
**GOVERNING BEYOND IMAGINATION: THE “WORLD
HISTORICAL” SOURCES OF DEMOCRATIC
DYSFUNCTION**

NANCY L. ROSENBLUM*

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INTRODUCTION

The political maelstrom is the habitat of political scientists, constitutional and election law scholars, and professional pundits. Assessing the pathologies that afflict democratic politics and offering proposals for change is their business. Attention fastens mainly on institutions, but often extends to men as well as measures. After all, the intricacies of strategy and personality are enthralling; I know, I have written a book on parties and partisanship.¹ The drama plays out day to day, moment to moment, with enormous consequences for the life of the nation.

Here, however, I reflect on democracy from the standpoint of the history of political thought; my business is to take a sober look back and ahead. Democratic dysfunction is no illusion. But the most talked-about concerns of the moment – patent failings of both democratic processes and outcomes – are not the whole picture.

Democracy’s failure to meet unprecedented “world historical” challenges differs in character and consequence from the proximate failings that figure on every observer’s list. Climate change and the collection and use of personal data by the national security state are massive, unforeseen threats to habitat and to democracy. At the same time, energy and information capabilities are the lifeblood of the body politic, and infuse everything we do, personally and individually. Meeting these “world historical” challenges poses unique tests of

* Professor, Harvard University Department of Government.

¹ NANCY L. ROSENBLUM, *ON THE SIDE OF THE ANGELS: AN APPRECIATION OF PARTIES AND PARTISANSHIP* (2008).

human judgment and imagination. Meeting them calls for creative, collective political action that appears, just now, to put governing beyond imagination.

Accounts of dysfunctional processes and outcomes take two different forms, then. According to the first, “presentist” view, government capacity is taxed by the scope and complexity of problems and the vast number of claimants.² A proliferating array of interest and advocacy groups agitates for and against every policy, incessantly demanding response. “Ungovernability” sums up the concern. Current political dynamics exacerbate these difficulties. Institutions once thought adequate now seem degraded and the political capacities of officials (to resist “capture” to compromise) eroded. In “presentist” accounts, democratic dysfunction is contingent, often specific to American national government, and repairable.

We have no difficulty identifying “presentist” failings or proposing palliatives. To be sure, even within this narrow temporal compass, what counts as dysfunction and where to locate the baseline from which democracy has deviated varies. Are outcomes key, such as growing inequality and social immobility (and did it start with Reagan-era tax cuts)? Or is a political process deformed by partisan polarization (dating to Lyndon Johnson’s Civil Rights Act or to district gerrymandering)? In response to these dysfunctions, social scientists, constitutional lawyers, political theorists, and activists have taken on the role of zealous institutional engineers. Here is a very partial list of candidates for reform: changing the Constitution to empower popular majorities (doing away with equal representation of states in the Senate, or instituting direct presidential elections); appealing for parliamentarism over separation of powers (invoked today in reaction to divided government but in the past in reaction against centrism);³ replacing single member electoral districts with proportional representation; eliminating key institutional veto points such as legislative holds on nominations or filibusters; increasing transparency; decreasing transparency (as a condition for negotiation); tempering or suppressing what counts here as partisan extremism by means of nonpartisan primary elections, “top-two” primary elections, “No labels!” moralistic denigration of “partisan,” and praise for the political identity “Independent;”⁴ correcting political inequality by cordoning politics off from

² Dennis F. Thompson, *Representing Future Generations: Political Presentism and Democratic Trusteeship*, 13 *CRITICAL REV. INT’L SOC. & POL. PHIL.* 1, 1 (2010) (describing presentism as “a bias in the laws in favor of present over future generations”).

³ *But see* DAVID R. MAYHEW, *DIVIDED WE GOVERN: PARTY CONTROL, LAWMAKING AND INVESTIGATIONS* 4 (2005) (suggesting that whether a governing structure is unified or divided does not make a significant difference in at least some instances). Professor R. Shep Melnick points out that reformers would have a hard time convincing Americans that the British form is more democratic: “Who voted for Prime Minister David Cameron other than 34,000 members of his Witney constituency? What do you mean, ordinary people can’t vote in party primaries” R. Shep Melnick, *The Gridlock Illusion*, *WILSON Q.*, Winter 2013, at para. 53.

⁴ Nancy L. Rosenblum, *A Political Theory of Partisanship and Independence*, in *THE*

private money (a bitter necessity); removing fresh roadblocks to voting rights, the defining characteristic of democracy. Few of these reforms are immediately feasible politically. Some require constitutional change. Still, they are all conceivable, that is, imaginable within the basic framework of democratic institutions and political mindsets.⁵

Democracy's dysfunction looks different, however, if we think that the challenges are not only massive and complex, but also historically unprecedented, unfathomable, and potentially fatal threats to habitat and democracy. Call them "world historical." Climate change and the technological capacity of the national security state (and private entities) to collect and store data about individuals and social networks are challenges of this order. The outlines of these unique, critical developments are known, and nothing I describe has gone unnoticed – though both are comparatively unstudied, particularly by political theorists. What needs recognition is the disturbing truth that the problem we have addressing them is not institutional inadequacy, but limitations endemic to democratic politics and government as we know it.⁶ I offer two thoughts about why. A profound disjuncture exists between what is required for costly collective decisions about the future on the one side and "political time" on the other. More deeply and disturbingly, we are inhibited by moral psychology, by the fact that "mind and habitat" are out of sync. No institutional reform or change in partisan spirit alone can alter this inhibition. Democratic action to address these "world historical" challenges is, just now, beyond imagination.

I begin with one philosophical point about "presentism," and then go on to illuminate the heightened tone and temper of the common charges of dysfunction by setting them in the context of the historical moment to which democracy has come. I then turn to the distinctive democratic dysfunctions revealed by these "world historical" challenges. I conclude this jeremiad with possible grounds for hope.

