2

Democratic Collapse and Recovery in Ancient Athens (413–403)

Federica Carugati and Josiah Ober

Introduction

Rich and consolidated democracies don't usually die—until they do.[1] This chapter explores the collapse and recovery of the world's first democracy: Ancient Athens. The Greek city-state of Athens was, by our definition (below), a democracy for at least 180 years (508–322 BCE). During that period, the Athenians pushed back foreign invasions, built and then lost an Aegean empire, suffered military catastrophes, experienced a period of democratic collapse, recovered to become a major center of Mediterranean trade and culture, and were finally forced to accept the hegemony of imperial Macedon. Athens provides a remarkable case study for analyzing the causes and consequences of democratic breakdown. First, the collapse defies broadly accepted social scientific findings, casting a shadow over what we think we know about the survival of today's rich and consolidated democracies. Second, unlike in many other experiments with democracy, past and present, democracy in Athens collapsed but then recovered. The restoration of democracy saw the resurrection of past institutions, as well as the creation of new ones.

The question of what conditions cause democracy to break is of obvious relevance today. This volume is but one of many contributions devoted to developing some answers. The evidence from the contemporary world suggests that

[1] On the conditions for democratic survival, see Adam Przeworski and Fernando Limongi, "Modernization: Theories and Facts," *World Politics* 49, no. 2 (1997): 155–183; Milan Svolik, "Authoritarian Reversals and Democratic Consolidation," *American Political Science Review* 102, no. 2 (2008): 153–168; Tom Ginsburg and Aziz Huq, *How to Save a Constitutional Democracy* (Chicago: University of Chicago Press, 2018), 55–56. For Christian Houle, homogeneity also contributes to survival: "Ethnic Inequality and the Dismantling of Democracy: A Global Analysis," *World Politics* 67, no. 3 (2015): 469–505. With a proviso: relevant cleavages in the literature cited are religion and ethnicity; see also James Fearon and David Laitin, "Ethnicity, Insurgency, and Civil War," *American Political Science Review* 97, no. 1 (2003): 75–90. These cleavages were not prevalent in Ancient Greece, but there were other relevant cleavages, e.g., socioeconomic status and regime preferences.

Federica Carugati and Josiah Ober, *Democratic Collapse and Recovery in Ancient Athens (413–403)*
In: *When Democracy Breaks*. Edited by: Archon Fung, David Moss, and Odd Arne Westad, Oxford University Press.
 DOI: 10.1093/oso/9780197760789.003.0002

democratic breakdown occurs in the aftermath of military coups[2] or when leaders lose legitimacy or cannot solve political problems,[3] and it is more likely under presidentialism,[4] when inequality is high,[5] or when the country has past experiences with authoritarian institutions.[6] Breakdown also occurs through the erosion of checks on elected leaders.[7] Democratic stability rests instead on economic growth, strong states, and liberal institutions, such as a robust rule of law, free and fair elections, and individual rights.[8]

A limited literature exists which seeks to account for the collapse of democracy in Athens. The scholarly tradition has long interpreted the breakdown as a temporary suspension of normal democratic practice. Those who have delved into its causes have tended to rely on the account of the Athenian historian Thucydides. For Thucydides, democracy collapsed during the Peloponnesian War because it was an inferior system of governance, relying on the faulty opinions of laymen sitting on a hill at the top of the political hierarchy and fatally prone to squabbling. Its survival depended on rare personal characteristics and political talents uniquely well conjoined in its best-known general, Pericles. Thucydides's account leads to a simplistic counterfactual: had Pericles survived, Athens would have won the war, and the democracy would not have collapsed. This account obscures the deeper institutional questions that are central to our explanation of the democracy's breakdown, as well as its recovery and performance.[9]

Taking up this ancient polity as a comparative case study requires that we address two questions at the outset: What does it mean to speak of democracy in Ancient Athens? And then, what does it mean to suggest that Athens was a rich and consolidated democracy? Neither Przeworski's GDP threshold of $6,000, nor the mantra of recurring free and fair elections[10] applies to Athens.

[2] Guillermo O'Donnell, *Modernization and Bureaucratic Authoritarianism: Studies in South American Politics* (Berkeley: Institute of International Studies, University of California, 1973).

[3] Juan Linz and Alfred Stepan, eds., *The Breakdown of Democratic Regimes: Crisis, Breakdown, and Reequilibration* (Baltimore: Johns Hopkins University Press, 1978).

[4] Juan Linz, "The Perils of Presidentialism," *Journal of Democracy* 1, no. 1 (1990): 61–69.

[5] Charles Boix, *Democracy and Redistribution* (Cambridge: Cambridge University Press, 2003); Christian Houle, "Inequality and Democracy: Why Inequality Harms Consolidation but Does Not Affect Democratization," *World Politics* 61, no. 4 (2009): 589–622.

[6] Antonio Cheibub, *Presidentialism, Parliamentarianism, and Democracy* (New York: Cambridge University Press, 2007).

[7] Daniel Levitsky and Stephen Ziblatt, *How Democracies Die* (New York: Crown, 2018); Ginsburg and Huq, *How to Save a Constitutional Democracy*; Scott Mainwaring and Fernando Bizzarro, "The Fates of Third-Wave Democracies," *Journal of Democracy* 301, no. 1 (2019): 99–113.

[8] For a literature review, see Federica Carugati, "Democratic Stability: A Long View," *Annual Review of Political Science* 23, no. 4 (2020): 1–17.

[9] We do not address here the ultimate loss of Athenian independence after 322 BCE—which is a story about the emergence of imperial nation-states in Macedon and Rome, not about "how democracies die." Josiah Ober, *The Rise and Fall of Classical Greece* (Princeton: Princeton University Press, 2015), ch. 10.

[10] Przeworski and Limongi, "Modernization: Theories and Facts"; Jay Diamond, *The Spirit of Democracy: The Struggle to Build Free Societies throughout the World* (New York: Holt Paperbacks, 2008).

