

Chapter 5

Liberty, Progress, and Democracy

In democratic eyes government is not a blessing but a necessary evil.
Alexis de Tocqueville

The fate of every democracy, of every government based on the sovereignty of the people, depends on the choice it makes between these opposite principles, absolute power on the one hand, and on the other, the restraints of legality and the authority of tradition.
Lord Acton

Over the ages, the bane of progress has been too much government, not too little.
G. Warren Nutter

Most Americans would regard the overthrow of an authoritarian regime and the installation of democracy as progress. As noted, democratic governments at a minimum are likely to treat their people benignly. They are more likely to respect civil rights and less likely to authorize arbitrary arrests, torture, and wanton cruelty. Elected governments allow for more change and experimentation and thus encourage political reform. Their constituents constantly pressure popular regimes to improve the performance of government. Moreover, there is a “comfort factor:” men and women feel better if they can exercise a degree of control over the state.

By allowing more liberty than authoritarian regimes, elected administrations are likely to foster progress. Representative governments spread power among various groups; with power dispersed, few individuals are in a position to prevent innovations, although some politicians may be able to slow progress. Thus societies based on the will of the people are more “progressive” and more hospitable to further progress than those that are non-democratic.

The record of democratic governments demonstrates an unceasing effort to reform the state: politicians extend the franchise to new groups; policy makers open their deliberation to wider review; the state installs a more professional bureaucracy by setting up a civil service system; the legislature and the administration implement new rules to cut the influence of narrow financial interests. The government implements regulations circumscribing involvement in policy making where officials have a conflict of interest. As a

consequence, modern elected governments endure less graft and corruption than did nineteenth century democratic states.

Evidence concerning the influence of democracy on growth is mixed. Using a sample of the richest 22 countries in the world in 1870, economist J. Bradford De Long finds (1988: 1146-1147) that those with elected governments at the start of the period failed to grow faster than those ruled by monarchs or autocrats. On the other hand, those that advanced economically the most over the next eighty years had the highest probability of enjoying popular governments by the 1950s.

Although the relationship between elected governments and growth is ambiguous, such constitutional states are preferable to authoritarian regimes. If governments could be eliminated, anarchy might be even more beneficial than democracy. This chapter will examine the necessity of government, the attributes of a good regime, the relationship between progress and democracy, and the reasons for considering the spread of constitutional rule as an advance. The threat of democracy to freedom will be treated in Chapter 9.

The Role of Governments

Unfortunately governments are unavoidable. People require safeguards from other humans, whether from outside forces or from their neighbors. Public administration has arisen to handle what economists call “public goods,” that is, services that are supplied to all when supplied to one. For example, if the army protects me from invasion by a bordering state, it will also protect my immediate neighbors. Private police can be hired to safeguard one person’s well-being, but that same guard can also provide protection to others nearby at relatively little additional cost.

Governments also serve as insurance mechanisms. Virtually all societies have social institutions that take care of the elderly, the infirm, and the sick. Primitive hunter-gatherers, as well as modern welfare states, provide protection against the inevitable chance misfortunes.

To perform these duties properly, governments must make rules, that is, laws, that regulate behavior. To have an efficiently functioning economic system, the state must provide for the enforcement of contracts, must specify weights and measures, and needs to establish a dispute settlement mechanism. An unbiased court system facilitates economic activities and thus promotes prosperity and growth.

Government is the most economical and practical way for regularizing the marriage contract and specifying responsibilities and duties towards children. As chapter 7 substantiates progress is dependent on an educated population. Consequently, the state should further the interest of society in expanding the schooling of younger generations, if

need be by aiding those families unable to afford instruction for their children. In the modern world, a central authority must protect those who cannot protect themselves and must also regulate externalities, such as pollution. On a more mundane level, it needs to establish rules for the flow of traffic. The government may be best suited to provide public amenities such as parks and nature preserves, as well as protection for endangered species.

Forms of Government

Throughout recorded history, many of the most troublesome issues have revolved around the structure of governments and the powers they wield. Fundamentally there are two possible types of governments: authoritarian and democratic. Although each type can take many forms, the basic difference is in the power of the citizenry. In democratic societies, the public or a significant portion of the public either makes the laws directly through some voting mechanism or citizens choose the individuals charged with legislating and administering the statutes. The state can offer its citizens various degrees of choice over legislation or legislators. In many semi-democratic regimes, for example, one party may dominate and through use of government might preclude the opposition from taking power, yet allow an alternative party to win some seats in parliament and to criticize government programs. Direct democracy, on the other hand, in which the public actually votes on all laws, would be impractical and inefficient in the modern state. People have neither the time, the knowledge, nor the willingness to spend being legislators. It is more efficient to hire representatives to determine the law, just as we hire plumbers to fix our toilets. As a consequence, representative democracy is virtually the only kind practiced.

Authoritarian governments can range from the benign to the ruthless. British rule over Hong Kong may be the most benevolent non-democratic rule in the modern world, if not in history. The United Kingdom has effectively provided an honest civil service, a laissez faire economic policy, considerable personal liberty, and a free press.

Although ruled until recently by the military, an authoritarian party, or by a small clique, Singapore, Taiwan, and South Korea have still offered relatively free administrations, especially for economic activity. Those governments have, however, restrictive business more than has Hong Kong. Authoritarian governments in the rest of the world have ranged from inefficient kleptocracies, such as the Philippines under Marcos, to ruthless communist dictatorships. In recent decades, the Soviet Union, especially under Stalin, North Korea, and the Khmer Rouge government of Cambodia have been the most despotic in the world, if not in history. The latter regime murdered about one-third of its own population. It is also true that many authoritarian but revolutionary governments, such as Castro's Cuba, have enjoyed popular legitimacy for having overturned a hated dictator and have been accepted by most of their citizens for significant periods of time.

Some dictatorial regimes have in fact attempted to provide progressive, honest government to succor their people. In today's world, when a new government is established by overthrowing a corrupt one or by ousting colonial rule, the new ruler almost inevitably proclaims that he will rid the state of corruption, will care for the poor, and will foster vigorous growth. In some cases, the new administration does endeavor to live up to these noble goals and may even succeed for a time in furnishing a reasonably non-corrupt state. Inevitably, as Lord Acton pronounced, power corrupts; the ruler loses touch with the people and becomes unprincipled, undisciplined, or egomaniacal. Over time, moreover, opposition to authoritarian rule escalates; and the government, to maintain power, must become more brutal and less tolerant of the opposition and of freedom.

All authoritarian governments confront two major and interrelated dilemmas: How are rulers to be chosen? How are they to be controlled? History has seen a succession of autocratic governments, most based on military power. Force is the only way to establish a despotic government; force is the only way for it to maintain its power; and normally force is the only way to remove it.

Charles van Doren in an excellent book on the history of knowledge put it this way (1991: 3-4) :

A large part of mankind's ingenuity had gone into inventing new ways of killing and torturing other human beings, and the threat of pain or death had been found to be the best, and often the only, means of ruling large numbers of people....Everywhere, in short, a state of war existed, between one people and another and between a ruler and his people. Everywhere, as Thucydides wrote, the strong did what they wished and the weak suffered what they had to. There was no arbiter except force, and justice and the right was everywhere and always no other than the interest of the stronger.

