



Dædalus

Journal of the American Academy of Arts & Sciences

Summer 2007

on
capitalism &
democracy

John Dunn	Capitalism & democracy: an elective affinity? 5
Joyce Appleby	Intellectual origins of the American synthesis 14
John C. Bogle	The case of corporate America today 24
Robin Blackburn	Economic democracy: can it work? 36
Benjamin M. Friedman	What growth means for politics 46
Gerhard Loewenberg	Paradoxes of legislatures 56
Richard A. Epstein	Zoning: deliberative democracy at zero prices 67
Jerry Z. Muller	The democratic threat to free markets 77
Robert W. Fogel	Capitalism & democracy in 2040 87

poetry

Lawrence Dugan	Silent Rome 96
----------------	----------------

fiction

Nadine Gordimer	Tape Measure 97
-----------------	-----------------

notes

Susan Goldin-Meadow	on inventing language 100
Keith T. Poole & Howard Rosenthal	on party polarization in Congress 104
Victor S. Navasky	on civil liberties on campus 108
David E. Apter	on Clifford Geertz 111





I LOVE LIFE
I NEED FOOD
BUT I'D RATHER
DIE WITHOUT
DEMOCRACY
人民儿女
死为



Inside front cover: Student demonstrators in Tiananmen Square in Beijing, May, 1989. Unwilling to obey the limits on free speech set by the Communist leadership, the pro-democracy activists in Tiananmen took a radical approach that ended in violent repression. See Benjamin M. Friedman on *Capitalism, economic growth & democracy*, pages 46 – 55: “Whether a country with one-fifth of the world’s population and (soon) the world’s second-largest economy can sustain the combination of market-oriented economics and nondemocratic politics is one of the most significant open questions in world affairs today.” Image © Peter Turnley/Corbis.

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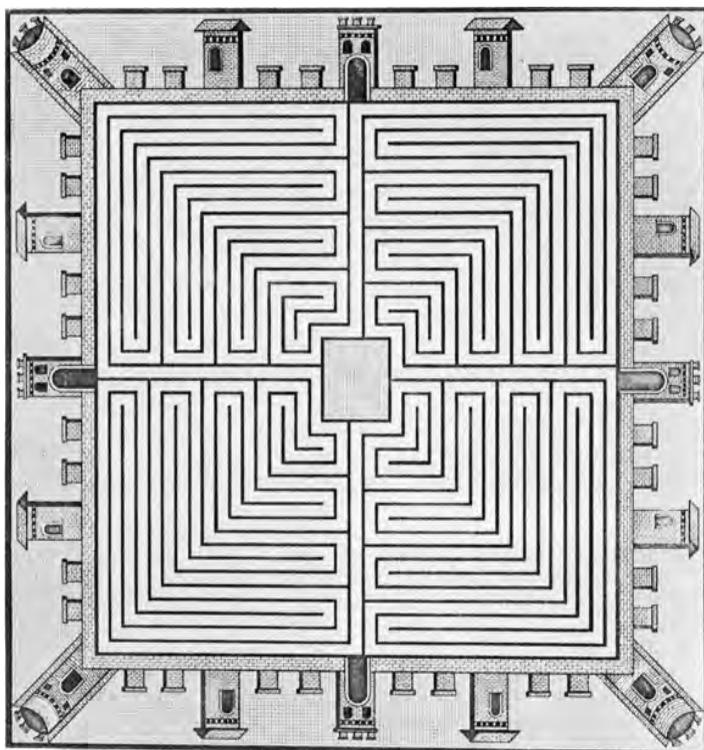
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Nineteenth-century depiction of a Roman mosaic labyrinth, now lost, found in Villa di Diomede, Pompeii

Dædalus was founded in 1955 and established as a quarterly in 1958. The journal's namesake was renowned in ancient Greece as an inventor, scientist, and unriddler of riddles. Its emblem, a maze seen from above, symbolizes the aspiration of its founders to "lift each of us above his cell in the labyrinth of learning in order that he may see the entire structure as if from above, where each separate part loses its comfortable separateness."

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John Dunn

*Capitalist democracy: elective affinity
or beguiling illusion?*

We are not, as some fondly suppose, all democrats today because of our unerring taste. The honorific prevalence of democracy in modern political speech is a historical product, like the market economies now commonly seen as its necessary complement. The regime title *democracy*, which now dominates the struggle for political legitimacy, is not a definite and coherent political form, nor has it been adopted so widely because it has some irresistible allure.¹ We are still some way short of fathoming the political meaning of the word's passage through space and time, or seeing just how its insistent rise relates to the concurrent ascent of capitalist economic institutions.²

This much is clear: while, in America, Tom Paine and James Madison both imagined that a commercial society

could coexist happily with a representative republic, others elsewhere, from Filippo Buonarroti and the first Duke of Wellington in the 1830s to the Guild Socialist G. D. H. Cole in the 1920s, were just as certain that the inequalities generated by a market economy were incompatible with a truly *democratic* republic.³ Whatever else may be

1 John Dunn, *Setting the People Free* (London: Atlantic Books, 2005); John Dunn, *Democracy: A History* (New York: Atlantic Monthly Press, 2006).

2 John Dunn, *The Cunning of Unreason: Making Sense of Politics* (New York: Basic Books, 2000). Here, as elsewhere, I cite my own texts, plainly, not as authorities for the judgments conveyed but to indicate where to find my reasons for making them.

3 For a brief moment of particular clarity in the drawing of the lines of battle, see Dunn, *Setting the People Free*, chap. 3. For Buonarroti's own striking picture of the basis of alignment, see Filippo Michele Buonarroti, *Conspiration pour l'égalité dite de Babeuf*, vol. 1 (Paris: Editions sociales, 1957), 25–28. For Wellington:

[A] democracy . . . has never been established in any part of the world, that has not immediately declared war against property – against the payment of the public debt – and against all the principles of conservation, which are secured by, and are, in fact, the principal objects of the British constitution,

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said against it (and always can and probably always should be), capitalism has shown itself convincingly over the last two centuries a much less imprudent way of organizing some of the more fundamental aspects of economic life than any vaguely specifiable rival.⁴ It frames all our lives, and it is to more or less adroit modulations of its dynamics that we must look for any hope of reversing its cumulatively disastrous impact on the setting in which we and all our foreseeable descendants will have to live.⁵

In the struggle to make these adjustments, the toxic and deeply confused character of our current understandings of democracy is a formidable impediment. Until we learn to distinguish better among the elements in our understanding of democracy that do and should attract us, those on which it is wise for us to rely, those that often do not or certainly should not attract us, and those on which it would be demented for us to rely, our political approach to the challenge of fostering our collective survival will remain the shambles that for the present it unmistakably is.

as it now exists. Property, and its possessors, will become the common enemy.

Speech against the Great Reform Bill in the House of Lords, October 4, 1831, in George Henry Francis, *Maxims and Opinions of Field-Marshal, His Grace, The Duke of Wellington* (London: H. Colburn, 1845), 253.

4 John Dunn, "The Identity of the Bourgeois Liberal Republic," in Biancamaria Fontana, ed., *The Invention of the Modern Republic* (Cambridge: Cambridge University Press, 1994), 206–225.

5 John Dunn, "The Emergence into Politics of Global Environmental Change," in Ted Munn, ed., *Encyclopedia of Global Environmental Change*, vol. 5 (London: John Wiley, 2002), 124–136.

When Buonarroti, in 1828, looked back on the French Revolution, the aged and by then compulsive conspirator drew a shimmering contrast between two shapes, or orders, within which human beings could henceforth choose to live: the order of egoism (essentially capitalism as glossed by Adam Smith and his subsequent admirers) and the order of equality (the political goal of eliminating privilege from the texture of collective social life). Buonarroti had bet his life on championing the second and gave an eloquent account of his reasons for doing so.

The order of egoism was real enough at the time and has since come close to imposing its rule upon the entire world. The order of equality, in contrast, has turned out to be a very abstract normative idea, and every wholehearted subsequent attempt to render it concrete has proved violently contradictory. It survives in polite intellectual circles⁶ – sometimes in wonderfully fluent and ingenious interpretations – as a regulative ideal. But any impulse to apply it is crimped everywhere by the exacting requirements of the order of egoism. In states where electoral choice in some measure modifies governmental policies, one of the mechanisms that confines that impulse can be seen, reasonably if selectively, as the democratic choice of the people concerned.

At the time when Buonarroti wrote, the partisans of the order of equality were in the habit of calling themselves *Democrats*. It was a good clear name for the way they saw their political, economic, and social goals. Outside North America, at that point, very few parti-

6 Ronald Dworkin, *Sovereign Virtue* (Cambridge, Mass.: Harvard University Press, 2000); Ronald Dworkin, *Is Democracy Possible Here?* (Princeton, N.J.: Princeton University Press, 2006).

sans of the order of egoism showed the least inclination to dispute their claim to the title.⁷ But already in North America that simple clear contrast had blurred irremediably,⁸ and today we have lost it irrevocably across the world. The time has come to face up to the consequences of that loss, and learn with some haste to talk and think more clearly about just what *democracy* implies.

The view that has held sway in America for well over two hundred years – through the distractions of slavery, civil war, and European socialist ideas – is that representative democracy (a phrase Alexander Hamilton appears to have coined impromptu in a private letter)⁹ was a clear improvement on participatory democracy. It somehow winnowed out the latter’s conspicuous and historically well-attested hazards, yet retained its imaginative appeal across a citizen body. It did so, above all, through the claim to deliver political justice by according each citizen equal political rights and an equal entitlement to exert (or seek to exert) political power.

7 Dunn, *Setting the People Free*; Dunn, *Democracy: A History*, chaps. 2, 3. For Buonarroti’s own contrast, see Buonarroti, *Conspiration pour l’égalité*, vol. 1, 25–38. Even then it was a good clear name for a political purpose, and not for an institutional form (ibid., 38).

8 Dunn, *Democracy: A History*, 76–84. The best history of the normalization of the category in American political self-understanding is now Sean Wilentz, *The Rise of American Democracy* (New York: W. W. Norton, 2006).

9 Alexander Hamilton, letter to Governor Morris, May 19, 1777:

When the deliberative or judicial powers are vested wholly or partly in the collective body of the people, you must expect error, confusion and instability. But a representative democracy, where the right of election is well secured and regulated & the exercise

Naturally, opinions about the basis of this improvement differed. For Paine, in debate with Edmund Burke in 1790, grafting representation upon democracy did not merely extend the territorial scale on which democracy could function, or hope to persist for any length of time if it ever were established; it also provided a clearly superior form of rule, which would have enhanced the quality of political life in Athens itself had the Athenians been discerning enough to invent it.¹⁰

To the cooler eye of James Madison – planning the political structure of the new American state and very conscious of the need to guarantee the property rights of its creditors – the advantage of practicability on the required territorial scale was at least matched by the obstructions it provided to hasty and indiscreet exertions of popular will through the need to compete across such a wide arena and to do so through institutions that ensured more than one basis of representation.¹¹ For Madison, who firmly avoided Hamilton’s new coinage, the *representative republic* marked a clear advance over the notoriously erratic and violent democracies of the ancient world, both in its prospective longevity

of legislative, executive and judiciary authorities, is vested in persons chosen really and not nominally by the people, will in my opinion be most likely to be happy, regular and durable.

Harold C. Syrett and Jacob E. Cooke, eds., *Papers of Alexander Hamilton*, vol. 1 (New York: Columbia University Press, 1961), 255.

10 Thomas Paine, *The Rights of Man* (1792) (London: J. M. Dent, 1916), 176–177.

11 Bernard Manin, “Checks, Balances and Boundaries: The Separation of Powers in the Constitutional Debate of 1787,” in Fontana, ed., *The Invention of the Modern Republic*, 27–62.

Capitalist democracy: elective affinity or beguiling illusion?

and the social peace and economic security it could be relied on to promote. Representation would enhance democracy, not by rendering it more democratic but by preventing it from acting hastily, unwisely, and destructively.

This was not a viewpoint the Equals could have endorsed. For Babeuf, even early in the Revolution,¹² every concession to representation, every alienation to another person of the right and power to judge for oneself and act on one's own judgment, had a clear cost: a loss in freedom and an inroad into equality. The systematic refusal of such alienations defined the order of equality. It is easy to sneer at the psychological assumptions required to credit its normative status (fatally dependent on reading the logic of its ghostly adversary, the order of egoism, as a full and fair expression of the motivations of its participants). Clearer-headed interpreters – from Benjamin Constant and Oscar Wilde to Joseph Schumpeter and Mancur Olson – have discredited the political expectations implied in its resolute obtuseness to opportunity costs. The normative imagery at its heart has been deconstructed irreparably by far cleverer thinkers with the leisure to bring their own intuitions to a very high degree of resolution.¹³

As a vision of what the human world could readily become, the order of

equality has disintegrated too thoroughly to leave any prospect for resuscitation. What it has not lost, however, is its claim to register the political idea of democracy more literally and with greater imaginative cogency than more sophisticated contemporary interpreters can convincingly claim.

The strongest ground for employing *democracy* to describe the regimes that now claim its mantle is purely negative. Even a regime that still has a monarch no longer draws its legitimacy from possessing that facility. Nor does any regime derive its authority from being the political embodiment and instrument of an explicitly privileged social grouping among their subjects – a nobility of birth or achievement. Among the simple forms of regime envisaged in the ancient world, that leaves just one, namely, democracy *faute de pire*.

But it also leaves open the possibility that the sort of regime that now claims the title of democracy is not well conceived as simple. Instead, it is closer in style, basis, and potential solidity to the favored admixture of democratic, aristocratic, and monarchical elements espoused in one version or another by Aristotle, Polybius, most Romans who bothered to think about the issue and pass their thoughts on, and a very large proportion of subsequent European political thinking from the Middle Ages up to the end of the *ancien régime*. Madison and Hamilton clearly belonged within this very broad persuasion, as did thinkers as opposed in other respects as James Harrington, John Locke, and the Baron de Montesquieu.

When it reappeared in modern history as a consciously chosen label for a political force, *Democrat* signaled an opposition in the first place to political power in the hands of aristocrats, and then to

12 On Babeuf, see R. B. Rose, *Gracchus Babeuf: The First Revolutionary Communist* (London: Edwin Arnold, 1978). Babeuf, in the *Journal de la Confédération*, July 4, 1790: "If the People are the Sovereign, they should exercise as much sovereignty as they absolutely can themselves . . . [T]o accomplish that which you have to do and can do yourself use representation on the fewest possible occasions and be nearly always your own representative." *Ibid.*, 77.

13 See again, notably, Dworkin, *Sovereign Virtue*.

monarchs discredited by their defense of the political and social interests of aristocrats. It certainly was not intended to signal commitment to any model of mixed government.

It is not hard to see why it was not mixed government that in due course came to serve as the most evocative political slogan across the non-European world. It had had fairly muted resonance for most of the population at any point, even in Europe. Iran's president Ahmadi-Nejad may be confident in his assessment that "liberalism and Western-style democracy have not been able to realize the ideals of humanity."¹⁴ But he does not equate their failure with the failure of an Iranian version of democracy; and has, in fact, exploited a host of duly illiberal methods to elicit the electoral support of the Iranian people in public competition, and evoke the authority it gives him when he makes decisions that vex his religious sponsors and superiors.

In other settings, too, where the state now conforms quite closely to the liberal-democratic model, it is clear that democracy retains a sense quite distinct from its prevailing institutional routines of popular election and representative legislation. When a South Korean man chose to slash, with a box-cutter, the face of the principal opposition party's leader, Park Geun-hye (daughter of the military dictator Park Chung-hee, who ruled the country with some brutality for nearly two decades and presided over the decisive phase of its modern

development), he explained his savage act to the Seoul police by saying he had been "upset at a society that lacks democracy."¹⁵ Sane or otherwise, there is no reason to presume him unaware that Korea's last two presidents were each elected against the party of government – the second by a substantial majority. Indeed, it is likelier that what Park Geun-hye's assailant feared was precisely that Korea's increasingly volatile, confident, and demanding electorate would choose at its next opportunity to elect the Grand National Party's chairwoman as president. If the prospective outcome of an uncoerced popular vote can be a sign that a society lacks democracy, there are still audibly *Babouviste* echoes in the word, even in East Asian translation.

Do these echoes evince atavistic confusion on the part of those who hear them, or do they indicate an instability and opacity within the idea of democracy itself as we now entertain it, which cannot be laundered out by greater resolution or clearer thought? Social scientists may hope to clarify and decontaminate such terms by a blend of intellectual concentration, precision in the use of language, and determined frankness, an aspiration that goes back as far as John Locke's *Essay Concerning Human Understanding*. But considered inductively, such programs for the rectification of names all but invariably fail. No one alert to the tangled political history of the word *democracy* could be surprised at the scale of their failure in its case.

At present, the cumulative energies of social scientists are in little immediate danger of explaining the shape of modern world history, whatever success they may sometimes achieve in clarify-

Capitalist democracy: elective affinity or beguiling illusion?

14 Letter from Mahmoud Ahmadi-Nejad to George W. Bush, *Financial Times*, October 5, 2006: "Liberalism and Western-style democracy have not been able to help realise the ideals of humanity. Today these two concepts have failed. Those with insight can already hear the sounds of the shattering and fall of the ideology and thoughts of the liberal democratic systems."

15 "South Korean Opposition Leader Assailed," *Financial Times*, May 22, 2006, 10.

ing the local fortunes of its assorted components. To explain the vicissitudes of *democracy* as a term within that history, it would be necessary at a minimum to explain the incidence and course of three vast global conflicts; the changing fortunes through time of a bewildering variety of economic strategies on every scale, from the adult individual to the erstwhile World Socialist System; the erratic susceptibilities of entire populations to the political conceptions presented to them; and the confused and urgent struggles to get their own way of all who look to politics as a medium for doing so. No one today has the faintest idea how these four arenas interact with one another,¹⁶ despite the highly illuminating studies of the territorial advance of democracy in its present sense over the last century, its contrasting fates in different areas of the world, and the conditions that favor its survival once established (notably those of Adam Przeworski and his pupils in the latter case).¹⁷

As of now, we have very little grip on the central question of just what we can trust modern representative capitalist democracy to do on our behalf. This is more alarming if we regard it, as on its present record we surely must, as congenitally indiscreet and often wantonly harmful to the environment; and if we

see it as locked tightly into a mechanism of sharpening economic inequalities in the leading world economies from the United States to China.¹⁸ The second effect is plainly as much a political as an economic outcome – the consciously engineered victory of some over others¹⁹ – and equally political means might in principle reverse it. The first is presumably also just as political in its genesis, but potentially effective means for reversing it are harder to discern. Here, a central ambiguity in the contemporary understanding of democracy seriously impedes political progress as much as it does intellectual advance. Is modern capitalist democracy simply a system of political authorization, or does it offer, as it certainly purports to, a definite and prospectively coherent approach to formatting political deliberation on all major issues of public choice?

Liberal democracy, the regime form commended by President Bush and reviled by President Ahmadi-Nejad (and perhaps, in some sense, the principal bone of contention between the two), certainly qualifies democracy as a conception, and confines the usage of the noun, by superimposing additional criteria upon it. What it does not do is clarify the idea of democracy itself. It is also less than explicit about the basis from which we are to impose the new confines. Whatever else democracy was at

16 Dunn, *The Cunning of Unreason*.

17 Adam Przeworski, *Capitalism and Social Democracy* (Cambridge: Cambridge University Press, 1985); Adam Przeworski, *Democracy and the Market* (Cambridge: Cambridge University Press, 1991); Adam Przeworski et al., *Sustainable Democracy* (Cambridge: Cambridge University Press, 1995); Adam Przeworski et al., *Democracy and Development* (Cambridge: Cambridge University Press, 2000); Bernard Manin, Adam Przeworski, and Susan C. Stokes, eds., *Democracy, Accountability and Representation* (Cambridge: Cambridge University Press, 1999).

18 Edward Luce, "Out on a Limb: Why Blue-Collar Americans See Their Future as Precarious," *Financial Times*, March 5, 2006, 15. For comparative background, see Harold L. Wilensky, *Rich Democracies: Political Economy, Public Policy and Performance* (Berkeley: University of California Press, 2002).

19 Michael Graetz and Ian Shapiro, *Death by a Thousand Cuts: The Fight Over Taxing Inherited Wealth* (Princeton, N.J.: Princeton University Press, 2005).

its outset, it did at least identify the human sources of its authority. Over every public decision on what to do within the territories of Athens it left the choice firmly to the citizens themselves.²⁰ As a result, they made a great many decisions. Not even the individual Cantons of the Swiss Republic consult the will and judgment of their citizenry today with comparable assiduity; and no modern state could contemplate putting itself at popular beck and call in a similar fashion.