I. PHILOSOPHY OF HISTORY AND "PRESENTISM"

Philosophy first. Until quite recently, history was thought to have a direction and purpose – a teleology. For centuries philosophers taught that moral and

STATE OF THE PARTIES 289, 291 (John C. Green & Daniel J. Coffey eds., 2011) (praising and advocating party identification over independence).

⁵ "Reform occurs within a political structure that is rarely challenged and nearly impossible to change at the federal level . . . [reform] necessarily takes the separation of powers, federalism, permeable bureaucracy, court review, strong first amendment tradition, political professionalism and suspicion of power as givens." BRUCE CAIN, *DEMOCRACY MORE OR LESS* (forthcoming 2014) (manuscript at 17) (on file with Bruce Cain). More than constraints on reform, this basic structure is inextricable from democracy's legitimacy here.

⁶ Arguably beyond imagination for any form of government, but I will stick to the Symposium theme and refrain from speculating about the Communist Party's relative capacity to reduce the astounding level of carbon-laden air in Shanghai.

political consciousness develops progressively through time, and that the present moment is momentous – a turning point in human (Western) history. Think of Kant’s glimmer of cosmopolitanism and perpetual peace or Marx’s communist specter haunting Europe. The present moment is critical, too, philosophers insisted, because the dynamic that moves us through world historical stages – the evolution of reason or class conflict – has brought us to the point of enlightenment. Comprehensive insight is available to us. Hegel posed philosophy of history in characteristically transcendent terms.⁷ He stood at the end of history and was in a position, *now*, to understand “how we got to be the way we are,” and why “how we are” is the result of reason working itself out in the world. Every philosopher of history has exhibited this hubris – we are at the end of history, which culminates in us. Or we are at the point where we can see and take hold of the future.

It is therefore worth noting that contemporary political theorists exhibit no interest in placing democracy in a larger progressive or dystopian dynamic of history. “Democratic dysfunction” speaks to this moment, compelling simply because it is our own, with consequences felt now. From the standpoint of a philosophy of history, the time frame of most inquiry into democratic dysfunction is truncated; the recent and day to day have our full attention. At the end of this Article I come back to what is lost by the eclipse of a philosophy of history in which the present moment is critical for taking responsibility for the future of the habitat and of democracy.

The theme of dysfunction *right now* in America and elsewhere is everywhere. I have participated in a Social Science Research Council project on the “anxieties of democracy” (of? about? for? democracy – what is the right preposition?) and another on the “burdens of democracy.” This Symposium is one more. Before I turn to “world historical” moments that fall outside this “presentist” time frame, I want to answer the question: Why is concern for democracy’s challenges, burdens, anxieties, and dysfunctions acute today? Underlying the sheer aggregation of unarguably pressing criticisms of democratic processes and outcomes, and heightening the intensity with which they are laid out before us, is the point to which democracy has come. I offer two observations that provide historical context for the urgent build up and agitated pitch of “presentist” preoccupation with democratic dysfunction.

II. DEMOCRATIC LEGITIMACY ENTRENCHED

The acute sense of democratic failing owes first, ironically, to the fact that there are virtually no compelling alternatives to democracy presently practiced or advocated in a comprehensive political ideology. In a wonderful little book *How to Cure a Fanatic*, the Israeli novelist Amos Oz wrote: “Who would have thought that the twentieth century would be immediately followed by the

⁷ See G.W.F. HEGEL, THE PHILOSOPHY OF HISTORY (J. Sibree trans., Dover Publications 2d ed. 2004) (1902).

eleventh century?”⁸ Outside of fundamentalist theology to which Oz refers, however, there is no critique of democracy in the name of something better: no widely held defense of communism, socialism, fascism, or reactionary demands for deference to traditional authority; no temptation to applaud authoritarianism; no citing Singapore or China as a serious challenge on grounds that these regimes can deliver rapid economic growth or educational excellence. Democracy is the only legitimate form of government. The questions we ask are why autocratic states “fake democracy,” and under what conditions can these states transition to something like a democratic form and sustain it.

The charged issue is not democratic legitimacy, but performance. (It goes without saying that legitimacy is not to be confused with the vicissitudes of public approval of politicians and policies.) Nor is there fear, as there has been as recently as the post-war period, that given government dysfunction and its consequences – economic stress, public distress, political extremism – advanced democracies might collapse into dictatorship, fascism, or civil unrest.

My reason for pointing out unchallenged democratic legitimacy is this: Whether anxieties about democratic dysfunction today focus on fair processes or just outcomes, they arise from self-scrutiny, not external challenges. The challenges gnaw at us from within. Of course they are acute. They engage self-doubt. We are unfaithful to “our own” values, which themselves are various and conflicting; for one, democracy is supposed to promote equality, not generate inequality. Or, political institutions are antiquated, inadequate, or deformed by the politicians charged with their care and functioning. Internal criticism is always stern and divisive. The energetic rallying and moral self-certainty that underlie responses to challenges from outside (the bracing insistence on the value of our democracy compared to *them*) is missing. Our heightened sense of dysfunction coincides with the triumph of democratic legitimacy.

III. CYCLING: MORE AND LESS DEMOCRACY

The second underlying source of gathering “presentist” anxiety is this: We stand in a new, confusing relation to the twin challenges to democracy that always arise from within, the dangers that come from the people, on the one hand, and from elites on the other. Nothing is more enduring than doubt about the political competence of citizens. The framework used by political scientists has devolved from the rational voter, to the reasonable voter, to the minimally reasoning voter.⁹ Fear of the consequences of popular ignorance and irrationality – bias, myopia, dumb partisan loyalty, and false consciousness – are constants. How are opinions and intensity of political preferences formed and revealed? Fear of raw demagoguery has been supplemented by new

⁸ AMOS OZ, *HOW TO CURE A FANATIC* 41-42 (2010).

⁹ ROSENBLUM, *supra* note 1, at 337 (providing a further discussion on the rationality, or lack thereof, of voters).

methods of shaping or manipulating popular opinion and attitudes: “scientific” framing, targeting, and “narrow-casting.” I will cite by way of example Senator Inhofe, who expressed this anxiety from the ostensibly populist right: “With all of the hysteria, all of the fear, all of the phony science, could it be that man-made global warming is the greatest hoax ever perpetrated on the American people?”¹⁰ How much democratic responsiveness to popular majorities do we really want, in short?