Preindustrial GDP growth cannot be meaningfully compared with that achieved by moderns.[11] The Athenians elected some officials, but most functions of government were carried out by citizens selected by lot. Athens also did not develop many of the liberal values that are normally associated, indeed often equated with contemporary democracy—among these, concepts of personal autonomy, inalienable rights, and distributive justice. So Athens was not a "liberal democracy." Athens was a slave society that failed to extend citizenship to women. Yet it seems absurd to deny the label of "democracy" to a demos that ruled itself for the best part of two centuries (roughly from 508 to 322 BCE) and whose rule coincided with a period of remarkably high economic performance. Athens's regime, then, was both "rich" and "consolidated." But was it a democracy? Our answer is that Athens was a "basic democracy": a system of collective self-rule by an extensive and socially diverse demos legitimately empowered to seek and capable of achieving the goals of security, prosperity, and nontyranny.[12]

Our account of democratic breakdown and recovery in Athens highlights a series of factors. Military defeats and the presence of an organized opposition played an important role in the democracy's collapse. However, we identify a deeper, root cause: a crisis of legitimacy precipitated by performance failures but ultimately traceable (then and now) to a fundamental defect of institutional design.

We do not take the restoration of democracy as a foregone conclusion. Instead, we delve into a decade of political turmoil during which democracy was put into question, collapsed, reemerged, and was tested, collapsed again, and was eventually restored in a revised form. This happened at the end of the fifth century BCE, about a hundred years after democracy was first established and at the end of a century that saw Athens rise from an unexceptional Greek city-state into an imperial capital and, in Pericles's words, "the school of Greece."[13] The pressure of the long, difficult Peloponnesian War (from 431 to 404 BCE) certainly played a role in straining Athens's institutions. A powerful and rich elite with strong sympathies for oligarchy and the cultural and social resources to organize for collective action also played a role.

[11] Ian Morris, *Why the West Rules—For Now: The Patterns of History, and What They Reveal about the Future* (London: Profile Books, 2010); Andreas Berg and Carl Lyttkens, "Measuring Institutional Quality in Ancient Athens," *Journal of Institutional Economics* 10, no. 2 (2014): 279–310; Ober, *The Rise and Fall of Classical Greece*.

[12] Josiah Ober, *Demopolic: Democracy Before Liberalism in Theory and Practice* (Cambridge: Cambridge University Press, 2017), chs. 1–2. We discuss the features of basic democracy, and address the distinction between basic and modern democracy, in the next section. The discussion suggests that Athens fares well according to measures of both electoral and liberal democracy in V-Dem, which include freedom of assembly and speech, rule of law, constraints on executive, and protection of personal liberties.

[13] Thucydides, 2.41.

But the Athenian democracy did not collapse solely because of external forces. In fact, the conditions for its progressive erosion are ultimately institutional and can be traced back to the democracy's very establishment. In particular, we highlight the lack of checks on the power of the demos as a critical factor of democratic breakdown. This design defect had its roots in the democracy's emergence from a past of tyranny and elite infighting. Against these forces, a powerful demos was a necessary counterweight.[14] But as time went by, as we will see, this design proved detrimental to the stability of democracy. We do not mean to suggest that political systems simply age badly, and that at some point collapse will ensue because circumstances have changed. Indeed, if institutional design were solely responsible for the collapse of democracy in Athens, it would be hard to explain why it took almost a century for democracy to break down.

In the end, what did democracy in was a crisis of legitimacy that was the result of a combination of the aforementioned factors: design defects, organized opposition, and military pressures. The crisis of legitimacy manifested as a breakdown in the belief that the democracy was a fair system of social cooperation—that the costs I incur for my cooperation as a member of the group are compensated by the benefits that participation bestows on me, both as an individual and as a part of a community whose flourishing I value, and the belief that my fellow citizens are similarly motivated. The crisis of legitimacy was a crisis of those beliefs. We use the word "legitimacy" to mean a form of Weberian descriptive legitimacy in which I commit to obey the rules even when I know that I can get away with violation.[15] The case of Athens suggests that democracy requires, at a minimum, this form of descriptive legitimacy. When legitimacy is lost, overcoming the crisis requires reconfiguring legitimacy at the institutional level, as well as at the level of political culture.

Our contribution combines history, normative political theory, and positive political science to shed light on the manifold causes of democratic breakdown. We emphasize institutions alongside political culture, and we seek to uncover proximate as well as ultimate causes. In diagnosing an ancient case study, we provide a prognosis for the future of our fragile modern democracies: it takes a lot to shake a rich, consolidated democracy, but in the end even these rare beasts can die when we, its citizens, lose faith in the value and efficacy of our mutual obligations.

[14] Sara Forsdyke, *Exile, Ostracism, and Democracy: The Politics of Expulsion in Ancient Greece* (Princeton: Princeton University Press, 2005).

[15] Max Weber, *The Theory of Social and Economic Organization*, ed. Talcott Parsons (New York: Free Press, 1964); Fabienne Peter, "Political Legitimacy," in *The Stanford Encyclopedia of Philosophy,* ed. Edward Zalta (2017), https://plato.stanford.edu/entries/legitimacy/.

