

Public participation in an illiberal democracy

What place is left for critical citizens to influence policy making in an illiberal democracy? And how are the authorities likely to respond to such calls for public participation? This essay explores three scenarios: (1) critical citizens can be suppressed and persecuted by the government; (2) they can be encouraged to use whatever is left of existing democratic institutions to influence public policy; or (3) they can be invited by the government to participate directly in public policymaking through such instruments as referenda or public consultations. Leaders in illiberal democracies know this, and will use it to their advantage.

Introduction ¹

When democracies become more illiberal, civil liberties decline and the space for civil society shrinks. What possibilities are left for critical citizens to influence policymaking in an illiberal democracy? This essay examines ways in which the authorities of an illiberal democracy are likely to react to calls from the public to participate in policymaking, and what such citizens can do in response.

¹ This article builds on Otto Spijkers, 'The world's citizens get involved in global policymaking – global resistance, global public participation, and global democracy', in *Inter Genes: McGill Journal of International Law & Legal Pluralism*, 1 (1), pp. 18-29; and Otto Spijkers and Arron Honniball, 'Developing Global Public Participation (1) – Global Public Participation at The United Nations', in *International Community Law Review*, 17 (3), pp. 222-250.

There are essentially three ways for a government to respond, and these will be addressed in turn. First, the government can suppress critical citizens, even label them as enemies of the state, and imprison them or worse. This scenario is analysed briefly in the next section.

The second option for the government is to refer critical citizens to existing democratic institutions as the means to influence public policy, *i.e.* to remind them that they live in a democracy, and that they may establish their own political party, get themselves elected, and become involved in politics in this traditional way.

The third and final option is to welcome the direct participation of active citizens in public policymaking, and look at ways to involve them directly in public policymaking by organizing referenda, public consultations, etc. If means of participation are chosen which are not too intrusive, the government of an illiberal democracy might appear to allow critical citizens to take part in policymaking, without in practice allowing them any meaningful influence over public policymaking.

Of course, the three options can be employed simultaneously, in response to calls for participation of different groups of citizens. Some citizens might have lost all confidence in their government, and seek to overthrow it via public participation. Other citizens might wish to participate only to provide some constructive criticism to the government, in an attempt to improve its policy.

This contribution only deals with illiberal democracies, and thus we first need to properly introduce this term. Michael Walzer once suggested to “never define your terms”, because it can only get you in trouble (Becker 2008). At the same time, some basic descriptions of illiberal democracy and related terms might be helpful.

Illiberal democracies have been described as “democratically elected regimes, often ones that have been re-elected or reaffirmed through referenda [which] are routinely ignoring constitutional limits on their power and depriving their citizens of basic rights and freedoms” (Zakaria 1997: 22).² An illiberal democracy is still a democracy. Elections, which are more or less fair and uncorrupted, do take place in an illiberal democracy, and the elected government does represent the interests of the majority of the population (Zakaria 1997: 22). This makes such a regime democratic, as opposed to authoritarian.³ Illiberal democracies are not liberal, *i.e.* there is no protection of individual freedoms,⁴ or minority rights,⁵ and no system of checks and balances between the government, parliament and courts (Zakaria 1997: 26).

An illiberal democracy thus contains features of a dictatorship, despite the elections, and is often on its way to becoming one.⁶

First option: suppress different forms of non-violent resistance

If a government does not allow any direct participation of critical citizens in public policymaking, and instead tries to silence them through oppression, then all they can do is resist the government from the sidelines. An act of resistance is an act of defiance or opposition to established power structures. Acts of resistance challenge the political system from the outside; such acts are in no way part of the system (Lahey).