In the case of feudal monarchies, the original rulers were those with the most military power. Subsequently law and custom provided that the most direct descendants of these conquerors should succeed them as king, emperor or shogun. That law of accession, when followed, offered a low cost and non-violent solution to the problem of the transfer of power. Unfortunately, in many cases succession was neither automatic nor peaceful as contenders vied for the throne.

Typically, to achieve and hold the ruling power, kings had to secure the support of major subordinates — nobles who in turn controlled major portions of territory. The kings, and in turn the nobles, had certain rights over their vassals, but these rights were limited. In theory, the king could call on the nobility to aid him in military matters and to provide him with troops, but the king could not expropriate the land of his feudal vassals. Over time a power struggle developed between the most powerful of the nobility and the king. In

England, the nobility managed to limit the king's power; in France, the king achieved unlimited rule; in Japan the shogun and the nobility vied for ascendancy.

In recent times, despotic governments have usually “grown out of the barrel of a gun.” In Latin America, one military junta followed another, until the restoration of democracy in the last decade. African states, liberated from colonial power, have suffered from a succession of incompetent dictators, either imposed or supported by the military. In virtually all of these cases, governments have been ruthless, repressing freedom for most of their subjects.

In a few cases authoritarian governments have provided reasonably effective service. History shows a number of wise and benevolent rulers — Hammurabi in Babylon, Augustus in Rome, Elizabeth I in England, and Catherine the Great of Russia come to mind — but the general patterns has been one of incompetence, tyranny or both. Although General Pinochet in Chile put down the left wing opposition ruthlessly, his administration introduced market reforms that resulted in an economy that was and is the economic bright spot of Latin America. Ultimately the Chilean military ceded authority to an elected civilian government.

Given the achievements, however qualified, of authoritarian regimes and the excesses of popularly elected governments, it becomes impossible to claim that democratic governments are always superior. United States history is replete with examples of incompetent presidents, governors, senators, and congressmen. England has had its share of poor prime ministers. I am far from certain that on average elected governments are superior to authoritarian in the wisdom of their rulers. Elected governments however have three significant advantages over dictatorial ones: (1) the people choose them and, if they displease, the voters can remove them; (2) they have a legitimacy in the eyes of their own people as well as for the rest of the world that military despots can never achieve; (3) they have a great incentive to treat their own citizens well since they have to face elections periodically. Primarily as a result of these factors, democratic governments are on average more benign than autocratic ones.

Regardless of philosophy, even demagogues in constitutional states will hesitate to exert force against their own nationals because they will face challenges at an upcoming ballot. As a result, the public in such states enjoys more freedoms than do the citizens of authoritarian countries. Since liberty is vital to change, progress, and economic growth, democratic nations are likely to be more progressive and provide higher and more rapidly escalating incomes than non-free societies. Nevertheless, as mentioned above, numerous non-democratic states — in particular the Asian tigers of Hong Kong, Singapore, Taiwan, and Korea — have succeeded in growing rapidly. Elected governments are handicapped by

slow decision making and the necessity of reflecting vested interests. Policy makers in the more competent authoritarian governments can move more quickly and need please a smaller constituency. This advantage of dictators is one of degree: even the most the despotic regimes need to placate their chief supporters, usually the military.

Representative assemblies react slowly to crisis and have considerable difficulty reaching a policy consensus. Given the normal checks and balances and the necessity of consulting many different interests, reaching a decision can be slow. Such deliberateness has its advantages. One-man rulers often act impetuously. Elected governments face a more serious problem from special interests, that is narrow groups who stand to win or lose a great deal from government proceedings. They typically have more influence than a simple numerical count or vote would justify.

Moreover, democratic governments suffer from an inability to achieve a consensus that is independent of the parliament's agenda. As economist Kenneth Arrow (1963) has shown, non-dictatorships can be logically inconsistent. The manner and the order, in which issues are considered, frequently determines their fate. Anyone who has experience setting the agenda for a meeting knows that the proper choices can change the outcome.* Despotic regimes, whose views are determined by one person or at most a small group that think alike, are much more likely to be logically consistent than are democratic ones.

In addition, popular governments suffer from ignorance and indifference of voters to most issues, a major disadvantage. A survey once asked a random sample of Americans, "Which is the greater problem, ignorance or apathy?" One respondent declared, "I don't know and I don't care." As a result of this lack of knowledge, indifference to the issues and the pleadings of a few, the intrusion of the state tends to expand without any appreciable limit. Moreover the policies adopted are often inefficient and costly to the citizenry. As a consequence, virtually all governments in the Western world have been plagued with elephantiasis.

To be informed on public issues takes time and effort, but has little payoff in terms of being able to alter outcomes. No single voter, no matter how well informed and how motivated can change an election or even have much influence over his or her legislator. The electorate is, therefore, rationally ignorant; that is it is costly to discover what the issues are and to understand their ramifications. Citizens are also generally ignorant about

* For example, let individual I have the following preferences: $A > B > C$; individual II: $C > A > B$; individual III: $B > C > A$. If the committee votes on A versus B, A wins. If the committee then votes on A vs. C, C wins. Now suppose that the committee chairman started with B vs. C, B would win. Then if the committee voted on B vs. A, A would be the winner. So depending on the order in which the group voted, either A or C could be the choice.

candidates; again it is time consuming to learn their policy positions and to draw conclusions about how they might behave in various situations. Thus voters know little about most questions; of those they do know something about, their understanding is often superficial.

On the other hand, constituents and contributors to political campaigns know and care a great deal about legislation and regulations that have significant influences on their lives. Typically citizens are more concerned about issues affecting their occupation or the industry in which they work than they are about most other policy decisions. Thus a proposal to provide protection from foreign competition may garner the strong support of workers employed in that industry while consumers, who will face higher prices and perhaps inferior goods from the trade barriers, may remain blissfully unaware of the threat. Even if they are mindful, few will become aroused if, for example, a television set costs an extra five dollars, while those who make video equipment, who may reap millions of dollars in benefits, will strongly support such protection.

This tendency to provide significant benefits to a few at the expense of the many is growing. Increasingly regulation, which is usually passed with the best of intentions, is perverted to aid special groups. Moreover, more and more the government is prescribing rules to “protect” its citizens. Seat belts are mandated; motorcyclists must wear helmets; new houses in California can contain no more than a limited amount of single-pane glass, an intrusive measure enacted with the supposedly benign intent of conserving energy. The city of Palo Alto for years prohibited clothes lines as unsightly. After the “energy crisis,” which resulted from federal government controls, the city required that all multiple dwellings install them in order to encourage the saving of fuel.