Athens's Institutions, Culture, and History

Classical Athens is by far the best-documented and most thoroughly studied example of a premodern democracy in a complex state. Athens was governed by a large and economically (if not culturally, ethnically, or religiously) diverse citizenry through sophisticated legislative, judicial, and executive institutions. Many of the institutions of the mature classical democracy were established early on.[16]

The Council (Boule) was a deliberative body of five hundred members selected every year by lot among the citizen (free, adult, native male) population. The mandate lasted one year, and no member could iterate his participation more than once, and not in consecutive years. Given Athens's demographics, this meant that a very large number of Athenian citizens participated directly in governance. The Council set the agenda for each meeting of the citizen Assembly, either providing policy recommendations or mandating that an issue be openly debated on the floor of the Assembly. Assembly meetings, attended by six thousand to eight thousand citizens, typically featured multiple speeches on policy proposals, followed by a vote by show of hands. Councilors received pay for service, and from the early fourth century onward, so did assemblymen. During the democracy's first century, decisions of the Assembly were final and no appeal mechanisms existed. In the popular courts, large panels of lay citizen jurors, also selected by lot, resolved private and public disputes. Each year, six thousand men were sworn in as jurors. On each day that the courts were in session, panels of varying size (usually ranging between 201 and 501) were allotted to disputes through complex selection mechanisms. Jurors listened to speeches from the contending parties and then voted by secret ballot. They did not deliberate before the vote, and their decision was final. Finally, a number of magistrates, some selected by lot and some elected, were tasked with a variety of functions related to administration, the military, infrastructure, and finance. Law, understood as both written statutes and unwritten norms, played an important role in setting the rules of the game and controlling powerful actors.[17]

[16] The citizen population consisted of some 30,000 of a total population of perhaps 250,000 in the time of Aristotle, in the later fourth century BCE; citizens constituted perhaps up to 50,000 of a substantially larger total population in the imperial-democracy era of Pericles in the mid-fifth century BCE (about 350,000). Mogens Herman Hansen, *Three Studies in Athenian Demography* (Copenhagen: Munksgaard, 1988); Mogens Herman Hansen, *The Shotgun Method: The Demography of the Ancient Greek City-State Culture* (Columbia; University of Missouri Press, 2006). The development of Athens in the context of the world of the city-states is detailed in Ober, *The Rise and Fall of Classical Greece*, chs. 6–9. Federica Carugati, *Creating a Constitution: Law, Democracy, and Growth in Ancient Athens* (Princeton: Princeton University Press, 2019) is a detailed analysis of the crisis period of the late fifth and early fourth centuries.

[17] For a survey of democratic institutions, see Mogens Herman Hansen, *The Athenian Democracy in the Age of Demosthenes: Structure, Principles, and Ideology* (Norman: University of Oklahoma Press, 1999). As Sara Forsdyke argues, in the fifth century the Athenians made important strides toward establishing elements of what we may today call a rule of law: namely, legal supremacy and legal equality. Sara Forsdyke, "Ancient and Modern Conceptions of the Rule of Law," in *Ancient Greek*

These formal institutions were underpinned by a political culture predicated on rejection of autocratic (tyrannical, oligarchic) forms of government. Athens was a democracy, in the first instance, because its citizens refused to be subjects and were willing to put their bodies on the line in resisting threats of subjugation. Meanwhile, an emerging ideology of democratic citizenship emphasized political liberties—freedom of speech and assembly—and political equality, expressed in the equality of each citizen's vote and in lotteries for the selection of public officials. The political culture, furthermore, protected civic dignity: strong social norms, ultimately backed up by threats of legal sanction, pushed back against the tendency of wealthy and well-connected residents to engage in public behaviors likely to humiliate or infantilize their poorer fellow citizens. The freedom, equality, and dignity associated with the status of citizen were essential parts of the value package that compensated each citizen for the costs of participating in a relatively time-consuming regime of self-government and national defense.[18]

In comparison to a modern democracy, Athenian democracy may be described as "basic."[19] Most striking, Athenian democracy was not liberal, either in a classical liberal sense of being designed to defend the autonomy and natural rights of the individual against the intrusive potential of a strong central government, or in the contemporary liberal sense of promoting an egalitarian ideal of social justice and universal human rights. Freedom, equality, and dignity remained civic values, arising from and defended by the political participation of citizens. Athenian democracy did have certain redistributive effects: taxes on the rich enabled poorer citizens to be full participants in politics, and income inequality remained relatively low in comparison to other well-studied premodern societies.[20] Moreover, there were certain spillover effects such that noncitizens—slaves and resident foreigners—were to some degree protected by law and norms from certain forms of abuse. But those protections were not based on rights, and they depended for enforcement on the goodwill of the citizenry.[21]

History and Contemporary Social Science, ed. Mirko Canevaro, Andrew Erskine, Benjamin Gray, and Josiah Ober (Edinburgh: Edinburgh University Press, 2018), 186. On the rule of law in Athens in comparative perspective see also Paul Gowder, *The Rule of Law in the Real World* (New York: Cambridge University Press, 2016); Mirko Canevaro, "The Rule of Law as the Measure of Political Legitimacy in the Greek City States," *Hague Journal on the Rule of Law* 9, no. 1 (2017): 211–236; Carugati, "The Rule of Law through the Ages," in *The Routledge Handbook of the Rule of Law* (Routledge, forthcoming).

[18] Josiah Ober, *Demopolis: Democracy before Liberalism in Theory and Practice* (Cambridge: Cambridge University Press, 2017), ch. 2.

[19] Ober, *Demopolis*, ch. 1.

[20] Josiah Ober, "Inequality in Late-Classical Democratic Athens: Evidence and Models," in *Democracy and Open Economy World Order*, ed. George Bitros and Nicholas Kyriazis (New York: Springer, 2017), 125–146.

[21] Federica Carugati, "Tradeoffs of Inclusion: Development in Ancient Athens," *Comparative Political Studies* 53, no. 1 (2019): 144–170.

Among the striking features of Athenian democracy are its relative stability and prosperity. From its origin (usually dated to the aftermath of the "Athenian Revolution" of 508 BCE)[22] to its overthrow by the victorious Macedonian dynasts following the conquests of Alexander the Great (322 BCE), Athens was almost continuously ruled by a participatory (i.e., political participation-rights holding) citizenry that included virtually all free, native, adult males. This system sustained remarkably high levels of economic and social development.[23]

In the fifth century, Athens's stability and prosperity depended in large part on the empire, which the city-state came to control after the Persian Wars (490 and 480–479 BCE). The empire brought wealth, prestige, and stability to the polis. Imperial revenues, in the form of both rents and tribute from the allies, funded the polis's democratic institutions, its military might, and conspicuous public building programs. They also helped justify democratic institutions and culture before the eyes of rich Athenians who may have preferred a different type of government.

