring reciprocity*, on the other hand, seems well-suited for the job, for it is predicated on the notion that democratic institutions are broken or absent. More on this shortly.

A more technical way of putting the point is to say that, as long as core democratic institutions are functional, multiparty elections in regressing regimes are

“conflictive two-level game[s] in which the competitive struggle for votes *within* given rules takes place alongside a competitive struggle *over* the rules of the game” (Schedler 2013, 112). When core democratic institutions are no longer functional, however, say because the electoral system is rigged in favor of the government, the competitive struggle for votes *within* existing rules is nearly or completely meaningless. It then no longer makes sense to speak of a ‘two-level game’: the only relevant level of conflict becomes the competitive struggle *over* the rules of the game, which mostly takes place *outside* the realm of rules and procedures. Less de-escalating and self-limiting modes of resistance naturally gain relevance in such circumstances. Violations of democratic norms appear warranted, if not unavoidable, if actions are to have any real effect.

Consider the case of Hungary, a paradigmatic regressing regime. It is still possible to contest elections in Hungary, but it is far from certain that elections could actually make a difference in terms of who gets to govern. Ever since Hungary democratized in the aftermath of 1989, it has had a highly disproportional election law that heavily favors the strongest party. In the 2010 election, this election law effectively handed unconstrained power to Viktor Orbán and his *Fidesz*-party. *Fidesz* received 53 percent of the popular vote, but this translated into 68 percent of the seats in parliament, allowing the party to amend the constitution and introduce further changes to the electoral system that would minimize the risk of losing future elections. Among the first things the Orbán government did was redistrict the entire country, gerrymandering constituencies “in its own favor” (Scheppele 2022, 53). In addition, *Fidesz* eliminated the second-round runoff vote that previously decided individual constituencies, so that a candidate winning far fewer than half the votes could prevail. As one observer notes, in a summary worth quoting at length, this meant

that the real opposition parties had little chance of winning unless they joined together before the election to put up one candidate against *Fidesz*. But other features of Orbán’s new election system made it hard for opposition parties to unite. Under a 2013 election law, all parties offering a national party list were required to run candidates in at least 27 individual constituencies in at least nine of the nineteen counties and in Budapest. With 106 of the new seats in parliament decided through individual constituencies and 93 decided through party lists, the smaller parties of the center and left had to compete with one another in the individual constituencies if they wanted to maintain separate party lists. Orbán’s plurality candidates were assured of winning in such a system. The only way that the opposition could beat the system was to join forces. But doing so meant taking another risk. Under the new law, combined parties faced higher hurdles to enter parliament. A single party running alone needed 5 percent of the national vote to win party-list seats. Two parties needed 10 percent under the new law, and three or more parties had to meet a 15 percent threshold. (Scheppele 2022, 53–4)

Furthermore, Orbán and his party introduced a mechanism of ‘winner compensation,’ which gifts the party lists of winning constituency candidates the surplus votes that the candidates received in their constituency but did not mathematically need to win (Hungary has a mixed electoral system). This handed Orbán two-thirds supermajorities in three elections. “It brought him six additional parliamentary seats in 2014, five in 2018, and six again in 2022. Given that Fidesz received precisely enough seats for a two-thirds majority in 2014 and 2018, but in 2022 won a three-seat buffer beyond that, the winner-compensation seats alone catapulted Fidesz from a simple majority to a constitutional majority in each election” (Scheppele 2022, 57).¹⁶

If we add to this the Orbán government’s extensive use of so-called ‘cardinal laws’—that is, laws that regulate in detail the most important statal and societal matters and require a two thirds-majority for adoption and amendment—we may conclude, with Möllers and Schneider (2018, 129–25), that in the highly unlikely case that a non-*Fidesz* government would win an election, unless it won a two-thirds supermajority it would not be able govern in a meaningful fashion. Policy-wise, it could hardly make any significant changes. And this is to say nothing about the fact that *Fidesz* exercises far-reaching control over the media, such that opposition parties and candidates have a difficult time getting their message out. As three leading Hungarian political scientists put it: “The little independent media that [remain are] largely restricted to online news with an inherently limited capacity to compete with the government-dominated traditional media outlets among demographic groups beyond the urban, educated, and internet-savvy middle classes.” (Bojar, Gáspár, and Róna 2022)