Such resistance can involve violence: citizens can take up arms and literally fight the government. Violent resistance can be suppressed by violence, employed either by the police or military. It can even take the shape of a civil war. Such methods to curtail popular unrest are used less and less frequently, although it must be admitted that there still are examples – think of the current President of the Philippines, Rodrigo Duterte. Most modern-day dictators seldom employ them. As Dobson noted in 2012, “today’s dictators understand that in a globalized world the more brutal forms of intimidation – mass arrests, firing squads, and violent crackdowns – are best replaced with more subtle forms of coercion” (Dobson 2012: 5). Brutal oppression might be recorded and put on YouTube, which could lead to global condemnation of a regime. For these reasons, a more sophisticated approach has come into vogue.

2 For a critique, see Jørgen Møller, ‘A Critical Note on “The Rise of Illiberal Democracy”’, in the *Australian Journal of Political Science*, Vol. 43, No. 3, September 2008, pp. 555–561.

3 Juan J. Linz, ‘Authoritarianism’ entry, in Joel Krieger (editor), *The Oxford Companion to Politics of the World* (2 ed.), Oxford University Press, 2001: or: ‘Authoritarianism’ entry, in the *Philip’s World Encyclopedia*, Oxford Reference Online, 2004.

4 ‘Liberalism’ entry, in Joel Krieger (editor), *The Oxford Companion to Politics of the World*. See also Andrew Reeve ‘Liberalism’ entry, in Iain McLean and Alistair McMillan, *The Concise Oxford Dictionary of Politics*.

5 ‘Democracy’ entry, in Iain McLean and Alistair McMillan, *The Concise Oxford Dictionary of Politics* (3 ed.), Oxford University Press, 2009. See also ‘Democracy’ entry, in Joel Krieger (editor), *The Oxford Companion to Politics of the World*.

6 Lincoln Allison, ‘Dictatorship’ entry, in Iain McLean and Alistair McMillan, *The Concise Oxford Dictionary of Politics*. See also the ‘Dictatorship’ entry, in Craig Calhoun (editor), *Dictionary of the Social Sciences*, Oxford University Press, 2002. Many people see Turkey or Hungary as prime examples of an illiberal democracy. See e.g., Ali Hakan Altınay, ‘Will Erdogan’s Victory Mark the Rise of Illiberal Democracy?’, in the *New Perspectives Quarterly*, Volume 31, Issue 4, October 2014, pp. 36–39; and William A. Galston, ‘The Growing Threat of “Illiberal Democracy”’, in the *Wall Street Journal* of 3 January 2017.

There exist many forms of non-violent resistance, of which public protesting – which can take different forms such as marches, gatherings, occupations and hunger strikes – is perhaps the best-known (Sharp 2011).

Protesting is not the only type of non-violent resistance. Hacking of governmental computers is another, more modern type, which has become quite popular in recent times (Ortiz, Burke, Berrada & Cortés 2013: 32).⁷ Another type of non-violent resistance is to go on strike. Strikes can be employed as a means of non-violent resistance by civil servants, but also by employees of corporations. In the latter case, the strike affects the corporation most directly, but is aimed at – and does indirectly affect – the government.

How do the authorities of an illiberal democracy normally respond to such forms of non-violent resistance? Here, the difference between illiberal and liberal democracies clearly manifests itself. In liberal democracies, non-violent resistance is considered, in a way, part of politics. It is an additional check on government. For this reason, liberal democracies recognize, in their legal system, the right to strike. Some also recognize the so-called necessity defence. When the non-violent resistance is done in a proportionate way, and when it is the only means available to protect the citizens from a greater harm, then the act of non-violent resistance can be justified, and will not be punished. Is there an obligation for all states, including illiberal democracies, to recognize such a defence in their legal system? It has been argued that the right to resist can be based on international law, binding on all states, but that is still disputed (Boyle 1987; Lippman 1990: 349).

One way in which an illiberal democracy might respond to non-violent acts of resistance, is by labelling them

⁷ For some recent examples, see Julie Hirschfeld Davis, 'Hacking of Government Computers Exposed 21.5 Million People', in *The New York Times* of 9 July 2015; Aaron Short, 'Hack infects Russian government computers', in *New York Post* of 30 July 2016.

as criminal offenses, and by prosecuting and punishing them. Protests are often carefully planned and prepared by a relatively small group of activists, even when to the outside world they appear as spontaneous public outbursts (Dobson 2012: 229-23). One thus sees that the authorities in an illiberal democracy do their best to quickly identify and arrest these individual masterminds, for example by labelling them as terrorists or a threat to public order. Alternatively, sometimes the authorities persuade them to work constructively with the government ("if you cannot beat them, ask them to join you") (Carothers & Youngs 2015: 15).