Liberal democracy blurs the issue of authorization in all but the last instance. It is less than forthcoming in its conception of just how or why the apparatus of civil and political rights that confines the political choices of executive and legislature at any given time is itself ultimately subject to the people who still supposedly authorize it. More importantly, it is inordinately vague, and either confused or systematically deceitful, about just what it implies about the formatting of deliberation in the making of public decisions.

From the outset, the fiercest suspicions of democracy centered on the relation between its allocation of power to particular social groups and its exposure to the vagaries of their judgment.²¹ Liberal democracy has finessed the first suspicion with remarkable efficacy and without prescinding from its formal commitment to political equality. It has handled the second by oscillat-

ing between evasion and prevarication. Some of its subtlest champions, in the settings where it has had to fight hardest in recent decades, see its key merit as its commitment to public reason, the free discussion of public issues in a public setting.²² That emphasis offers an important corrective to Western complacency and ignorance of the history of the rest of the world. But it illuminates the structure of liberal values more than it does the predictable commitments of democratic choice, and it cannot plausibly be said to issue from the idea of democracy itself. Whatever his other excellences, the Emperor Akbar cannot readily be mistaken for a democrat.

Liberals must stand for the right to think and speak freely to the bitter end. But democracy can and often does face two ways on issues of free speech. It prescribes an equal entitlement to every citizen to form their views on every public issue and to press these on one another. But it also strongly suggests a joint entitlement on their part to consider, judge, and decide together just what limits to impose on what can be advocated in public. The Athenians, who often and realistically supposed themselves under challenge, interpreted the latter entitlement with some ferocity and invented very concrete procedures to implement it. Ostracism is scarcely a liberal expedient, but it would be an error about the Greek language to deny that it was an eminently democratic expedient. If it is not an abuse of the American language today to deny that ostracism was (or even could be) a democratic expedient, that may be less an index of clear cognitive advance than of depletion in our capacity to speak and think clearly about the structuring of political choice.

Capitalist democracy: elective affinity or beguiling illusion?

20 Mogens H. Hansen, *The Athenian Democracy in the Age of Demosthenes* (Oxford: Blackwell, 1991), 306–314; Mogens H. Hansen, *The Tradition of Ancient Democracy and Its Importance for Modern Democracy* (Copenhagen: Royal Danish Academy of Sciences and Letters, 2005).

21 Josiah Ober, *Political Dissent in Democratic Athens: Intellectual Critics of Popular Rule* (Princeton, N.J.: Princeton University Press, 1998).

22 Amartya Sen, *The Argumentative Indian* (London: Allen Lane, 2005), 15–19, 287–291.

It would help us to think more clearly about what democracy means today if we distinguished political authorization sharply from the formatting of public deliberation, and recognized the more direct ties between the democratic element in existing arrangements across the OECD and their procedures for eliciting and displaying political authorization. Democracy may be a fulsome description of a regime in which those entitled to give orders and receive obedience are, in the end, intermittently selected to do so by those they force to obey. When in working order, that arrangement guarantees that there cannot be a closed, self-selecting group of rulers who rule indefinitely in the face of the loathing of most of their subjects, until the latter take up arms against them and have the good fortune to win the ensuing struggle – what John Locke called “the appeal to Heaven.” Seen in those terms, contemporary democracies offer a crude but reliable remedy for a grave political ill, one memorably incarnated by Saddam Hussein.

The arrangement’s decisive weakness, especially in face of the cumulative ecological damage inflicted by capitalist advance (or, if you prefer, simply by the increase in human power), lies in its failure to register either the practical significance of the political division of labor – or the cognitive demands of judging what to do and what to avoid having done – in any realistic way. There is one tie between the idea of democracy and the structuring of political deliberation: that each citizen should have not merely an equal formal right to contribute to it, but a real substantive opportunity to do so. The claim to provide that opportunity, *isegoria*,²³ was a key value for the

23 Hansen, *The Athenian Democracy*, 83 – 85, 306 – 314.

democrats of Athens. Even there, it was a strained description of how political deliberation worked in a public setting; but at least it answered to clearly identifiable formal features of the mode through which decisions ultimately had to be made if they were to have authority. No capitalist society has ever provided its citizens in practice with anything remotely resembling that opportunity. It is not intuitively clear how any could.

The tie between democracy and the role of individual citizens within public deliberation today is not one that equalizes power, but one that acknowledges both the personal entitlement to try to persuade and the cognitive advantage of inserting all potentially relevant considerations into such deliberation. Because it does not, and plainly cannot, equalize power among citizens, it carries no implications for the fate of the considerations they deem relevant once these are duly advanced, and clearly mischaracterizes the sense in which most have effective opportunity to advance them at all. It does not envisage the structuring of public deliberation as a causal field, but instead dissolves it into an aspect of political authorization. Whatever ideological services that conflation may render, it does not provide a promising approach to understanding what in fact happens through formally democratic institutions.

Democracy, in any understanding, has always been a singularly weak conceptual candidate for specifying deliberative rationality. It may, as Aristotle conceded, have the advantage of preventing the exclusion of potentially relevant considerations, but it conscientiously refrains from imposing any other constraints on deliberative outcomes. Moreover, it does nothing to clarify which reasons are better and should therefore carry greater force, and which are more alluring and

popular and hence carry greater immediate power. Looking at the process of global ecological depletion from this angle and at this level of abstraction, it is hard to doubt that on this point Plato was right, and Pericles, as Thucydides reports him,²⁴ was as overoptimistic in the long run as Buonarroti himself.

Most contemporary partisans of democracy can accept with equanimity Buonarroti's verdict that none of France's revolutionaries embraced democracy in the ancient sense or contemplated summoning the entire people to deliberate on acts of government.²⁵ But very few are equally happy to acknowledge his concomitant judgment that aristocracy, or sovereign power exercised by one part of the nation over the whole of it, is an inevitable consequence of the inequality consecrated by the order of egoism.²⁶ It is reasonable to suspect some failure here either in nerve or in honesty. Where such failure matters most is in the analysis of massive infelicities in contemporary political choice. How many of these infelicities are at present a product of aristocracy (i.e., veiled or blatant inequality in political access)? How many continue to come from quite different sources?

As a system of authorization, contemporary democracy rests on equality, and intermittently verges on ensuring it at just one point in time. When it comes to determining outcomes, however, it gives no comparably specific assurance on how public deliberation will or should

be structured, or how it will square up against more private deliberation. Those captivated by Buonarroti will do their best to ascribe its more aberrant outcomes to its systematic and often covert subversion of equality. But there is more to deliberative rationality than undistorted communication between equals or pseudoequals. All deliberation is permanently at the mercy of the cognitive resources available to its participants. Besides the hallowed and always reasonably plausible model of actively sustained domination by sinister interests, there is the still less encouraging model of somnambulistic collective greed and stupidity. Even today democracy offers a better banner for defying or seeking to combat the first than for blandly endorsing it. It offers no discernible remedy for the second.

For the present the sole minimally plausible remedy still touted for the second is the deep abstract cunning of the market: perfect proxy for deliberative rationality all on its own. If the order of egoism has gotten us into this fix, perhaps if left severely to itself, the same facility may in due course get us out of it? The providential wager on the market is the last faith left on this particular battlefield, lacking, for those who can believe it, only a plausible recipe to ensure its implementation in face of powerful would-be molesters (aristocratic or democratic). Somewhere within this murky space, contemporary political thinking appears for the moment to have well and truly lost the thread.

Capitalist democracy: elective affinity or beguiling illusion?

24 Thucydides, *History of the Peloponnesian War*, Books I and II, trans. Charles Forster Smith (Cambridge, Mass.: Harvard University Press, 1928), xxxv – xlvi, 318 – 341.

25 Buonarroti, *Conspiration pour l'égalité*, 38.

26 *Ibid.*, 32n.

Joyce Appleby

The intellectual underpinnings of American democracy

The history of American democracy is usually presented as a political story *tout court*.¹ Nineteenth-century scholars pointed to the Declaration of Independence as the fundamental document. Now that the Founding Fathers are seen as actively checking “the excess of democracy” in the 1780s when they ratified the U.S. Constitution’s creation of an energetic federal government, democracy is variously depicted as arriving in the United States with the election of Thomas Jefferson or Andrew Jackson.

Hardly anyone touches the subject without invoking the elegant observations of Alexis de Tocqueville in his now classic *Democracy in America*. Arriving fifty-six years after Americans announced their independence, the twen-

ty-six-year-old French nobleman marveled at the pervasive purchase of democratic mores and read that vigor back into the past. Astute as he was, Tocqueville did not escape the tendency of his age to naturalize social forces (and hence stoked Americans’ own desire to romanticize their democratic mores). What Tocqueville missed or minimized were the bitter political fights leading to the electoral defeat of the Federalist founders and the triumph of a boisterous, democratic opposition. Instead, ‘equality of condition’ serves, in *Democracy in America*, as something of a *deus ex machina*, summoned to explain a variety of social preferences, habits of thoughts, and political practices.

In many ways American society was exceptional when compared with others in the world, but no complicated cultural transformation emerges naturally. Behind the democracy that Jefferson and his party espoused was a hundred-year-old transformation of basic ideas about human nature and social order. The democratization of economic opportunity after 1800 played an important role as well.

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¹ This essay was first presented as the Lewis Walpole Library Lecture at Yale University, April 22, 2005.

Underpinnings are not meant to be seen; they hold up the building but are not a conspicuous part. This is exactly the case with the underpinnings of democracy. As metaphors go, ‘underpinnings’ do a good job of pointing in the right direction toward supportive assumptions and undergirding convictions. They are not the arguments put forward by proponents or detractors, but rather the beliefs that had to be widely accepted before the intellectual object itself – democracy – could be considered a practical alternative to the reigning political theories.

That other common trope for talking about the substratum of a complex idea – roots – takes away the indeterminacy in this cultural change. The acorn has no choice but to become an oak. To speak of democratic roots would close out the history where paths were opened and doors closed in the everyday world of social choices. It would silence the vigorous opposition of those who continued to see democratic rule as chaotic, irrational, and profoundly unsettling to the hierarchical structure of the universe.

I intend to approach the intellectual underpinnings of American democracy at an early entry point, in the seventeenth century, when England was transforming itself into a modern nation. Delving into the rich literature produced by the economic and political changes of its century of revolution, we will find many fresh challenges to conventional ideas about political order.

In the eighteenth century the English created a constitutional monarchy in which the king, lords, and commons shared authority. Some English thinkers hearkened back to classical texts to construct a theory that showed how by balancing the one, the few, and the many, they had introduced checks against pow-

er plays from any one of these three components of the state. Connected to this description of England’s delicate balancing act were affirmations of the need for disinterested leaders practicing civic humanism. Described as the capacity to put the interests of the whole before one’s self-interest, civic humanism justified the leadership of the propertied few who did not constantly have to look out for themselves in order to survive.

This classical republican thought simply represented a fresh reworking of the very old traditional assumptions of human inequality, the fragility of public order, and the threat contained in change. In contrast, the core beliefs necessary to the widespread acceptance of American democracy at this time were that ordinary men could take care of themselves without the firm direction of ministers, magistrates, and fathers; that this capacity to look out for oneself is a part of the human endowment and hence universal and equal; and that social change was part of an evolutionary process that over time would enhance the entire human prospect.

Unproblematic as these propositions seem to us, they ran athwart the exaltation, even mystification, of authority, which a lot of wise men and women thought to be essential to maintaining order. They undermined a reverence for the past promoted by the Judeo-Christian narrative of the Garden of Eden and the educated European’s esteem for the golden age of classical Greece. Instead, these ideas embraced change, inducing fear in those who held to the traditional beliefs that history was cyclical and that change usually came in the form of usurpations of power, foreign attack, or tyranny.

But perhaps the most entrenched obstacle to adopting ideas supportive of democracy was the belief in natural in-

equality, a conviction that human society was composed of the strong, wise, brave few and the many ordinary people without special talents for governing. I once had a few extra days in London and spent them at the Goldsmith's Library, reading the criticisms of Thomas Hobbes's *Leviathan* that were published in the 1660s. I was surprised to learn that it was not Hobbes's grim description of the life of man in the state of nature as "solitary, poor, nasty, brutish, and short" that shocked contemporaries, but rather his assertion of natural equality. The view of Ordinary people as base, if not actually vile, had provided the glue for upper-class solidarity for centuries. And even though both Hobbes and John Locke relied on the premise of equality for their theories about the origins of political obligation, it was a technical equality, which yielded to social and political hierarchies with the introduction of government and private property.

While they were creating the social-contract theory of the origins of government, other men were examining the English economy, which was bursting out of its traditional restraints. Changes in producing and marketing goods had begun transforming England as early as the 1620s. Slowly receding was the world of scarcity, where labor and resources were directed to replacing one year's consumption with another year's production. When evidence of the sustained creation of new wealth and wealth-making possibilities was unavoidable, explanations had to be found.

Particularly fascinating to contemporaries was how people behaved when they bought and sold in the market. Soon those watching the phenomenon of an expanding world trade put into circulation new descriptions of how people acted in their market transactions. They depicted men and women as drawn nat-

urally, by the desire to better their condition, to the producing, selling, and buying that drove the market. These observations – scattered in pamphlets, how-to books, broadsides, and learned tomes (many of them written by such luminaries as Locke, Isaac Newton, and Daniel Defoe) – converged on the same estimate of the human capacity to be responsible in commercial dealings.

Instead of human impulsiveness – the wicked, stupid, capricious conduct described in Puritan sermons and Elizabethan drama – those who were trying to understand the new commercial transactions came to expect a uniform, reasonable response from market bargainers: people could be counted on because they counted their interests. By the mid-eighteenth century Samuel Johnson could comment that "there are few ways in which a man can be more innocently employed than in getting money."²

Because it was as consistent as water running down hill, the round of producing, selling, buying, and paying was considered natural. As Thomas Mun memorably wrote in *England's Treasure by Foreign Trade*, "Let the meer Exchanger do his worst; Let Princes oppress, Lawyers Extort, Usurers bite, Prodials wast . . . so much Treasure only will be brought in or carried out of Commonwealth as the Forraign Trade doth over or under balance in values," adding this kicker, "And this must come to pass by a Necessity beyond all resistance." Mun writing in 1620, though not published for another forty years, was the first to describe the trading universe as a coherent and mutually supporting community.

Gradually, economic writers recast the economy as a natural system working

2 George Birkbeck Hill, ed., *Boswell's Life of Johnson*, vol. 2 (Oxford: Clarendon Press, 1887), 323.

invisibly to produce harmony among buyers and sellers instead of as a hodge-podge of commercial transactions necessarily subject to political direction. The political implications of such an assertion were not lost on a conservative who faulted Locke for pretending that “the Government had no more power in Political than they have in Natural.”³ By the time Adam Smith drew together a century of theorizing about the commercial system into his mighty synthesis, *An Inquiry into the Nature and Causes of the Wealth of Nations*, these observations had become common sense, though they had yet to permeate thinking about politics.

Smith wrote in part to free the economy from governmental intrusion, to finally move economics from “Political to Natural.” Behind his great work rested a model of human behavior that depended upon a break with the traditional opinion of men and women as unsteady and capricious: “The principle which prompts to save is the desire of bettering our condition, a desire which tho generally calm and dispassionate, comes with us from the womb, and never leaves us til we go into the grave.” From the individual’s natural, self-interested behavior Smith could extrapolate a self-sustaining, progressive system:

The uniform, constant, and uninterrupted effort of every man to better his condition, the principle from which public and national, as well as private, opulence is originally derived is frequently powerful enough to maintain and sustain the natural progress of things towards improvement, in spite of both of the extravagance

of government and of the greatest errors of administration.⁴

Just as Newton saw uniformity behind the dazzling diversity of planets, meteors, and stars, so Smith found consistency in the multifarious commercial transactions. Integral to his theorizing was the law of unintended consequences, an arresting insight that explained how individual, self-interested acts could still turn out to be beneficial to the whole – the most famous, of course, being the invisible hand of the market that melded self-interestedness and competition into a force for better products at cheaper prices for the buyer.

There was an important but subtle implication in all this speculation: that is, that the economy rather than the polity serves as the effective organizer of society. And where the polity excluded those who were not citizens, women among them, the economy included all who worked, perversely linking beggars with aristocrats as among the unproductive members of society.

Much was attributed to trade in the first flush of analyzing. Paine saw commerce as an alternative to war in getting people what they wanted. He described it as “a pacific system” that works “to cordialise mankind, by rendering nations, as well as individuals, useful to each other.”⁵ The new market economy also lured people into more consistent work habits. Moralists honored the enhancement of labor. Among the Locke Papers at the Cambridge University Library is a note upon which Locke had scribbled across a piece of foolscap: “[I]f everyone in the world worked, the

3 *England’s Treasure by Forraign Trade*, 218 – 219, as quoted in Joyce Oldham Appleby, *Economic Thought and Ideology in Seventeenth-Century England* (Princeton, N.J.: Princeton University Press, 1978), 51; *A Discourse of Money*, London, 1696, 18, as quoted in *ibid.*, 237.

4 Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations* (New York: Modern Library, 1937), 306, 3, 13, 328.

5 *Ibid.*, 228.

world's work could be done in half a day." Work, so long disdained as God's punishment to Adam as well as the activity that distinguished the ordinary many from the distinguished few, now appeared as a positive, collective undertaking.

In succession, investigators of the commercial economy had come up with three radical propositions: that human beings were consistent, disciplined, and cooperative market participants; that natural laws governed the realm of voluntary activities; and finally that human history didn't oscillate through cycles of change, but rather developed with cumulative improvements that made the future unrecognizable to those in the past.

The last proposition, the reconception of time as development, stemmed from a conjectural history of mankind that Smith and his fellow Scots proposed, which traced human society from that of hunters and gatherers, to herders, to farmers, and finally to participants in commerce. The discovery of indigenous hunter-gatherer peoples in South and North America helped anchor the Scot's initial stage in facts. From this conjectural perspective, a slow process of progressive change propelled history forward, not the contingent events and powerful people written about in history books.

The infiltration into the popular mind that time carried with it development, and not mere change, had profound consequences. It changed the stance toward both past and future. The expectation of positive improvement in the future denigrated both past and present. Whereas previously, the Age of Antiquity and the Garden of Eden had reminded Europeans and Americans that they lived in a fallen state, now it was the future that could be imagined as golden.

Downgrading the glories of the past also undermined reverence for authority. As Paine said of the English constitution in *Common Sense*, it was "noble for the dark and slavish times in which it was erected."⁶ And with this pithy comment he dispatched kings and nobles to the dustbin of history. Similarly, Jefferson wrote (one almost suspects with tongue in cheek) that the discovery of the political principle of representation rendered the loss of any of Aristotle's writings less worrisome. Experience had taught moderns things more significant to them than the writings of Greek philosophers.

The classical notion of cyclical change had linked human life to the observable cycle of conception and birth, vigorous growth to maturity, inevitable decay and death. With time now parceled out in dependable processes, sequential patterns, and irreversible transformations, all the rivulets of human activity could be seen flowing into the great river of improvement. The new script of development took over the imaginative space once devoted to the poignant story of inevitable degeneration. Fear moved aside to make room for hope.

The new description of human behavior in the market as orderly, reasonable, and consistent might have remained confined to the specialized field of economics had its appearance not coincided with a new discourse about human equality. How equality acquired an emotional and moral resonance, not present in social-contract theory, is obscure. Pierre-Louis, the Count de Roederer and a member of France's reforming nobili-

6 All subsequent quotations and this one come from Thomas Paine, *Common Sense*, ed. Issac Kramnick (London: Penguin Books, 1976), 65–72.

ty, claimed that equality had become the topic of the hour on the eve of the French Revolution. But where had it come from – this new fervent embrace of equality?

Thomas Huxley, a conservative voice from the late nineteenth century, is alleged to have thanked God that there was no talk about rights in the Bible. There may be no talk about rights, but there is plenty of talk about justice, love, and charity that could have pushed equality from a spiritual quality to a political one. The problem, though, with assigning a causal role to religion in this refurbishing of the idea of equality is that the Christian commitment to spiritual equality had existed side by side with aristocratic regimes for centuries.

Still, the outpouring of evangelical fervor among the Pietists in Germany, the Wesley brothers in England, and the preachers of the Great Awakening in the American colonies must have played a part in moving equality from a rather arid philosophical premise to an ardent affirmation. Its convergence with secular discourses about human behavior made spiritual equality a handmaiden to social equality and both to a new interest in the latent possibilities of ordinary men and women.

Human nature – another linguistic invention of the eighteenth century – came to be seen as an endowment, a bundle of potentialities rather than a cast of problematic tendencies, like the impulse to sin. When John Locke described the infant human mind as a *tabula rasa*, he opened up the possibility of imagining an environment cleansed of malevolent influences, offering yet another challenge to the reigning assumptions about human corruption, dependency, and invariant wickedness collected together under the rubric of original sin.