The counterpart fear, equally persistent, is of elites – some powerful class or group remote from the people and unresponsive to majorities: Jefferson’s aristocracy, the Progressives’ plutocrats, technical experts devoid of historical and political sensibility, and entrenched political representatives immune to electoral competition or captured by special interests. The terms oligarchy, “plutocracy,” and the 1% or .01% have reentered our everyday political vocabulary. At the moment, the express concern about rising economic inequality is not poverty or social immobility, much less the threat of civil unrest, but its consequence for political inequality. Attention focuses on whether and how to cordon off campaign finance from private wealth and temper the influence powerful interests exert outside electoral politics.

My historical point is this: In contrast to other eras, neither fear of the many nor fear of the few is dominant. Neither is articulated ideologically. Neither has a stable, organized set of supporters. We are moved not by a slow pendulum swing between poles, but by anxieties that cycle so rapidly as to be simultaneous.¹¹ We are buffeted back and forth between demands for both more democracy and more delegation. On the one hand, then, we advocate more popular participation outside the constraints of parties and elections: plebiscites, popular initiatives and referenda, constitutional conventions, “citizen juries,” and other deliberative arenas for citizen decisionmaking. To which we add informal popular action disconnected from both defined constituencies and programmatic goals: “Occupy” and other festivals of protest. We applaud new social media and the digital environment and the “feel of democracy” they deliver, even if we recognize that what happens in politics and government is not democratic at all.¹² At the same time, we (often the same “we”) advocate more delegation – to policy experts, scientific commissions, central bankers, independent agencies and regulators, nonpartisan districting commissions, courts, and civil society groups.

¹⁰ James Inhofe, *The Science of Climate Change: Senate Floor Statement 2003*, in *THE GLOBAL WARMING READER: A CENTURY OF WRITING ABOUT CLIMATE CHANGE* 165, 191 (Bill McKibben ed., 2011).

¹¹ I use “cycling” as a metaphor, not as a political science term of art for the dilemmas of social choice.

¹² Paul Starr, *The Variability of Democracy: Institutions and Spheres of Experience* (May 17, 2013) (unpublished manuscript) (on file with author) (presented at the Social Science Research Council Conference on Anxieties of Democracy, panel on The Substance of Policy Areas and Representation (May 23-24, 2013)).

Overall, fear of both the people and elites, and advocacy of empowering one and the other – more participation and more delegation – has the feel of flailing about. Cycling is a mark of the depth of dispirit about democratic dysfunction. Political science has taught us something about how popular participation and delegation combine in effective governing and as the condition for major social and programmatic change.¹³ Often enough, however, invocations of more participation and more delegation are just that, invocations. Frequently contrary recommendations for more and for less responsiveness to majority views are made in isolation of one another.

The two points to which we have come – democracy as the only legitimate form of government, and elite/popular cycling – explain something of the grim urgency and the confessed anxiety of the moment. There is much more to the story of democratic dysfunction, though. The “world historical” challenges that confront us – climate change and the technology of the national security state – do not figure prominently in “presentist” accounts of democratic dysfunction. They present what may be quite literally fatal failings: derangement of our habitat and hollowing out of democracy. I lay out shortly the formidable obstacles to political action to rescue our habitat and democracy – the disjuncture between the urgent need for future-looking policy and “political time,” and the deeper obstruction of the disjuncture between “mind and habitat” – so that meeting these challenges is, for now, beyond imagination. First, a brief account of these “world historical” challenges.

IV. OUR WORLD-HISTORICAL MOMENT

Climate change and the omnipresent, omnivorous information technology of the national security state (and private corporations) are “world historical” challenges. There are identifiable parallels between these two unprecedented phenomena: the magnitude and globalization of the forces at work, the irresistible development and irrepressible employment of technologies, and the way in which both energy and personal information reach down into the interstices of everyone’s daily life. Energy and the information infrastructure are more than basic utilities. They are the “lifeblood” of quotidian activities. Both are totalistic forces, enveloping and inescapable. Their effects for us and on us are potentially limitless and already unfathomable. It is part of what makes governing them “beyond imagination.”

A. *Climate Change and the Lifeblood of Civilization*

Climate change is uncontrovertibly an unprecedented “world historical” event. Its familiar aspect is global warming – melting glaciers and ice sheets, ocean heat, and rising sea levels. Extreme weather events are one indication. Other effects proceed in slow motion, and cumulative degradation devastates

¹³ Consider the contrast between the elite/popular coalition of the Tea Party and the Occupy movement, which lacked it.

agriculture, social structures, and human lives. From the standpoint of geological time, climate is “redrawing at unprecedented speed the geography of how and where people live.”¹⁴ Climate refugees are the canaries in this deep moral mineshaft.¹⁵

Some of the difficulties American democracy faces in responding to climate change are in plain view. There is the colossal reach and mobility of energy corporations, their virtual immunity to national regulation, and their effective self- and wealth-preservative strategies. Domestic governments have faced various shocks from globalization for centuries, but now we face private ownership and control of the essentials of our natural habitat and civilization. “Lifeblood” is an apt metaphor. Every aspect of daily life everywhere – every government and population in the principal producing and consuming nations and in developing ones – is vulnerable at its foundation to these operations.¹⁶

Which is also to say that production and consumption of fossil fuels are virtually inseparable from entrenched expectations about modern life. They are critical sources of energy and elements in the composition of quotidian products. We in high-consumption countries are warned of harm, even catastrophe, if we just keep doing what have been doing, and are told that the changes required go beyond energy-saving light bulbs and fuel-efficient vehicles.¹⁷ Material life is paramount in most of these accounts, not our relation to nature – spiritual, aesthetic, and ethical. The corrective measures we hear about present formidable problems; they would alter everything from transportation to agriculture to urban living to preparation for floods of desperate climate migrants.¹⁸ Inhibitions on stringent limitations of emissions are erected, too, by engrained expectations for uninterrupted economic growth, antiregulatory ideology, and the long-standing claim that energy independence based on oil and gas is vital to American power in the world.¹⁹

I argue that the political action required is at the moment beyond imagination for reasons besides the powerful corporate control of energy, material expectations, entrenched notions of economic growth and national self-interest, and institutional limitations.