Second option: encourage the public to use existing democratic institutions

When Fareed Zakaria was asked what critical citizens should do in an illiberal democracy, his reply was simple: they should establish a political party (Zakaria 2002: 45). In his view, "you cannot achieve sustained reform without political parties"; they are the ideal way to "transform mob rule into institutionalized democratic rule" (Zakaria 1997: 45). In short, his advice was as follows:

"For liberal elements within these countries [*i.e.* within illiberal democracies], it is not enough to be members of university groupings and civil society. You have to come together as a political party." (Zakaria 1997: 46).

Zakaria thus encouraged critical citizens to make use of the democratic means available in an illiberal democracy. The problem with this approach, and Zakaria was very aware of this, is that this strategy is often doomed to fail, especially in democracies where the political parties represent particular religious or ethnic groups, instead of different ideologies, or views on how the state should be governed. If the critical citizens belong to a religious or ethnic minority, they will never be able to get enough votes to influence public policy. On the other hand, depending on the rules of procedure the majority imposes on political minorities, if a political party gets even a handful of votes, it will still have a place in parliament,

and it will have the opportunity to add something to the agenda, propose new legislation, oppose acts proposed by government, and so on.

If the political opposition is marginal, then a political party cannot counterbalance the power of majority rule in an illiberal democracy. The government might allow the minority to campaign, get elected, and speak in parliament, but the overwhelming majority of the ruling party will still be able to dominate, overpower, ridicule, intimidate and isolate the opposition. And if voting is organized along ethnic or religious lines, then the political party of the opposition is in any case unlikely to constitute a serious threat to the majority rule, regardless of the strength of its arguments.

The authorities in an illiberal democracy normally control the media, and this makes effective and meaningful opposition very difficult. It is common knowledge that most people do not watch live coverage of the parliamentary debates – if available – but instead rely on coverage of these debates in the media. In an instructive blogpost on “How to build an illiberal democracy”, Eszter Zalan emphasized the importance of controlling the media. The authorities of an illiberal democracy normally take firm control of the state media, and put as many constraints and obstacles on private media as they can. In this way, the state media are simply turned into a “propaganda machine” (Zalan 2016b), and the private media are intimidated, discredited and ignored, in pretty much the same way as the political opposition itself.

In response, the political opposition can seek the support of the outside world. They can give speeches abroad and mobilize support for their cause. The media is a helpful tool to do so. International media can also be used by the political opposition to influence its own population. Think, for example, of the way in which Chinese artist Ai Weiwei used Twitter to speak also to his Chinese followers.⁸

⁸ When China realized his success, they closed his account. See BBC, “China artist Ai Weiwei “banned from using Twitter”, 24 June 2011.

Third option: seemingly embracing public participation

Direct public participation can be described as the process through which people with an interest in policymaking are provided an opportunity to get involved in some way (Spijkers & Honniball 2015: 223). In liberal democracies, direct public participation is generally seen as inherently valuable: you cannot decide on people’s fate without first providing them an opportunity to get heard. And thus, you allow them to participate directly in the policymaking process. This obligation can be derived from the importance of respect for individual autonomy and dignity.

In an illiberal democracy, respect for individual autonomy is not considered important, and thus there is no inherent value in direct public participation. Having said this, there might be instrumental reasons for the authorities of an illiberal democracy to allow a limited degree of public participation. For one, allowing critical citizens to participate directly can numb them, mollify them, or lull them to sleep. In other words, involving critical citizens in policymaking, under conditions that are controlled by the government, might prevent them from protesting, marching, going on strike, rioting, looting, or taking up arms and igniting a civil war.