If the empire contributed to Athens's success, it was also responsible for triggering the conflict that would eventually bring the polis to its knees. According to Thucydides, "[t]he growth of the power of Athens, and the alarm which this inspired in Sparta, made war inevitable."[24] The first phase of the Peloponnesian War (the so-called Archidamian War, from 431 to 421 BCE) progressively eroded the conspicuous human and financial resources that Athens

[22] Josiah Ober, *The Athenian Revolution: Essays on Ancient Greek Democracy and Political Theory* (Princeton: Princeton University Press, 1996), ch. 4.

[23] Economic growth: aggregate consumption measured at 0.6–0.9% per annum—as compared to Holland's 0.5%; per capita consumption measured at 0.15% per annum—as compared to Holland's 0.2% and Rome's 0.1%. Ian Morris, "Economic Growth in Ancient Greece," *Journal of Institutional and Theoretical Economics* 160, no. 4 (2004): 709–742; Ian Morris, "The Eighth Century Revolution," Princeton/Stanford Record Papers in Classics, Paper no. 120507, 2005, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1426851Richard Saller "Framing the Debate over Growth in the Ancient Economy," in *The Ancient Economy*, ed. Ian Morris and J. G. Manning (Palo Alto: Stanford University Press, 2005); Josiah Ober, "Wealthy Hellas," *Transactions of the American Philological Association* 140, no. 2 (2010): 241–286; Ober, *The Rise and Fall of Classical Greece,* ch. 5. On healthy and urbanized populations, see Morris, "Economic Growth in Ancient Greece"; Anna Lagia, "Diet and the Polis: An Isotopic Study of Diet in Athens and Laurion during the Classical, Hellenistic, and Imperial Roman Periods," in *Archaeodiet in the Greek World: Dietary Reconstruction from Stable Isotope Analysis*, ed. Anastasia Papathanasiou, Michael P. Richards, and Sherry C. Fox (Princeton: American School of Classical Studies at Athens, 2015); Hansen, *The Shotgun Method*. On high real wages, see Walter Scheidel, "Real Wages in Early Economies: Evidence from Living Standards from 1800 BCE to 1300 CE," *Journal of the Social and Economic History of the Orient* 53 (2010): 425–462. Low inequality: wealth: 0.708 Gini; landholding: 0.44 Gini; income: 0.38 (the last measure includes slaves and resident foreigners): Geoffrey Kron, "The Distribution of Wealth in Athens in Comparative Perspective," *Zeitschrift für Papyrologie und Epigraphic* 179 (2011): 129–138; Geoffrey Kron, "Comparative Evidence and the Reconstruction of the Ancient Economy: Greco-Roman Housing and the Level and Distribution of Wealth and Income," in *Quantifying the Greco-Roman Economy and Beyond*, ed. François de Callataÿ (Beri: Edipuglia, 2014), 123–146; Julian Gallego, "El campesinado y la distribución de la tierra en la Atnas del siglo IV a.C.," *Gerion Revista de Historia Antigua* 34 (2016): 43–75; Ober, "Inequality in Late-Classical Democratic Athens."

[24] Robert Strassler, trans., *The Landmark Thucydides* (New York: Free Press, 1996), 1.23.6.

had accumulated in the fifth century.[25] In a bid to restore Athens's strength through conscripted manpower and booty, in 415 the Athenian Assembly enthusiastically voted to send a massive military expedition to Sicily with the aim of radically expanding the empire. The campaign (415–413 BCE) proved an utter disaster for Athens.[26]

The defeat in Sicily plunged the city into a severe financial crisis, triggering political instability. Between 411 and 403 BCE, a series of regimes replaced the democracy that had governed Athens for almost a century. The oligarchy of the Four Hundred was established in 411 BCE and ruled Athens for about four months. When the Four Hundred collapsed, another oligarchy—the regime of the Five Thousand—took power for another handful of months. Democracy was restored in 410/9 BCE and remained in place until the end of the Peloponnesian War in 404 BCE. After Athens's defeat, Spartan interference in the polis's domestic affairs led to the establishment of the oligarchy of the Thirty (404/3 BCE). Efforts to rid the city of the Thirty devolved into civil war. Democracy was eventually reestablished in 403 BCE.

First Collapse: 413–410 BCE. The Four Hundred and the Five Thousand

When news of the Sicilian disaster arrived at Athens in 413 BCE, the Athenians voted to appoint an advisory board of ten elders (*probouloi*) "to advise upon the state of affairs, as occasion should arise," and passed a series of emergency economic measures.[27] The duties of the board remained ill-specified, and the regular democratic organs of government—the citizen Assembly and the deliberative citizen Council—at first continued to operate as before. However, this was an unprecedented move to curtail the power of the demos. As the demos lost trust in the efficacy of the democratic system, the elite began to fear that the demos would expropriate their wealth to continue funding the Peloponnesian War against Sparta. For Thucydides, "the most powerful citizens suffered most severely from the war" because military expenditures fell largely on them.[28] After Sicily, the burden could only have kept increasing. By how much, no one knew, because in the absence of procedural checks on the Assembly, the demos could vote to extract from the elite as much as they wished. The state's

[25] Loren Samons, *Empire of the Owl: Athenian Imperial Finance* (Stuttgart: Steiner, 2000).

[26] Ten thousand Athenians may have died in Sicily (Hansen, *Three Studies in Athenian Demography*, 15–16). On Athenian finances in this period, see Alec Blamire, "Athenian Finance, 454–404 BC," *Journal of the American School of Classical Studies at Athens* 70, no. 1 (2001): 114–115; Samons, *Empire of the Owl*, ch. 6.

[27] Thucydides, 8.1.3.

