There's been a lot of noise from House Republicans (and others) about how EPA regulation of carbon dioxide under the Clean Air Act is somehow an end-run around Congress or anti-democratic. But it is neither.

Consider the first point: The Clean Air Act is drafted in very general terms, including in its definition of air pollutants almost any type of emission. At a number of stages in the Act, EPA is required to regulate air pollutants from various sources and in various ways. Thus, it is not EPA that capriciously interpreted the Clean Air Act so as to give itself lots more authority. Instead, it was the Congress of the 1970s that wrote a broad statute – and the Supreme Court of 2006 that interpreted that statute to (more or less) require EPA to regulate greenhouse gas emissions from automobiles (*Massachusetts v. EPA*) The statutory logic that led the Court to its conclusion in that case also requires EPA to regulate other sources of those emissions under the Act.

Now Congress can always amend the statute if it wants. And amendment could occur through either amending the underlying statutory language of the Clean Air Act, or using Congress' control of the appropriations process to deny EPA any funding to implement regulation of carbon dioxide emissions under the Act. So far, House Republicans have pushed the second option, perhaps because it is not so politically perilous as directly amending the Clean Air Act. They can say that they're not against "clean air" just against runaway bureaucracy!

But there's nothing here that's an end-run around Congress. EPA is (as bureaucracies *should* do) implementing the orders of the legislature through duly enacted laws.

What about anti-democratic? Well, that's not very persuasive when the Congress itself is hardly a model of democracy, if that's defined as giving citizens equal voices in decisionmaking. Large population states such as California are seriously underrepresented in Congress. California, with 37 million people has the same Senate representation (2 Senators) as Wyoming (just over 500,000 people). In case you're counting, that means the average Wyoming voter has 54 times as much power in the Senate than California. Even worse, we effectively have supermajority voting in the Senate thanks to the relentless use of the filibuster by Republicans over the past three years. That gives small states even more power in legislation. So it's hard to argue that Congress is a bastion of democracy. In fact, the President is arguably much more democratic (because he is elected at a national level – although even here there is some skew in the Electoral College in favor of small states), and it is President Obama who has direct supervision over EPA.

But the other thing to consider here is the global nature of the problem. Greenhouse gases emitted from the United States don't just harm Americans. They harm people around the world. In fact, it's probably true that the benefits of greenhouse gas emissions disproportionately benefit Americans and the costs disproportionately fall on people outside the borders of the United States. It's hard to argue for the primacy of democratic values when the voters in question are benefiting from those kinds of externalities imposed on individuals who can't participate in the decisionmaking process.

Lastly, it's entirely possible that if we do nothing, we'll have control over climate change taken away from our representatives in Congress anyway. If the impacts of climate change are severe enough, a lot of countries around the world that are facing adverse impacts might look for alternatives such as geoengineering: taking active steps to manage the global climate to offset global warming. One of the cheapest and most realistic options is the distribution of sulfur particles into the upper atmosphere. This is currently possible with existing technology (you just need a lot of artillery or tanker planes!) and estimates for what it would cost to reduce the global temperature by a few degrees range from between $10 and $100 billion/year. That's well within what a number of countries around the world could afford to do – and again, if the impacts of climate change are bad enough, there's nothing to stop them. The United States then might find that other countries are trying to set the global thermostat – with no say from our Congress. To me, having EPA take steps to reduce climate change now seems like a better choice from the perspective of democratic accountability.