

Democracy's Challenge By Peter Berkowitz

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Japan's
National
Diet
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As the 21st century unfolds, democracy – a system of government in which the people choose their leaders in regular, free, fair and competitive elections – has emerged as the regime of choice for nations around the world. This does not mean that history has ended, that by some steady and inexorable process all countries will eventually and sooner rather than later embrace democracy, or that contemporary thinkers have at last discovered the one final and true model of good government. It *does* mean that, with increasing frequency, when people are given the choice – not just in North America and Western Europe but also in South America and Eastern Europe and Asia and the Middle East and Africa – they prefer to have a say in how they are governed; they want to hold those who hold political office

accountable; they want laws based on persuasion rather than imposed through violence; and they want government to protect individual freedom and secure equality before the law.

Today a majority of states are democratic and their numbers continue to grow. Indeed, the movement toward democracy since the end of World War II and in particular over the last 30 years has been nothing short of astonishing. There were approximately 20 democracies in 1950 out of the world's 80 sovereign states. In 1974, about 40 of the world's 150 countries could be called democratic. Since then, thanks in no small measure to the collapse of the Berlin Wall, the nonviolent dissolution of the Soviet Union, and the ending of the standoff between East and West through America's victory in the Cold War, democracy has spread through Eastern Europe, Asia, South America, and Africa. In the last 30 years, the total number of democracies has tripled: Today, according to Freedom House, there are about 120 democracies, or two thirds of the world's 193 states.

The one region where a more serious or sustained movement in the direction of democratic change has not yet been evidenced is the Muslim Middle East. But 2005 has witnessed a cluster of favorable developments. National elections and a constitutional convention in Iraq, the expulsion of Syrian forces from Lebanon and the demand by the people for self-government, the decision by Egyptian President Hosni Mubarak to hold multi-party elections, and the passage of a law by the Kuwaiti National Assembly granting women the right to vote suggest that the people of the Muslim Middle East are open to, and are increasingly acquiring the taste for, democracy.

The spread of democracy around the globe makes understanding its presuppositions, its principles, and its prospects all the more necessary. Those who have never lived under any other form of government can easily come to take democracy for granted. And those

for whom democracy is a relatively new experience, or those aspiring to democracy, or those for whom it represents an intimidating or menacing foreign intrusion might not fully understand what democracy requires of, and what it offers, citizens. So it is useful, from a variety of points of view, to ask: What is democracy? Where did democracy come from and how has it developed? In what ways may democracies reasonably differ? What are democracy's indispensable foundations? What are democracy's weak points and unwise tendencies? And how do new developments in world politics and technology effect democracy's prospects?

DEMOCRACY IN ANCIENT GREECE

Democracy in ancient Greece lasted 241 years.



Democracy comes from two Greek words, *demos* which means the people, and *kratein*, which means to rule. In the Greek world, democracy was understood in contrast to monarchy, in which one person rules, and oligarchies, in which a few rule. Although it never became the norm in classical antiquity, the first great flowerings of democracy took place in the ancient Greek city of Athens. Democracy lasted there from 508 to 267 B.C., and, until the United

States turns 241 years old in 2017, ancient Athens remains the longest living democracy in world history.

In Athens, the people, or rather the eligible population – male citizens 18 years of age and older – ruled directly in the Assembly and discussed politics openly in the agora (marketplace). At the peak of its glory, in the middle of the 5th century B.C., the Athenian statesman Pericles, according to the historian Thucydides, praised Athenian democracy for its superiority to all alternatives. Its superiority, Pericles explained in his famous funeral oration for Athenian soldiers who had died during the Peloponnesian War, stemmed from the liberty and equality enjoyed by its citizens. But it was liberty that did not generate into anarchy, and an equality not in all things but before the law. In Athens, Pericles declared, individuals were rewarded for their merits, both private life and the public good were respected, culture thrived, debate flourished, innovation was encouraged, outsiders were welcome, and, thanks to its openness to the new and different, Athens acquired the know-how to defeat its enemies in war. To be sure, the realities of Athenian life often fell short of the ideals Pericles described. But the ideals, rooted in the democratic principle, gave life to the people's hopes and guided their aspirations.