In this context, it is highly unlikely that self-limiting and de-escalating strategies of resistance—such as public protests against election results or electoral and legislative boycotts (Schedler 2021, 267)—would be conducive to restoring democracy. In fact, some of these strategies have been tried in Hungary since 2010, but none of them brought the erosion of democracy to a halt. Nor did they lead the government to create a more level playing field by changing the electoral system. The opposite was the case: the system became increasingly more rigged against the opposition. However much one would prefer a democratic path to stopping existing regressive developments and re-democratizing the state, it is hard to think here of a convincing rationale for choosing de-escalating modes of resistance. Too great

¹⁶ Note also that Fidesz routinely resorts to variegated democratically questionable clientelist strategies in order to make more people vote for them, such as *Fidesz*-mayors threatening public sector employees to terminate their contracts if they do not vote for *Fidesz* (Mares and Young 2019).

appears the risk that they end up preserving, rather than repairing, a set of deeply dysfunctional institutions.

What alternative resistance strategies are available? Again, it seems to me that concrete strategies must always be worked out by oppositional actors themselves. Outside observers (like the author of the present article) simply lack the ‘local knowledge’ that is needed to ascertain which acts of resistance might be workable and effective (e.g., what sanctions the regime might impose on resisters in response, who potential allies within the regime could be, etc.). Nonetheless, the principle of democracy-restoring reciprocity that I suggested can offer some more general guidance regarding appropriate tactics. To recall, this principle says that pro-democratic citizens that live under a government that engages in systematic attacks on democracy and the rule of law are permitted to transgress democratic norms in rough proportion to the norm-transgressions committed by their government, yet only to the extent that those acts of retaliation promise to advance the goal of re-democratization. If this principle is endorsed, at least three things seem to follow.

First and foremost, the baseline aim of restoring democracy *sets the threshold for permitted norm-transgressions much lower than democracy-preserving conceptions of reciprocity do*. That is to say that norm-transgressing acts of resistance that would not be permitted in systems where democratic institutions are still relatively functional (and where we can still speak of a two-level game as described above) are now *pro tanto* permitted. In more radical cases, this could mean engaging in mutual election fraud, or in militant forms of (un)civil disobedience aimed at preventing government-driven election fraud, say the coordinated destruction of ballot boxes.¹⁷ The pitfalls of such strategies are not difficult to identify, however: they might, in the view of many citizens and outside observers, undermine the democratic credentials of the opposition, and the results are difficult to predict. As Scheurman (2022, 9) notes, moreover, regressive governments may resort to a variety of coercive methods that minimize the chances of success:

In many cases, a compliant mass media will eagerly discredit activists as ‘foreign-funded’ and/or ‘terrorists,’ with government officials and their allies cleverly manipulating social media sites to frame the contests so as to ridicule and stigmatize them. Powerful officials will spout crazy conspiracy theories that discredit protestors. They also work behind the scenes with allies to coordinate seemingly spontaneous counter- protests that get favorable media coverage.

17 On the links between democracy-restoring reciprocity and civil disobedience, see above fn. 15.

On the other hand, if the alternative is accepting procedural rules that are designed to further consolidate the rule of a non-democratic government, then that de-escalating alternative might sometimes be the greater evil.