[28] Thucydides, 8.48.1.

immediate problem was in fact raising funds to counter an expected attack from both Sparta and Syracuse, while rebuilding the navy and maintaining a fleet in the northern Aegean.

At this critical juncture, Alcibiades, a former Athenian general who had defected to Sparta in 415 BCE, boasted that he would be able to bring the Persian Empire and its vast financial resources over to the Athenian side, but only if Athens changed its government to oligarchy. This was a self-interested move, as Alcibiades hoped that the new government would reinstate him in power. Nonetheless, the proposal attracted the support of oligarchic sympathizers who began a campaign of systematic terrorism, assassinating prominent democratic politicians. The historian Thucydides reports that the terror campaign was effective in undermining trust among Athenian citizens and in leading the Athenians to overestimate the strength of the oligarchic faction.[29]

The advisory board of elders appointed after the defeat in Sicily was expanded in 411 BCE and authorized to make new constitutional proposals that would be brought before the citizen assembly. The board recommended the lifting of the *graphe paranomon* procedure, which allowed for the indictment of anyone making unconstitutional proposals in the Assembly. If we follow Thucydides (rather than Aristotle), the oligarchs successfully manipulated the discussion at the key meeting of the Assembly, which was held away from the city and whose participants overrepresented the Athenian upper classes. The Assembly granted what amounted to complete authority to a body of four hundred oligarchs. The Four Hundred were charged with creating a new, restricted body of five thousand citizens, but they kept postponing doing so. The Council was disempowered, as was the citizen Assembly itself. Democracy had, in effect, voted itself out of existence.

The Athenian citizens serving as rowers in the Aegean fleet, stationed on the island of Samos, rejected the new oligarchic government and set themselves up as a democratic government in exile, while continuing to act as a branch of the Athenian armed forces in operations against the Spartan fleet in the northern Aegean. The Four Hundred at Athens, under pressure to name the five thousand, sought a separate peace with Sparta. One of their leaders was assassinated, and the generals of the Four Hundred lost a key naval battle, which led to the revolt of the city-states on the highly strategic island of Euboea, off Athens's east coast. Soon after, the Four Hundred were deposed (later 411 BCE).

After the fall of the Four Hundred, the government was entrusted to the Five Thousand, whose membership was defined as those Athenians able to afford heavy infantry weapons and armor. Under this new oligarchy, praised by Thucydides as a mixture of high and low, Athens won a series of naval battles

[29] Thucydides, 8.65.2–66.5.

against the Spartans and Syracusans.[30] However, in the aftermath of those victories, the democracy was restored. The reasons for the demise of the Five Thousand are unclear. But it is possible that this compromise government lacked critical support. It also seems likely that, after the disastrous experience with the Four Hundred, the demand for democracy grew stronger once again. In a public ceremony, the Athenians swore an oath to kill anyone who sought to overthrow the democracy.[31]

Second Collapse: 404–403 BCE. The Thirty and Civil War

The democracy remained in place until Athens's defeat in the Peloponnesian War. In this period, through fiscal and legal reforms, the Athenians sought to restore internal order and assuage the tensions between masses and elites—tensions that were heightened by a dire financial and human crisis.[32]

When Athens surrendered to Sparta in the summer of 404 BCE, after twenty-seven years of war, the citizen population was very much reduced. It is likely that the number of free adult male natives was less than half of what it had been before the outbreak of the war.[33] Notably, the losses were heavily concentrated in the lower classes who had served in the navy. The surrender mandated the elimination of Athens's empire and the effective dismantling of its armed forces and city walls.[34] The democracy was also eliminated at the behest of the victorious Spartan general, Lysander, who called an assembly and surrounded the assembly place with Spartan soldiers. The upshot was the appointment of thirty Athenian aristocrats, all Spartan sympathizers.

The Thirty, led by Critias, uncle of Plato and sometime student of Socrates, had full executive authority and were charged with drafting new constitutional laws. It is difficult to decide what sort of positive plan the Thirty may have had. In any event, they never established a working constitutional government but rather ruled by executive decree and organized terror. They requested and received a Spartan garrison. To pay for the garrison, they executed and seized the property of wealthy resident foreigners and citizens. Many other Athenians were driven into exile. A split between Critias and more moderate members of the Thirty led to the judicial murder of the leaders of the moderates.

[30] Thucydides, 8.97.

[31] David Teegarden, *Death to Tyrants: Ancient Greek Democracy and the Struggle against Tyranny* (Princeton: Princeton University Press, 2014).

[32] Blamire, "Athenian Finance."

[33] Barry Strauss, *Athens after the Peloponnesian War: Class, Faction, and Policy, 403–386* BC (Ithaca, NY: Cornell University Press, 1987); Hansen, *Three Studies in Athenian Demography*.

[34] Xenophon, *Hellenica*, 2.2.20.

In the winter of 404/3 BCE, a body of pro-democrats seized a strongpoint in the Athenian countryside and defeated the forces sent by the Thirty against them. The democrats soon moved to take control of Piraeus, Athens's port. The Thirty, meanwhile, grew increasingly violent: their recorded actions included the mass killing of the population of the Athenian town of Eleusis. The democrats eventually defeated the forces of the Thirty in a full-scale battle in which Critias was killed. The oligarchs then fell into disarray. The Thirty were replaced by a new government of "the Ten," which appealed to Sparta to put down the democrats. But the Spartans were divided in their counsels. Lysander, who might have crushed the democratic revolt had he been given a free hand, was under suspicion, and Sparta's king Pausanias preferred negotiating a peace between the warring Athenian factions.

Democracy was restored and a general amnesty passed that forbade prosecuting those Athenians who had collaborated with the oligarchic governments. Those oligarchs who were not willing to be reconciled were given control of Eleusis, which temporarily became a separate state. By September 403 the democrats were in control of the city and celebrated with a procession to the sacred Acropolis. New constitutional laws were enacted and new institutions and procedures created to check the power of the demos. Competing proposals to offer citizenship to noncitizens who had fought on the side of the democrats and to restrict the citizen body to property owners were defeated. In 401, after an armed conflict, the oligarchic state at Eleusis was forcibly reincorporated into the democratic state of Athens. The new democracy remained in place for the next eighty years.