¹⁴ Dimitri Zenghelis, Response, *The Question of Global Warming: An Exchange*, N.Y. REV. BOOKS, Sept. 25, 2008, at 92, 95.

¹⁵ See Nancy L. Rosenblum, *Climate Refugees* (Aug. 31, 2013) (unpublished manuscript) (on file with author) (address at American Political Science Association roundtable on Joseph Carens, *The Ethics of Immigration* (2013)).

¹⁶ The threat from global financial institutions is in some respects similar, but national and international controls are not “beyond imagination.”

¹⁷ See, e.g., Justin Gillis, *Panel Says Global Warming Carries Risk of Deep Changes*, N.Y. TIMES, Dec. 4, 2013, at A24 (warning of the risks of global warming).

¹⁸ *Id.*

¹⁹ Raphael Rosen, *The Glorious Bargain That Could Give America Sustained Energy Independence*, FORBES (July 7, 2013), <http://www.forbes.com/sites/energysource/2013/07/17/the-glorious-bargain-that-could-give-america-sustained-energy-independence>, archived at <http://perma.cc/Q2JJ-GRN9> (stressing the importance to America of energy independence).

In contrast to presentist accounts, the dysfunction that marks American virtual nonresponse to climate is not a matter of inadequate or corrupt institutions or the politics of the moment. Global corporate control of energy is not obviously regulable or made accountable via better representation, reduced party polarization, changes in legislative rules, or more political equality, however these are defined. It is neither a matter of greater responsiveness to popular majorities nor a matter of greater delegation. To state the obvious, climate change is a case of the inherently limited scope and capacity of national government. The dimension of the threat and the temporal scope of the problem require collective action by all major consumer/polluter nations of a different order than trade agreements or human rights accords.²⁰ The standard configurations of international representation and proliferating transnational networks are unlikely to be adequate. Speculatively, climate change will be met, if it is, by “experimentalist governance” appropriate to conditions of uncertainty, incalculable cost, and divergent national interests.²¹

That said, the formulation “global cooperation,” while true, is an understatement, almost morally obtuse in its mildness. Addressing climate change requires collective action with the urgency of and on a scale whose only parallel is world war. Thomas Schelling put it bluntly: “I know of no peacetime historical precedent for the kind of international cooperation that is going to be required to deal with climate change.”²² It involves enormous and unpredictable costs, imposition and apportionment of sacrifices, and dangers.²³ Yet the immediate galvanizing urgency of war is missing.

B. *The Technology of the National Security State*

The other “world historical” challenge to democracy is the national security state, which has grown exponentially and without apparent limit since its Cold War beginnings. We could see it as one element in the long-term expansion of executive-centered government, but the security apparatus is distinctive. Its

²⁰ The Kyoto Accords imposing obligations on historic emitters and not on developing countries has been overtaken: by 2006 China had overtaken the United States in emissions. See Audra Ang, *Group: China Tops World in CO2 Emissions*, WASH. POST (June 20, 2007), http://www.washingtonpost.com/wp-dyn/content/article/2007/06/20/AR2007062001693_pf.html, archived at <http://perma.cc/QSJ4-J522>.

²¹ That is, by fluid participatory arrangements among formal institutions, NGOs, national and local governments, and popular movements. Gráinne de Búrca et al., *New Modes of Pluralist Global Governance*, 45 N.Y.U. J. INT’L L. & POL’Y 723, 724-28 (2013) (advocating a method of governance involving cooperation between these various entities).

²² Thomas Schelling, *Climate Change: A Bundle of Uncertainties*, in SCIENCE, ETHICS, AND POLITICS: CONVERSATIONS AND INVESTIGATIONS 142, 148 (Kristen Renwick Monroe ed., 2012).

²³ John Broome makes this point with regard to any distributive plan: “[A]lthough emission permits are only electronic certificates, in the future they will constitute a large part of a country’s wealth They will be worth hundreds of billions of dollars annually.” JOHN BROOME, CLIMATE MATTERS: ETHICS IN A WARMING WORLD 68-69 (2012).

claim on resources is unresisted. It is officially secret, diffuse, and uniquely opaque even to agency officials and others formally charged with oversight.²⁴ Whatever the constitutional formalities (and in this area they are disputed), legislatures are circumvented or lied to, or they “punt” to executives and courts.²⁵ The National Security Agency (NSA) and other agencies regularly exceed the scope of their authority in any case, and their actions are typically legalized retroactively.²⁶ Limits imposed by courts and the secretive FISA Court are few and erratic, without firm rationales or clear lines of direction, and court orders too are violated.²⁷ We have a national security apparatus so large, diffuse, and secretive it is impossible to compass.

“The N.S.A. seems to be listening everywhere in the world, gathering every stray electron that might add, however minutely, to the United States government’s knowledge of the world.”²⁸ “Total information awareness” is justified by military necessity, of course, especially by threats of terrorism and nuclear proliferation. The massive apparatus is supported by the promise of security and the illusion that risk can be eliminated or reduced to some tolerable level because the technological capacity for certainty is now at hand: drones, phone and e-mail data, and instruments of surveillance. Exclusive focus on the intelligence and legal aspects of NSA, however, is a dangerous diversion.²⁹

For information technology is fundamentally about knowledge, and this “world historical” challenge to democracy neither starts nor stops with national security. The capacity for ubiquitous surveillance and “data vacuuming” of massive amounts of detailed information about “U.S. persons” (and unidentified, uncountable others) is civilian and commercial as well as governmental. “Metadata” is often proprietary; in any case it is central to the business model of private enterprises.³⁰ Information is collected, aggregated,

²⁴ See Barton Gellman & Ashkan Soltani, *NSA Taps Yahoo, Google Links*, WASH. POST, Oct. 31, 2013, at A1.