Like those of the economic discourse, the radical implications of Locke's sensational psychology might have remained locked up in philosophical treatises, like the one Locke wrote, had there not been fruitful connections to make. The hypothesis about the infant's openness to first impressions suggested an alternative story line for the human race if the infant's world could be improved. Perhaps no one articulated this new enthusiasm better than Paine when he described somewhat wondrously in *The Rights of Man* that

there is existing in man, a mass of sense lying in a dormant state, and which, unless something excites it to actions will descend with him, in that condition, to the grave The construction of government ought to be such as to bring forward, by a quiet and regular operation, all that extent of capacity which never fails to appear in revolution.

By the time Paine began writing his incendiary volumes, what I call the intellectual underpinnings of democracy were in place. He could take them as simple truths. Paine and Jefferson became the receivers, mixers, and synthesizers of the resonating ideas that shaped American democratic culture. Within the next quarter century – between the publication of *Common Sense* and Jefferson's election – the chaste propositions of classical republicans had been swept aside and the intellectual foundations laid for a fusion of economic liberty, social democracy, and political restraint, in deference to free choice.

All the themes of human capacity, equality, and rights find their place in Paine's attack on the British monarchy in *Common Sense*. Its widespread appeal and astounding success (comparable to selling three million copies today) indi-

cate that his words did not so much convince people as crystallize opinions they already held. Paine issued not just reasons for independence but also an invitation to ordinary people to consider what they were capable of and why they had been hoodwinked into believing otherwise.

The opening lines of *Common Sense* distilled a century of speculation about order: “Some writers have so confounded society with government, as to leave little or no distinction between them; whereas they are not only different, but have different origins.” “Society,” he went on to explain, “is produced by our wants, and government by our wickedness; the former promotes our happiness positively by uniting our affections, the latter negatively by restraining our vices.” When Hobbes and Locke wrote their great tracts there was only government and the state of nature; now there was a new entity – society.

The source of discord in society was not human nature, Paine argued, but the oppression from those given social privileges: “Male and female are the distinctions of nature, good and bad the distinctions of Heaven.” The differences among men are politically irrelevant, a point Hobbes and Locke made in explaining why people left the state of nature but which Paine later asserted to ridicule the hierarchies that stood in the way of social equality.

The eighteenth-century concept of nature does heavy-duty service in Paine’s frontal attack on the English monarchy. Paine announced that he had drawn his “idea of the form of government from a principle in nature which no art can overturn, viz: that the more simple any thing is, the less liable it is to be disordered.” Nature comes in to support most of his assertions. Of independence he wrote, “The simple voice of nature and

reason will say, ‘tis right.” And he offered the shrewd advice that he “who takes nature for his guide, is not easily beaten out of his argument.” Nature was his contrast to the artifices that had given kings and lords their unwarranted power and intimidating prestige.⁷

Paine stirred readers with the pungent prose of a Speaker’s Corner incendiary, but Jefferson was no deracinated intellectual. He plotted his weight-lifting campaign within the bosom of America’s ascendant revolutionary elite. He was an anomaly, a tenacious champion of subversive ideas who repeatedly got elected to high office by an electorate of slaveholding, patriarchal plantation owners.

Before looking at Jefferson’s reshuffling of political priorities, I want to clarify his differences with the Federalists, whose election to office briefly solidified the power of a new national elite in 1789. A zeal for personal freedom did not divide the Federalists from those who rallied to Jefferson’s cry to complete the transformation from independence to democracy. Almost all Americans who didn’t leave with the Loyalists in 1776 saw their new nation as proof of the possibility of transformative social change. John Stevens, scion of a distinguished New Jersey patriot family, wrote rhapsodically that America

should have the honor of teaching mankind this interesting lesson, that man is actually capable of governing himself. This conflation of the self-government of a people and of governing oneself, Paine made explicit when he announced that “man has achieved mastery over govern-

7 Philip Foner, appendix to *Common Sense* in *The Complete Writings of Thomas Paine*, 116. From *Rights of Man*.

ment by participating in it, and has thus achieved mastery over himself.”⁸

But the Federalists maintained the distinction between the few and the many; they thought a strong central government essential and wanted as much of a hierarchy as American mores could sustain. Without the eruption of Jefferson’s tumultuous popular movement in the 1790s, the American political order might have mirrored that of England, where an economically progressive, propertied class kept radical reform at bay for another century.

Alexander Hamilton represented what Jefferson feared in Federalist politics. His reaction to Adam Smith’s idea of self-regulating trade without what he called “a common directing power” is illustrative. He pointed to it as “one of those wild speculative paradoxes, which have grown into credit among us, contrary to the uniform practice and sense of the most enlightened nations.”⁹ Thus when Hamilton had a chance to initiate an economic policy for the nation he relied on the continued existence – “durable and permanent” in his words – of “rich and poor, debtor and creditor.” The wealthy few would develop new enterprises for the poor, whose lives would be regulated through their economic dependence and, if necessary, the master-servant law. Convinced of the need for leadership from disinterested and educated gentlemen, Hamilton rejected the notion that ordinary farmers, storekeepers, and tinkers might just as effectively use their and their neighbors’ savings for new, unsupervised ventures.

The Federalists clearly feared popular participation and all that it entailed. President George Washington reacted viscerally to the unprecedented phenomenon of ordinary voters forming political clubs to discuss state affairs. He dismissively spoke of them as “certain self-created societies.” A member of one of those clubs shot back: “Whatever the United States might have been previous to the American Revolution, it is pretty evident that since their emancipation from British rapacity, they are a great self-created society.”¹⁰

The key issue became how important energetic government was to the maintenance of order. Conservatives claimed that men were too unruly to handle new freedoms. After all, if they had been so tractable through the ages, then why was history replete with accounts of riots and rebellions? Democratic reformers replied that people were naturally self-regulating if given a chance to cultivate their reason through the exercise of free choice. It was government with its abusive control that caused this record of discord.

The body politic required radical surgery, Jeffersonians said, a cutting-out of borrowed aristocratic traditions to which the American upper class clung. Americans had to shed the burden of old ways of thinking, of antediluvian conceits, of controlling institutions. Only liberation from archaic authorities of all kinds, in Jefferson’s view, would lift the dead hand of the past off the shoulders of the present generation. For Jefferson American freedom was as much psychological and social.

Fired by his reformist ambitions, Jefferson put into circulation ideas about a

8 P. F. Nursey-Bray, “Thomas Paine and the Concept of Alienation,” *Political Studies* 16 (2) (1968): 231.

9 *Continentalist* No. V, April 1782.

10 *Independent Gazetteer*, January 21, 28, 1795, as quoted in Joyce Appleby, *Capitalism and a New Social Order* (New York: New York University Press, 1984), 67–68.

different kind of freedom – one rooted in nature and accessible to reason; its workings explained through abstractions; its validation projected into the future. As he asserted to John Adams years later, their two parties represented the “the enemies of reform” and its champions, the two sides splitting on the question of “the improbability of the human mind, in science, in ethics, in government.” To clinch his point, Jefferson summed up their differences in pairs: the guidance of experience or of theory; fear and distrust of the people as opposed to their “cherishment;” use of coercive economic and political power versus trust in the people’s capacity to act in their best interests. Surely Jefferson must be the last American president to claim a reliance on theory.

Like father, like son, John Quincy Adams said that close attention to Paine’s writing revealed that “it suffered from the unrealistic ‘dreams’ of a man attracted to vague ideals, but deficient in critical thinking.” His father contented himself with wryly commenting to Jefferson, “Your taste is judicious in liking better the dreams of the future than the history of the past.”¹¹ But in the years before his election, Jefferson and his allies created just that: an image of a society that had never existed, one that protected the unbounded area of voluntary association and put sharp limits on governmental power. The Jeffersonians, with great rhetorical virtuosity, drew invidious distinctions between the artificial and the natural, the prescribed and the voluntary, the repressive and the liberating. For Americans, this natu-

ral order began to take on a literal meaning hardly possible for Europeans.

Even more extravagantly libertarian was Jefferson’s defense of the Jacobins in early 1793. Responding to the dismayed reports of an American eyewitness in Paris, Jefferson reminded him:

[T]he liberty of the whole earth was depending on the issue of the contest . . .

[R]ather that it should have failed, I would have seen half the earth desolated. Were there but an Adam and an Eve left in every country, and left free, it would be better than as it now is.¹²

Eve’s presence here was gratuitous, for Jefferson never extended his liberating zeal to women. In his view they were disqualified by nature to participate in politics. While I believe that deep-seated prejudices account for Jefferson’s exclusion of women, and men and women of other races, from his republic, nature nonetheless played a central role in his thinking. A philosophy that taught that nature disclosed the moral ends of human life, and then read nature as having endowed each man with a right to pursue his own happiness, comported well with the actual biases of most Americans. It taught that all men should have equal rights; but practically, only those men who demonstrated a liberty-loving, self-improving self – deemed natural – were admitted to the category “all men.”

Over time, the language of uniformity turned differences into deviations. Discursively, those people who strayed from the established norm became deviants. So if they were denied their rights, it was nature that authored the exception. We can see these assumptions operating most powerfully in relation to women,

11 “Publicola” on *Rights of Man* in *Columbian Centinel*, July 9, 1791; John Adams to Thomas Jefferson, Quincy, Mass., August 9, 1816, in Charles Francis Adams, ed., *The Works of John Adams*, vol. 10 (Boston: Little, Brown, 1856), 226.

12 Jefferson to William Short, January 3, 1793, in Adrienne Koch and William Peden, eds., *The Life and Selected Writings of Thomas Jefferson* (New York: Modern Library, 1944), 321 – 322.

Africans, and Indians, but these are but the most conspicuous applications.

Nonetheless, the nation's social situation made possible far more radical social experiments than possible in those countries – England, Scotland, and France – that had supplied the ideas. The distinguished French economist Jean-Baptist Saye lamented to James Madison in 1814: “In old Europe there are enlightened men who advocate a liberal government, but they are few and *bien timide*. In America they govern the nation.”¹³

In seeking to attach the ‘moneyed interest’ to the national government, Alexander Hamilton reflected colonial understandings of social authority. Then, one found in the city an entrenched elite, which exercised an undifferentiated social, economic, and political power. Their model was London, from which the king’s ministers and parliament determined, for instance, that the colonists could no longer issue paper or manufacture various items. The American Revolution put a stop to this particular arrogation of power, and Jefferson’s first presidential measures dismantled the Hamiltonian program.

Twice liberated from metropolitan domination, individuals in rural areas could after 1800 initiate market ventures more freely. With manufacturing often tied to handicrafts rather than machines and – even when mechanized – dependent upon water power, the countryside became the site of the first industrial initiatives in the United States.

The rate of growth in the early republic was set in large part by the behavior of ordinary men and women whose propensity to move, to innovate, to accept

paper money, and to switch quickly from homemade goods to commercial ones set the rate for the expansion of farming, commerce, credit, and information. American geographic mobility astounded foreign visitors, who described in their travel accounts the forests of masts in American harbors and the unending train of wagons snaking their way to Pittsburgh or Cooperstown or Lexington. To them, American society offered an ever-changing visual landscape as people moved, graded roads, cleared land, and raised buildings.

Trade did not seem a divisive force to ordinary Americans, but rather the principal vehicle of progress for an energetic, disciplined, self-reliant people. Americans identified their nation with commercial prowess in a way that was unthinkable in any other country. Widely diffused prosperity among white Americans gave material form to political equality. Economic freedom and political freedom were mutually enhanced during the early nineteenth century. When conflicts between equality and liberty became acute during full-scale industrialization, the experience of previous generations formed a barrier to the next round of radical thought.

Now that we have added democracy to our exports, it is more urgent than ever to excavate the underpinnings of our democracy, for ours is a specific form of democracy that took root when people believed that the economy had solved the problem of order, that freedom liberated the individual from the group, and that time had been programmed for improvement. The essence of these assumptions represented not only a rejection of the past but also of any effort, in the name of tradition, to curb individual initiative or free choice. We have created a culture around those assumptions; it remains to be seen if they can be transplanted.

13 Gaillard Hunt, ed., *Writings of James Madison*, vol. 9 (New York: G. P. Putnam’s Sons, 1910), 135 – 136.

John C. Bogle

Democracy in corporate America

“If men were angels, no government would be necessary.” James Madison’s perceptive warning in *The Federalist*, No. 51, provides an appropriate place to begin a discussion of the role of shareholder democracy in the governance of America’s giant publicly held corporations.

Paraphrasing the great Madison’s words, “If chief executives were angels, no corporate governance would be necessary.” Yet if anything is clear about corporate governance during the recent era, it is that chief executives, like the rest of us, are not angels. I am referring not only to the headliners – convicted felons such as Enron’s Ken Lay and Jeffrey Skilling, WorldCom’s Bernard Ebbers, Tyco’s Dennis Kozlowski, and Adelphia’s John Rigas – but to a far larger cohort of chief executives who stretched generally accepted account-

ing principles to their very limit, and even beyond, in order to create *accounting* earnings that measured up to the guidance they had provided the professional security analysts of powerful Wall Street investment banking firms (the ‘sell side,’ promoting stocks to money managers) and the giant institutional investing firms (the ‘buy side,’ purchasing those stocks).

This accounting gimmickry was too often performed right under the knowing eye of public accounting firms. These firms compromised their independence by providing management-consulting services to the very companies whose financial statements they were providing attestation. In the aftermath of the 1998 – 2000 stock market bubble, many companies were required to restate the audited earnings figures they had reported. There have been some 6,441 restatements of earnings by publicly owned companies since 2001. These restatements have come not only from companies of marginal standing in the business community but also from some of the largest and most highly regarded corporations in the United States, including General Motors, General Electric, Fannie Mae, Xerox, Bristol-Meyers Squibb, Citigroup, and Marsh & McLennan.

Restating earnings is not a crime. But it is a symptom of the ‘financial engi-

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neering' methodology of our corporate managers. What is more, other ways of artificially enhancing earnings do not even require restatement. It is, for example, in no way inconsistent with accepted accounting standards for a corporation to raise the assumed future return of its pension plan with nothing more than a guess, usually fortified by a statement that its financial officers and actuaries have said grace over the increase. Such a change can easily convert a company's annual loss into a stunning profit. In 2001, Verizon Communications incurred a loss of some \$1.4 billion on its operations. However, when it increased the assumed future return of its pension plan from 9.0 percent to 9.25 percent, it created \$1.8 billion of phantom income, resulting in a reported net income of nearly \$400 million,¹ and enabling the firm to pay executive bonuses that would otherwise have been eliminated.

Verizon was hardly atypical in this action. In 1981, the assumed returns for the pension plan of the typical U.S. corporation were 6.0 percent. But by 2000, the assumed returns had risen to 9.0 percent, even though the outlook for prospective returns for stocks and bonds had sharply deteriorated. (For example, the yield of the benchmark ten-year Treasury note – a highly accurate indicator of the note's return over the subsequent decade – was 13.9 percent at the start of the period, but only 5 percent at the end.)

But even with all that financial engineering, from 1980 through 2004 corporate earnings had grown, not at the annual rate of 11.5 percent that our corporate leaders had projected (over five-year increments) but at a rate of just 6 percent. That rate of growth failed to

1 Ironically, this pension income was recorded in a year in which the actual value of the pension plan dropped by \$3.1 billion.

match even the 6.2 percent growth rate of the American economy during the same period. So while stock prices soared by almost 800 percent during this era, roughly 500 percentage points of that total were the result not of corporate accomplishment but of an increase in the valuation of stocks, with prices on balance soaring from nine to twenty-one times earnings.

Reflecting, then, not extraordinary business achievement but an upward revaluation of stocks of a once-in-a-lifetime dimension, the compensation of the average CEO rose from \$625,000 to \$9,840,000, a 12.2 percent annual rate of increase. This rate is double the earnings growth rate achieved by the firms themselves, which, as I pointed out, was below the growth rate of the economy at large – a fact that is surely more indicative of the failure of our CEOs in the aggregate than of their success.

Of course, the compensation of the average worker also grew – more than doubling from \$14,900 to \$35,100 – but at a rate of only 3.6 percent per year, less than one-third of the pace of the CEO's increase. When we translate these figures into *real* dollars, reflecting their 1980 spending power, the gap is far more striking. CEO pay rose more than sevenfold to \$4,500,000 in real terms, while the real annual pay of the average worker rose from \$14,900 to \$15,900, only 0.3 percent per year.

Through the contrast in these increases, the CEO implicitly sends this message: "I am the powerful emperor who created the entire increase in the value of the corporation. All of you, our dedicated and loyal employees, contributed virtually nothing."² One can only recall

2 As someone who has served as chief executive of two major companies for a total of thirty years, I simply cannot imagine such an absurd conclusion, one totally contrary to the way that business actually works.

the dictum of King Louis XIV: “*L’ état cést moi.*”

These excesses in executive compensation, and the directly related machinations of financial statements, reflected the erosion in the conduct and values of our business leaders during the recent era, when something went wrong with American capitalism. The system – which had served us well for so long – changed, one more aberration in the long course of capitalism. While each of its earlier failures was followed by safeguards put in place as defenses against future abuses, none of them contemplated the next sort of scandal that, perhaps almost inevitably, would follow.

The central ethic of the system of modern capitalism when it began in Great Britain around the start of the eighteenth century – trusting and being trusted – was gradually eroded. What went wrong this time, as the journalist William Pfaff described it, was “a pathological mutation in capitalism.” The classic system – *owners’* capitalism – had been based on a dedication to serving the interests of the corporation’s owners by maximizing the return on their capital investment. But a new system developed – *managers’* capitalism – in which, Pfaff wrote, “the corporation came to be run to profit its managers, in complicity if not conspiracy with accountants and the managers of other corporations.” Why did it happen? “Because the markets had so diffused corporate ownership that *no responsible owner exists*. This is morally unacceptable, but also a corruption of capitalism itself.”

Much of the responsibility for this change can be found in the ascent of the imperial chief executive officer as the new paradigm of management. Self-interest came to the fore, and the stewardship of stockholder property took a back

seat. A 2002 Harvard University/Wharton School paper on “Corporate Governance and Equity Prices” characterized this change by contrasting corporate *dictatorships* with corporate *democracies*:

Corporations are republics. The ultimate authority rests with the voters (shareholders). These voters elect representatives (directors) who delegate most decisions to bureaucrats (managers) One extreme tilts toward democracy, reserves little power for management, and allows shareholders to quickly and easily replace directors. The other extreme tilts toward dictatorship, reserves extensive power for management, and places strong restrictions on shareholders’ ability to replace directors.³

While those are strong words, they capture the essence of the problem. Indeed, when speaking in 2003 to the CEOs of America’s largest corporations at their Business Roundtable, I suggested that we needed more democracy among our firms and less dictatorship. My remarks were not particularly well received, and I was reminded that the job of the CEO was tough enough without the interference of owners in the company’s governance and operations.

Few of us would expect our corporate CEOs to be angels, but it should be clear – based on the evidence of gross executive overcompensation and financial engineering – that we need better governance of our large publicly held corporations. The reality is that our modern-day corporations fail to follow a primary principle of good governance laid down by the founding fathers of our republic:

3 Paul A. Gompers, Joy L. Ishii, and Andrew Metrick, “Corporate Governance and Equity Prices,” *Quarterly Journal of Economics* 118 (1) (February 2003).

the *separation of powers*, an idea that, as our knowledgeable forebears were well aware, goes back to Montesquieu and John Locke and, indeed, to ancient Greece and Rome. In *The Federalist*, No. 51, Madison explains this doctrine:

In a single republic, all power surrendered by the people, is submitted to the administration of a single government; and usurpations are guarded against by a division of the government into distinct and separate departments ... (which) will control each other; and at the same time that each will be controlled by itself ... a dependence on the people is no doubt the primary control of the government; but experience has taught mankind the necessity of auxiliary precautions ... (a policy that) might be traced through the whole system of human affairs, *public* as well as *private*. (Italics added.)

In corporate America, the 'government' consists of the directors, the management, and the so-called gatekeepers of our corporate system – the independent public accountants, the federal and state regulatory authorities, and the framework of corporate law established by our national and state governments. As in our republic, quoting Madison in *The Federalist*, No. 39,

the government (i.e., the corporation's board of directors) derives power directly or indirectly from the great body of the people (i.e., the corporation's shareholders), and is administered by persons holding their offices during pleasure, for a limited period, or during good behavior. It is *essential* to such a government that it be derived by the great body of the society, not from an inconsiderable proportion or favored class of it, otherwise a handful of tyrannical nobles, exercising their oppressions by a delegation of their powers, might aspire to (its control).

In the recent era, however, America's corporations have departed sharply from this timeless principle of sound governance. The chief executive now reigns almost unchecked over the other two branches of corporate America. Chief executive officers hold dominion over boards of directors, who seem more loyal to the chief executive officers whom they have chosen – or by whom they themselves have been chosen – than to the shareholders who are, in fact, the owners of the corporation.