Athenian democracy did not lack for critics. Both Plato (427-347 B.C.) and Aristotle (384-322 B.C.) agreed that democracy was far from the best regime. It was defective, they contended, because it allowed people to live according to their likes and dislikes rather than reason and virtue. Plato in particular was influenced in his judgments about democracy by the trial of his revered teacher Socrates (469-399 B.C.), in which a citizen jury of 500 Athenians found Socrates guilty of corrupting the young and of impiety, and then sentenced him to death.

Despite their reservations, both Plato and Aristotle offered qualified defenses of democracy. In the *Republic*, Plato's Socrates praises democracy as multicolored cloak that, in providing a home to all human types, provides freedom also for those who wish to live in accordance with reason and virtue. Aristotle argued that the best practicable regime – the form of government that most people most of the time could most reasonably hope to live under – was actually a mixed regime, in which some power was exercised democratically by the people and some power exercised oligarchically, or by the wealthy few.

In general – and here Plato and Aristotle do not offer forceful criticism – Athenians did not see a contradiction between democracy and slavery or between democracy and the exclusion of women from politics. Although democracy as the Athenians understood it placed all citizens on an equal footing, it did not confer citizenship on all individuals. Indeed, the democratic idea that the people should rule does not specify just who belongs to “the people.” To reach the conclusion that individuals should not be excluded from politics on the basis of class, or religious belief, or sex or race requires another principle. In the modern era, this principle was supplied for democracy by the liberal tradition.

THE LIBERAL DEMOCRATIC TRADITION

John Stuart Mill (1806-1873)



The liberal tradition – the tradition of John Locke (1632-1704), James Madison (1751-1836), the Baron de Montesquieu (1689-1755), Immanuel Kant (1724-1804), and John Stuart Mill (1806-1873) – is grounded in the belief that human beings are by nature free and equal. It tends to understand this natural freedom and equality in terms of rights that are shared equally by all. Today, it is more common to speak of human rights than of natural rights. But the doctrine of human rights, which undergirds the U.N. Charter and informs international law, while

deriving support from a variety of traditions, has its immediate intellectual origins in liberalism's natural rights tradition.

The liberal principle modifies the democratic principle in at least two crucial ways. First, it proclaims that, from the point of view of moral and political life, our common humanity is more fundamental than differences of class, sex, race or even religious belief. And second, by defining freedom and equality in terms of rights that preexist government, the liberal principle asserts that there are some actions government may not take against individuals regardless of how large and how passionate the majority in favor of them. When most people today use the term democracy, what they actually mean is liberal democracy.

All modern liberal democracies are also representative democracies. Instead of gathering to vote directly on the laws as in Athens, citizens today vote for lawmakers who draft and pass laws, and for executives responsible for putting the laws into effect. The indirect rule of the people through their representatives involves a further modification of democracy's original meaning. Indeed, in the 18th century, when America and France were bringing

modern liberal democracy into being, the objection had to be overcome that, because the people must rule directly, democracy was only applicable to small, tight-knit populations, living closely together in a single, compact, well-defined geographic area.

James Madison rose to the challenge in *Federalist 10*, one of a series of newspaper articles he wrote along with Alexander Hamilton (1755-1804) and John Jay (1745-1829) to persuade fellow citizens to support ratification of the U.S. Constitution. Representation, he argued, allows self-government to be extended to a complex commercial republic composed of a large population stretching across a vast and varied land. At the same time, it serves as a corrective to the tendency of democracy to give expression to the momentary whims of the people. Instead of voting on each and every law, the people vote for office holders who, by virtue of their knowledge of politics and their standing in the community, can be counted on to deliberate patiently and fashion laws that will serve the public good. And if the people conclude that their representatives have performed their jobs poorly and betrayed the trust placed in them, the people can vote them out of office.

James Madison (1751-1836)



In a representative democracy, the people are sovereign and government is based on their consent, but what the people consent to is the entire scheme of government institutions and the settled procedures for making law and adjudicating disputes. In this way, the people consent to honor the laws produced by their representatives, even those laws with which they disagree, provided that the laws are enacted through the agreed upon institutions and procedures, are consistent with the rights guaranteed by the constitution or the supreme law of the land, and do not infringe the most fundamental natural or human rights. Moreover, the very same democratic institutions and procedures that permit the making of bad laws also afford citizens the opportunity to persuade a majority to elect officials who will pass better laws.