²⁵ *Id.* (“Senate Intelligence Committee Chairman Dianne Feinstein . . . has acknowledged that Congress conducts little oversight of intelligence-gathering under the presidential authority of Executive Order 12333, which defines the basic powers and responsibilities of the agencies.”).

²⁶ See Doyle McManus, Op-Ed., *A New Day at the NSA*, L.A. TIMES, Jan. 19, 2014, at A24 (describing the history of NSA and these types of behavior).

²⁷ See Doyle McManus, Op-Ed., *Give the Devil His Due Process*, L.A. TIMES, July 24, 2013, at A15 (arguing against the lack of constraints on the FISA court).

²⁸ Scott Shane, *No Morsel Too Minuscule for All-Consuming N.S.A.*, N.Y. TIMES, Nov. 3, 2013, at A1.

²⁹ Not just because reliable accounts have not identified “a single instance” of “data vacuuming” stopping an imminent attack, but also because it can lead to economic and diplomatic spying. *Klayman v. Obama*, No. 13-0881(RJL), 2013 WL 6598728, at *1 (D.D.C. Dec. 16, 2013) (“[T]he Government does *not* cite a single instance in which analysis of the NSA’s bulk metadata collection actually stopped an imminent attack . . .”).

³⁰ See *Business Case for Metadata*, FED. GEOGRAPHIC DATA COMM. (July 27, 2012, 8:18

and used by a growing array of powerful interested forces that do not act alone but sell, share, or steal from one another. Plainly, both public and private information technologies operate largely without public knowledge or understanding. What information is gathered, by whom, and how, is obscure. We have little understanding of what “full take,” “bulk access” information collection from emails, text messages, credit card purchases, and phone data includes. We do not know what is collected and stored from fiber-optic cables, telephone switches, internet hubs, digitally burglarized laptops, or bugs on smartphones. We do not know whether or when or how this flood of data is “read” or interpreted, nor do we know what is learned by whom, shared with whom, or for what purpose.

The internet, cell phones, and credit cards are basic utilities; they are inescapable, penetrating everyday life. Despite the term “metadata,” we are not guaranteed that information is or remains “anonymized.” Information about us on public records is ineradicable.³¹ We vaguely know that in some respects we are complicit if we own a cell phone or make purchases at large stores or borrow money or use the internet, but our understanding of all this is hazy, without anything like acquiescence, much less consent, and the “way out” is drastic:

Like any web, it can wrap itself around you [E]verything we do, our predilections, our relations with others, our physical qualities and psychic conditions, our political beliefs, what we buy, what doctors we see, what movies we watch, what books we read, if any – anything and everything about us is broken down into data, the life substance of the companion world in cyberspace mined in invasive expeditions in the name of commerce and government surveillance³²

The direct challenge posed by information collection to core democratic processes is just now taking shape. Electioneering is a specific example. In the last presidential campaign a host of experts in information gathering and algorithms gave Obama campaign workers relevant (!?) data – updated in real time – that enabled them to profile voters, target messages, and make direct contact.³³ This type of strategic technological campaign makes the traditional stuff of electioneering – candidate appearances, advertising, and televised debates – seem epiphenomenal. The “real” business of managing voters was going on somewhere else, by means of information collected by and purchased from sources out of view.

AM), <http://www.fgdc.gov/metadata/metadata-business-case>, archived at <http://perma.cc/NF6Q-QSWX>.

³¹ See Jeffrey Rosen, *The End of Forgetting*, N.Y. TIMES, July 25, 2010 (Magazine), at 30.

³² E. L. Doctorow, *The Promise – and Threat – of the Internet*, NATION, Dec. 23/30, 2013, at 4, 5.

³³ See Dan Balz, *Data-Driven Reelection Efforts Started Early for Obama Team*, WASH. POST, July 29, 2013, at A1 (outlining the Obama campaign’s effectiveness in this regard).

That is just an early instance. What is clear is that the scope of data collection is potentially totalistic. The objection critics raise is “privacy,” for despite its vagueness, privacy as it stands in current law and in common understanding is the only conceptual apparatus we have for grasping this alter-environment. But this “way in” to the problem is limited, not least because for many people the harm caused by violation of privacy is elusive in an age where “life on the screen” is commonplace. Power – the potential for “total information awareness,” manipulation, and control by officials and private corporations alone or in collusion – is the danger. We have just begun to engage in primitive self-censorship and tactics to retain anonymity. We have not yet grasped the even larger threat to freedom of association, for whatever else is gathered and used, information about social networks is central. “So it has begun. That slowly gathering, ghostly darkness coming off the otherworld technology.”³⁴

As soon as we think seriously about the irresistible, unstoppable push to invent and employ this powerful technology, the “war” frame justifying information collection, the countless official and private interests in knowing, the secrecy of decisions by government and private entities about the scope of knowledge, and the sheer magnitude of entrenched institutionalization of “metadata,” democratically imposed standards and restraints – both what and how – is just now beyond imagination.³⁵

V. POLITICAL TIME

These “world historical” challenges to democracy are distinct from the “presentist” catalogue. They are historically unprecedented, potentially fatal to habitat and to democracy, and yet we are incapable of meeting them for reasons that go beyond the standard array of institutional and political failings I catalogued previously. I offer two levels of explanation for this most profound democratic dysfunction.

The constraint of political time is one. By political time I mean incongruence between the time frame of democratic decisionmaking and the urgent need to meet unprecedented challenges that stretch far into the future.

³⁴ Doctorow, *supra* note 32, at 6.