The gatekeeper system (the judicial branch of corporate government) has also faltered, at each level: public accountants, for one, are no longer independent appraisers of management's financial statements, but, through lucrative consulting relationships, have become partners of management, sometimes even providing aggressive tax-shelter schemes to the very executives of the companies whose books they audit.

Another mainstay of the corporate judicial branch has also stumbled. Basic investor protections provided by the Glass-Steagall Act and the Securities Acts – enacted to deal with the failures that contributed to the 1929 – 1933 market crash – were relaxed, sharply vitiating long-standing safeguards. And Congress, lobbied vigorously, has too often surrendered to corporate interests. The most notable example came in 1993, when the U.S. Senate forced the Financial Accounting Standards Board to withdraw its proposal requiring that compensation paid to corporate executives in the form of stock-option awards be treated as a corporate expense, just like all other forms of executive compensation. Allowing stock options to be treated as 'free' – i.e., not charged against earnings – has played a major role in the gross excesses in CEO compensation.

But it is our corporate directors (the legislative branch) who must bear the onus for the failures of corporate America. Under the established laws of our corporations, it is the directors who are “entrusted with the *responsibility for the management* of the corporation.” Just as legislators are subject to the will of the voters, so the members of a board of directors should ultimately obey the will of the shareholders. Directors are the stewards who have the responsibility of overseeing the preservation and long-term growth of the corporation’s assets for the benefit of its owners.

Until recently, shareholders trusted directors to act properly without interference. We relied on directors to do their duty. Nowadays, too many directors fail to consider that their overriding responsibility is to represent not the management but those largely faceless, voiceless shareholders who elected them. They no longer honor the director’s golden rule, in the words of Warren Buffett: “Behave as if the corporation you serve had a single absentee owner, and do your best to further his long-term interests in all proper ways.”

It is the director, then, who has the responsibility of checking the behavior of managers who are seduced by the siren song of unfathomable riches, largely unfettered by the notion of serving the interests of the corporation’s long-term owners, and easily tempted to focus on driving the stock price higher. Often these goals are unrealistically high, especially since the investment community brooks no interruptions in a regular progression of earnings growth. The temptation to run the business around the numbers becomes overwhelming. To meet the numbers, important long-term initiatives are usually the first to be cut; downsizing (artfully renamed ‘rightsizing’) is next in line; financial standards

are then pushed to the limit; and finally, earnings become so illusory and subjective that credibility is lost. What can all too easily follow is severe damage to the corporation’s reputation and then its business, happening right under the noses of our corporate directors and traditional gatekeepers.

Directors and gatekeepers have failed to protect owners against managements that are all too eager to cast their firm’s lot in terms of numbers rather than intrinsic values, corporate character, and meaningful self-appraisal. Even otherwise sound companies dwell too heavily on what can be easily measured – market share, productivity, efficiency, product quality, costs – and set internal goals to achieve them. Business is fiercely competitive, and when achieving these self-imposed measures proves impossible, it is only a matter of time until the measurements themselves are distorted and forced. When *measures* become *objectives*, they are often counterproductive and self-defeating – at times producing the very results that companies wish to avoid. The role of management should not be to beat abstract numeric estimates but to improve the operations and long-term prospects of organizations by providing forceful and lucid direction, and to do so by both exemplifying and demanding a moral and ethical framework for behavior.

There are two very different measures of accomplishment in modern capitalism: creating shareholder value by raising the intrinsic value of the corporation, and creating shareholder value by raising the price of the stock. Roger Martin, at the University of Toronto, contrasts the *real* market of business *firms* – “Real companies spend real money to buy and sell real products and earn real profits; (and) strategy requires skill, will, and experience” – with the *expecta-*

tions market of stock investors. John Maynard Keynes called the former *enterprise* and the latter *speculation*. I describe the difference as the contrast between the eternal *reality* of intrinsic value and the momentary *illusion* of stock prices. Whatever the terms, in the recent era, unsurprisingly to anyone who has actually managed a business, it has proven far easier to raise the valuation of the stock than to increase the intrinsic value of the corporation. Yet, as Buffett warns, “over time the aggregate gains made by shareholders must of necessity match the business gains of the corporation.”

In a properly functioning representative democracy, one would expect the ire of the citizens to be aroused when the executive, the legislature, or the judiciary ignores their interests. But even when all three branches did so – when managements put their own interests first, and the directors and gatekeepers failed to challenge them – the citizen/owner of corporate America simply stood by, seemingly without concern, creating a power vacuum. Spinoza warned, “Nature abhors a vacuum,” and our CEOs quickly filled it. They were able to do so largely because of the radical changes in both the structure and character of ownership during the last half of the twentieth century.

In 1950, stocks were overwhelmingly held directly by individual owners. Some 92 percent of shares were held by these owners, with only 8 percent held by financial institutions, such as pension plans and mutual funds. By the 1990s, however, the balance had tilted toward institutional owners – 53 percent versus 47 percent for individuals. And by 2006, institutional ownership of U.S. corporations had reached an all-time high, estimated at 68 percent, with individual shares falling to 32 percent.

These institutions – largely the managers of mutual funds (now owning 28 percent of all stocks); private pension funds (15 percent); and federal, state, and local pension funds (9 percent) – are not direct owners of the stocks in their portfolios. Rather, they are *agents*, responsible for representing the interests of their principals. This new *agency* society has replaced the *ownership* society of yore. But with too few exceptions, the agents have placed their own interests ahead of those of their principals, especially mutual-fund shareholders and pension-plan beneficiaries.

The reasons for this change are manifold. With only a single exception, mutual-fund managers are themselves corporations, in business first and foremost to earn the maximum possible return on *their own capital*. And when the costs of financial intermediation – agency costs – represent, as they do, an absolutely certain dollar-for-dollar diminution in the returns earned in the financial markets themselves, the tautology is obvious: investors as a group not only don’t get what they pay for, they get precisely what they don’t pay for. One might add, accurately (if a bit cynically), if they pay nothing, they get everything (i.e., without intermediation costs, equity investors would capture the entire return of the stock market). As the mutual-fund industry rose to its present-day preeminence as America’s largest stockholder, it focused far more on marketing and asset gathering and on the profitability of its own manager/agents than on assuming the responsibilities of corporate citizenship for its shareholder principals.

Different agency problems arose in the pension-fund field. The unrealistic increase in the assumed future returns of pension funds – which had such a salutary, if illusory, short-term effect on corporate earnings – enabled the very man-

agements responsible for making those projections to reap giant profits by exercising their stock options at the earliest possible opportunity. Yet when the reality of actual financial-market returns ultimately came home to roost, falling far short of those rose-colored guesses, pension-plan assets fell hundreds of billions of dollars below their liabilities to retirees. (Informed estimates place the current deficit at \$1.2 trillion.)

Institutional money managers are, of course, closely linked to the corporations that are funding retirement plans for their own employees. That is, they are agents of agents. It doesn't take a lot of imagination to realize that corporations themselves are unlikely candidates to be governance activists and aggressively vote the shares their pension plans hold in other corporations. Private pension plans, the evidence shows, are the most passive of all shareholders. Moreover, with corporations as their largest clients, institutional managers of pension plans and 401(k) thrift savings plans have little enthusiasm for offering, or voting in favor of, proxy resolutions opposed by the managements that employ them. As it has been observed, there are two classes of clients that institutional investors prefer not to offend: *actual* clients and *potential* clients.

To a large extent, therefore, the *owners* are now the *owned*. Corporate defined-benefit pension plans own 8 percent of all stocks, and corporate defined-contribution thrift plans own another 7 percent – together almost one-sixth of shares outstanding. Adding the estimated 25 percent of stocks held for clients by brokerage firms – themselves mostly units of giant publicly held financial corporations – brings the total ownership of all shares held by corporations and their natural allies to some 40 percent. Small wonder that one can never be sure who

is paying the piper and calling the corporate-governance tune, and with what motivation.

Even as the character of corporate ownership changed, so did the nature of stock ownership. In terms of enlightened corporate governance, it was another change for the worse. The strategic ethos of investment America moved from the wisdom of long-term investing to the folly of short-term speculation. As otherwise intelligent institutional investors came to focus on stock prices rather than on corporate values, *stockowners* were transmogrified into *stockholders*. Those who *rent* stocks hardly need care about the responsibilities of corporate citizenship, but those who *own* stocks *must* care about governance.

How money managers behave cannot be divorced from how corporate managers behave (and vice versa). If the money manager concentrates almost exclusively on the price of the stock rather than on the intrinsic value of the corporation, we should not be surprised when the corporate manager, in an attempt to 'game' the system, also focuses on the stock price. By the same token, when the corporate manager plays games with earnings, we should not be surprised when money managers endeavor to capitalize on the market's callow acceptance of whatever earnings the corporation reports, accepting uncritically the illusory along with the real.

Our professional analysts easily signed on to this illusion, measuring up to Oscar Wilde's definition of the cynic: "One who knows the price of everything and the value of nothing." And when our stockowners – especially our giant institutions – focus so heavily on short-term investment horizons, responsible corporate citizenship is among the first victims. While corporate-governance issues

demand vital concern on the part of the long-term investor, they are hardly likely to trouble the short-term speculator.

Far too large a portion of the investment-management industry may be fairly characterized as having a bad case of short-termism. The temperature of the investment patient, as it were, can be measured by his portfolio turnover rate. For decades, up to and including the mid-1960s, the average annual turnover of stocks in equity mutual-fund portfolios, for example, remained at a remarkably stable annual rate of roughly 15 percent per year. But it steadily ascended, reaching around 100 percent during the 1990s, where it remains today. With the fever soaring to such heights, it is small wonder that the patient's interest in governance faded accordingly.

The consequences of these changes in the structure and character of ownership during the past half-century have been reflected in the virtual absence of mutual funds and private pension funds from actual participation in corporate governance:

- No mutual-fund firm or private-pension manager has ever sponsored a proxy resolution that was opposed by management.
- Not a single institutional manager testified before Congress regarding the expensing of executive stock options.
- No institutional investor testified before Congress about the most significant piece of legislation affecting public companies in the last seventy years, the Sarbanes-Oxley reform bill.
- Among the some seventeen thousand responses to the Securities and Exchange Commission (SEC) proposal to grant institutions limited access to proxies in order to nominate corporate directors, no large shareholder de-

manded more substantial access, and most didn't even bother to comment. (A few even argued for more stringent limitations on access.)

- No large shareholder has urged the Financial Accounting Standards Board to require stock options to be expensed.
- The only mutual-fund company that commented on the 2005 SEC proposal for greater disclosure of executive compensation was a fund group organized by a labor union.

Far too many corporate executives and directors have been placed in positions of great power and authority without an adequate understanding of their fiduciary duties. At the same time, far too many institutional agents have failed to insist that these officials serve the interests of the last-line investors they represent. All we have heard from these owners is the sound of silence. If the owners don't give a damn about the triumph of managers' capitalism, it is fair to ask, who on earth should?

It's time that stockholders demand that directors and managers alike honor the primacy of their interests. The corporation, after all, is their property. If the elected directors of the republics that govern corporate America are not responsive to the interests of their constituency – even worse, if dictatorships come to hold sway – then the voters ought to have the power to throw the rascals out.

It's not very complicated: *owners should be allowed to behave as owners*. If ownership rights are not placed front and center, where should they be placed? Who would dare to suggest that barriers be placed in the way of the right of shareholders to elect directors who serve as their agents? Or to compel management to operate in their interest? Or to assume responsibility for how the execu-

tives of their company are compensated? Aren't these among the basic rights of ownership?

Clearly, these are among the rights of the 100 percent owner, who brooks no interference with his will. And any manager who flatly refused to consider the views of a 50 percent owner, or even a 20 percent owner, would soon be looking for another line of work. But what happens when owners are dispersed across a dozen institutions, each holding a 3 percent interest and sharing a particular viewpoint or wishing to nominate a director? When we move from democracy to something else, just when does the proverbial shovel break? And does the argument that it *might* break when no single owner holds more than, say, one-tenth of 1 percent of the corporation's shares justify rejecting the idea of *any* democracy in corporate governance? Not for me it doesn't. For I believe, paraphrasing Churchill, that corporate democracy is the worst form of government except for all those others that have been tried from time to time.

The idea of a democratic agenda for most corporations has, not surprisingly, met with little favor in the corporate community. Leading securities attorney Martin Lipton argues that enhancing shareholders' ownership rights to nominate directors and to make proxy proposals could "disrupt the proper functioning of the board and limit the ability of the directors to fulfill their fiduciary duties." Henry G. Manne, dean emeritus of the George Mason University School of Law, contends that "the theory of corporate democracy... has long been a standing joke among sophisticated finance economists." (He names no names.) He continues:

A corporation is not a small republic...
and the board is not a legislature... a vote

attached to a share is totally different from a political vote... the essence of individual shareholder participation is 'exit,' not 'voice'... and they can exit their corporate 'citizenship' for the cost of a stockbroker's commission.⁴

In other words, if a shareholder doesn't like the way a company is being run, he should sell to the first bidder. Whether or not the price reflects the corporation's intrinsic value, and regardless of the financial sacrifice involved, the investor should just get out and stay out. 'Like it or dump it,' however, hardly seems a particularly enlightened basis for public policy.

Fulfilling the promise of responsible corporate citizenship does not require a radical change in the existing institutional *structure*. What we need to change are the policy constraints that unreasonably limit stockholder rights. We must address two principal issues, each of which pertains to shareholder access to the company's proxy statement: one, the ability of owners to elect or reject management's board nominees and to nominate other candidates for board membership; and two, the ability of shareholders to place governance and other appropriate proposals in the proxy that, if approved, require compliance by management.

Delaware law has reaffirmed, again and again, the ability of owners to mount electoral challenges to independent directors. As the state's Chancery Court noted in its 1985 *Unocal* decision, "If the stockholders are displeased with the action of their elected representatives, the powers of corporate democracy are at their disposal to turn the board

4 Henry G. Manne, "Citizen Donaldson," *Wall Street Journal*, August 7, 2003.

out.” In *Blasius Industries*, in 1988, chancellor William T. Allen added, “The shareholder franchise⁵ is the ideological underpinning upon which the legitimacy of directorial power rests.”

Yet, in the proxy process, owners often fail to exercise their franchise. Even when there is a theoretically independent nominating committee, the CEO is apt to control the slate. And since the costs of opposing proxy recommendations are high and the odds of success low, challenges to management-nominated directors have been rare, and successful challenges almost nonexistent.

Still, it’s up to the owners, and not the managers, to weigh the pros and cons of the issues surrounding electoral challenges and board composition, and, by exercising their franchise, decide them. If owners had the power to select directors, subject only to reasonable constraints, then the board would be far more responsive to their interests. Since treating owners as second-class citizens and insulating the board from serious challenge clearly played a major role in the triumph of managers’ capitalism over owners’ capitalism, today’s status quo is no longer acceptable.

Stockholders must also have the ability to make proposals regarding certain corporate activities. In an earlier era, the SEC allowed management to exclude the overwhelming majority of such shareholder proposals from the proxy on the grounds that they were related to the “ordinary business” of the corporation. In recent years, however, the SEC has permitted a variety of proposals to be

included in proxies, including some designed to limit executive compensation. It would not be unreasonable for the owners to insist that compensation to senior management be directly related to real achievements in building long-term corporate value.

What is more, when a proxy proposal is made and an overwhelmingly favorable vote obtained, companies can, and often do, ignore it. Under the laws of most states, shareholder votes are non-binding, or in legal terms ‘precatory.’ We need changes in state law that require management to honor shareholder decisions. The whole underpinning of our capitalistic system depends upon the notion that the will of shareholders shall be done.

The entrenched business interests allege that even limited access to the slate would open the door to ‘special interest’ or less-qualified directors and dysfunctional boards, and to proposals by shareholders focused on their own vested interests, such as labor unions, state pension funds, and religious orders. But we have no reason to assume that a majority of owners would vote for unqualified directors or irresponsible proxy proposals. *Importantly, these adverse developments could not occur without the consent of a majority of the shares held by the owners themselves.*

If state laws prove inflexible, we ought to consider federal chartering of corporations – something that was debated at the Constitutional Convention in 1787. James Madison argued that the new federal government should be authorized to charter corporations. But as journalist Roger Lowenstein points out,

Federal charters smacked of royal perquisites, [so] it was left to the states to write the rules. Delaware, through its utter permissiveness, became the corporate

5 The choice of the word ‘franchise’ seems inspired, since its definition relates both to the political sector and the corporate sector: “The full membership of a body politic or corporate. Citizenship.” *The Oxford English Dictionary*, 2nd ed.

residence of choice, much as the Cayman Islands is a paper domicile for secrecy-minded bankers. To this day, more than half of America's largest companies are incorporated in its second-smallest state. Delaware laws are so lax they don't even require publishing an annual report.⁶

Even when stockholders gain the rights of access to which simple common sense suggests they are entitled, we need to demand that the financial intermediaries that dominate investment America put the interests of those they serve as their first priority. We must strengthen the traditional fiduciary law, now only loosely administered by the states in which corporations are chartered, by perhaps considering a strong federal statute establishing standards of fiduciary duty for pension trustees and mutual-fund directors, indeed all agents responsible for handling other people's money.

At the same time, last-line stockowners must demand high standards of trusteeship from those who are supposed to represent their ownership interests. In mutual funds, those 95 million direct owners have no individual power but awesome collective power. Fund investors need to understand what investing and trusteeship are all about, and, by voting with their feet, gradually gravitate to fund organizations that are serious about putting their interests first.

While the contributors to thrift plans and the beneficiaries of pension plans presently have no similar mechanism, they surely deserve some formal legal voice in establishing standards of conduct for the trustees of the assets that have been set aside to fund their retirements. The law is clear that retirement-

plan fiduciaries have duties of loyalty and prudence, but we need further articulation of exactly what those words mean, and the standards by which we will measure their achievement.

If only our institutional investors summon the courage to exercise the voting franchise they hold, they have the power to begin to force constructive change. Investors already can and should:

- Withhold votes for board chairmen who are also CEOs, demanding the separation of powers between the 'boss of the business' (management) and the 'boss of the board' (governance).
- Vote against auditors who are also providing consulting services (or receiving consulting fees that are disproportionate to their audit fees).
- Withhold votes for board members who serve on audit committees, compensation committees, and governance committees when their qualifications or their independence seem doubtful.
- Vote for proposals that demand open governance (for example, the elimination of staggered boards).
- Vote against proposals that excessively protect companies from takeovers, such as poison pills. (Provisions that are designed to enable companies to negotiate a higher price in the face of hostile takeover attempts are quite another matter.)
- Vote against excessively generous and lottery-type stock-option plans.
- Demand that no director can be elected except by receiving a majority vote of shares. (Of all of these ideas, this one is currently gaining the most traction.)

Full access to the proxy statement, however, should not be unlimited. Why

⁶ Roger Lowenstein, "A Boss for the Boss," *New York Times Magazine*, December 14, 2003.

should short-term *renters* of stocks have the same privileges as long-term *owners*? We ought to consider, for example, limiting director nominations to investors who have collectively owned, say, 5 to 15 percent of shares for at least two years, although all holders would presumably be empowered to cast their ballots.⁷

Real change will come, then, not in the form of continual confrontation with corporate managers and boards of directors, but in the form of the omnipresent reminder that a constituency of owners exists and that it has a strong voice. Faced with the latent power of investment America, the legislature of corporate America – the elected members of the nation’s boards of directors – will again honor their traditional role as stewards of the shareholders’ assets. Corporate democracy will yield republican governance.

But even after systemwide reforms are put into place, the need to create an ownership ethic will remain. When it described the ideal owner as a long-term stockholder, perhaps even a permanent owner, whose goals are closely aligned with the corporation, *The Economist* got it right:

Everything now depends on financial institutions pressing even harder for reforms to make boards of directors behave more like overseers, and less like the chief executive’s collection of puppets Financial institutions must also fight to restore their rights as shareholders and use their clout to elect directors, who would be obliged to represent only their collective interest as owners. Chief executives would still run their firms; but, like

any other employee, they would also have a boss.⁸

The giant institutions of investment America must take the lead in accomplishing these goals. Our money managers not only hold 68 percent of all shares, but they have the staff to pore over corporate financial statements and proxies; the professional expertise to evaluate CEO performance, pay, and perquisites; and, once full disclosure of all proxy votes (by pension funds as well as mutual funds) becomes mandatory, the incentive to vote in the manner that their beneficiaries have every right to expect. When they return – as they must – to their traditional focus on long-term investing, these institutional owners must fight for the access to the levers of control over the corporations they own that are both appropriate for their ownership position and a reflection of their willingness to accept both the rights and responsibilities of corporate citizenship.