Analysis

Why did the Athenian democracy collapse? And why did it recover? In this section, we discuss each process in turn.[35]

Democratic Breakdown

Democracy in Athens collapsed twice in the span of a few years. In each case, a military setback of unprecedented scale was a proximate cause. In the first instance, the catastrophe was the loss in 413 BCE of most of Athens's navy and a major expeditionary force after an aborted attempt to conquer Sicily. In the

[35] This section is based primarily on the detailed analysis offered in Carugati, *Creating a Constitution*.

second instance, democracy was overthrown after Athens surrendered in 404 BCE to Sparta at the end of the long Peloponnesian War.

Certainly, such major military defeats played a role in weakening the democracy. But Athens had survived previous military failures. The disaster would probably not have occasioned the failure of democracy, at least in the first case, had there not been an active opposition ready and able to exploit the situation. While the number of oligarchic sympathizers seems to have been fairly small, they were well organized and willing to use violence to achieve their ends.[36] In 411 BCE, the democrats were thrown on the defensive by terror attacks and proved unable to solve the collective action problem that the oligarchs purposefully exacerbated by assassinating democratic leaders. In 404 BCE, the Spartans were in a position of forcing a regime change on their defeated rival—the alternative was the extermination of the Athenian male population, an expedient urged by some of Sparta's allies. But once again, oligarchic elements at Athens were ready and willing to collaborate in the overthrow of the democratic government.

Terroristic violence helped the oligarchs accomplish their ends, both in destabilizing democracy and in consolidating oligarchy against internal opposition. But in both cases, oligarchy proved unstable and incapable of establishing secure new grounds for acquiescence to the new regime and general willingness to obey its rules. The failure of oligarchy was rooted in part in the oligarchs' abysmal performance while in power and in part in Athens's democratic culture.[37] By the late fifth century BCE, the political culture of democracy, which had long been defined in contradistinction to tyranny and oligarchy, was deeply ingrained. That culture did not immunize the Athenians against crises of confidence in their government institutions. But it made it difficult for any nondemocratic government to sustain itself in the absence of an existential external threat. The oligarchs had been successful in precipitating a legitimacy crisis, which contributed to persuading many in Athens to acquiesce to a new government. But the oligarchs were unable to produce the conditions in which oligarchy would be accepted as legitimate, such that obedience to the new regime would be general and sustained. By "legitimacy," it is worth stressing again, we mean a concept akin to Weber's descriptive legitimacy, which describes a situation where most people follow the rules most of the time. But justifying the failure of oligarchy is not tantamount to accounting for the success of democracy—particularly of the democracy that arose from the ashes of the Civil War, which differed substantially

[36] The overthrow of democracy, in both instances, occurred in the context of citizen assemblies. But the institutional façade hid a violent backdrop.

[37] The Four Hundred failed to secure a deal with Persia (Thucydides, 8.48) and then a peace with Sparta (Thucydides, 8.70–71). In addition, they suffered the revolt and loss of Euboea, Athens's strategic ally. [Aristotle,] *Athenaion Politeia* 33.1; Thucydides, 8.96–97. The Thirty failed to secure the support of Sparta, partly due to division within the Spartans themselves, and they were defeated in a series of military engagements with the democratic resistance (Xenophon, *Hellenica,* 2.4.28–30).

from the one that had collapsed in 411 BCE. We return to this point in the next subsection.

So far, we have identified military defeats and the presence of an organized opposition as proximate causes for the collapse of democracy in Athens. More specifically, we suggested that the breakdown was catalyzed by military defeats and brought to completion when the opposition to democracy was sufficiently organized and willing to use violence (i.e., ease of collective action within the group and ability to prevent collective action among the democrats, or the citizenry writ large). But clearly these reasons are insufficient. Athens experienced many dire military defeats in the course of its democratic history, but democracy did not always collapse. Equally, oligarchic sentiments and actors were quite widespread among the elite throughout the fifth and the fourth century BCE.[38] We need to dig deeper.

We argue that the collapse of democracy was due to a crisis of legitimacy, which in turn was rooted in an underlying institutional design defect. The Athenian democracy in the fifth century BCE lacked the capacity to credibly commit itself to a future course of action; that is, the Assembly was unable to convince relevant agents that it would keep promises made via legislation. This problem depended on three main factors. First, no other institution existed to check the legislative power of the Assembly.[39] Second, there were no systematic procedures to collect and archive Assembly decisions (laws and decrees).[40] Third, there was no clear rule of legal constraint, priority, or noncontradiction. As a result, decisions made by the Assembly today were valid tomorrow only insofar as the demos was willing to respect its previous pronouncements. Should a past decision appear inconvenient, it could be ignored or overridden by a simple majority vote.

To understand how this design defect affected the functioning of democracy, it is useful to go back to the very establishment of democracy in 508 BCE. Democracy was designed in response to certain demands for popular voice and to control infighting among the elite. The original structure—a popular Assembly, a participatory agenda-setting Council, and people's courts to hear appeals against the decisions of magistrates—initially worked very well. Even too well. In the span of only thirty years, Athens rose from a small, homogeneous

[38] Josiah Ober, *Political Dissent in Democratic Athens: Intellectual Critics of Popular Rule* (Princeton: Princeton University Press, 1998).

[39] Especially in cases of open *probouleumata* (where the Council makes no formal recommendation to the Assembly), and in cases where the *prytaneis* (the executive body of the Council, which rotated among the tribes such that each tribe would occupy the position for one-tenth of the year) are silenced by the crowd.