³⁵ The relation between government and corporations is another unknown. Presumed to operate in cooperation as collection partners, or in cooperation as a result of government outsourcing – for example, Snowden’s Booz Allen Hamilton – it now seems that NSA does not just request information from the networks like Yahoo and Google but has intercepted their main communication links. Gellman & Soltani, *supra* note 24, at A1. The program, called MUSCULAR, supplementing the PRISM program, was reported in the *Washington Post*. *Id.* In this light, a proposal to leave storage of phone data in company hands, not the government’s, is not to the point. A United Nations proposal for a “right to privacy” that governments would respect themselves and protect themselves from private actors has the same inherent limitation. *But see* Ryan Goodman, Op-Ed., *A Right to Digital Privacy*, INT’L HERALD TRIB., Dec. 18, 2013, at 9 (arguing that such a proposal is a step in the right direction).

Political time is a combination of institutional constraints and political mindset, indeed, of imagination.

The general problem of political time is not new, but the form it takes today is. Traditionally, the worry was that democratic governments would be incapable of quick, energetic decisions, especially in foreign affairs. Consider, however, the rapid initiation of wars in Iraq and Afghanistan, surges, withdrawals, and the quick expansion of the national security state after 9/11. Consider the many steps the federal government took in 2007 and 2008 in swift response to the meltdown of financial institutions. The executive and Congress are capable of acting with speed and clarity. Traditionally, the counterpart concern was that political officials would act too quickly, moved by panic or herd behavior or in anticipation of agitated shifts in public opinion or in an effort to excite and enlist public opinion. This one has greater force. Consider the passage of the Patriot Act: Congress approved this bill vastly expanding executive power without a full reading, much less consideration or debate. These worries about political time – the need for fast action and for checks against impetuous action – are long standing. They are addressed in *The Federalist Papers*, and have justified key elements of institutional design.³⁶

The dominant democratic failing today is different: inaction. True, some ordinary institutional procedures like veto points and current forces like political polarization invite inaction. Other more significant and intractable sources of inaction are directly tied to “presentism.” For example, the imperial expansion of electoral time is important: politics shaped day to day by a “permanent campaign,” exacerbated by the acceleration and diffusion of news and communications. The felt political imperative to respond immediately to the many vigilant publics that speak out for or against every political utterance and action is compounded by social networking technology (“follow me on twitter”). Issues that are not politically salient this very moment are eclipsed.³⁷ We understand that political representatives act in what they consider to be a rational manner from an electoral point of view when they give priority to the near term and the right now. This source of inaction affects government performance broadly, but it is particularly noxious where temporal structure is a defining aspect of the problem, as it is for “world historical” challenges.

We can conjure up reforms to address the disjuncture between the “presentist” frame of political time and the need for costly planning and care for the future. Guaranteeing young people political representation is one example; the assumption being that they are especially concerned about the near future at least. Democratic theorists are more ambitious and propose a Tribune composed of technical experts, economists, philosophers, legislators,

³⁶ See THE FEDERALIST PAPERS.

³⁷ Eric Beerbohm looks at the type of inaction he calls “irresolution”: the way representatives renege on intentions they have articulated during campaigns. Eric Beerbohm, Legislative Procrastination (unpublished manuscript) (on file with author). “Failing to treat intentions as ‘sticky’” impedes electoral accountability. *Id.*

and ordinary citizens whose members would act as trustees for future citizens. As an official body, perhaps constitutionally enshrined, it would have agenda-setting powers (and in some schemes authority to veto legislation or judicial decisions). The Tribune's charge is to look out for the substantive interests of future citizens, including climate change, though in one version Tribune members act as trustees of *democracy*; their purpose is to preserve future citizens' capacity for collective decisions.³⁸ The Tribune is a national institution, a surrogate for citizens, not for all people whose habitat is affected by global warming or for people everywhere caught in the maw of surveillance and "big data." In any case, the Tribune is more a philosophical object to think with than a proposal.

Once we see that democratic dysfunction is not just a result of undue speed on the one hand or procrastination on the other, or of insistent demands for immediate political response from instant networking devices, or, of a neoliberal ideology that resists planning as "socialistic," and once we account for the political inhibitions created by powerful interests, foundational expectations of the material quality of life, and the goal drilled into public consciousness of energy independence as a condition of American power in the world and "total information" as a condition of security. Once we have accounted for all that, an additional, distinct dimension of political time as an obstacle to action emerges.

When it comes to the temporal structure of problems extending far into the future, inaction assumes a different shape. Uncertainty is an endemic source of inertia, which infuses every facet of the national security state as a result of secrecy, mushrooming scale, the unpredictability of leaps in technological development, and above all, uncertainty about the potential uses of the ever-increasing capacity for collecting information everywhere and in real time. The course of climate change is uncertain too. To be clear: the *science* is not uncertain.³⁹ Rather, uncertainty is in part a result of the cautious (or

³⁸ Dennis F. Thompson, *Representing Future Generations: Political Presentism and Democratic Trusteeship*, 13 CRITICAL REV. INT'L SOC. & POL. PHIL. 1, 9 (2010) (positing a theory of democratic trusteeship in which present generations represent future generations interests by protecting the democratic process itself); see also Maxwell Bruce, *A Draft Instrument Establishing the Role of a Guardian*, in FUTURE GENERATIONS AND INTERNATIONAL LAW 163, 165 (Emmanuel Agius & Salvino Busuttill eds., 1998) (proposing a potential Office of Guardian for Future Generations to protect future generations); Andrew Dobson, *Representative Democracy and the Environment*, in DEMOCRACY AND THE ENVIRONMENT 124, 132 (W.M. Lafferty & J. Meadowcroft eds., 1996) (describing a "proxy electorate" with respect to future generations); Ajai Malholtra, *A Commentary on the Status of Future Generations as a Subject of International Law*, in FUTURE GENERATIONS AND INTERNATIONAL LAW, *supra*, at 39, 41 (elaborating on the responsibilities owed to future generations).