The task of returning capitalism to its owners will take time. But the reality is that proper corporate governance is not merely an ideal to be debated; it is a vital necessity to be practiced. The role of owners is to ensure that the interests of directors and management align with their own in a substantive way. When there is a conflict of interest, it should be resolved in the interests of the shareholders. It is in the interest of the public and of investors that owners come to recognize that enlightened corporate governance is not merely a right of business ownership. It is a responsibility to the nation, and we can bring it about only through some improved form of corporate democracy.

7 The obvious long-term owners, of course, are stock-market index funds, which by definition follow a buy-and-hold policy. Today, index funds own an estimated 20 percent of all shares of U.S. corporations.

8 “Getting Rid of the Boss,” *The Economist*, February 6, 1993.

Robin Blackburn

Economic democracy: meaningful, desirable, feasible?

To some, economic democracy is self-evidently a good thing if it means spreading economic opportunities more widely, giving workers a greater say in the workplace, and allowing communities to participate in the investment decisions that shape their future. Indeed, a classic argument has it that political democracy – universal suffrage, civic freedoms, and all that is needed to make them practical and effective – will work better if accompanied by ‘social’ or ‘economic’ democracy. Absent the latter, real civic participation will be low and big money will corrupt the political process, especially in complex societies where commercial networks can shape political agendas and the cost of campaigning is high.

While few deny the need to reform the way elections are run and financed – a source of recurrent scandal in nearly

every rich country – another line of thought would challenge the conclusion that it makes sense to aim for economic democracy. The very phrase is thought to be a contradiction in terms, or a category mistake. Economic processes are too complex to be governed by votes and electioneering. Governments can and must lay down some basic ground rules, but, as Friedrich Hayek showed, they lack the locally specific information required to run complex enterprises effectively, still less to plan the entire economy. On the one hand, consumer needs are too intricate and changeable; on the other, the myriad of specific investment opportunities at the local level can never be known at the planning center.

While Hayek’s critique of central planning was in many ways compelling, it failed to acknowledge the extent to which markets rely on the wider social context in which they are embedded. It also did not demolish the argument that public initiative and collective resources are necessary to meet large-scale and manifest threats.¹

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¹ I sought to address Hayek’s argument in “Fin De Siècle,” in Robin Blackburn, ed., *After the Fall: The Failure of Communism and the Future of Socialism* (New York: Verso, 1991).

Votes can be effective if directed at a few, simple large-scale choices – alternative policy packages – on a national or even global scale. Ideally, this political democracy would extend to such basic concerns as how best to address climate change or improve public health. In principle, voters would also decide the scope of taxation and of social programs. But there is a widespread sense that prevailing power structures and interest groups narrowly constrain actual outcomes. Economic democracy might be a way to allow greater, more effective citizen input.

Political democracy is based on the principle of one person, one vote. In national politics this principle is easy enough to apply, and one might imagine it playing some role in a more democratic global order. But how would the idea of one person, one vote translate to the everyday economic world?

When I took the equivalent of Economics 101 we still used Paul Samuelson's classic textbook. It opened with the observation that we could think of markets as a sort of electoral process in which dollars work like votes. When a consumer makes a purchase, or a businessman an investment, their dollars function like votes in favor of what they choose. Aggregated across the economy, these 'votes' steer output in one direction or another.

But dollars, unlike votes, are not equally distributed among the citizenry. In the postwar period, the heyday of that textbook, such an objection seemed weaker because both wealth and earnings had undergone a 'great compression.' CEOs did not like to be seen taking too much out for themselves and, instead, showed their employees with benefits.

We all know that things stand very differently today. Most of the gains since

1980 have been garnered by the rich and the superrich – not the top 1 percent of households, but the top 0.1 percent and 0.01 percent. If we take residential property out of the equation, the concentration of wealth is even greater: the top 1 percent own half of all corporate securities and money-market bonds, while half of U.S. households own no productive property at all.²

Such plutocracy is especially difficult to justify when it derives, as it now so often does, from chief executives being extravagantly rewarded for indifferent or even negative results, or from backdated options, or from monopolistic forms of financial intermediation. Eliot Spitzer, the New York attorney general, revealed systematic abuse of the latter sort in investment banking, fund management, and insurance in the years 2002 – 2006. These investigations led a Republican Senator, Peter Fitzgerald of Illinois, to describe the U.S. financial services industry as "the world's largest skimming organization."³

Basically, the corporate-securities and money-market instruments not owned by the very rich are held by institutions, supposedly in the interests of millions of middle-class holders of 401(k)s or members of employer-sponsored pension and health plans. This institutional wealth, however, constitutes 'grey capital,' since the property rights and privileges it confers are very unclear. It gives leverage not to the beneficiaries, but to financial and

2 Thomas Picketty and Emmanuel Saez, "Income Inequality in the United States, 1913 – 1998," *The Quarterly Journal of Economics* 118 (1) (2003); Gérard Duménil and Dominique Lévy, "Class and Income in the U.S.," *New Left Review* 30 (November – December 2004): 105 – 133, 112.

3 John Plender, "Broken Trust," *Financial Times*, November 21, 2003.

corporate executives whom the beneficiaries have no way of controlling.⁴

Moreover, the classic function of capital markets and financial institutions was to direct capital to where it could most profitably be invested. In the era of financialization they have discovered another vocation: to sustain the momentum of sales by reorganizing and extending credit networks. Large companies like General Electric and Ford now have profitable finance arms, which lend money or devise leasehold arrangements in order to facilitate product sales.

For their part, the swanky investment banks display great interest in mortgages and consumer debt – especially those of the risky subprime variety because they attract the best rates. They purchase huge amounts of this debt, repackage it in credit derivatives, slice it up into ten tranches according to their degree of risk, hedge each tranche according to a different formula, and sell on the resulting collateralized debt obligation (CDO) to pension and mutual funds.

This practice has been very profitable, but in a changed business climate the magic could evaporate.⁵ Instead of helping to sustain demand, it could squeeze it remorselessly, as interest rates rise and bad debts inflict losses on the holders of the CDOs. Regrettably, elected governments have only deregulated financial institutions to allow the party to continue.⁶

4 Robin Blackburn, *Banking on Death or Investing in Life: The History and Future of Pensions* (London: Verso, 2002).

5 Michael Gibson, "Understanding the Risks of Synthetic CDOs," Federal Reserve Bank, Working Paper No. 36, 2004.

6 Andrew Glyn, *Capitalism Unleashed: Finance, Globalization and Welfare* (Oxford: Oxford University Press, 2006); Robin Blackburn, "Fi-

The financial inflation of demand is essentially a way of putting purchasing power into the hands of consumers without redistributing wealth toward them. In addition to challenging the inflation of demand (and the way it masks the growing inequality in wealth), we must also ask ourselves how much we control what we demand and how that demand is met.

To a certain extent the consumer is sovereign, since rivalrous corporations must attempt to ingratiate themselves more successfully with consumers. But to represent this consumer-oriented commercial complex as economic democracy would be very much a step too far. Naomi Klein's *No Logo* and Joel Bakan's *The Corporation* furnished vivid accounts of corporate marketing to condition our desires. As Klein and others revealed, an insidious barrage of advertising shapes consumers' views of what they want and need – beginning at a young age. Children's peer-group rivalries direct taste, and their 'pester power' mobilizes adult spending. Even those with miniscule incomes on the global periphery of capitalist exchanges are entangled in this consumer logic.

This is not to say that the consumer's needs are entirely unreal. The need for food, clothing, and shelter are certainly real. But they can be met in a myriad of different ways, each of which will reflect cultural taboos or socially instilled ideals of what is satisfying and appropriate.

Consumers also have very little say over how demand is met. We can trace this phenomenon back to the origins of capitalism in the sixteenth and seventeenth centuries. Commercialized agriculture had put money in the hands of farmers, landlords, merchants, profes-

nance and the Fourth Dimension," *New Left Review* 39 (May – June 2006): 39 – 72.

sionals, and even day laborers, enabling them to buy exotic luxuries like sugar, tobacco, spices, dyestuffs, cotton, and coffee. But it was enterprising merchants (grocers) who decided to meet that demand by organizing plantations staffed with indentured servants and slaves. As Thomas Holt observed, the English housewife buying a packet of sugar by means of her penny-votes was helping to set in motion a gigantic new social order based on the antithesis of individual choice and freedom.⁷ If you like, a certain type of economic democracy was breeding another type of economic bondage and tyranny.

We continue to live in a world where the apparently innocent acts of the Western consumer are linked to sweatshops and the depletion of scarce vital resources. The difficulty with dollar power is not only that it is very unequally distributed but also that it only confers a second-order say, leaving the corporations and capital markets to make most of the crucial decisions about how demand will be met. Governments can regulate, but they are often too remote, too ignorant, and too clumsy to make any difference. Social movements can agitate, but their boycotts tend to have only a momentary impact. Corporations are flexible and have staying power; public concern is fickle. It can tire of activist stridency and succumb to the determined wooing of any apparently contrite corporation.

How can we construct a responsible economic democracy? How can more

participate in the making of economic decisions? How can we distribute economic resources more fairly and thriftily? While we will never be able to construct institutions that guarantee ethical ways of producing and consuming, some arrangements may facilitate responsible behavior and social justice, just as too many of today's institutions do the opposite. In the following sections, I will present some negative and a few positive examples.

The nonstatist socialist Left of the twentieth century – especially of the latter half – was drawn to the idea of workers' self-management. When Tito's Yugoslavia broke with Stalin, it turned to this concept as an alternative to a command economy. For a while it worked rather well, and by the late 1960s the country was beginning to bring a measure of prosperity to most regions. But Yugoslavia remained a one-party regime, and even though it exercised a comparatively mild dictatorship, this political situation hobbled democracy in the enterprises as much as anywhere else.

A further problem was that even where managements were genuinely responsive to the workforce, what of those workers who were not employed at all, or who were employed by other enterprises? This problem became acute in the 1970s and 1980s when significant unemployment surfaced. Enterprise managements were quite solicitous of the interests of core workers, but not of those who were casually employed or unemployed.

And if two enterprises had different ideas about regional priorities, would the company with the most employees have to prevail? Obviously, the absence of real democracy in the wider society meant there was no legitimate arbitrator. But even moves toward a little more democracy did not help; indeed, it was

⁷ Thomas Holt, "Marking Race, Race Making and the Writing of History," *American Historical Review* 100 (1) (February 1995): 1–21, 7. See also Robin Blackburn, *The Making of New World Slavery: From the Baroque to the Modern, 1492–1800* (New York: Verso, 1997).

accompanied by aggravated nationalism in the Federation's constituent republics.

Because these self-management structures had such limited power, it would be absurd to hold them responsible for the tragedy that unfolded in the 1990s. But what transpired demonstrated that fairly positive microgovernance arrangements do not necessarily add up to a good solution to macroeconomic problems, which included, in this case, inflation, regional inequality, and unemployment.⁸

The German system of *mitbestimmung*, or comanagement, whereby workers are represented on the second of a two-tier management board, presents similar difficulties. With this system Germany overtook the United States, in 2005, to become the world's largest exporter. But Germany's other indicators of macroeconomic well-being, especially a stubbornly high unemployment rate of around 10 percent for the last two decades, tell a less inspiring story.

Another version of enterprise-level economic democracy is employee share ownership plans (ESOPs). One can make a case for employees holding some stock in their employer. Such ownership might give them some channels of information and the prospect of a share of the profits. But there are also big risks. When Enron collapsed in 2001, its employees held, on average, about half of their 401(k) savings in the form of Enron shares. Therefore, they lost not only their jobs but also half of their savings.

Although the unhealthy nature of such concentrated risk has led to greater caution, many U.S. employees still hold too much of their 401(k) savings – over a

quarter on average – in their employer's stock. Employee stock ownership has been high at a number of troubled corporations – such as United Airlines – where employees were offered stock in exchange for wage or benefit cutbacks. This example points to another common problem: employers often find it easier to issue stock than to stump up cash when contributing to employee savings plans.

Neither does possession of such corporate securities give employees added leverage. In fact, it sometimes seems to increase their exposure to employers' blackmail: 'Abandon your benefits or see your job and savings destroyed.' Furthermore, the modern corporation is so vulnerable to the capital markets that small-scale individual shareholding already confers only what are known on Wall Street as 'subordinated' rights of ownership. Otherwise put, individual shareholders have little clout: they are at the end of the line of those with a claim over a company's assets.

The most successful example of employee self-ownership and self-management is the Mondragon Cooperative Corporation, based in the Basque country of Spain. Mondragon grew from eight cooperatives in 1960, employing 395 worker-members, to ninety-two cooperatives in 1980, employing over 18,000 worker-members. By 2004, the group was Spain's seventh-largest corporate entity, with combined assets of 18.6 billion euros and 70,000 worker-members. The group produces electrical goods, automobile components, machine tools, and furniture. It has a construction division and a retail chain, and maintains important research and training programs.

Crucial to the post-1980 growth and diversification of the group has been a

8 Robin Blackburn, "The Break-up of Yugoslavia," *New Left Review* 199 (May – June 1993): 100 – 119.

bank, the Caja Laboral Popular, which supplies overall financial coordination and planning, and an Enterprise Board, which guides each new start-up. By 1995, Caja had 1,380 employees and was a major force in the Basque region.

In the early days, the small size of the group, and the shared Basque and Catholic background of most members, eased the tasks of governance. Once the group grew larger and more diversified, however, finance made a crucial contribution to its expansion and coherence, exerting a certain discipline on each of its constituent enterprises. In the late 1980s, overall leadership of the entire group was vested in a Cooperative Congress, representing every constituent cooperative, and in an elected Standing Congress Committee.⁹

Mondragon is still only an island of community collectivism within a capitalist context, but it is a more plausible stepping-stone toward economic democracy than other variants of self-ownership or self-management. Mondragon employee-members have some concentration of risk, but the now quite diversified nature of the group's assets and activities has served to reduce this. The ability of Mondragon to sustain growth, to defend an egalitarian pay structure, and to make provision for the educational and cultural needs of its members, notwithstanding the pressures of globalization, is certainly an achievement and belies the determinism of 'flat world' prophets like Thomas Friedman.

But Mondragon, framed by the wider Spanish and global context, is at best an incomplete recipe for a whole society.

9 See Robert Oakeshott, *Jobs and Fairness: The Logic and Experience of Employee Ownership* (Norwich: Michael Russell, 2000), 448–493; and the website of the Mondragon Cooperative Corporation.

Any strategy for a more democratic economic order would still have to reckon with the corporate organization of the modern capitalist economy, and the greatly unequal distribution of productive wealth.

Another path toward greater collective participation in economic decision making stresses the potential role of regional or municipal government. Dynamic local economies often display the benefits of cooperation among local governments, universities, and businesses. On the one hand, enterprises can count on social inputs that would have been too costly for any given concern to have paid for by itself, while, on the other, such enterprises know they must ensure that the whole community shares in their success. China's Township and Village Enterprises draw on such logic and have made a large contribution to the country's overall advance. But, often, much depends on a local notable and his connections, with little scope for genuinely democratic feedback.¹⁰

The Brazilian city of Porto Alegre, and its attempt to develop 'popular budgets,' offers a different model of local mobilization. In the 1990s the Brazilian Workers Party (PT) won the city's election and decided on a model of extended civic participation that would begin rather than end with their assumption of office. While the PT had its own ideas about how the municipal budget should be raised and spent, it handed detailed deliberation and implementation over to

10 Jean Chun Oi, *Rural China Takes Off: Institutional Foundations of Economic Reform* (Berkeley: University of California Press, 1999); Angus Maddison, *China's Economic Performance in the Long Run* (Paris: OECD, 1998); Chun Lin, *The Transformation of Chinese Socialism* (Durham N.C.: Duke University Press, 2006), 106–107.

Economic democracy: meaningful, desirable, feasible?

assemblies in every district where citizens could voice their own priorities and concerns. The system was so popular that it even survived the 2005 elections in which the PT lost its majority on the municipal council.

Today about fifty thousand people in a city of 1.5 million play an active role in the budget process. Although this number represents less than a tenth of the adult population, it still reflects greater civic participation than what one would find in most states, where only a third or a half of the population even vote, let alone play a direct role in shaping collective decisions.

It is worth noting that participation is higher in the city's small, manageable neighborhoods than in its large, anonymous central district. The system's real limitation, however, stems from the constraints on the municipal government's ability to raise revenues. Even though local authorities often aim to stimulate local production, they are revenue-consuming rather than revenue-producing entities. If it is to have real substance, economic democracy should be about organizing wealth production as well as the disposal of the wider economic surplus.¹¹

One of the most innovative attempts to construct an economic democracy in and against a developed capitalist context was – and to some extent still is – the Swedish welfare state, or the 'Swedish Home.' The architects of this system, Gosta Rehn and Rudolf Meidner, were economists for the LO, Sweden's main trade-union federation. Influenced by John Maynard Keynes and James Meade, the two men understood that they would

need to think through welfare and corporate finance together if Sweden was to maintain high employment levels and avoid inflation. Remarkably, their model succeeded in delivering on both fronts for a long time. The same cannot be said about other European welfare states, where monetary stability was achieved at the expense of a long and debilitating toleration of high unemployment levels, which affected younger workers, older workers, and ethnic minorities the most.

The Swedish welfare state also guaranteed its citizens secondary pensions and health care. This policy is a significant departure from the more prevalent formula, which offers private corporations tax incentives to take on the task of supplying social insurance to their employees. Corporate welfare has proved to be a trap for employees, depriving them of their promised benefits and threatening their jobs, as once-famous companies plunge into bankruptcy and entire industries – steel, airlines, automobile, and telecoms – stagger under the burden of pension and health entitlements. The corporate pensions crunch has destroyed many good jobs. In their place are now McJobs – low-wage, insecure service employment.¹²

The cornerstone of the Swedish model was the annual national wage-bargaining round. This device allowed for a debate on social priorities while safeguarding high levels of employment. High employment rates are, of course, positive, but they can result in inflation when the bargaining power of key workers is strong and their wage demands high. The wage round ensured a degree of restraint in wage demands from the best-placed workers in return for new

11 Marion Gret and Yves Sintomer, *Porto Alegre: L'espoir d'une autre démocratie* (Paris: n.p., 2002).

12 I document this process in Robin Blackburn, *Age Shock: How Finance Is Failing Us* (New York: Verso, 2006), chap. 3.

social guarantees. But this still left the problem of well-placed corporations garnering superprofits because their employees had moderated their claims. Meidner's response to this issue set the scene for an ambitious attempt to bring about a new dimension of economic democracy, one which did not seek to suppress the market but rather to democratize the investment process.

Meidner's proposed resolution was to establish strategic social funds – 'wage-earner funds.' These funds would be financed by a 'share levy' on the large corporations that were going to benefit from the wage-bargaining round. In other words, to prevent the excess profits from going solely to shareholders, the corporations would have to donate shares equivalent to a fifth of their annual profits to a regional network of wage-earner funds. A portion of these funds would go to an enterprise-level body run by the employees, who would thereby acquire a growing stake in their employer. But the bulk of the funds would be channeled to the regional network, representing local communities and trade unions. The shares acquired by the funds would not be sold but held to generate future revenue. The funds would also be able to influence the large corporations by voting their stock at AGMs. In exchange, the corporations would gain from publicly provided coordination and services, and a healthy and well-educated workforce.

The Meidner plan was a response to a specific challenge, but it is not difficult to see that it might have given a novel twist to the classic left-wing dream of an equal and self-governing society, in which workers by hand and by brain would assume the leadership of society. Unfortunately, Sweden did not fully adopt the plan, even though the LO endorsed it in 1976. Indeed, the federation's

normally stolid ranks greeted its passage at that year's conference with cheers and rounds of the "Internationale." The membership of the Social Democratic Party was also enthusiastic.

The party leadership, however, did not share Meidner's vision, and did a poor job of commending it to the Swedish people. Meidner's plan was very radical; they were not. In hindsight, aspects of the plan were also ill-advised. The management committee of the funds should, perhaps, have been solely responsible to all the citizens of a locality, with no special position for trade unions. The proposed structure aroused fears, even among trade unionists, of excessive concentration of power in the hands of trade-union leaders. The privately owned media ran quite a successful campaign focusing on this issue. But the modifications made by the Social Democratic leaders went in the wrong direction and handed control of the funds to financial technocrats. Opponents of the plan also played up the fact that private-sector workers would get ahead of public-sector employees.

When the social funds were eventually set up in 1982, the corporate contributions were quite modest, and no longer furnished a means whereby citizens could channel future revenues to social objectives or regional growth.¹³ Moreover, Sweden faced a severe financial crisis in the early 1990s, and the Rehn/

Economic democracy: meaningful, desirable, feasible?