Second, one important self-limiting consideration is the *importance of avoiding violent rejoinders by the regime*. If there is a high risk that the system descends into violently repressive authoritarianism in response to norm-transgressions by oppositional actors, as it will be in some regressive regimes, then resistance strategies are to be recalibrated and ‘softened.’ Though democracy-restoring reciprocity admits assertive and provocative maneuvers, pro-democratic resisters must refrain from taking actions that seem likely to lead to violent crackdowns, mass incarceration, and so forth. Not only would the human cost be way too high. A violently repressive government response would also put the ambitious goal of re-democratization further out of reach: this, it seems, is precisely what recently happened in Hong Kong, where pro-democratic protesters used highly confrontational maneuvers like throwing Molotov cocktails and rocks at the police (see Delmas 2020), which offered an opening for the Chinese leadership and its local allies to “accelerate an authoritarian clampdown” (Scheuerman 2022, 18). Thus, oppositional forces must prudently weigh probabilities before resorting to transgressive activities aimed at disrupting the regime. This is no easy task, since they act under conditions of great uncertainty. Governments with no or very limited accountability are notoriously unpredictable, and even if there is no impending violent threat, caution is always warranted.

Third, another self-limiting demand of democracy-restoring reciprocity is that *retaliation for retaliation’s sake is not permitted*. In political systems where governments attack democracy, there is a certain risk that oppositional actors, even pro-democratic ones, reciprocate norm-transgressions merely in order to inflict harm on the government. That risk exists primarily because, as we saw in the previous section, citizens living under undemocratic governments will experience considerable *anger*. Of course, the outrage of democratically-minded citizens is likely to be improvement-focused and non-retaliatory, in line with Nussbaumian transition-anger—but there remains a possibility that a raw, unconstrained sort of anger that is typically the product of fundamental *despair* tempts even pro-democratic citizens to retaliate against the government with the only aim of making its representatives suffer. Acts as radical as blowing up the cars of government officials or abducting their children are imaginable in this connection, and pro-democratic resisters would do well to avoid these sorts of strategies altogether, unless they hold unusual promise regarding the re-democratization of the regime. This will rarely, if ever, be the case.

5 Conclusions

The Czech poet, dissident and later president Havel (2018, 86) famously thought of resistance to the communist regime he lived under as ‘living within the truth,’ and suggested that the latter

in its most original and broadest sense ... covers a vast territory whose outer limits are vague and difficult to map, a territory full of modest expressions of human volition, the vast majority of which will remain anonymous and whose political impact will probably never be felt or described any more concretely than simply as a part of a social climate or mood. Most of these expressions remain elementary revolts against manipulation: you simply straighten your backbone and live in greater dignity as an individual. Here and there—thanks to the nature, the assumptions and professions of some people, but also thanks to a number of accidental circumstances such as the specific nature of the local milieu, friends, and so on—a more coherent and visible initiative may emerge from this wide and anonymous hinterland, an initiative that transcends ‘merely’ individual revolt and is transformed into more conscious, structured and purposeful work.

Though the regime Havel experienced was much more repressive than most of today’s ‘backsliding’ democracies, his reflections about the nature of resistance still hold true. Resistance to democratic regressions can assume a broad variety of different forms and occur in innumerable different places, and its success invariably depends on accidental circumstances that are difficult for anyone to foresee.

These observations provide ample reason to refrain from proposing more specific strategies that democratically-minded citizens could pursue to halt on-going erosions of democracy and repair damaged democratic institutions. In the end, concrete strategic choices must always be made by flesh-and-blood citizens that possess local, situated knowledge about their regressing regime. Theorists cannot simply write a ‘script’ for successful resistance to democratic regressions. What theorists *can* do is approach the topic at a higher level of abstraction and try to identify general guiding principles that may help resisters to distinguish between justified and unjustified strategic options. There is likewise much to be said, from the point of view of theory, about the psychological and affective dimension of resistance, for emotional reactions like anger and despair—rather than reasoned deliberation—are likely to be the driving force behind much opposition to regressive regimes. The present article has attempted to illuminate these complex issues and their many inter-connections. Yet it is merely a first step toward a better theoretical account of possible *democratic* responses to democratic regressions.

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