It can also improve the image of the government vis-à-vis the outside world, and thereby prevent the state from being subjected to economic sanctions. But the importance of having a good reputation in international affairs should not be overstated. Indeed, not all governments of illiberal democracies are equally interested in having a good reputation abroad. Some such governments might consider “the mere threat of foreign intervention [as] a useful foil for stirring up nationalist passions and encouraging people to rally around the regime” (Dobson 2012: 9). And states do not intervene simply because an illiberal democracy establishes itself. Intervening states must have other interests as well. As Dobson noted, “interest in democratic change – even a change that might remove a reviled strongman [is often]

balanced by competing interests or fears of the unknown” (Dobson 2012: 8).⁹

Direct public participation can be organized in such a way that it makes those participating in it, even when they are in some way tricked into it, feel responsible for the policy that is made (Burton 2009: 267). The policymakers might also become more popular with the public at large, when they are seen to allow ordinary citizens to participate in their work. This is especially true for those citizens that did not make use of the opportunity to participate, and thus have no idea that it is in reality only a mockery, a parody of public participation, a charade.

In my earlier research, I have distinguished four types of public participation that the policymaker can choose from (Spijkers & Honniball 2015). Participants can simply be offered a policy, which they can then approve or disapprove, for example via a referendum. I labelled this the “rubber stamp” type of public participation. If the authorities carefully select the participants invited to vote in such a referendum, they can relatively easily control the outcome of it. The most effective way to retain control over any type of direct public participation, so it seems, is to carefully select the participants.

Participants can also be invited to define the problem to the policymaker through panels or online surveys, so that the latter can more effectively look for the solution.

Participants can also be used as consultants, because of particular expertise they have. This I called the “advisory” type of direct public participation. The policymaker can then ask these participants for specific technical expertise. If the questions are very technical, delineated and specific, there is very little leeway for the participant to use this type of participation to get politically involved.

Participants can also be allowed to take the initiative and take the lead in the making of policy. This is the “co-produce” type of participation. This type of direct public participation leaves much discretion to the participants, and is not very attractive for a government – like a government of an illiberal democracy – whose goal is to retain control over policymaking.

If critical citizens are provided, by the authorities of an illiberal democracy, with opportunities to participate directly in the making of public policy, they should make use of the opportunity. When doing so, however, they should always look critically at their role. Are they simply being used to improve the image and legitimacy of the authorities, or can they exert meaningful influence? In the latter case this means that they can make a difference, even if the influence is marginal. It is still better than no influence at all.

Conclusion

In this contribution, I have identified three different ways in which critical citizens might try to challenge the politics in an illiberal democracy. They can engage in violent or non-violent resistance; they may try to establish their own political party; or they might demand some institutionalized form of direct public participation. For each of these scenarios, I have described ways in which the government of an illiberal democracy is likely to react to such calls for political participation, in an attempt to curtail or co-opt them. Acts of resistance can be suppressed, by violence or otherwise. The establishment of a political party poses little threat if it can be kept under control. Oftentimes, the authorities of an illiberal democracy have the support of a majority of the population, and then an opposition party with minority support can be tolerated as it is always outvoted. And one often sees that requests for direct public participation are granted by the authorities of an illiberal democracy in such a way that they amount to little more than a façade (window dressing), instead of meaningful political influence. This raises the question as to what critical citizens, NGOs and other agencies can do to outsmart this

⁹ Dobson was referring to the United States here, but this applies more generally.

type of manipulation? If illiberal democracies become smarter and subtler, what could then be the response of critical citizens? Above, I have looked at different ways in which critical citizens can act against such manipulation by illiberal regimes. Briefly, the answer is that they must seek support beyond the state's borders. Political opposition, no matter how marginal, can be very influential if it has the popular backing of the outside world. And some of the means the illiberal democracy uses to control its population – think of the media – can also be used by critical citizens to influence world public opinion, and, ultimately, local public opinion as well.