As Tocqueville argues at length in his treatise on *Democracy in America*, equality and democracy lead the public to demand that the government do more. Voters want to be protected from the vicissitudes of life. Since in theory the people control the government, they have no fear of it. They become increasingly willing to turn more and more activity over to elected officials. Tocqueville describes this as leading to a type of state that he says he cannot name. Now we would now call it the “welfare state” or, more derogatively, “the nanny state.” Tocqueville writes about the government of such a state (1988: 692):

That power is absolute, thoughtful of detail, orderly, provident, and gentle. It would resemble parental authority if, fatherlike, it tried to prepare its charges for a man’s life, but on the contrary, it only tries to keep them in perpetual childhood. It likes to see the citizens enjoy themselves, provided that they think of nothing but enjoyment. It gladly works for their happiness but wants to be sole agent and judge of it. It provides for their security, foresees and supplies their necessities, facilitates their pleasures, manages their principal concerns, directs their

industry, makes rules for their testaments, and divides their inheritances. ...

It covers the whole of social life with a network of petty, complicated rules that are both minute and uniform, through which even men of the greatest originality and the most vigorous temperament cannot force their heads above the crowd. ... [I]t seldom enjoins, but often inhibits, action; it does not destroy anything, but prevents much being born; it is not at all tyrannical, but it hinders, restrains, enervates, stifles, and stultifies so much that in the end each nation is no more than a flock of timid and hardworking animals with the government as its shepherd.

It is astonishing how in the 1830s, Tocqueville could describe modern society with such amazing accuracy. As he points out people accept and even welcome this soft tyranny because they can choose those who will enslave them (1988: 693):

Each individual lets them put the collar on, for he sees that it is not a person ... but society itself which holds the end of the chain.

Today most western nations fit Tocqueville's description. Appallingly the state may become even more intrusive. The European Community has proposed that the purchase of vitamin pills require a doctor's prescription. The EC bureaucrats have tried to specify the color of French sausages, ban unpasteurized camembert cheese, regulate the purity of German beer, and the content of British shrimp-flavored potato chips. Brussels' civil servants tried to ban bird shooting. The technocrats want to set maximum noise limits for lawn mowers throughout the Community — a regulation that the United States leaves to local governments — and fix quality standards for condoms. In Italy a restaurant must close one day a week. In Germany all stores, except for those few dealing with travelers, must close by 2PM on Saturdays and stay closed all day Sunday; on weekdays they must close by 6:30 except for one late night. Since shopping must be done mainly during working hours, these closing laws make it difficult for both husband and wife to have full-time careers.

Although such nuisance and restrictive regulations are less common in the United States, they are growing. Environmental regulation and public pressure affect everything from the use of solvents by local dry cleaners, the availability of disposable diapers, to the wrappers in which fast food restaurants serve their food, and include such major issues as the way gasoline is pumped and the type of fuel available. Government controls aimed ostensibly at making the workplace safer have contained pages of detailed specifications on ladders, including how they are to be climbed, on the lighting that must be available in an office, and endless paragraphs of minutiae relating to machinery safety.

Almost all of these regulations, which the public so easily accepts, stem from the pressures of some specific interests. The Clean Air Act amendments passed in 1990, for example, require in certain circumstances the use of gasoline mixed with methanol. The combustion of this combination results in much less smog than normal gasoline; it also produces byproducts reputed to be carcinogenic. Considerable support for this requirement came from grain producers who expected to gain from the additional sales of wheat needed to ferment the alcohol.

Politicians succeed by expanding the government. Elected representatives have strong incentives to be innovators. A legislator who fails to have his or her name attached to a major piece of legislation will find that his home town newspapers and the media consider him a “do nothing” politician. To gain reelection it is helpful to find “problems” that the state can supposedly remedy and to introduce bills to cure the latest “crisis.”

Although society faces an unlimited number of difficulties, the government is incapable of resolving most of them. The state may not be able to address the issue at all; it can make the problem worse; and the unanticipated consequences of government action can create new misfortunes. At the moment one of the major social issues facing American society is the breakdown of the family, especially in the inner cities. No one yet has suggested a government solution that promises much success. Charles Murray (1984) and others have argued that the escalating number of female headed households is a result of the poverty programs of the 1960s. A noble attempt to reduce the number of poor, led to a breakdown in the family and has failed to lower the proportion of the population in poverty over the last two decades. Nevertheless, politicians will attempt to “solve” this malignancy with new legislation — the triumph of hope over experience. Thus the government grows and grows, but does not necessarily become more effective or effectual.

Each time there is a disaster, economic disruption or civil disturbance, legislators offer their favorite nostrums. Often their proposals have little to do with the situation at hand. The result, however, is a steady accumulation of rules, laws and decrees, resulting in an increase in government controls and an augmentation of the bureaucracy necessary to enforce and implement them. A classic example of new regulation having nothing to do with the calamity that triggered the legislation was Congress’s enactment of an amendment to the food and drug laws which required drug companies to prove that their new substances were not only safe but effective. Proof of efficacy is slow and expensive and has led to a rapid rise in the price of new pharmaceutical substances coupled with a reduced flow of novel medicines. This law stemmed from the thalidomide tragedy in which pregnant women who had taken that drug gave birth to deformed children. The FDA had never approved this tranquilizer for general use in the United States — it was licensed only

for experimental trials. Approval depended upon evidence of proof of safety; the law worked, the FDA never sanctioned it — the damage done to fetuses had nothing to do with the substances' effectiveness as a tranquilizer.

Let me be clear. Government does have a role. The question is one of where, how, and how much? In many cases sound environmental policy, for example, requires regulation, but the congress and the Environmental Protection Agency have been overdoing it. Many, although not all, environmental issues involve collective goods or bads. A single factory's smoke may pollute the air for many people a little bit. A second factory will add to the contaminants; as industrialization proliferates the atmosphere eventually becomes unsightly and unhealthy. Although individuals could sue the factory owners, the much lower cost solution is for the government to mandate restrictions on smoke emissions. As pointed out above, however, in most cases the regulations become perverted in order to profit specific groups, often with little benefit to the public.

In the 1970s, for example, the U.S. congress passed restrictions on power plant emissions of sulfur oxides. The law that emerged from the legislative process required that new facilities or major improvements in old ones use scrubbers to rid coal smoke of offending chemicals. The provision made it uneconomic to switch to low sulfur coal, which would have done more to clean the air. In effect this measure protected the mines and the jobs of miners in Kentucky and elsewhere in the Middle West who produced dirty coal from the competition of Wyoming's low sulfur coal. This environmental regulation levied a heavy tax on the economy while doing little to achieve the ostensible objective of a cleaner atmosphere.

To summarize this section, governments are necessary evils. Although dictatorial regimes can provide efficient incorruptible governments, they often come at a cost. Moreover, such authoritarian states may also inflict inefficient corrupt governments on their subjects and even when efficient lean towards treating their citizens shabbily. Elected officials provide more protection for individual citizens, but tend towards a bloating of the rules, regulation and the bureaucracy.

Requisites for Democracy

For democracy to work, the public and politicians must be prepared to compromise on virtually all important issues. This requires that they possess a tradition of ceding power peacefully. Like the employment requirement that applicants have experience, how does one acquire the tradition? To allow the other folk to take over peacefully, the group losing power must be sure that they will not be prosecuted, persecuted or shot by the incoming administration. In addition, office holders who lose elections need to be able to find decent alternative employment in the private sector — thus a prosperous middle class and

significant private business sector can be important. Moreover, those who lose a vote must assume that they have a fair chance to win power in a future election.