³⁹ The standard source for scientific reliability and consensus is the Intergovernmental Panel on Climate Change. See generally INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE, CLIMATE CHANGE 2013: THE PHYSICAL SCIENCE BASIS (Thomas F. Stocker et al. eds., 2013).

oppositional) political decision to apply only the most stringent statistical standards in predicting the effects of various levels of greenhouse gases, and in part it is the work of self-interested “merchants of doubt.”⁴⁰ Even without bias, though, estimates of the release of methane gas from arctic permafrost, for example, and of how fast the human consequences for health, habitat, productivity, and so on will be felt are inexact.⁴¹ The path to scaled-up alternatives to the fossil fuel “lifeblood” is uncertain too.

In addition to uncertainty, the decisions required are bound up with a still more vexing aspect of political time: “discounting.” Discounting is that complex technical and moral task of identifying and weighing welfare costs and benefits over time.⁴² We see discounting in action in everyday life. The mantra “concern for our children and our children’s children” is belied by low personal savings rates even though these savings are motivated by care of family. In comparison, bearing costs (material costs or alleged risks to security) today out of concern for people in the abstract or generations far off has the cast of altruism. (Though I would argue that concern for ourselves, the living, and for the value of our present activities is a motivationally and morally adequate basis for addressing both “world historical” challenges.) In policymaking, discounting is the specialized domain of economists and now philosophers who explore its epistemic and moral difficulties. Uncertainty and discounting are among the many reasons climate change is characterized as “the most complex challenge the world has ever faced.”⁴³ Uncertainty and discounting do not lessen the necessity for action, but they can be exploited to justify or excuse political inaction.

Political time is an entrenched source of democratic dysfunction where the time-horizon is long, the stakes huge – indeed unfathomable – and the consequences of inaction irremediable. It is both source and proof of democratic dysfunction in a different key than “presentist” concerns. Political

⁴⁰ See Jesse Hornbluth, *In Merchants of Doubt, the Same Scientists Who Lied About Tobacco Also Lied About Global Warming*, HUFFINGTON POST (May 25, 2010, 1:45 PM), http://www.huffingtonpost.com/jesse-kornbluth/in-merchants-of-doubt-the_b_588972.html, archived at <http://perma.cc/7GZZ-9QDM> (discussing the effect of climate change deniers).

⁴¹ See INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE, *supra* note 39, at 52 (“The exact drivers of this renewed growth [of methane] are still debated.”).

⁴² Experiments suggest that discounting the future may be hard wired. Jennifer Jacquet et al., *Intra- and Intergenerational Discounting in the Climate Game*, 3 NATURE CLIMATE CHANGE 1025 (2013) (delineating such experiments).

⁴³ Central too is trading off benefits to the environment against development and improvements in life expectancy, health, education, and nutrition. See Joseph Heath, *Climate Policy: Justifying a Positive Social Time Preference* (unpublished manuscript) (on file with author). William D. Nordhaus explains: We have to balance “the competing objectives of preventing climatic damage, maintaining economic growth, avoiding catastrophic risks, and not imposing undue hardships on poor people or future generations.” William D. Nordhaus, *The Question of Global Warming: An Exchange*, N.Y. REV. BOOKS, Sept. 25, 2008, at 92, 92.

time is not, however, the whole story. When it comes to “world historical” challenges, the disjuncture between political time and the urgency of threats combines with something deep in our moral psychology. Inaction is not only a matter of inertia or obstacles to acting on intentions but also, more radically, absence of intention – unformed, unused agency.

VI. MIND AND HABITAT OUT OF SYNC⁴⁴

Why absence of intention – unformed, unused agency? Our minds have difficulty grasping these “world historical” challenges. I point to our emotional and psychological inability to think about this critical moment for nature (and civilization built on nature) and for democracy. It would trivialize this incapacity to characterize it as myopia, which is a constant hazard, or to reduce it to psychological defense mechanisms like denial or repression. This is not or not only a case of self-serving bias, or stubborn unwillingness to engage challenges to the survival of natural habitat and democracy.⁴⁵ It is not, or not always, a deliberate devaluing of our own futures or the lives of future men and women. We are suffering incapacity of a particular kind. Put simply, mind and habitat are out of sync.

Imagination is at the heart of this disjuncture. The collection and use of personal information – everything about everyone in a world wide web – is virtual, invisible, and for most people the actual and potential consequences are not only incomprehensible but also phenomenologically alien – simply not part of personal experience. The existential threat of global warming is also inconceivable. Abrupt change producing permanent alteration of the habitat is unthinkable, despite extreme weather events. Slow action producing degradation over time, even over a generation, is unthinkable too: the thirty-year mortgage pushes the limits of Americans’ view into the future. The juxtaposition of risk to the planet against the backdrop of geological time is beyond our ken.

We have experienced a near precedent for mind and habitat “out of sync”: nuclear catastrophe. Its scale and existential nature roughly parallel the “world historical” challenges I have set out. The comparison is important because it demonstrates the large part imagination plays in confronting “world historical” challenges. For the destructive power of nuclear technology and the scope of devastation from nuclear war was beyond imagination – the immediate physical obliteration of culture and nature, the long-term effects of

⁴⁴ The phrase “mind and habitat” is Robert Jay Lifton’s. I owe the idea of comparing nuclear devastation to his oral presentation at a meeting he organized on Psychology and History in Wellfleet, Massachusetts on October 6, 2013.

⁴⁵ MELISSA LANE, *ECO-REPUBLIC: WHAT THE ANCIENTS CAN TEACH US ABOUT ETHICS, VIRTUE, AND SUSTAINABLE LIVING* 101 (2012) (exploring sources of inertia (greed, erroneous belief in the negligibility of our individual action) and using Plato’s *Republic* to identify changes in our understanding of goodness and virtue that would put “sustainability” at the center and establish a harmony between “city and soul”).

contamination, and the threat to the environment from “nuclear winter” were all beyond compass. These dangers were unprecedented, and we did not have language or images to grasp the meaning of nuclear weapons for habitat and culture. Except for those in the grip of an apocalyptic religion, the end of nature and civilization – futurelessness – was inconceivable. Recurrent images of Hiroshima and Nagasaki and the H-bomb test sites provided a “way in” to conceiving a devastated physical environment and human death and disfigurement. Witnesses told their stories and delivered prophetic warnings. Nuclear disasters, Chernobyl and Fukushima, reinforce this emergent comprehension; not just rational understanding, but also imaginability. Many political and psychological forces are at work “normalizing” nuclear weapons, encouraging us to learn to live with them and undermining these hard-won imaginings and understandings of catastrophe. Still, however inadequate, political action to contain nuclear threats was possible because to some degree the gap between “mind and habitat” was bridged. Domestic and international anti-nuclear campaigns agitated for elimination of these weapons. And in an important contrast to global warming, anti-nuclear measures did not require radical changes in the habits and expectations of daily life.