LIBERAL DEMOCRACY TODAY: FOUNDATIONS AND VARIATIONS

Different democracies may choose different institutional arrangements for securing individual rights and maintaining equality before the law. Most modern democracies, for example, have chosen a parliamentary system, in which the leader of the executive branch of government is chosen by and dependent upon the legislative branch. The United States is in the minority in having adopted a presidential system, in which the chief executive is chosen by the people and is largely separate from and independent of the legislative branch. Both systems rely on an independent judiciary to impartially adjudicate the disputes that inevitably arise under the law. The advantage of the parliamentary system is thought to consist in its greater responsiveness to the will of the people and in the greater flexibility that it gives to office holders. The advantage of the presidential system is thought to lie in the checks and balances on both popular will and ambitious politicians that is built into its separation of the legislative, executive and

judicial powers. It is to the advantage of citizens who live under both systems to study the alternative to better appreciate the strengths and weakness of their own form of government.

Despite the wide scope for differences in designing democratic institutions, historical experience has suggested that modern democracy has certain indispensable foundations. Several of these foundations involve limitations on government action. For example, freedom of speech, which includes liberty of thought and discussion, prohibits government from making laws prescribing to people what they should think or say. It is essential because all other freedoms derive from the citizen's ability to think his or her own thoughts and devise independent plans. Freedom of assembly helps ensure that citizens can discuss their thoughts with others, openly and in public if desired, or discreetly and in private if preferred. Freedom of worship affirms that government may not dictate to individuals how to worship and the content of religious faith, or whether to worship at all. Protections for those accused of crimes keeps government from using its enormous weight to unfair advantage in arresting, detaining and trying those believed to have committed crimes.

Not all of democracy's foundations involve the elaboration of formal rights. An independent judiciary provides a source above party politics for refereeing disputes about what the law commands, forbids or permits. A free economy enables individuals to enjoy the fruits of their labor and to cooperate and compete with each other in a way that increases the prosperity of society as a whole. A free press furnishes citizens with multiple sources of news and competing opinions and thereby enables them to make up their minds in an informed manner.

In any particular case, democracies are bound to differ over just where to strike the balance between individual rights and government power. Moreover, reasonable people can disagree about the optimal structure of the judiciary, the proper degree of state regulation of the economy, and the outermost boundaries of press freedom. Thus, it is in the interest of democracies to look to the practices of fellow democracies for perspective and for new ideas on how best to realize their shared goal of liberty and equality under law.

Like all forms of government, modern liberal democracy has its weaknesses and unwise tendencies. Critics from a variety of perspectives have converged in concluding that liberal democracy tends to break down community and undermine the just claims of custom and tradition, encourages individuals to isolate themselves and prefer their private advantage to the public good, fosters an exaggerated reliance on formal process and individual rights at the expense of reflection on intrinsic merits and ultimate ends, neglects the moral discipline and education in character necessary to form good citizens, and, under the guise of promoting diversity imposes a uniformity of belief and conduct. Its adversaries sometimes speak as if these criticisms provide grounds for rejecting democracy. Some of democracy's misguided friends act as if it were a betrayal to even acknowledge that democracy has faults. In fact, knowledge of democracy's faults is a vital supplement to the appreciation of democracy's foundations. For it is in light of democracy's foundations that nations must craft liberal and democratic correctives to democracy's weaknesses and unwise tendencies.

WHITHER DEMOCRACY?

Although there is no reason to suppose that the future will bring changes that will render democracy's foundations unnecessary or that will overcome once and for all democracy's weaknesses and unwise tendencies, new eras inevitably give rise to new challenges. This era, the era of globalization, is no different. The current revolution in travel and telecommunications has made the world smaller and brought sights and words from all over the world to desktops and laptops. In this lies a democratic advantage. With a few clicks of the computer mouse, we can enjoy unprecedented access to an amazing range of opinions from a genuine diversity of sources on the great issues of the day. This can foster political debate and enhance tolerance for competing points of view. But there is a danger as well. Thanks to the very same communications technology, it has become easier than ever before for people to immerse themselves in reporting and opining that reinforces preconceptions and partisan preferences. This can polarize politics and, indeed, fuel hostility to the very idea of competition between rival points of view.

It is up to democracy's supporters to ensure it meets both the old challenges and the new ones.

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