Establishing this democratic tradition takes time. In the West it has typically developed over several centuries as small elites ceded power to other members of the well-to-do or nobility thus founding the practice of peaceful exchange of power. Between small groups of the upper class with limited power, such free transfers of authority were developed with comparative ease. Then, as the franchise spread, the habits of democracy continued and spread to other strata in the population.

The existence of a strong civil society is helpful if not essential for freely elected governments to flourish. In the early years of the United States and in Britain in the eighteenth and nineteenth century, common citizens often banded together to solve local issues or to accomplish some aim. Alexis de Tocqueville (1988: II: Chp 5) points to the strong role played by the free associations of American life in preserving freedom and furthering common objectives. The use of private civic associations to solve problems that single individuals cannot tackle on their own reduces the need for government intervention. It also provide practice and skills in the art of self-government that spill over to the administration of freely elected states.

Both Tocqueville and Fukuyama attribute much of the success of democracy in Anglo-Saxon countries and Japan to a heritage of civil societies. Under feudalism in both England and Japan, the nobles possessed extensive power and so the central authority had to consult them. On the other hand, countries which have a tradition of centralized rule, such as Russia, China, and even France, have had more difficulty in making government based on elections perform.

The importance of a tradition of civic customs in fostering democratic principles was demonstrated in research on Italian municipal and regional administrative performance. Harvard Professor Robert Putnam, a political scientist, studied (1992) the effectiveness of various regional governments in Italy since 1970. Although their formal structure was quite similar from the southern tip of Italy to the northern reaches, incomes and educational attainment differed sharply. However, Putnam found that these differences had little effect on governmental performance, the critical factor being whether the region had patterns of cooperation and mutual trust — a high level of “civic community.” Where there was a long standing tradition of civic participation by the local population, such as in Florence, Bologna and Milan, regional administration was effective. In those areas, such as Sicily and Naples, long ruled by monarchies and accustomed to autocratic decision making, democracy worked poorly. These traditions, he argued, go back at least to the thirteenth

century and are difficult if not impossible to change. Putnam's conclusion is profoundly pessimistic for the future of democracy in much of the globe.

Perhaps he is too negative. Political views and traditions although based on historical experience are subject to change. Outside institutions, examples of other countries, the spread of ideas and practices from Western democratic regimes, and recent local or national events can slowly shift the public's and its leaders' views on appropriate governance. If this were not true, no country that had not in the past enjoyed freely elected governments would become democratic. Thus, with the possible exception of the United States and Canada which started with democratic practices in their early colonial period, constitutional republics would be unknown.

Few Third World countries have the traditions that would enable them to develop a working democracy quickly. For these countries to succeed they must foster favorable economic and social conditions. Many of these states have attempted to import voting and constitutional government in an era in which public officials are expected to oversee all economic activities, to rectify income inequities, to protect minorities, and to right whatever ills the ruling groups identify. Not only is the body politic unable to perform these tasks; but lacking any tradition of fairness in administering the law or any assurance that politicians would permit a fair election and cede power if they lost, those who are on the losing side in government transfers are likely to oppose these policies violently. Thus many less-developed nations face a double difficulty in establishing a constitutional regime: there is no tradition of peaceful transfer of power and with the bureaucracy so massively involved in economic affairs, groups losing out in the political process face losing out in the economic process as well and so resist yielding power to others.

No intrinsic attribute prevents poor countries from making representative government work. India shows that poverty is no absolute barrier to free elections. As a British colony for over a century, the land of Mahatma Gandhi may have absorbed enough faith in the free transfer of power to allow democracy to function. The colonial government did tolerate competitive elections and offered increasing self-rule well before independence, thus educating the public. It is also worth noting that during most of India's history as an independent nation, one party has ruled the state. Even though there has been some jockeying for domination within the Congress Party, most of the time the Nehru family has been in charge and power shifts have been rare. Moreover, for a period Madame Gandhi curbed freedom and democracy. India is far from an example of unsullied democracy, and Freedom House has recently downgraded it to "partially free." In the last year or so rising ethnic and religious strife in the sub-continent augurs poorly for continued constitutional rule. Nevertheless, a number of other poor countries — Costa Rica, Botswana, Mauritius

and much of the English speaking Caribbean — have succeeded in maintaining functioning and effective constitutional systems.

Social scientists such as Seymour Martin Lipset (1959) and Larry Diamond (1992) have demonstrated that economic growth improves the possibility for democracy. Virtually all the wealthy countries of the world, with the exception of middle-East oil states, are democratic. Investigators (Huntington 1991) have found that as incomes rise from around \$1,500 to \$7,500 per capita (1993 dollars) most countries make a transition to elected governments. On the other hand, Diamond (1992) has shown that in spite of the findings of many political scientists that income is the driving force behind the inauguration of constitutional governments, democratization is actually more closely correlated with the United Nations' Human Development Index, which combines measures of literacy, life expectancy, and per capita income. All twenty countries rating in the highest category for Human Development are either liberal democracies (85 percent) or competitive, pluralist states. He writes (458) "Of the 57 countries that are low or medium-low in development, only 1, tiny Gambia, scores even in the second most democratic regimes type." Over three-quarters of the least free countries are the lowest rated states.

Even in Western history, democracy developed first in the relatively wealthy nations. Building on British traditions dating back to the Magna Carta, the English colonies and later the United States were the first major political units to initiate widespread democratic traditions. Almost from the beginnings the North American settlements were relatively wealthy. England, itself, which pioneered many democratic customs, was also the fountain of the Industrial Revolution, which gave rise to the riches of the West. Besides the relatively high income in the English settlements, the frontier provided people with considerable freedoms that the state could not repress even if it wanted to. Thus to surrender power to the next elected government had little impact on the well-being of the average citizen. As long as the government played only a very small role in people's lives, who gained jurisdiction mattered little. Consequently, people quickly adopted the lowest cost solution — free elections rather than violent transfers of control.

Francis Fukuyama also avers (219) that freedom preceded democracy in both the United States and Britain, which are among the most stable and long lasting democratic countries in the world. That freedom generates a demand for self-rule seems plausible. As the previous chapter argued, liberty plays an important role in economic growth and prosperity; and, conversely, affluence induces citizens to demand a greater say over how they are governed.

Not only is personal liberty important, but a relatively free press, substantial free speech, and freedom of association are necessary for an elected government. It is probably

helpful if most of the population is literate, although India, which has had over forty years of more or less working democracy, has succeeded even though most of its voters cannot read the ballot. In contrast, both in England and in America, the development of “government by the people” coincided with the spread of literacy among the general population.

Probably because, in almost all of world history, the preconditions for democracy have been lacking, representative regimes have been rare. A few city states, starting with Athens in the fifth century BC, have enjoyed at least a semblance of freely elected governments. Much more often either an oligopoly or a dictator has ruled. Freedom and political liberty prior to the last two centuries have been so rare that at the time of the American and French Revolutions most well-known personages feared giving the public the right to select their leaders. Many fancied that voters would choose recklessly, elect demagogues, and support expropriation of wealth for their temporary benefit. In the United States the Constitutional Convention founded the electoral college to moderate between the electorate and the ultimate choice of a president. The Senate was initially selected not by the people directly but by state governments. Fear of untrammelled democracy was strong at the founding of the American state.