[40] In the fifth century, the Athenians sought to address the problem of credible commitment in certain specific domains, notably foreign policy, through entrenchment clauses. Melissa Schwartzberg, "Athenian Democracy and Legal Change," *American Political Science Review* 98, no. 2 (2004): 311–325; Melissa Schwartzberg, *Democracy and Legal Change* (Cambridge: Cambridge University Press, 2007).

community of civic equals to a large imperial power.[41] Initially, the empire provided opportunities for voice and enrichment to the upper and lower classes alike, smoothing social conflict and ushering in a period of remarkable growth. But as time went by, and as circumstances changed, this structure began to show some deficiencies. Take the famous Melian dialogue, where the Melians' arguments for fair treatment and autonomy are met with the Athenians' blunt realist logic: the assembly determined that Melos was advantageous to Athens as a subject, a liability if left independent, and that it would be treated accordingly without regard to background norms of interstate relations.[42] This logic of imperial acquisition, driven by the assumption that Athenian safety required constant expansion, also provided the justification for the decision to invade Sicily.[43]

A state of constant war put enormous pressure on the structure of democracy. In particular, the process of decision-making started to break down in the face of the scale, volume, and time-sensitivity of the decisions that had to be made. Long before Sicily, Thucydides reports how, in 427 BCE, the Athenian Assembly voted to dispatch a trireme (warship) to a victorious Athenian general, ordering him to punish a revolting ally—the city of Mytilene, on the island of Lesbos—by killing all adult males and selling women and children as slaves.[44] But the following day, the harshness of their pronouncement having come to seem excessive, the Athenians summoned a second assembly to reevaluate and eventually modify the decision. Thucydides recounts that the trireme carrying the second decision arrived in Mytilene just in the nick of time to avoid the massacre.

That the Athenians struggled with the lack of a system to constrain the scope of the demos's decisions and to bind the state's hands once a decision had been made emerges perhaps most evidently in the creation, sometimes between 427 and 415 BCE, of the *graphe paranomon*. The *graphe paranomon* enabled the revision of Assembly decisions by allowing any participant (*ho boulomenos*—lit. whoever wishes) in the course of any given assembly to indict a proposed measure as against the laws (*paranomon*) or inconvenient (*asymphoron*) in the sense of failing to foster the interests of the Athenian demos. But at least in the fifth century, the *graphe paranomon* remained a futile procedure.[45] The problem emerged clearly in the famous case of Arginusae, when the Assembly voted against existing laws to condemn their generals without trial for failing

[41] Of course, democracy was not solely responsible for Athens's success. In particular, democracy did not cause the empire, which was the result of a series of contingencies. But, as Ober has shown, democracy played a significant role in Athens's performance. Josiah Ober, *Democracy and Knowledge* (Princeton: Princeton University Press, 2008).

[42] Thucydides, 5.84–116.

[43] Thucydides, 6.18.2.

[44] Thucydides, 3.36–49.

[45] Adriaan Lani and Adrian Vermeule, "Precautionary Constitutionalism in Ancient Athens," *Cardozo Law Review* 34 (2013): 893.

to rescue the survivors of a naval battle. A proposed *graphe paranomon* to block that decision was withdrawn when its proposer was himself threatened with prosecution.[46]

In sum, there were cracks in the system long before Sicily. Athens's decisive defeat in Sicily was, to borrow a phrase from Timur Kuran, its "now out of never" moment.[47] Sicily was indubitably a shock like few others. But we cannot properly account for the timing of the subsequent democratic collapse if we neglect the difficulties that accompanied the fateful decision to launch the expedition in the first place—including a blunt violation, justified with an appeal to the will of the majority, of the procedural norm that votes be taken only on issues listed on a precirculated agenda.[48] By the same token, democracy collapsed after Sicily because specific conditions were met. Events like those surrounding the revolt of Mytilene must have alerted at least some Athenians to the risks inherent in unrestrained popular power. Already before Sicily, relentless war pressures had eroded human, material, and financial resources. In short, the collapse did not require all the unique circumstances attending the failure in Sicily. The collapse occurred because at this juncture the conditions for basic democracy—legitimacy, security, and welfare—were no longer in place. A question therefore emerged for the Athenian demos: Can we trust ourselves? And if we can't trust ourselves, whom should we trust? These questions created the opportunity for constitutional change—an opportunity that oligarchic sympathizers were ready and capable of exploiting.

Crisis and Recovery

Ten years after the disaster in Sicily, eight years after the democracy's collapse, a new constitutional structure emerged. It is perhaps not entirely surprising now, but certainly was not obvious at the time, that such a structure would be a democracy. By the time of the collapse of democracy in 411 BCE, Athens's democratic culture was well established. In addition, the oligarchs failed to consolidate their power by persuading others of the legitimacy of their rule. These reasons played a role in making democracy once again a viable constitutional option. But the democracy that emerged in 403 BCE was different from the one that collapsed in 411. In particular, the new democracy put a number of measures in place to fix the underlying design defect discussed in the previous section.

[46] Xenophon, *Hellenica,* 1.5.27–7.35.

[47] Timur Kuran, "Now out of Never: The Element of Surprise in the East European Revolutions of 1989," *World Politics* 44, no. 1 (1991): 7–48.

[48] Ober, *Political Dissent in Democratic Athens*, 104–113.