In contrast, climate change is occurring without a big bang. Awareness is fragmented, incoherent, and arrives without the terrible, accessible human drama of nuclear war or nuclear power gone awry. For now, at least, there is little recognition of the human effects of global warming happening already, above all the large-scale dislocation of eco-migrants.⁴⁶ Dystopian predictions of threats to security remain in the realm of science fiction, though sober realists like Timothy Garton Ash warn that climate change could “push humanity back”: “[T]he crust of civilization on which we tread is always wafer thin. One tremor, and you’ve fallen through . . . and we go back within hours to a Hobbesian state of nature.”⁴⁷ He has a glimpse of “the advancing shadow of a new European barbarism.”⁴⁸

“Mind and habitat” are out of sync because, despite popular recourse to the term “global,” the “we” of a shared planetary habitat is beyond imagination. Visual images of spaceship earth reveal dust storms and splintering ice sheets and remind us that national borders are artifacts, but ecological degradation is local. Droughts, dust storms, cyclones, hurricanes, floods, soil erosion, and deforestation affect regions differentially. The organization Friends of the Earth attempts by its name and advocacy to make “global” vivid.⁴⁹ But for now, the “fate of the earth” is without iconic imagery or a master narrative.

⁴⁶ See Shankar Vedantam, *Climate Fears Are Driving ‘EcoMigration’ Across Globe*, WASH. POST, Feb. 23, 2009, at A1.

⁴⁷ Timothy Garton Ash, *It Always Lies Below: A Hurricane Produces Anarchy*, GUARDIAN, Sept. 8, 2005, at 23.

⁴⁸ *Id.*

⁴⁹ For more information, see FRIENDS OF THE EARTH, <http://www.foe.org> (last visited Feb. 2, 2014), archived at <http://perma.cc/qq-x8dj>.

Finally, that is why mind and habitat are out of sync. Every great and difficult collective action (every personal action, in fact) requires a narrative to give it meaning, make it imaginable, that is, conceivable. Narrative is a condition for forming intentions. It is a condition of agency and action. “Governing beyond imagination” is just that: governing at a moment of “world historical” challenges without a master narrative to excite struggle, forge and sustain coalitions, create political venues, and inspire democratic action.

Some scientists, geographers, economists, philosophers, and activists comprehend the “world historical” significance of the changing climate. Fewer have grasped the significance of “metadata” and surveillance for democracy. But these few operate outside of democratic politics and governing, that is, without regard to the constraints of political time. They lack political resources and they lack the imagination to compose a compelling narrative that speaks to our “world historical” moment of democratic dysfunction.

VII. RETURNING TO PHILOSOPHY OF HISTORY

This returns me to my starting point: a philosophy of history in which the present moment is cast as unique for human understanding as for wellbeing. We need a hubristic philosophy of progress in which this moment is momentous, a historic turning point for the capacity of democracy and for our habitat. In his *Idea for a Universal History from a Cosmopolitan Point of View*, Kant admits that he could not know whether his projection of historical movement toward perpetual peace was right.⁵⁰ But he thought it could have modest effect. If officials believe history is moving in that direction, they have “a minor motive” for being “on the right side.” Kant thought that a philosophy of history would enhance our “rational self-esteem.” If we think we are becoming enlightened, personally and individually, we may see ourselves as responsible agents, not just objects of history. That is what idealism is: the view that ideas – projections of reason – can have effect even if they do not conform to anything in the present. It is a goal to be approached, a goal not just to avert catastrophe – for “end-of-worlders” catastrophe may be just and welcome – but to create a better world.

As we see, the familiar, certainly justified, diagnoses and responses to democratic dysfunction are “presentist”: recipes to fix institutions, repair inequalities, infuse partisanship with the spirit of compromise. The demands are different for “world historical” challenges. It requires an iota of utopianism and political imagination to place ourselves in a philosophy of history in which the present is literally not just rhetorically critical, and in which we are responsible for the nature and for control over the technology of information. Most important for rejoining mind and habitat is a narrative about reversing climate change and controlling information technology that is infused with

⁵⁰ Immanuel Kant, *Idea for a Universal History from a Cosmopolitan Point of View*, reprinted in *PHILOSOPHY OF TECHNOLOGY: THE TECHNOLOGICAL CONDITION* 38, 43 (Robert C. Scharff & Val Dusek eds., 2003).

ethical promise. The narratives and images that do circulate today are catastrophic, and the possibility action holds out is averting disaster, not something better. A philosophy of history must tell a story that is not principally scientific or technical. That does not depend on demonization of fossil fuel producers and consumers or innovators of internet technology. Instead, the narrative must tell a story of a heroic collective effort at constructing a better world. It will come from and speak to imagination. Addressing “world historical” challenges must be seen for the extraordinary creative project it is: large, meaningful, and lasting, as “the greatest human rights struggle of our time,” as an Athenian-like erection of extraordinary, beautiful new structures, and as a transfusion of “lifeblood” energy and information technology that is comprehensible and humane.

Without that collective act of human creativity and adaptability, we flirt with existential catastrophe. If eco-cide and totalistic political knowing and control seem histrionic, I would just insist that without political imagination and hope we invite an increase in already profound antipolitics and a confidence gap that resists bold policy, denies political agency, and hollows out democracy.