Is democracy stable and likely to last? For most of history, political philosophers feared that the emotional moods of the electorate would sway the government or the majority would employ their ascendancy to exploit a minority. Two hundred years of success with democracy in the United States has failed to still those fears, especially since all too often voters appear tempted by demagogic appeals to tax the rich minority. The electorate is often moved by passions of the moment. As I write the public has voiced deep concern with the state of the economy, when by almost every objective standard business is prospering: income in the United States is growing, inflation is under control, and employment is expanding. Unemployment is less than seven percent, considerable lower than it was during the early 1980s and less than one-third of its level during the 1930s. People are richer than they have ever been in the history of the world; they live longer healthier lives than ever; yet they demanded change and voted President George Bush out of office.

We cannot know the future, and democracy is a relatively new form of rule without a long track-record. The demands of voters, as described below, may easily destroy it. Yet, almost everywhere people desire constitutional rule. Frequently in the post-war period, military dictators, often having failed to treat the ills of their country, have surrendered power to duly elected officials. Constitutional governments may be stronger than their relative newness would imply.

There is a tendency to believe that democracy is the norm, at least in the West. Yet in the post-war period, we have seen Greece ruled by the Colonels, dictators oppressing Spain and Portugal, and the uncertain prospects of Eastern and Central Europe. In all these cases, the authoritarian rulers eventually ceded power to a popular government. In the rest of the world, most nations have either never enjoyed democracy or have failed to maintain it. On the other hand, constitutional governance is spreading. Today democratic regimes preside over nearly half of the world's nations, and only democracies have global legitimacy.

Elected governments arose in the eighteenth or nineteenth century only in those countries in which rulers possessed circumscribed authority over their subjects. Constitutional limits on the role of the state, such as those written in the US basic charter and the *Bill of Rights*, promote stable democracies. If the state can do anything the majority wishes, the founding fathers of the U.S. Constitution feared that the majority might appropriate the wealth of the minority. If a constitution limits the state to a small role in peoples lives, they are more willing to compromise — a necessary routine for representative government.

Compromise is easier if the state has a small role in economic affairs. In the case where a state is allocating major portions of national income, agreement will be much more difficult than in those countries where incomes are generated privately, without state involvement. Thus the ex-communists states of Central Europe and the former Soviet Union may have a formidable task installing democratic institutions. Governmental decisions still affect the livelihood of major portions of their population and many of these people have lost faith in the evenhandedness of the bureaucracy and their elected representatives to redistribute their nation's resources fairly. The task that the governments in these former communist states must perform is Herculean. To close the mammoth plants built under Stalin or to transmute them to a profitable status will generate vast unemployment in regions where there is little other business to absorb the labor. Even in the United States, shutting down or cutting back government funded enterprises is extraordinarily difficult politically. Whether the former Bloc countries can make the transition to a freely elected government is an unanswerable question; they have a daunting, arduous and demanding task ahead.

For most of the world in the twentieth century, democracy has been an elusive practice. Country after country has tried representative government only to have it overthrown by a military dictator. As the old quip goes "It's easy to give up smoking, I've done it dozens of times." Apparently it is relatively easy to establish an elected government but harder to maintain it.

Several factors contribute to the success of democracy. A relatively homogeneous population with a strong national identity facilitates the trust necessary for a peaceful use of the franchise to determine policy. On the other hand, if society is rent between rival ethnic groups — the recent history of Yugoslavia furnishes a horrifying example — trust is absent and people fear justifiably that if their “tribe” are excluded from governmental power they will suffer. In many states tribal loyalties are overwhelming; and situations in which the bureaucracy allocates a significant fraction of the resources compounds the problem. Again the former Yugoslavia illustrates the dilemma. A socialist government, which allocated most jobs, housing, and social welfare, exacerbated long standing ethnic tensions in a territory with a history of one group’s dominating another. In such a case, allowing a rival clan to achieve power may mean being relegated to a subordinate status, subject to discrimination.

Nations can be democratic and free even if they contain a mixture of ethnic groups. The United States, Canada, Australia, and Switzerland are all countries made up of diverse nationalities, yet they all elect their officials and suffer from relatively little ethnic hostilities. Not coincidentally, these countries are all federal systems that offer much more regional autonomy than centralized regimes. A strong national bond, a tradition of limited governments, strong local and regional administrations and a faith in a long tradition of representative governments helps maintain a system of elected lawgivers and administrators. A country with distinct ethnic groups that fails to have a strong national identity will find it difficult to establish such a stable democracy. Federalism, provided regional governments can exercise meaningful power, may ease ethnic tensions. Russia, Yugoslavia, and Peru, in which only 11 percent of the population are descended from Europeans and virtually all the rest are indigenous Indians, most of whom are very poor, all provide examples of republics in which democracy is failing or in trouble because of religious, racial or cultural conflicts. In the former Yugoslavia, ethnic leaders prevented the initiation of democratic federalism by whipping up local hatreds.

Nor are theocracies fertile grounds for democratic movements. Since compromise over theological matters is often impossible, religious states have difficulty in making representative government work. Believers experience trouble finding a middle course when controversies over religious practices or dogma are at stake. If theology requires that the faithful behave in a certain fashion, the temptation in countries dominated by clerics is to impose those strictures on all. This need not be fatal to democracy, but it makes its workings more troublesome.

Orthodox Islam and Judaism preach that the state must regulate all of life in the name of religion. In Israel the Orthodox political parties have failed to capture control of the

government, thus furnishing by default some liberties for others; but they have succeeded in banning air travel on the Sabbath, pork in most restaurants, and the teaching of evolution in the schools. Although democracy may shuffle along in such states, freedom cannot flourish. The stronger the hold of “priests” on state power, the less viable an elected government. A free society by definition imposes no constraints on its citizens requiring that they follow certain religious practices. In virtually all theocracies the government attempts to coerce minorities, whose faiths differ from that of the dominant group, to conform, at least outwardly. This strains democracy and discredits it in the eyes of those required to submit.

Extreme inequalities of wealth and income also appear to be a bar to a stable democracy. In much of Latin America, for example, a few who are very rich own much of the land while the great mass of people are landless peasants dependent on their landlord for their livelihood and well-being. Although India appears to be an exception to this rule, that country does contain a very large middle class, which provides a certain stability. The failure of democracy to work where there are few families in the middle class may reflect a fear that a truly representative legislature will expropriate the wealth of the few for the benefit of the poor even if the constitution prohibits such confiscations. Being unwilling to give up their dominant position, the rich resist free elections. Even though many impoverished countries with wide disparities in wealth have created constitutions, often patterned after the United States’ document, they have failed to install freely elected regimes.

How Democratic must Democracy Be?