13 The best overall account of Meidner's strategy is found in Jonas Pontusson, *The Limits of Social Democracy* (Ithaca, N.Y.: Cornell University Press, 1992). The original plan for wage-earner funds is set out in Rudolf Meidner, *Employee Investment Funds* (London: Allen & Unwin, 1978). For an account of the struggles over its implementation see Jonas Pontusson, "Sweden: After the Golden Age," in Perry Anderson and Patrick Camiller, eds., *Mapping the West European Left* (London: Verso, 1994), 23–54.

Meidner model did not emerge unscathed. Rehn and Meidner had stepped down long before, and their advice had not been heeded anyway. The social funds, by this time, controlled 7 percent of the shares quoted on the Swedish stock exchange. They were wound up, and the proceeds used to establish a string of scientific research institutes.

But even in its diluted form, the Meidner plan helped propel Sweden to the forefront of the knowledge-based economy. Since Meidner, however, the corporate contribution he sought to raise has been in decline, whether in the shape of taxes or employer-sponsored health and pension plans. Increasingly, we live in societies resembling the French *ancien régime* before 1789, when the wealth of the feudal aristocracy was largely exempt from tax – now it is the holdings of the corporate millionaires and billionaires. Other signs reminiscent of the age of Louis XVI include the spirit of *après nous le déluge*, the reliance on lotteries, and the emergence of modern variants of ‘tax farming’ – laws that oblige citizens to pay their taxes (pension contributions) to commercial fund managers rather than to an accountable public body.

But the taboo on effective taxation of corporate wealth is the most crucial sign of a reign of privilege. Meidner’s share levy, unlike so many modern taxes, was extraordinarily difficult to evade. Those who stowed their shares in a tax haven would not escape the measure. On the other hand, it was not at all punitive. Unlike traditional corporate taxation, it did not subtract from the cash flow or resources that the enterprise needed for investment. It modestly diluted shareholder wealth without weakening the corporation as a productive concern.

The wage-earner fund proposal reflected the thinking of an earlier gener-

ation. Meidner was not born in Sweden but arrived there as a refugee from Nazi Germany in 1934. The notion that workers and citizens should together tame the corporations by acquiring a steadily growing and across-the-board collective ownership was an echo of ideas – notably that of *sachwertfassung* (‘realization of value’) – that Meidner imbibed in his youth as a *jusos* (Young Socialist) from the debates of German and Austrian Social Democratic economists, like Rudolf Hilferding and Karl Polanyi.

With his strong sense of the practical workings of the market economy, Meidner devised an economic democracy defined by the redistribution of *capital* rather than, as with most Social Democrats, simply the redistribution of *income*. On the other hand, his approach did not concentrate power or ownership in the central state but diffused it across a regional network of social funds, responsible to their local communities. From its very origins the scheme was designed to maintain employment levels and assure macroeconomic balances. According to a recent assessment, even the truncated version of the scheme had this effect.¹⁴ Thus Meidner avoided the reproach directed at most locally focused projects (e.g., Mondragon, Yugoslav self-management): that they have been good for particular working collectives or communities, but not for the general interest.

Even after three or four decades, Swedish welfare remains comparatively generous, and Swedish unemployment is only a little over a half of the core EU rate. Swedish parents have ac-

14 For a very positive assessment of the practical effect of Meidner’s ideas, see Philip Whyman, “Post Keynesianism, Socialisation of Investment and Swedish Wage Earner Funds,” *Cambridge Journal of Economics* 30 (1) (January 2006): 49–68.

cess to better child care, and Swedish women have better-paying and more flexible jobs, than are to be found in other advanced countries. But Sweden no longer has a reserve to meet the rising costs of an aging society. Following the stand-off of the early 1980s, the leaders of Swedish Social Democracy began to see Meidner as an embarrassment, a relic of a bygone age. He was consigned to the shadows, and no part of his thinking was more disdained than the wage-earner funds.

It is now a long time since governments of the Left have dared to tackle the corporations and ask whether their owners might be obliged to contribute more to the wider society, without which their own profits would be impossible. Yet without such an attempt how can we check escalating inequality or finance pressing public expenditures? Meidner's attempt to safeguard the 'Swedish home' has been the most far-sighted attempt to think through the 'financial democracy' needed to underpin 'economic democracy,' understood as encompassing a more egalitarian distribution of property, contributing to more generous social outlays, and restoring a degree of social control to an accumulation process now gripped by a heedless and destructive consumerism.¹⁵

15 I outline the case for a Meidner-style pension regime at the EU level in "Capital and Social Europe," *New Left Review* 34 (July – August 2005): 87 – 114.

Benjamin M. Friedman

Capitalism, economic growth & democracy

Two parallel developments in world affairs that dominated the latter years of the twentieth century, each of which gained momentum with the disintegration of the Soviet Union a decade and a half ago, have continued into the new era. In politics, many of what had been one-party Communist states gave way to multiparty electoral democracies, in most cases with significantly expanded political rights and civil liberties for their citizens. Thirty years ago, only forty countries were politically ‘free’ by conventional Western standards; today there are ninety.¹ At the same time, what had been centrally planned and directed ‘command’ systems for organizing economic activity and distributing the resulting product made room for a sharply increased role for private initiative, including private ownership of assets and accumulation of wealth. While neither

of these developments has been universal, traditional Communist societies committed to both one-party political systems and centrally planned economies have suddenly become a rare species, limited to isolated sightings like Cuba and North Korea.

Especially at the time of the Soviet collapse, many observers in the West simply assumed that the rejection of Communism reflected an eagerness to embrace both Western politics and Western economics. Russia and most of the other former Soviet republics quickly adopted many aspects of Western modes in both dimensions, as did the former Soviet dependencies in Eastern Europe. But it soon became apparent that imitation of Western ways was not the sole, nor always even the primary, motivation. On the positive side, the mere desire for independence, and on the negative, old-fashioned nationalism, turned out to be important drivers as well – sometimes, as in the former Yugoslavia, with disastrous consequences.

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¹ Data are from Freedom House, a private non-profit research institute. The increase from forty ‘free’ countries in 1975 to ninety in 2007 modestly overstates the extent of the change, in that the total number of countries rated increased from 158 to 193 over these years.

Moreover, Western-style economics and Western-style politics do not always go together. Russia, for example, has privatized large parts of what was once a tightly controlled economy steered by Gosplan under successive five-year plans adopted at the highest levels of the Soviet state. And since 1991 Russia has conducted several rounds of elections, for the national duma as well as for the president of the republic, that were substantially open and genuinely contested. But President Putin's government now seems to be cementing its grip on power in many forms, and prospects for the future of democracy in Russia remain uncertain – especially since Putin's reelection in 2004.

China presents an even larger question. Beginning with Deng Xiaoping's reforms in 1978, China has moved steadily away from central planning toward private economic initiative. Even within the economy's industrial sector, where state-owned enterprises were once dominant, the share of production still carried out under direct state ownership or control has shrunk to 42 percent. Most citizens are now free to decide where to work, whether to start a business, and whom to hire. Private wealth accumulation, including ownership of productive assets as well as residential real estate, is not just allowed but encouraged.

But at the national level the Chinese government remains a one-party dictatorship; and there is little publicly expressed interest in multiparty politics, broader freedom of expression, or other elements of Western-style democracy. Whether a country with one-fifth of the world's population and (soon) the world's second-largest economy can sustain the combination of market-oriented economics and nondemocratic politics is one of the most significant open questions in world affairs today.

Even within the Western world, however – where electoral democracy and a market-oriented economy are mostly taken for granted – parallel movement does not automatically imply a causal linkage. Do the two necessarily go together? And if so, what is the causal mechanism?

Half a century ago, the open question was whether central planning or a decentralized private market could better deliver efficient production of goods and services, investment in new capital resources, and gains over time in productivity and therefore, ultimately, in a population's standard of living. Richard Nixon's famous 'kitchen debate' with Nikita Khrushchev, in 1959, attracted so much interest at the time not just on account of the surrounding theatrics but because the question about which they were arguing was genuinely under dispute. Americans' memories of the 1930s were still strong; Soviet living standards were reportedly improving rapidly; and the Soviets had only recently demonstrated their scientific prowess by launching the Sputnik satellite into orbit around the Earth. Later, when Khrushchev said that the Soviet Union would 'bury' the United States, he was not threatening nuclear war (as many at the time misinterpreted him to imply) but predicting that the Soviets, with their superior economic system, would eventually overwhelm the West economically and therefore politically.

Khrushchev was wrong. And as more and more people living under Communism came to realize the error of that prediction, change ensued in fairly short order. Mao's China gave way to Deng's not as a matter of ideological preference – quite the contrary – but because Chinese citizens did not want to live in poverty forever and China's rulers feared the

consequences of forcing them to do so. Similarly, a key trigger of the demise of the Soviet Union and its empire was that enough people there and in Eastern Europe – importantly including practically all of the *nomenklatura* – eventually understood that, notwithstanding the official propaganda, they were falling ever farther behind Western living standards. In 1990 the average Soviet living standard was only one-third that of the United States, even after allowing for differences in the cost of living. The comparable ratio for Poland versus (West) Germany was one-eighth.

Perhaps ironically, an even more dramatic demonstration of the superior effectiveness of market-oriented economic systems is Korea. At the time of its partition, at the end of World War II, what became South Korea was the poorer, more agricultural part of the Korean peninsula; most of the industry was in the north. Incomes and living standards were meager to negligible by Western standards. Today the South Korean standard of living is more than half that of the United States, modestly ahead of Portugal's, and more than twice Russia's. South Koreans enjoy levels of life expectancy, nutrition, and literacy comparable to Americans' (and the South Korean child mortality rate is lower).

North Korea, by contrast, remains a desperately poor country where people regularly starve in significant numbers, malnutrition is widespread, and those who can manage to do so sneak across the border into China in search of either handouts or surreptitious work at subsistence wages. Whether these contrasts will eventually arrest the attention of the North Korean public, and the country's political leadership, in a way comparable to what happened in China, the Soviet Union, and Eastern Europe is an interesting subject for speculation.

But the important fact remains that, ever since the Industrial Revolution, decentralized market economies have had a proven record of delivering rising living standards over sustained periods of time. Asking whether a market economy and democracy go together is therefore tantamount to asking whether economic growth and democracy go together. And thinking of the matter in that way suggests a mechanism by which the connection between the two might indeed be causal.

The experience of many countries suggests that when a society experiences rising standards of living, broadly distributed across the population at large, it is also likely to make progress along a variety of dimensions that are either part of the very definition of democracy or closely associated with democracy. These include not just open, contested elections to determine who controls the levers of political power but also political rights and civil liberties more generally; openness of opportunity for economic and social advancement; tolerance toward recognizably distinct racial, religious, or ethnic groups within the society, including immigrants if the country regularly receives in-migration; and a sense of fairness in the provision made for those in the society who, whether on account of limited opportunities, lesser human endowments, or even just poor luck in the labor market, fall too far below the prevailing public standard of material well-being.

Conversely, experience also suggests that when a society is either stagnating economically or, worse yet, suffering a pervasive decline in living standards, it is not only likely to make little if any progress in these social, political, and (in the eighteenth-century sense) moral dimensions, but all too often it will

undergo a period of rigidification and retrenchment, sometimes with catastrophic consequences.

The key to why so many societies behave in this way is that most people evaluate their living standards not in absolute but relative terms. Further, substantial evidence points to two distinct benchmarks by which people judge how well off they are: Most people are pleased when they are able to live better than they, or their families, have lived in the past. And they are pleased when they are able to live better than their friends, neighbors, coworkers, and others with whom they compare themselves.

The pervasive tendency for people to evaluate their economic situation by these relative, rather than absolute, benchmarks explains a variety of economic and psychological behaviors that otherwise would be puzzling. For example, within any one country, at any given time, people with higher incomes are systematically happier than those with lower incomes, but there is no corresponding increase over time in how happy people are on average even though average incomes may be steadily increasing. As Adam Smith observed long ago, “All men, sooner or later, accommodate themselves to whatever becomes their permanent situation,” so that “between one permanent situation and another there [is], with regard to real happiness, no essential difference.” Smith went on, “In every permanent situation, where there is no expectation of change, the mind of every man . . . returns to its natural state of tranquillity. In prosperity, after a certain time, it falls back to that state; in adversity, after a certain time, it rises up to it.”²

2 Adam Smith, *The Theory of Moral Sentiments* (Oxford: Oxford University Press, 1976), 149.

But this propensity toward a relative rather than an absolute perspective can also explain why market economies, as long as they deliver rising living standards to most of a society’s population, lead more often than not to democracy and many of the other features of a democratic society. If people derive satisfaction *both* from living better than they have in the past *and* from living better than people around them – and, importantly, if these two sources of satisfaction are at least partially substitutes for one another – then when people are in fact living better than they have in the past (and have confidence that their living standard will continue to improve in the future) they will attach less urgency to the desire also to live better than others around them. Hence the economically self-protective instinct that underlies so much of what emerges as intolerant, antidemocratic, and ungenerous behavior – racial and religious discrimination, antipathy toward immigrants, lack of generosity toward the poor – naturally takes a back seat to other priorities when the economy is delivering sustained growth with broadly distributed increases in living standards.

A salient implication of this key role played by rising living standards (as opposed to merely a country’s average income level) is that many countries throughout the developing world probably will not have to wait until they reach Western levels of per-capita income before they begin to liberalize socially and democratize politically. Here again, South Korea is an instructive example. Over roughly a quarter century, beginning within a decade of the conclusion of the Korean War, South Korea achieved a remarkable record of economic growth that took the country’s per-capita income from an extremely low level to better than what one-fourth

of Americans then enjoyed and better than what one-third of the richer countries in Western Europe had. And, over a similar period, but following somewhat behind, South Korea evolved from a one-party military dictatorship under Syngman Rhee and his successors into a reasonably well-functioning electoral democracy, with most of the usual democratic freedoms.

Over the past quarter century China has maintained the fastest advance in per-capita income observed anywhere in the world: on average, 7 percent per annum in real value. These economic gains have been highly uneven, especially between the country's urban/commercial minority and the rural/agricultural majority, but it is clear nonetheless that the bulk of the country's population has enjoyed a significant improvement in living standards. If the improvement in living standards for the majority of the population is the circumstance under which a society normally makes progress on social and political dimensions as well, then it is likely that over time China, too, will evolve in the direction of democracy if the country is able to maintain its current rate of economic advance.

If this conclusion seems optimistic, that is because it is. The notion of a causal connection between advances in material well-being and in the social/political/moral character of a society stems from an Enlightenment tradition that from its origins was grounded in, and drew strength from, a robustly optimistic perspective on the human enterprise. Economics, which originally grew out of this same tradition, took a different course during the nineteenth century and became the 'dismal science.' But by now experience has solidly disconfirmed the fears of Malthus and Mill (and Marx, too), and there is no reason why econo-

mics should not reclaim the essential human optimism that was its intellectual birthright.

The connection between rising living standards and either social attitudes or political institutions is not limited to low-income countries, or to the mere establishment of new electoral institutions. In America, for example, eras in which economic expansion has delivered ongoing material benefits to the majority of the country's population have mostly corresponded to eras when opportunities and freedoms have broadened, political institutions have become more democratic, and the treatment of society's unfortunates has become more generous. But when incomes have stagnated or declined, reaction and retreat have been the order of the day. (A major exception was the 1930s, when the Depression instead led to a significant opening of American society and strengthening of American democracy, perhaps because the economic distress was so severe and so widespread that the sense of being in the same sinking ship together overwhelmed the more competitive instincts that usually prevail when people realize they are not getting ahead.)

Attitudes toward immigrants are a useful case in point: The United States experienced a wave of anti-immigrant violence in the 1850s, which largely disappeared during the robust industrial expansion after the Civil War. The long agricultural depression of the 1880s and 1890s saw a return of extremely ugly anti-immigrant agitation and prejudice. That movement gave way, after the turn of the twentieth century when economic growth returned, to a period in which the mood of the country was to welcome – in the language of the time, to 'Americanize' – large numbers of immigrants.

But the pair of economic downturns that followed World War I then led to the highly restrictive and plainly discriminatory Emergency Quota Act of 1921 and National Origins Act of 1924. (The first half of the 1920s was also when the Ku Klux Klan achieved its greatest influence in American society and politics, and not just in the South, or only in rural areas, but also in states like Michigan and Pennsylvania and in cities like Chicago and Indianapolis.)

Wholesale immigration reform followed only in 1965, in the middle of the longest sustained economic expansion in U.S. history. As incomes stagnated in the late 1980s and early 1990s, however, a backlash developed, which included such manifestations as Proposition 187 in California and efforts in states like Florida and Texas to deny public benefits even to legal immigrants. But with the strong economic expansion of the mid-to-late 1990s, the issue disappeared to such an extent that the one candidate who chose to run for president in 2000 on an explicitly anti-immigrant platform (Pat Buchanan) attracted so few votes, even in the Republican primaries, that he had to change parties. Today, following the return of stagnating incomes since 2000, immigration is again a highly contentious issue.

It would be foolish to pretend that every twist in this century and a half of American attitudes and policies toward immigrants was narrowly or deterministically driven by the simple difference between improving and stagnating living standards. But it would be even more foolish to pretend that the underlying ebb and flow of economic prosperity and stagnation had nothing to do with what happened. And on other issues as well, such as race relations, religious toleration, generosity to the poor – in addition to such basics as who gets to vote

and under what circumstances – the historical record likewise makes clear that democracy more often advances when living standards are advancing, too. One can only speculate what American democracy would look like today if, perhaps as a reaction to the Depression, the country had abandoned its largely market-oriented economic system in favor of Soviet-style central planning, and the fourfold increase in per-capita income that has taken place (compared to the pre-Depression peak) had not occurred.

America is not the only long-established Western democracy where a connection between rising living standards and the strengthening of democratic freedoms is evident. In Britain the opening of the universities, the civil service, and other areas of society to non-Anglicans in the 1870s; the institution of many forms of basic economic protection in the 1940s, as recommended by the wartime Beveridge Report; and the reform of British race relations in the 1960s all occurred during times of robust economic expansion and widely shared improvement in living standards. In France the same was true for the broad reforms in civil liberties, in electoral institutions, and in education during the early years of the Third Republic, and for the parallel set of reforms introduced by de Gaulle after World War II. In Germany the legal and judicial reforms that followed the unification of the German empire in 1871, the creation of the Federal Republic as a postwar democratic state, and Willy Brandt's dramatic challenge to "dare more democracy" likewise all occurred in the context of robust, sustained, widely shared increases in incomes.

Conversely, many of the horrifying antidemocratic phenomena that so marred Europe's twentieth-century history ensued in a setting of pervasive

economic stagnation or decline. Hitler's rise to power in the wake of economic and political chaos under the Weimar Republic is a familiar story, but it is worth recalling that as late as 1928 the Nazi Party drew only 2.8 percent of the vote in German national elections. What made the difference, soon thereafter, was the onset of the Depression, which affected Germany more than any other European country. Similarly, France's Vichy regime, which willingly collaborated with the authorities in German-occupied areas of the country (France was one of only two European countries, along with Bulgaria, to turn Jews over to the Nazis from territory the Germans did not occupy), emerged out of a protracted period of French economic stagnation.

In these other countries as well, one can easily point to significant historical events that contradict the tendency for social and political progress to follow economic progress (though probably none so obvious, or so important, as the 1930s in America). Bismarck's pioneering introduction of social insurance in Germany in the 1880s, the Asquith reforms in Britain before World War I, and the ambitious agenda of the Matignon Accords in France in the 1930s are all noticeable counterexamples. But what is at issue here is not the laws of physics, which are plausibly true 'everywhere and always,' but rather the kind of predominant tendency that signifies relationships that emerge in the study of human behavior, both at the individual level and especially in the aggregate. Viewed through that lens, the historical record is clear enough.

Such relationships, of course, need not be one-sided. The idea that rising living standards foster democratic freedoms and institutions need not preclude the

parallel notion that these features of society enhance the ability of any economy, but especially one based primarily on private initiative and decentralized markets, to achieve superior performance over time. At the most basic level, it is obvious that either formal or informal restrictions barring half of the population from certain jobs because they are of the 'wrong' sex, and one-sixth of the remainder because their skin is the 'wrong' color, interfere with a society's ability to make the most efficient use of its labor resources. Failing to educate and train large numbers of children in a way that adequately equips them for postindustrial employment, in most cases simply because their parents have failed to earn middle-class incomes, presents a similar impediment.

Other elements of what democracy normally entails may also plausibly enhance an economy's ability to thrive and to grow, although in many cases neither the argument nor the evidence is straightforward. Dictatorships may or may not be benevolent, while electoral democracies likewise often exhibit their own forms of corruption and cronyism – especially when, as in practically all democratic countries today, the government plays a significant role in regulating economic activity. Wasted resources and unproductive investment interfere with economic efficiency and constrain economic growth regardless of whether the favored party is a dictator's relative or a campaign contributor to a political party.