The reforms enhanced the credibility of the demos's commitments, contributing to resolve the legitimacy crisis that had brought down the fifth-century democracy. The Athenians imposed limits on the previously unrestrained decision-making power of the Assembly by introducing another legislative institution, the *nomothesia* (lit. lawmaking), and by specifying a series of procedures to be followed in the process of legislation. The *nomothesia* made it much harder to pass new laws by creating multiple veto points.[49] Moreover, a complex system of check and balances was created to coordinate the legislative process and define the relative spheres of influence of the two institutions. First, the Assembly maintained the power to pass decrees (*psephismata*), subject to the provision that decrees could not contradict existing laws (*nomoi*).[50] Second, laws were the domain of the *nomothetai* (lawmakers), but their power to pass legislation was in turn limited by the provision that the *nomothetai* could be convened only by the Assembly. Finally, both decrees of the Assembly and laws of the *nomothetai* had to conform to the body of existing laws, which were collected and republished between 410 and 399 BCE.[51]

The reforms themselves did not emerge out of nowhere. They were the product of a constitutional debate that began with the appointment of the board of elders in 413 BCE and continued throughout the crisis. The debate contributed to restoring the legitimacy of democracy by forging a consensus on basic principles of self-government. The consensus was minimalistic and, to borrow a term from

[49] According to Canevaro's recent reconstruction, the process involved four institutions—the Council, the Assembly, the law courts, and the *nomothetai* (lit. lawgivers)—and seven stages, including a preliminary vote in the Assembly to allow new proposals, a period for the publication of the new proposals in front of the statue of the Eponymous Heroes concomitant with readings in subsequent Assemblies, the summon of *nomothetai*, the repeal of existing laws that contradicted the new proposal, and an approval stage. Whether this final approval stage took place in the courts before judges selected by lot from the body of those who had sworn the jurors' oath, or in an Assembly labeled *nomothetai*, the many steps that preceded the final stage made it extremely hard for a proposer of new legislation to predict, ex-ante, how each different body would vote on a given proposal and act strategically to manipulate the proceedings. Mirko Canevaro, "Nomothesia in Classical Athens: What Sources Should We Believe?," *Classical Quarterly* 63, no. 1 (2013): 139–160. On *nomothetai* as judges, see Douglas MacDowell, "Lawmaking at Athens in the 4th Century BC," *Journal of Hellenic Studies* 95 (1975): 62–74; Mogens Herman Hansen, "Athenian Nomothesia," *Greek, Roman, and Byzantine Studies* 26 (1985): 363–365, 371; P. J. Rhodes, "Sessions of Nomothetai in Fourth-Century Athens," *Classical Quarterly* 53, no. 1 (2003): 124–129; Christos Kremmydas, *A Commentary on Demosthenes against Leptines* (Oxford: Oxford University Press, 2012), 16–31, 350–351. On *nomothetai* as a special session of the Assembly, see Marcel Piérart, "Qui étaient les nomothètes a l'époque de Démosthène?," in *La Codification des lois dan l'antiquité*, ed. Edmond Levy (Paris: De Boccard, 2000), 229–256.

[50] The Athenians may have been the first to establish a distinction between laws and decrees as two levels of man-made law. The locus classicus for the distinction between laws (general rules) and decrees (rules that apply to specific cases) is Aristotle, *Nicomachean Ethics*, 1137 b 13–32. The distinction was customary in fourth-century Athens: Douglas MacDowell, *The Law in Classical Athens* (Ithaca, NY: Cornell University Press, 1978), 43–46.

[51] The revision of the laws began in 410 and lasted until Athens's defeat in the Peloponnesian War in 404. It was then picked up again in 403 and ended in 399.

John Rawls, overlapping.[52] It was overlapping in the sense that the consensus united people holding different views of the good society under a common commitment to a *procedure* for making new rules, based on the core *value* of legality. It was minimalistic because, far from being predicated on a set of thick, normatively demanding principles, it expressed instead an obligation to respect the laws of the city, particularly when it came to protecting citizens' persons, property, and dignity.[53]

In sum, the restoration of democracy in Athens relied on processes aimed at reconfiguring legitimacy at the institutional level, as well as at the level of political culture. Athens did not experience other episodes of democratic breakdown until it was conquered by Macedon in 322 BCE, about eighty years after the restoration of democracy. During this period, Athens suffered many dire military defeats, including the defeat at the hands of Philip and Alexander at Chaeronea in 338 and the defeat in the Social War of 357–355. Similarly, opposition to democracy surely did not die out among the elite; in fact, the fourth century is, in many respects, the golden age of Athens's antidemocratic intellectual culture, when Plato, Aristotle, and the rhetorician Isocrates wrote deep and influential criticisms of Athens's democracy. Therefore, some of the triggers for the collapse of democracy in 411 BCE remained, but democracy did not collapse. At the same time, the reforms that addressed the design defect that, we suggested, was the ultimate cause of the collapse of democracy in the late fifth century remained in place until the final Macedonian conquest. The reforms presided over a long period of political stability and economic growth. Concomitant stability and growth, in turn, contributed to strengthening the legitimacy of the new democracy.

Conclusion

In this chapter, we explored the collapse and recovery of the world's first rich and consolidated democracy. We identified a series of proximate and ultimate causes for the collapse: military defeats, the presence of an organized opposition, and a crisis of legitimacy traceable to a fundamental defect of institutional design. We also suggested that democratic recovery depended on reengineering both institutions and culture.

In the fifth century, Athens developed a sophisticated democratic culture and institutions. The history of imperial Athens suggests that a "good enough"

[52] John Rawls, *A Theory of Justice* (Cambridge, MA; Belknap Press of Harvard University Press, 1999), 340; John Rawls, *Political Liberalism* (New York: Columbia University Press, 2005), 11–15, 133–172.

[53] Carugati, *Creating a Constitution*.

constitution, even one with a deep flaw, can drive growth and achieve high levels of legitimacy under good conditions, even in the face of internal opposition. But when subjected to sufficient stress (e.g., a long war), the flaw will become evident through performance failures. The resulting loss of legitimacy will open the way for opponents to overthrow democracy. If those opponents are incapable of establishing a reasonably high-performing, legitimate, alternative constitutional order, they will in turn open the way for democrats to overthrow the oligarchic order. The threat of a devolutionary cycle of constitutions in which the pattern of overthrow and replacement is indefinitely repeated on a short time horizon can be avoided by the recognition and rectification of the original constitutional flaw, in the context of a recommitment to some core values shared broadly among the population.

Our account brings the case of Ancient Athens to bear on the debate over the fate of contemporary rich and consolidated democracies and suggests that the time may have come for recommitting to shared values as well as fixing those institutions that are jeopardizing security, prosperity and nontyranny.