In his book *The Third Wave* political scientist Samuel Huntington defines (7) a “political system as democratic to the extent that its most powerful collective decision makers are selected through fair, honest, and periodic elections in which candidates freely compete for votes and in which virtually all the adult population is eligible to vote.” By requiring that all adults be eligible to vote would remove the U.S. from the list of democracies prior to the passage of the voting rights act; Switzerland from the list prior to the extension of the vote to women in the last decade; and virtually all governments prior to the twentieth century. Since aliens are rarely authorized to vote, few if any nations might meet the most strict interpretation of this definition. This definition is too rigid. I would consider a government democratic if its major decision makers were chosen through “fair, honest, and periodic elections” by some substantial set of citizens. The larger the franchise, the more democratic the government. As a rule elected governments have broadened the franchise over time.

When drawing up the constitution for a democracy, its founding parents must choose which variant of elected government to install. They can create a presidential system, such as the one the United States enjoys, a parliamentary system with a strong executive such as the one in France, a parliamentary system lead by a prime minister with only a weak sovereign such as in the United Kingdom. In addition, the constitution can prescribe a local election system with the winner achieving a seat in the legislature, a proportional representation system in which voters choose the party and not the individual, or a limited proportional system in which only those parties with a significant share of the ballots receive seats in the parliament. Other governmental arrangements and variations are possible.

In the modern world, many believe that if spreading power through elections is desirable, then making the legislature accurately reflect the nuances of the voters is the ideal. This predilection ignores the costs of decision making and confuses process with outcome. Following the dictates of a fickle and uninformed public is not a major virtue of democracy. Ideally elected officials will consider the long run costs and benefits of decisions; and being better informed on the issues, make more rational choices than if they followed the polls. Nevertheless, the great virtue of constitutional governments is that if government functionaries totally ignore the public's sentiment, elections provide a means to correct their direction. A balance is necessary between the capricious views of an ignorant populous and the long run necessity to submit to the electorate.

As argued earlier, the scope of government should be limited. Moreover, modifying government institutions should be arduous, thereby limiting democratic, that is popular, rule. To amend a constitution should require more than a simple majority vote either of the legislature or the citizens. A constitution has as its objective the enumeration of powers that the government can exercise and the establishment of rules under which legislation can be enacted. If it were easy to amend constitutional limits, then a fickle public could fritter away its liberties or the freedoms of those who were temporarily out of favor.

In the United States, for example, it is exceedingly difficult to revise the Constitution. Both the Senate and the House must approve an amendment by two-thirds to send it to the states for ratification. Three-quarters of the states must ratify the revision to adopt it. Notwithstanding the difficulties inherent in amending this fundamental document, twenty-seven amendments have been ratified, including the eighteenth which prohibited the manufacture and sale of alcohol. Fourteen years later another amendment, the twenty-first, rectified this blunder.

The example of prohibition reveals how easily a popularly elected government can make a huge mistake. Even with the difficulties involved in amending the constitution, the

desire to improve one's fellow man swept away a sizable majority of the public, reducing the freedoms of a large minority in the process. All states except for Connecticut and Rhode Island voted for ratification; the senates and the lower houses of the remaining states approved this amendment by overwhelming majority — including every state, 85 percent and 79 percent of the two houses endorsed prohibition. This unfortunate experiment in legislating morality led to the growth of organized crime, bootlegging, and gangster warfare. The masses widely flouted the controls, seriously eroding respect for law and order. Relatively quickly experience quenched the enthusiasm of American citizens for prohibiting at least this form of “immorality.” Modern public sentiment supports outlawing certain hallucinogens with the democratic response being to make such substances illegal. This prohibition has brought many of the same ills as the earlier attempt to dictate mores.

Besides ensuring that political decisions tract the voter's long-run drift, democracy does provide two significant benefits over authoritarian rule: it makes the government legitimate in the eyes of its citizens and other states; most of the time it ensures that the bulk of the people will be treated fairly and humanely, although unpopular minorities may be subject to discrimination. To the extent that constitutional regimes restrain the state's treatment of its citizens, democracy contributes to progress.

How much democracy is necessary to provide these benefits? A franchise confined to only ten percent of the population may be better than strict dictatorial rule in theory; but in practice it may not be much different. Even the most authoritarian government is likely to need the support of some elements in the population — typically the military and other powerful groups. These people may easily constitute more than 10 percent of the citizenry, even if they don't enjoy the nominal right to elections.

At the other extremes, countries that have fashioned the electoral process to accord strict proportional representation can often wind up with deadlocked legislatures. Whether this becomes a problem depends on political circumstances; that is, on the importance of swift government action. If the country is at peace and prosperous, an activist government may be unnecessary. In the modern world, however, most electorates look to the party or parties in power to act. The media and voters deem elected officials who fail to propose extensive legislation as “do nothing” politicians and often throw them out of office. President Harry Truman ran against the Republican “do nothing” congress and won; George Bush lost in part because the public judged that he had no domestic agenda.

Not only does an electoral scheme that allocates parliamentary seats on the basis of the proportion of votes cast for each party occasion gridlock, it results in a legislature which is unresponsive to public demands. Proportional representation typically functions by having the party select a list of candidates who become parliamentarians only if their

political group as a whole attracts sufficient ballots. Elected representatives are not beholden to their constituents, only to the clique that selected them. This system makes the legislators less responsive to local voters than the winner-take-all system. The three countries that have pure forms of proportional representation — Italy, Israel and Poland — all suffer from political gridlock; but two of the three governments are switching to district races or limiting the degree of proportionality. In April of 1993, over 80 percent of the Italians fed up with the lack of accountability and the inability of the government to change voted to junk that system and move to a mainly winner-take-all voting plan but with one-quarter of the seats still determined by proportional representation. The Polish parliament limited the allocation of seats in the legislature to those political groups that garnered at least 5 percent of the vote.

As Poland and Italy show proportional representation can be softened through various mechanisms that mitigate the tendency towards multiplication of parties and the absence of local representation. The constitution may require that parties win a certain percentage of the vote to be seated in the parliament. In Germany, half of the delegates are elected from single-member districts in a winner-take-all system and the other half are determined in a second vote for a national list of candidates. Proportional representation can also be based on local districts, the voters can choose candidates on the basis of primaries (Israel) or through complicated multiple votes allowing the electorate to give a candidate more than one vote. Many political scientists believe that these more limited proportional representative schemes work well for quite a few nations.

Many people believe that the more democracy the better. As we have seen, popularly elected governments do have advantages over the authoritarian; but they are far from perfect. Decision making can be slow, even in legislature chosen by district winner-take-all elections. Vested interest may have more influence than a simple count of the votes they can mobilize would justify; voters may demand more services or subsidies than the government can efficiently provide; majorities may exploit minorities.

European advocates of democracy often demand that representation be proportional to voting. The extremists insist that even the small sects be given seats in the parliament. As noted, democracy offers a few benefits over dictatorial regimes: it does provide a means where the public can “throw the rascals out;” it gives legitimacy to the government allowing it to function reasonably free of violent efforts to overthrow it; by making the ministers return periodically to the voters for approval, it forces them to bridle the forces of government from stamping on individual rights. As shown by the British and American examples, none of these benefits is contingent on proportional representation in a

parliament. Two party systems can provide these advantages as well as parliaments based on representing all views and interests proportionately.