Not surprisingly, economists – who are normally more interested in explaining economic phenomena than in exploring their consequences – have devoted substantial effort to investigating the role of different political institutions, and different legal frameworks, in accounting for why some countries enjoy more eco-

nomic success than others. Leaving aside the obvious exceptions, like China and countries where income from oil exports has risen rapidly at times of tight world energy markets, there is some tendency for electoral democracies to perform better economically, although even with these exceptions excluded the relationship is hardly close. Indeed, some evidence suggests that while moving from minimal civil liberties and political rights to something more like the world average is helpful in this regard, 'too much' democracy exerts a negative influence on an economy's growth (perhaps because of more redistributive taxation, or excessive litigation and regulation). Even more so than electoral institutions per se, the evidence indicates that effective 'rule of law,' especially the protection of property rights, matters for economic growth.

As a result, societies may find themselves stuck in either a virtuous circle in which economic growth and democratic freedoms mutually reinforce one another or, less fortunately, a vicious circle in which the stagnation of living standards blunts any movement toward democratic reform while adverse political institutions and the absence of basic freedoms retard economic improvement for most citizens. Leaving aside the episodic character of market-driven economic growth in most Western societies, the long-term experience of countries like the United States is a rough example of the former. The current plight of many countries in sub-Saharan Africa presents even sharper examples of the latter.

But in either case, the relationships at work also bear on the more fundamental question of how market-oriented economic organization and democracy are connected. The rule of law and protection of the rights of creditors and other property-holders, for ex-

ample, are clearly essential to any economic system based on markets and on private initiative and incentive. On the available evidence, these institutions also appear – perhaps for just that reason – to be significant contributors to economic growth. Hence at least some elements of what is normally meant by democracy are not just consequences of rising living standards but also key preconditions to the form of economic organization that makes sustained increases in living standards possible.

Free markets are not without their limitations, of course, and prominent among them in the context of democracy and its broader implications is the absence of any moral principle governing the distribution of what the economy produces. Until fairly recently, most economists, following the thinking of Simon Kuznets half a century ago, believed that while incomes would become more unequal for some time in the early stages of a country's economic development, in due course that process would reverse and a narrowing of inequality would accompany further increases in the average income. The more recent record has belied this theory. Income inequality in America, for example, has been increasing again since the late 1960s. The share of the nation's income accruing to the top fifth of all households has risen from 42.6 percent in 1968 to 50.4 percent in 2005 (the latest data available), while the share received by each of the other four fifths has correspondingly fallen. Most other industrialized countries have had similar experiences.

To be sure, there is no lack of plausible explanations for this phenomenon, some of them consistent with the ideas underlying Kuznets's original thinking. Most economists agree that the primary force widening the distribution of in-

comes in recent decades has been a technological revolution that has sharply increased the demand for some kinds of skills while reducing the demand for others. As a result, workers who happen to have those newly scarce skills (computer programming, for example, or facility with certain forms of organizational management) have been able to command high premiums in the labor market, while those whose skills are in lesser demand (more basic industrial disciplines, or even brute-force manpower) have seen their wages decline and jobs become harder to find. The difference from what Kuznets thought is that instead of occurring just once, at the beginning of a country's economic development, this kind of massive shift in the demand for different kinds of skills in the workforce can recur whenever an economy undergoes a technological revolution. As a result, the distribution of incomes need not simply widen once and then contract indefinitely thereafter, but rather can undergo repeated episodes of widening inequality depending on the course of technological innovation.

Importantly, however, Kuznets and other economic historians (most prominently Jeffrey Williamson) posited that the subsequent narrowing of inequalities, once the technological basis of production has stabilized, is also the result of systematic economic forces. On the demand side, larger wage premiums for workers with certain skills lead business to innovate in yet further ways, so as to economize on the use of what has now become high-wage labor. At the same time, the larger wage premiums give workers an increased incentive to acquire the skills that are scarce, thereby introducing a supply response as well. And since in most countries the education of young people who are yet

to enter the labor force is primarily the responsibility of the public sector, the government likewise can respond to the incentive to impart those skills that the labor market now values more highly. Over time, therefore, the widening of inequality brought on by technological revolutions in countries that are far along the path of economic development is also likely to turn around.

But this process may be a lengthy one, as the experience of the United States and other industrialized countries in recent decades suggests, and along the way the wider inequality remains a fact with which the society must deal. If the overall growth rate is sufficient, as it has been in China, incomes may become sharply more unequal and yet most citizens will enjoy improving living standards. But when aggregate growth is more modest, as is likely to be the case where the economy is already highly industrialized, a sufficient widening in the distribution of incomes means that many if not most citizens will fail to enjoy an improvement in their living standards.

The implications, from the perspective of what connects market-oriented economies to democratic societies, are sobering. If part of what matters for tolerance and fairness and opportunity, not to mention the strength of a society's democratic political institutions, is that the broad cross-section of the population has a confident sense of getting ahead economically, then no society – no matter how rich it becomes or how well-formed its institutions may be – is immune from seeing its basic democratic values at risk whenever the majority of its citizens lose their sense of economic progress.

Since the widening of the American income distribution began in the late 1960s, and especially since the onset

of the economic pressures that first emerged when the OPEC cartel quadrupled oil prices in 1973, overall economic growth in the United States has failed to offset the effect of ever-wider inequalities in retarding the economic advance of most Americans. Between 1973 and 1993 the economy's average growth rate, after correcting for rising prices, was 2.8 percent per annum. After allowing also for population growth, the increase in per-capita income averaged 1.7 percent. But because so much of the fruits of that economic growth went to a fairly small group at the top, the increase in the median income – that is, the income of the family just at the middle of the country's income distribution – averaged only 0.3 percent.

With faster overall growth, and some slowing in the widening of the income distribution, the median American family income rose at a much healthier pace during the remainder of the 1990s: on average, 2.3 percent per annum faster than inflation. Since then, however, the patterns of the prior two decades have again been dominant. From 2000 through 2006, the economy overall expanded on average at 2.5 percent per annum. But at least through 2005 (again, the latest data available), the median family income has *declined*, compared to inflation, by 0.5 percent per annum. Indeed, the median family income has declined, in real terms, in four of the past five years.

Five years is not a very long time from the perspective of basic influences on human behavior, and therefore on the advance or retreat of democratic society. But on the current trajectory of modest overall growth and widening inequality, the stagnation of incomes for a significant proportion of American families may plausibly continue for some years to come. Further, except for a more favor-

able interlude in the mid-to-late 1990s, what is happening now is mostly a continuation of patterns that have been in place for the past three decades. If these trends persist, many of the social and political pathologies that have emerged in the past, both here and elsewhere, are likely to reappear.

As the Kuznets-Williamson line of thinking suggests, all this may well turn around once the pace of technological innovation slows. The larger question is whether that slowing in the adoption of new technology (more specifically, in the demands that new technology places on the skill base of the workforce) will occur. What if the characteristic feature of economic production and organization in the postindustrial age turns out to be an accelerated pace of ongoing technological change? Would the dynamic responses governing the supply of economic skills, including responses to individual incentives as well as policies implemented by government, be able to keep up? These questions loom as the greatest uncertainties threatening the link between the market-oriented economy and political democracy in the years ahead.

Gerhard Loewenberg

Paradoxes of legislatures

Capitalism and democracy have coexisted in so many countries in the last two centuries that they appear to stand in a cause-and-effect relationship. However, it has become ever clearer that capitalism does not inevitably lead to democracy. That they frequently coexist only demonstrates that they are compatible.

Yet, despite this compatibility, the leaders of capitalist economies regularly criticize some of the central institutions of democracy, notably democratic legislatures. They are particularly quick to condemn not only the decisions of

democratic legislatures, for adopting what they regard as irrational economic policies, but also the way they make decisions. The extremely negative evaluation of Congress in the last few years is typical. It is hardly a new phenomenon, nor is it limited to the United States. Over 170 years ago, the French artist Honoré Daumier caricatured the legislature in the reign of Louis Philippe with a famous lithograph entitled *Le ventre législatif en 1834*, which cruelly depicts thirty-four members of parliament as obese, corrupt, evil men.¹

Legislatures are paradoxical institutions. Although historically they have been indispensable to democracy, their decision-making processes inevitably – indeed necessarily – have antimajoritarian characteristics. Although they are supposed to represent the people, the way they work mystifies most people, even members of the economic elite. Because they are meant to represent all the people, legislatures consist of many members, each with an equal mandate to be there. But it defies common sense to expect four hundred or more mem-

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¹ Honoré Daumier, *Le ventre législatif en 1834*, Département des estampes © BNF, http://www.tocqueville.culture.fr/fr/engagements/popup/html/z_juillet21.html. See inside back cover.

bers to get anything done when they have no reason to obey each other.

Most people have dramatically contrasting perceptions of legislatures. On the one hand, they know that great events have taken place in legislative settings. But those events are rare. Those few people who are committed observers of the legislature – viewers of C-SPAN, for example – usually see numbingly boring scenes of members speaking to an empty chamber. Winston Churchill, who loved the House of Commons, recognized that the floor of parliament was usually empty. When it came time to rebuild the House after it had been damaged by a bomb in World War II, Churchill insisted, to everyone's surprise, that it be rebuilt exactly as it had been, far too small to seat all its members. Churchill explained:

If the House is big enough to contain all its members nine-tenths of its debates will be conducted in the depressing atmosphere of an almost empty or half-empty chamber.²

Few countries follow Britain's quaint example of having too small a parliamentary chamber. Most countries now televise their parliamentary debates, widely publicizing how often the floor of the legislature is nearly empty, and contributing to public despair about the institution. Solitary speeches on an empty floor – that is the scene in legislatures far more often than great events. No wonder few people pay attention. No wonder those who are successful in business in a free-enterprise economy disparage democratic legislatures, regarding their procedures as inefficient, their decisions as frequently irrational, and their members as unprincipled if not corrupt.

2 Winston Churchill, 393 H.C. Deb. 5th ser., col. 404, October 28, 1943.

The contradictory characteristics of legislatures arise out of the contrast between the characteristics the institution had at its origin in medieval Europe – its genetic properties – and the characteristics it developed as it adapted to the changing political environment.

The antecedents of the modern legislature are the feudal assemblies of medieval, precapitalistic Europe.³ Monarchs convened assemblies of feudal lords because they needed these powerful individuals for money and for military conscripts. These assemblies were not intended to govern but merely to consult – to *parler* – with kings.

We can trace three characteristics of what we now call a legislature to these origins. The institution was, first, an assembly of influential people who occasionally had the opportunity to give or withhold consent to the king. Second, the members of the institution represented others, such as social classes or local communities; this determined who was selected to be a member, how they were selected, and how many were selected. Third, what the members did was to bargain with the monarch, exchanging consent to the king's wishes for legal favors to their constituents.

The more frequently these assemblies met, the more they devised procedures that would enable such proud and powerful individuals to reach collective decisions. Thus assemblies of feudal lords were transformed into parliaments, but not yet – not nearly yet – into democratic parliaments.⁴ But the genetic properties

3 Antonio Marongiu, *Medieval Parliaments: A Comparative Study* (London: Eyre & Spottiswoode, 1968), parts I and II.

4 Lord Campion, *An Introduction to the Procedure of the House of Commons* (London: Macmillan, 1958), chap. 1.

of legislatures – that they are a collection of influential people; that they represent others; and that they bargain with the government on behalf of their constituents – have made legislatures distinctive political institutions, recognizable in all their subsequent manifestations.

Over time the occasional assertion of influence by these parliaments took the form of lawmaking power. The term ‘legislature’ first appeared at the end of the seventeenth century in England. It came from the noun ‘legislator,’ meaning lawgiver. In the *Oxford English Dictionary* the first reference to ‘legislature’ is to Hale’s *History of Common Law*, which asserts that “without the concurrent Consent of all Three Parts of the Legislature, no . . . law . . . can be made.”⁵ Notice that phrase “all Three Parts of the Legislature” – a reference to the House of Lords, the House of Commons, and the king. These three together were the lawgivers. Using ‘legislature’ to apply only to parliament was the result of a mid-eighteenth-century theory that it was desirable to separate the powers of government, a theory most notably developed by the French political philosopher Montesquieu.

After the term ‘legislature’ was applied only to parliament, it crossed the Atlantic, where Montesquieu’s advocacy of the separation of powers suited the colonists especially well. In *The Federalist*, No. 47, on the separation of powers, James Madison repeatedly cites “the celebrated Montesquieu.”⁶ ‘Legislature’ there became the common word to refer to the colonial assemblies in America, because by asserting lawmaking powers

these assemblies could challenge British control.

Beginning in the nineteenth century the term was used to refer to representative assemblies in the presidential systems of Latin America, but elsewhere the representative assembly is not usually called a legislature. Although ‘legislature’ is often used as a generic term to denote all variants of this institution, the actual name of the institution varies greatly from one country to another. In Germany it is called the Bundestag, in Russia the Duma, in Israel the Knesset, in France the National Assembly, and so on. In general, the name each country uses denotes the structure of the institution, that it is an assemblage, and not its function.

The relationship of the legislature to the executive developed differently in Europe than in America. There, the medieval parliament evolved into an instrument to democratize monarchical government, not by a separation of powers between itself as the lawmaking body and the governmental executive. The gradual expansion of the right to vote for parliament in the nineteenth century gave parliament a legitimacy that enabled it to challenge, to limit, and in some countries to replace the authority of the monarch. The result was parliamentary government, in which the branches are fused, different in form from presidential government as it evolved in the Americas, where the branches are separate.

But whether legislatures became lawmaking bodies in presidential systems or governing bodies in parliamentary systems, the institution that was originally merely a consultative assembly for monarchs became an institution engaged in making important political decisions. And though it began in feudal societies in medieval Europe, its most powerful

5 *Oxford English Dictionary*, 2nd ed. (Oxford: Oxford University Press, 1989).

6 Alexander Hamilton, James Madison, and John Jay, *The Federalist* (New York: Modern Library, n.d.), 313.

manifestation developed in eighteenth-century America, accompanied by the rise of a capitalist economy. Democratic legislatures also formed in Europe and in Latin America in the nineteenth century, but the greatest number of examples of the institution came into being in the second half of the twentieth century, notably during what Samuel Huntington has called the second and third waves of democracy.

Thus, at their origin, legislatures were not decision-making bodies but arenas for talking. Adapting them into institutions capable of making decisions involved – and keeps involving – contradictions between their original genetic properties and the characteristics they evolved as their role in governing expanded. These adaptations are the sources of four paradoxes that legislatures exhibit: the paradox of hierarchy, that legislators are both proud individualists and obedient followers of party leaders and committee chairs; the paradox of majority rule, that voting in large bodies works only with antimajoritarian restrictions; the paradox of transparency, that the legislative process is formally public but is in significant respects hidden from public scrutiny; and the paradox of cross-national comparability, that legislatures are both indigenous to each nation but also comparable across the world.

The authority of a legislature rests on its claim to represent the nation. That claim derives in part from the representativeness of its individual members. Each of them is a representative of a part of the nation. Since every member of a legislature is equally a representative of a constituency, all members are constitutionally equal in status. They cannot formally accept a hierarchical relationship to each other.

But the sum total of representatives of constituencies produces a very large, unwieldy body in nearly every country, large and small. There is no close relationship between the size of a country's population and the size of its legislature, or between changes in a country's population over time and changes in the size of its legislature. Rather, variation in the size of legislatures reflects different concepts of representation, implemented by different electoral systems for choosing representatives.

For example, the National Assembly of Hungary, elected by a complicated three-tier system of elections, has 386 members for its 10 million citizens, one member for every 26,000 people. In the United States, there are 435 members of the House of Representatives for 300 million people, one member for every 690,000 people. Members of Congress therefore have twenty-seven times the number of constituents that their Hungarian counterparts have. In fact, many European countries – Britain, Germany, and Italy – have legislatures 50 percent larger than ours with populations one-fifth of ours. The Elizabethan House of Commons grew during the sixteenth century from 296 members to 462, twice as fast as the population.⁷ It therefore had more members for six million inhabitants in the England of the year 1700 than we have in our House of Representatives today for a population fifty times as large.

The implementation of varying concepts of representation – not population alone – produces memberships whose sizes take little account of how the resulting bodies can possibly work. Obviously, four hundred, five hundred, or six hundred members cannot act at

7 J. E. Neale, *The Elizabethan House of Commons* (Hammondsworth, Middlesex: Penguin Books, 1963), 133.

all unless there is some coordination among them – at least an agreement on a sequence of decision making, an agenda. Furthermore, unless there is some agreement on sharing the work, many members will try to get a free ride and avoid having to make decisions. Agenda setting and division of labor requires organization, some constraints on what each member can do, and hence some inequalities among members.

Nearly half of the signers of the U.S. Constitution had served in colonial legislatures and, as a result, knew these realities. Yet, as members of the Continental Congress, they ignored their previous legislative experience. In the fluid political situation of revolutionary America, each member guarded his state's prerogatives jealously and refused to entrust agenda-setting power to any subset of their members. Consequently, the Congress suffered the disorganization typical of a pure majority-rule institution. One member wrote that he had

been witness to a Report made by a Committee of the Whole, which had been entered upon the Journal, superseded by a new Resolution, even without reference to the Report. A Resolution, carried almost *Nom Con* [without objection] – entered, and half an hour after reconsidered and expunged. When I add that such irregularity is the work of almost every day, you will not wonder that I wish to be any where but in Congress.⁸

The Continental Congress also by and large refused to select standing commit-

tees, relying instead on a huge number of ad-hoc committees – over three thousand of them were elected between 1774 and 1788 – each with little authority and no chance to develop expertise.⁹ The result was that most decisions had to be made by all members on the floor of Congress; thus decision making was slow, and the workload of every member very heavy.

The lineage of American legislatures shows a remarkable continuity from the colonial assemblies, to the legislatures of the states after the Revolution, and to the U.S. Congress. But in that lineage, the Continental Congress, under the Articles of Confederation, was what Peverill Squire and Keith E. Hamm have called an “evolutionary mutant.”¹⁰ Political scientists love to study that mutant just as biologists study mutations, to gain insight into normality by examining the abnormal.

Under normal circumstances, when members bear the cost of discussion without an agenda, they select steering committees, or presiding officers, or party leadership. When they experience the consequence of allowing every member an equal role in every decision, they learn to divide legislative work and to pinpoint responsibility for accomplishing it, although that similarly requires the delegation of functions. Appointing subsets of members as committees is the typical solution, but it raises the danger that influence on decisions will be unequal. That is why inexperienced legislative institutions resist that solution.

8 Quoted in Rick K. Wilson, “Transitional Governance in the United States: Lessons from the First Continental Congress,” in Gerhard Loewenberg, Peverill Squire, and D. Roderick Kiewiet, eds., *Legislatures: Comparative Perspectives on Representative Assemblies* (Ann Arbor: University of Michigan Press), 299 – 300.

9 Ibid, 297.

10 Peverill Squire and Keith E. Hamm, *101 Chambers: Congress, State Legislatures, and the Future of Legislative Studies* (Columbus: The Ohio State University Press, 2005), 6.

The committee structure is a principal source of hierarchy within the legislature. Research has identified three sources of committee authority. First, division of labor among committees permits legislators to specialize and allows the legislature to develop the information needed to make complex decisions simultaneously on many subjects. Deference to committee recommendations is therefore deference to expertise and to efficiency. Second, division of labor among committees provides opportunities for bargaining, enabling members to trade decisions they care little about (decisions made in other committees) for decisions that are crucial to them (decisions in their own committees). Deference to committees is therefore recognition that members are not equally interested in all subjects coming before them. And third, committees are instruments subject to the control of political parties, allowing parties to organize legislative work across subject areas and, in parliamentary systems, between the legislature and the executive, so that the party label will have policy meaning. Members defer to party control because it gives value to the party label, on which their reelection chances depend.¹¹

For these reasons members who are constitutionally each other's equals have incentives to defer to each other in a variety of ways that permit them to coordinate their work and to obtain results. But the conflict between equality of status and hierarchy never goes away. It leaves the suspicion, both among members and in the public, that members, though nominally equal to each other,

have highly unequal influence on legislative outcomes. The relative privacy of committee decisions, and the decentralized decision making they produce, facilitates the influence of lobbies, both legitimate and – as we have recently seen – illegitimate. The U.S. Congress has carried this decentralization further than any other legislature, with 16 committees and 87 subcommittees in the Senate, and 22 committees and 135 subcommittees in the House. That makes it particularly susceptible to the influence of narrow interests, a condition that is currently of great concern in the United States.