Proportional representation does provide for representation in the government process for each minority — ideological, ethnic, or interest group. Nevertheless, it has major drawbacks and may actually reduce the influence of constituents. Under this scheme voters choose not the candidate they prefer but the party that best represents their interests. Parties consequently have little interest in straddling issues and attempting to compromise — they must simply appeal to their ideological kin. Moreover, local issues are almost totally ignored since the representative is responsible not to his electorate but to his or her political mentors.

Majority-take-all systems, such as the American and the British, promote the coalescing of various interest groups into a single conglomerate association in order to collect enough votes from various interests to garner over fifty percent of the ballots. Thus to successfully run for office requires the skills to compromise. A significant result of this effort to be inclusive in order to secure a majority in the polls is the courting of minorities. Politicians campaign on the grounds that they will include representatives from minorities in their government. President Bill Clinton, for example, promised a cabinet that “looked like America,” which the public interpreted to mean that it would contain a substantial number of women, blacks and Hispanics. Under the U.S. system — the candidate with the largest plurality wins — parties and politicians champion minorities’ interests and perhaps do so more effectively than in countries where even the smallest groups can elect a representative to the legislature. In such cases, the larger parties will ignore their smaller counterparts except when they need them to form a coalition government.

The state of Mississippi vividly demonstrates the harm proportional representation does to minority interests. Under the federal voting act, the state was ordered to redraw its districts in order to ensure that African-Americans were elected in approximate proportion to their numbers. The government complied by gerrymandering the voting so that the state consisted of largely white voting areas and black ones. In effect, the state provided proportional representation, not by party but by race. Before these lines were redrawn, most of the politicians had to appeal to both majority and minority voters making them sensitive to black interests. After the redistricting, white politicians, still enjoying a preponderance in the state legislature, could safely ignore black views and the African-American representatives, who by not having to appeal to white voters were more radical than previous black elected officials. The result was a more polarized legislative body that was less responsive to the minority. Unfortunately local black leaders have little incentive

to demand a return to the earlier system, since they are guaranteed election under the new scheme.

Proportional representation also encourages divided, that is weak, government. Italy, for example, has had at least 50 governments since the end of World War II. To quip that the Italians have shown government to be unnecessary has become an all too familiar joke. Unfortunately for the poor citizens of that state, the bureaucracy has been all too evident and state enterprises have continued to plague the economy. Ironically, although the Italians have seen a parade of governments, the ruling elite has retained power during the entire post-Second World War period, only shuffling the names of the ministers. The current upheavals in that country are largely attributable to the failure of the system to change. As mentioned, constitutional innovations are moving the Italian system away from proportional representation. Poland in 1991 adopted a too sweepingly democratic constitution, which encouraged a proliferation of minority parties. As a result since the fall of that year, the Polish government has been unable to continue effectively the economic reforms on which it had earlier embarked. As noted, in May of 1993, the parliament in Warsaw restricted representation in the legislature to only parties winning a significant portion of the vote.

The Basis for Democracy

Many commentators have argued over whether poor countries with low literacy rates are suitable for democracy. In the past, hereditary monarchs, tribal leaders, or in a few cases an oligopoly have typically governed such lands. Almost inevitably where a group has ruled — often through some sort of voting or consensus procedure — the rulers have been the wealthy, more powerful men of the community. In virtually no state, outside of the advanced industrial nations, have men yielded any political power to women.

Typically in those states which first developed democracy, only a small portion of the male population could exercise the franchise. In England and in the American colonies, for example, only white adult males with property could vote. After the American Revolution, the states extended the right to participate in elections to all literate males, then to all males, and finally to females. The proclivity for democracies to grant voting rights to wider and wider groups persists. In 1971, the states adopted the twenty-sixth amendment to the U.S. Constitution, extending the franchise to all citizens over the age of 18. There has been talk about allowing children and/or to resident aliens to cast ballots.

Countries and communities that have been called democratic have offered the franchise to as little as 10 percent of the population (ancient Greece) and to virtually all of the non-institutionalized population over the age of 18. To deliver all the benefits that an

elected government bestows on a people, universal voting may be unnecessary, although any significant restrictions on the franchise would reduce the legitimacy of a regime.

This begs the question posed at the start of this section: are poor countries whose populations are largely illiterate able to support a democratic system? India is an example of a nation that is impoverished and unlettered and that still has remained democratic for over forty years. Recently the riots and the ethnic strife in that republic raise serious question about its long run stability. I personally believe that demagogues can easily manipulate and turn people who cannot read into mobs that attack and vilify men and women who differ from them. Notwithstanding the example of Nazi Germany, unlettered individuals are more likely to assault people who are strange to them or to be less tolerant of diversity than the more educated. Therefore, I would conclude that while literacy is not absolutely necessary for democracy, a well educated public is more likely to make it work than one without schooling.

Democracy and Progress

Democracies make a significant contribution to progress only to the extent they ensure freedom and reduce state oppression of their own people. In themselves, elected governments are simply another way to chose leaders without contributing directly to human well-being. At the same time, since democracies can occasion political deadlock, they may contribute to voter apathy. As pointed out above, they are subject to rule by the mob; they also respond too easily to special pleadings by narrow interests. Thus their role in facilitating change and progress is ambiguous.

Many observers, such as Francis Fukuyama, believe that democracy is an end in itself, that somehow representative governments are to be valued because they are just. That view begs the definition of democracy. Was Periclean Athens democratic? Only 10 percent of the population could vote or hold office. Slavery was common; women were virtual prisoners in their own homes. Yet ancient Athens is considered the cradle of democracy. William Randall, a biographer of Thomas Jefferson, calculated that less than 1 percent of the population of Virginia at the time of the Revolution enjoyed the right to vote. Only those owning property possessed the franchise. Nevertheless, history and observers at the time considered Virginia to be democratic. In South Africa under Apartheid, a larger proportion of the public can exercise the franchise than could in the heart of ancient Greece; but “democratic” South Africa voted to impose Apartheid on non-whites. The “democratic” South in the United States imposed strict segregation on blacks prior to civil rights laws and federal action in the 1950s and 1960s.

In other words, democracy does not necessarily create the liberal society that Fukuyama praised as the “end of history” and is favored in this book. Robert Nisbet

pointed out in *The Present Age* (40) that “democracy can yield a higher degree of absolutism in its relation to the individual than is found in any of the so-called absolute, divine-right monarchies of the early modern era in European history.” During the First World War, for example, at President Woodrow Wilson’s urging, congress enacted a series of laws that put the entire economy under federal control. The government could fix prices, allocate resources, requisition supplies, take control or ownership of factories, mines, railroads, steamships, means of communication and packing houses. It could license and distribute all goods it deemed necessities. People were urged to spy on their neighbors and report unpatriotic speech. Under the Sedition Act, the government convicted Eugene Debs, a socialist and pacifist, and sentenced him to prison for ten years for speaking out against the war. Wielding the Espionage and Sedition Acts, the federal government tried or accused nearly 200,000 individuals for offenses, subjecting them to heavy fines or imprisonment. Many of these targets faced charges simply on the basis of remarks overheard in public. The majority of the public, with official approval, discriminated against men and women of German extraction. Who were the agents of this totalitarian horror? The democratically elected congress and the president, following legal precepts of the American constitutional government.

In both the Civil War and the Second World War, the elected president together with the congress of the United States of America curtailed many freedoms that we take for granted. During the Second World War, for example, the administration incarcerated Japanese-Americans in interment camps who in the process often lost their businesses and homes. It took decades for congress to vote compensation. During the war against the Axis, the state fixed prices and wages and allocated goods as it had during the First Great War; but there was no wholesale nationalization of industry. These historical examples, often glossed over in our textbooks, demonstrate clearly the weaknesses of democracy. When the public is aroused, it can easily trample on freedom.

Even during what is nominally peace time, democratically elected governments have stamped on basic rights. The “war on drugs,” in particular, has led to the government taking people property without due process in disdain for the Fifth and Fourteenth Amendments to the Constitution, invading people’s privacy with mandatory drug tests, and subjecting everyone to having his property “sniffed” by dogs trained to detect drugs. In a vain effort to produce “a drug free America,” the police in recent years have arrested about 1.2 million suspected offenders annually, most of them for simple possession of a prohibited substance. Even first time offenders, convicted of possessing more than about one and a half pounds of cocaine, are receiving mandatory *life* sentences without parole! Under these laws, which are fueled by public hysteria over narcotics, we have abandoned

all pretense of rational debate and are simply sending people to overcrowded jails in record numbers. The United States has the dubious distinction of having more of its population in jail than any other industrial country (Wisotsky 1992: 3).

For many law enforcement agencies the “war on drugs” has become a fountain of profits. In 1988, the federal government launched a major program of “zero tolerance” under which it threatened to confiscate any property on which a prohibited substance was detected, no matter how minuscule the amount. Licensed by this program the Coast Guard seized several yachts. In one case, a couple returning from Canada had their 1987 Mercury Cougar seized when customs agents found two marijuana cigarettes. Although no criminal charges were ever filed, the couple lost their car (Wisotsky 1992: 22).

Government agencies have benefited greatly from these forfeiture laws. Often the bureau that makes the arrest and takes possession of the assets keeps them. Some have charged that the government deliberately targets individuals who own property a department would like to possess. On October 2, 1992, for example, a task force consisting of Los Angeles County Sheriff’s agents, the federal Drug Enforcement Administration, the state Bureau of Narcotics Enforcement, and the National Park Service raided a remote ranch near Malibu, California, in a search for marijuana. No drugs were found; but in the process of the hunt the multimillion dollar owner was shot and killed. Suspicion abounded that the National Park Service was along on the raid because it wanted to confiscate the property to add to some adjoining park land (*Malibu Surfside News* 1992: 5). The widow charged (6) that “the marijuana allegation was a ‘cover-up...to come in and take Donald’s land.’” The *Malibu Surfside News* asserted that the federal government did want to acquire the land and that the owner had refused to sell to the Park Service.

Under federal and many state forfeiture laws, persons found guilty of simple possession of proscribed substances or those who have violated certain other statutes can lose their homes, cars, bank accounts and other assets, even if they acquired them honestly. In New York, an owner of a chain of gas stations forfeited all 29 stations for failing to pay sales taxes. The value of the stations exceed significantly his delinquent tax obligations (Reed 1992: 12). Forfeiture laws, which more and more states are enacting, often violate property rights and lead to gross injustices. New Jersey police sized a couple’s home and two automobiles on the basis of allegations that they had stolen packages containing cheap clothing from their neighbor.

In its efforts to stamp out organized crime, congress in 1970 passed the Racketeering Influenced and Corrupt Organizations (RICO) Act that allows the federal government to freeze the assets of a person or a business simply on the accusation of being involved in racketeering — an offense which has been defined to include selling legitimate

securities to the public. This can prevent people charged but not convicted from employing their own assets to defend themselves — what happened to the assumption that one is innocent until proved guilty? By itself the threat of freezing a company's assets may make those accused plea bargain even if they are innocent.

The increasing use of short-cuts and draconian punishments to ferret out and eliminate drugs, organized crime and white collar offenses threatens the basic liberties of Americans. In the case of the Malibu millionaire it took his life. Under these laws too often the accused is judged guilty without a trial unless, with no assets, he or she can prove their innocence. Democratic excesses have brought these threats to liberty. There needs to be more emphasis on protecting individuals rights from the long reach of an overzealous citizenry.

Although elected governments can and often have disregarded personal rights, they are more likely, at least in peacetime, to respect basic political, economic, and social freedoms than are dictators. On the other hand, when constitutional states feel threatened during major military crisis, human freedoms are often treated as a luxury. Perhaps this explains the preference of some rulers for war. Even in peacetime, however, elected leaders, responding to the views of the majority, all too frequently restrict severely the activities of racial, ethnic or cultural minorities. The government often goes after those practicing what the majority view as offensive life-styles or those with outrageous opinions with particular vigor. In the nineteenth and early part of the twentieth century, homosexual behavior was often subject to severe state sanctions. Now it is more likely to be people who smoke pot or deviant religious sects such as Koresh and the Branch Davidians.

The existence of a free press in democratic societies can act as deterrent to many excesses. It may reduce discrimination, for example, as the media expose the effects of those policies on the victims. While a parliament and a judiciary can provide some protection to minorities, it is only an unregulated press that brings governmental repression to light. In South Africa, for example, opposition newspapers have restrained the government's open persecution of the black majority. Domestic public pressure, which could only have been manifest through a free press, combined with international sanctions, is leading to the elimination of Apartheid and to the enfranchisement of the blacks.

Conclusions

Despite all the problems of democracy outlined above, there are grounds for optimism. Economic growth and the development of a middle class result typically in demands for the sharing of power and for liberal reforms. In East Asia this process is currently taking place as more and more of the rapidly growing economies of that region are moving towards a more open society. In the process, arbitrary arrests, repression, and

torture are becoming less common. The gains may be modest and hardly won, but this is progress.

Although democracy has several advantages over alternative forms of government, its main benefit comes from treating its citizens decently. It is true, of course, that democratic governments can and have mistreated and discriminated against minority groups and others with unpopular views. The record is much worse, however, for authoritarian regimes which tolerate no public discussion of policies and practice government repression.

Freely elected governments, despite their advantages, however, respond to various interest groups, often at the expense of the majority's best interest. Frequently they lack the political power to make necessary reforms and they often allow policy to drift. Elections in and of themselves cannot prevent state officials from arrogating unto themselves tremendous power, especially during wartime. Even in peace, by responding to special pleadings and by undertaking to solve all the ills of society, government administrators expand their authority and become increasingly and overwhelmingly bureaucratic. In other words, democracy is far from an ideal form of government, but it may well be, as Winston Churchill pronounced, "the worst form of government except all those other forms that have been tried from time to time." Nevertheless, it still promotes the well-being of men and women and offers an environment for change and economic growth. The next chapter treat these subjects.