The paradox of majority rule is the second of the four paradoxes. One would expect a legislature composed of equals in a democratic setting to proceed in the most egalitarian manner possible, with rules that give no members special powers. That implies issue-by-issue decisions taken by majority vote. However, as legislators vote on a constant stream of issues, they (unlike voters in general elections) interact with each other and often negotiate compromises. Instead of voting up or down on separate issues, they are inclined to develop multiple alternatives. Each legislator may have a different order of preferences among these alternatives. Therefore, in successive votes, the majority that prefers one alternative is likely to consist of different individuals from the majority that prefers another. When that is the case, successive votes among pairs of alternatives may produce successive majorities in a potentially endless cycle.

For example, a legislature may face a decision on whether to raise income, corporation, or sales taxes. In successive votes between two alternatives at a time, the sales tax could defeat the income tax, the corporation tax defeat the sales tax,

11 Kenneth A. Shepsle and Barry R. Weingast, eds., *Positive Theories of Congressional Institutions* (Ann Arbor: University of Michigan Press, 1995), 5 – 35.

and the income tax defeat the corporation tax. But from the earlier pairing we know that the income tax is defeatable by the sales tax, so the cycle would begin again unless there is some rule to stop it.

The possibility of voting cycles has long been recognized. Clearly articulated at the end of the eighteenth century by the French philosopher, legislator, and mathematician, the Marquis de Condorcet,¹² it is the basis of the theorem for which Kenneth Arrow won a Nobel Prize in economics.¹³ Arrow's theorem demonstrates that there is no sure way of always translating the rational preferences of individuals into coherent, consistent, stable preferences of a group, except by adopting nonmajoritarian rules on the voting procedure, such as imposing a particular sequence on voting or by restricting the right of amendment.

Many European legislatures vote on mutually exclusive alternatives in succession, one by one, and the voting stops as soon as one alternative receives a majority. Usually the most extreme alternative is voted on first, followed by those that produce less and less change. The British parliament and most English-speaking legislatures, including ours, use an amendment procedure by which pairs of alternatives are compared and one is removed at each voting stage.¹⁴ In either case the sequence in which votes are taken strongly influences the

outcome. Experienced legislators often acquire great skill in exploiting particular sequences to their own advantage. They attempt to influence results by engaging in 'tactical' voting, that is, voting with an eye to results rather than as an expression of their sincere preferences at each stage.

These rules of procedure, necessary to translate the choices of individual legislators into the decisions of legislatures, are bound to create inequalities among members, because they concentrate power in the chair of the legislature, or in a rules committee, or in some other agenda setter. Without such a concentration of power, the decisions of legislatures will be incoherent, inconsistent, and unstable. But the ordinary citizen, watching the voting process in the legislature, views it cynically. The untutored observer expects that it should be simple to aggregate the decisions of individuals into the decisions of a group. But it is not, and it generates a conflict between the idea of majority rule and the reality of decision making in large bodies.

The third paradox of legislatures is the paradox of transparency. Although representation nowadays means the election of members of legislatures by voters, it had other meanings earlier in the history of legislatures. In status societies, representatives could be appointed, could choose themselves, or could inherit their representative positions, as did the members of the British House of Lords. But in the modern world, being elected by constituencies through one means of voting or another is the indispensable condition of representativeness. Even authoritarian countries imitate that process.

The implication of the electoral connection is that voters must be able to hold their representatives accountable –

12 David Williams, *Condorcet and Modernity* (Cambridge: Cambridge University Press, 2004), 206–212.

13 Kenneth J. Arrow, *Social Choice and Individual Values* (New York: Wiley, 1951).

14 Bjørn Erik Rasch, "Parliamentary Floor Voting Procedures and Agenda Setting in Europe," in Loewenberg, Squire, and Kiewiet, eds., *Legislatures: Comparative Perspectives*, 270–276.

which means they must be able to see what legislators and legislatures do. Thus the meetings of the legislature must be open, subject to public scrutiny. The German parliament went so far as to embody that principle in the architecture of the renovated Reichstag, which was opened in 1999. The parliamentary chamber is enclosed by transparent walls, opening it to light and to public view. The pinnacle of the building is a transparent dome open to visitors, from which they can see the chamber in session.

Transparency, however, displays to the public all of the characteristics of legislative proceedings that run counter to its expectations: time-consuming bargaining among large numbers of decision makers; compromise among points of view, which often entails compromise of principles; insincere posturing among members trying to mute conflict; and complex procedures to organize work and get results. Unlike decision making in the judicial or executive branches of government, the legislative process is relatively open. But its very transparency is the source of public distrust. As John Hibbing and Elizabeth Theiss-Morse have written, "Congress is ... viewed by the public as an enemy ... because it is so public."¹⁵

As a result, legislatures everywhere attempt to obscure some parts of their decision-making processes by closing some committee meetings and most political party meetings. Of course, they also hide the bargaining that takes place between the executive and the legislature, and between interest groups and

legislators. That is why so little of importance goes on on the floor of the legislature, where the public view is focused. No wonder the average citizen is baffled and distressed, and no wonder economic leaders try to exercise influence behind the scenes.

The paradox of transparency has the curious aspect that members try to ingratiate themselves with their constituents by criticizing the institution to which they belong. They run for reelection by running against Congress, in effect blaming their colleagues for everything that the public regards as wrong with Congress. So public criticism of Congress can exist hand-in-hand with each constituency's approval of its own member of Congress. This explains why incumbents are rarely defeated despite the fact that public support of Congress has ranged between just 8 and 28 percent in the last thirty-five years.¹⁶ Getting transparency right is a Goldilocks problem: not too little but also not too much.

The fourth paradox of legislatures is that they look alike in so many respects across the world, and yet the legitimacy of each legislature rests on its assertion that it represents a particular people and their culture. As a political institution, every legislature has organizational characteristics in common with every other legislature. This makes it possible to compare them and for countries to copy them from each other. But in spite of their structural commonalities – that their members are equal to each other, that they are 'representatives,' that they are not organized hierarchically – they take various forms from country to country: their members are chosen by different electoral systems; their members have many nation-specific attri-

15 John R. Hibbing and Elizabeth Theiss-Morse, *Congress as Public Enemy: Public Attitudes toward American Political Institutions* (Cambridge: Cambridge University Press, 1995), 61.

16 Ibid, 38.

butes; their party groupings, their informal norms of behavior, and their influence within their separate political systems all differ.

Over their long histories, legislatures have influenced each other across national and cultural boundaries. This interesting diffusion of procedures and practices can be traced in the seventeenth and eighteenth centuries from England to America, in the nineteenth century from the British to the French and Belgian parliaments, from them to parliaments in Central Europe, and from the United States to Latin America. In the twentieth century there was institutional transfer from the British and French parliaments to the parliaments of their former colonies, and from Western and Central European parliaments to the parliaments of newly democratic states in Eastern Europe. The paradox is that legislatures are country-specific, yet they have often been imitated by one country from another, or imposed by one country on another.

The 'exportability' of legislatures has always been a matter of dispute, but especially in the last thirty years during the so-called third wave of democratization – the proliferation of open, competitive political systems in Latin America, and in Southern and East Central Europe. These newly democratic countries invariably designed legislatures as parts of their political systems, building on their own indigenous assemblies. They have grafted onto their own traditional institutions some features from either the U.S. Congress – in the case of most Latin American countries – or from Western European parliaments – in the case of countries in Southern or East Central Europe. But the results of these exports have varied greatly, from the recent success of institutional transfer to Southern and Eastern Europe, to its fre-

quent failures in Africa and the Middle East. Though blueprints are exportable, applying them in new settings requires adaptation to indigenous political characteristics, which has very uncertain results and unanticipated consequences.

A specific example taken from the period of democratization after World War II can illustrate the point. A group of members of the new postwar German parliament, on a study trip to Washington in 1949, was impressed by the hearings procedure of the U.S. Congress. Their enthusiasm led to the adoption of hearings in the rules of the German Bundestag in 1951. But in the following fourteen years only nine days of committee hearings took place among all of the Bundestag's committees. Suddenly, in 1968, the number of hearings exploded. In the most recent term of the Bundestag there were over three hundred days of committee hearings. What had happened was that, for completely unrelated reasons, the executive-legislative relationship changed in Germany in the 1960s, giving to legislative hearings a relevant political function they had not had before. In the absence of the Congressional blueprint, the hearings procedure would not have developed. But without internal changes in German politics it would not have thrived.

In the contemporary world, the transfer of institutional blueprints is no longer limited to countries that adjoin each other geographically, or that speak the same language, as once was the case. And the rate at which legislatures have been newly established or reestablished in the last thirty years is unprecedented. Political scientists have been struggling to identify the determinants of success in transplanting legislatures. The paradox is that legislatures are representations of a nation's political culture and therefore vary as national cultures do,

and yet they have genetic properties that none of them can escape. The result can be a mutation, either interesting, vital, or, occasionally, debilitating. The failure of parliaments in post-World War I Europe provides many examples of the morbidity of parliaments. Some parliaments in effect dissolved themselves, like the German Reichstag in 1933, and others became so incapable of acting that they easily fell victim to dictators.

I have explained that the paradoxes of legislatures – the apparent contradictions they exhibit – result from the evolution of medieval parliaments into instruments of democracy. On the surface legislatures may appear as democratic, majoritarian, and egalitarian institutions. But experience shows that, to be effective, they must accept internal hierarchies; they must adopt procedures that structure their voting sequence and constrain majority rule; they must at least partly hide their decision-making processes from their constituents; and they must symbolize their national distinctiveness while also accepting certain structural imperatives.

These contradictions feed public cynicism toward legislatures as institutions. That cynicism is often especially marked among the captains of industry. Their criticism is not only specific to the issues that concern business leaders. It extends to the legislature's characteristic mode of procedure, which consists of decentralized authority, bargaining, compromise, and partisanship – all of which stand in sharp contrast to the strictly hierarchical structure of decision making common in much of the business world.

Since legislatures symbolize democracy, and have often been the agents of democratization, the contradictions of the institution feed skepticism about

democracy generally, not only in that part of the world that has never known it, as in the economic powerhouses of Asia, but also in established democracies. Distrust of democracy undoubtedly has many reasons specific to our times, to the intractable issues that face most governments, to the scandals that have destroyed the reputation of many prominent leaders, and to the lack of experience with self-government in those countries that are newly democratic or that maintain authoritarian regimes. Unfortunately, the contradictions that legislatures exhibit undercut their capacity to promote or to sustain democracy.

What can be done to strengthen the capacity of legislatures to encourage and support democratic government? The electoral connection that ties members of legislatures to their own constituents does not necessarily strengthen the constituents' support of the institution as a whole. Neither do the standard projects of civic education, getting out the vote, discussing the issues, and explaining the formalities of constitutional powers – worthwhile as these efforts might be on other grounds.

Strengthening the legislative institution probably depends on sources outside of itself, outside of political education, and outside of politics altogether. It may best come from public experience with collective decision making in non-governmental settings, in civil society. It is in these settings that we experience the social dilemmas that arise whenever we try to move from individual preferences to collective decisions. These are the same dilemmas that lie at the heart of the paradoxes of legislatures. If we can learn to reflect on these dilemmas – to recognize them when we act within our households, our synagogues and churches, our schools, our professions, and our modern business enterprises –

we can draw on what Robert Putnam has called our “social capital”¹⁷ to understand decision making in legislative politics.

Every citizen has experience with making group decisions in personal or civic or professional settings. Thus every citizen can draw analogies between that experience and the challenges that face legislatures. The paradoxes of legislatures – of hierarchy with equality, of majority rule with procedural constraints, of transparency with privacy, of differences and similarities among groups – exist in private as well in public decision making. By analogy, from what citizens understand close to home to what baffles them on the national stage, they may best be able to develop understanding – and respect – for the paradoxes that democratic legislatures exhibit, paradoxes that they cannot escape. That is the route to appreciating that democratic political institutions and capitalist economic institutions are not only compatible but that they are indeed capable of reinforcing each other.

17 Robert D. Putnam, *Bowling Alone: The Collapse and Revival of American Community* (New York: Simon & Schuster, 2000), chap. 1.

Richard A. Epstein

*Zoning: deliberative democracy
at zero prices*

Perhaps the most intractable problem of political theory turns on setting the right interaction of market and political institutions.¹ Markets rest upon the twin institutions of private property and freedom of contract. The former allows all individuals the exclusive possession, use, and disposition of particular resources, such as land or chattels; the latter structures the transfer of human and tangible resources by hire, sale, lease, or partnership. Property rights both separate neighbors and allow individuals to plan over time. Contract permits them to coordinate their activities for mutual gain. It is this one-two punch

that facilitates the economic growth that satisfies human wants.

If that were all there was to it, then political theory would be easy because government would be irrelevant. Market systems, however, do not rest on thin air. They depend critically upon the use of state monopoly power, first to protect the holders of property from depredations of strangers, and next to enforce the contracts that facilitate the transfer and recombination of human and physical assets. Try as one might, it is hard – make that impossible – to think of any just and reliable system for supplying that infrastructure that does *not* rely upon the sound operation of democratic politics, with its own distinctive deliberative and voting procedures.

And that is where the difficulties begin. The simmering tension between market and political institutions arises in a multitude of contexts. But it becomes perhaps most vivid in connection with the steamy local controversies over the mundane matters of the ownership and use of land: what should be done if some political majority votes to take the home or business of one person for some

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public use without paying any compensation for the privilege?²

It won't do to fight the hypothetical by saying that such untoward results never happen because they do: It is easy to recount numerous situations throughout the world where ethnic majorities use their political power to plunder their rivals. Nor do these issues play out only on the grand scale of outright confiscation. As will become painfully clear, a miniaturized version of this struggle, often with unspoken racial overtones, takes place daily in the ubiquitous planning commissions and zoning boards in the United States and everywhere else in the developed world.

The underlying structural weakness of majority rule, moreover, cannot be easily corrected by adopting a constitutional requirement for unanimous (or even just owner's) consent for any surrender or alteration of property rights. Now a new risk emerges, for that device leaves the state vulnerable to serious holdouts at the instance of a landowner whose property is vital to siting a military facility or completing a public highway.

Yet rescue is close at hand. The Fifth Amendment to the United States Constitution states: "Nor shall private property be taken for public use, without just compensation." Now that "just compensation" is substituted for "the consent of the owner," the state may take the private property of its citizens for public use, so long as it compensates them for the property so taken. This clever intermediate practice nicely cuts between the

horns of a real dilemma. The power to take prevents any property owner from demanding a king's ransom before surrendering the property. But the need to pay just compensation prevents the majority from oppressing isolated individuals for its own political advantage. Rightly calculated, the just compensation requirement ensures that owners can be no worse off after the taking than they were before.

The basic protection offered to property rights does not undermine the ideals of deliberative democracy. Quite the opposite: strong property rights work well in tandem with that system of governance. Here's why. The pattern of deliberation within any collective body does not depend solely on its members' opinions and attitudes, which active interchange reveals and refines. Politics is not just about expression, sentiment, and education. It also depends on the practical problems that give rise to the need to deliberate in the first place. Let it be known that any individual is fair game for expropriation, and the grandest deliberative body in the world, when composed of self-interested individuals, may well solemnly conclude that the public welfare requires the confiscation of particular resources from politically vulnerable parties. The adroit deliberator can point out to members of the majority faction – without having to make peace with the rest – that the gains from confiscation will far exceed its costs to members of the winning coalition. Duly persuaded, the majority could vote to ratify the proposed confiscation and rest content that they have been generous toward friends. Or, for strategic reasons, that same majority could limit the power of those same vulnerable groups to use or dispose of their property in various productive or market transactions.

2 I note in passing that a veritable firestorm of protest arose when the Supreme Court held in *Kelo v. New London*, 125 S. Ct. 2655 (2005), that the public use requirement of the takings clause allowed the state to condemn property for private development purposes, even with payment of just compensation. I put aside any systematic discussion of that issue in this paper.

The objections to these confiscatory practices customarily fall into two classes. The first raises the fairness objection, that no majority should be able to 'single out' by legislation or administrative rule a small group of vulnerable individuals to bear some unique burden for which they receive in exchange no unique benefit. The second is the related efficiency objection, that confiscation reduces the overall stock of goods and services available in the economy. But as long as the political majority stands to benefit from, without having to pay full value for, the property taken, it will be quite content to reduce the property's value. Thus, if left free to do so, the state may expropriate land worth \$100,000 to its owner even if it is worth only \$40,000 in public hands. The \$60,000 loss is concentrated on one person, while the political majorities profit by their share of the \$40,000 that the same asset has in public hands.

Those well-organized majorities would not, however, attempt this peculiar maneuver if they had to compensate the owner for his losses, for even with political intrigue it is highly unlikely that they could raise the \$100,000 in taxes needed to buy off the property owner. Once constrained by the constitutional requirement of just compensation, the political deliberations will raise the pointed question of why the majority is asked to pay so much for so little. When no answer is forthcoming, the misguided project will fail. The fairness and the efficiency objections work in tandem in most situations, which is why property protection through a just compensation rule is a necessary precondition for stable political governance.

Of course, no one can claim that this one feature offers ironclad protection against all abuse through democratic political processes. Notable difficulties arise in calculating the proper level of

compensation, to take into account the subjective value that an owner has in his or her property. But better that we suffer from some errors in calculation than pretend that no compensation is the ideal result.

Nor is it easy to identify the goods that the state should provide. It is commonly supposed, for example, that streetlights or national defense are public goods that can be financed only through public taxation. The happy story arises only when all individuals within the system equally value the state-provided goods. At that point, the taxation system prevents free riding by those individuals who would be happy to let others pay for installations from which they will then derive a large benefit. In fact, however, the term 'public good' often misleads as well as informs, because we have no reason to think that all the individuals who pay taxes for a product or service value it equally. The streetlight that supplies illumination to some people may not protect others further down the block, or it may blind the homeowner who lives next to it. Likewise, states will spend military appropriations on wars that many citizens strongly oppose.

The just compensation principle, then, does *not* solve the question of what public projects should be undertaken when their perceived benefits and burdens differ widely across various groups, even if the actual costs of the projects are evenly distributed through the society. At this unhappy juncture, democratic rule following debate is, for all its flaws, about as good as any society can do.

Yet just because political perfection is unattainable gives no reason to abandon sensible safeguards that tend to reduce the overall level of political intrigue. Having to pay for land used as a military facility or a road does *not* eliminate the need for deliberating on whether the fort

or road is called for at all. But it does offer one useful check against a systematic form of abuse that, if left unchecked, is highly likely to produce an excess of condemnations initiated by parties who suffer no financial consequences from their own behavior. Demand is always high for property that can be forcibly acquired at no cost. Churchill was wrong when he said democracy was the worst of all forms of government, except the rest. Constitutional democracy will work better.

In dealing with the relationship between private property and democratic institutions, much attention, especially in the United States, is placed on institutions that operate at the national level. But with land-use condemnation and regulation, most of the action is at the state and local level. One useful way to check whether private-property protection is compatible with democratic institutions is to look at state and local zoning laws, whereby the state and local governments announce in advance that only certain types of uses – manufacturing, commercial, and residential, for example – are permitted in certain specified zones. The hallmark of the state and local systems is that the law provides constitutional protection against forcible dispossession, but much less, or no, protection against restrictions on particular types of land uses.

Everyone thinks that just compensation makes sense when the government expropriates land for public use, but that proposition is sharply contested in those cases where the state forswears occupation in favor of *restrictions*, found in zoning or environmental laws, on how a landowner *uses* his property. Those who are opposed to strong protection of property-use rights often champion legislation at the national and state level

that is intended to promote community deliberation over proper land use. The grand constitutional trade of the modern welfare state substitutes a right to participate in administrative procedures for strong property rights. For example, the National Environmental Policy Act of 1969 (NEPA) and the various state acts based on it – the so-called SEPAs – allow various projects that affect the built environment to go forward only after the owner prepares for the public an Environmental Impact Statement (EIS) that examines the environmental impact of the proposed action, the adverse effects it could generate, and alternative measures that might be taken to avoid these consequences.

The conventional defense of this combination of weak property rights and strong notification and disclosure requirements starts from the premise that intelligent planning of complex land-use allocation decisions must avoid two perils. The first perceived risk is that developers will pressure local government officials into making hasty decisions to allow new projects to go forward. The second perceived risk is that a weak information base impairs informed public participation in land-use decisions. The effort typically backfires, as these endless deliberative arrangements produce much mischief in land-use matters.

To see why, start with this simple question: should we treat restrictions on land use as fundamentally different from the occupation of land? This question was brought to a head eighty years ago in *Village of Euclid v. Ambler Realty Co.*,³ which has defined judicial attitudes toward zoning from that date forward.

The Ambler Realty Company held title to a 68-acre parcel of land located be-

3 272 U.S. 365 (1926).

tween the Nickel Plate Railroad to the north and Euclid Avenue to the south, and bounded by a single-family zone to the west and a two-family zone to the east. As an integrated plot, it was worth about \$680,000 when devoted to its highest and best use as a site for a new plant for the Fisher Body Company. When zoned, it was divided into three separate areas that were slated, from north to south, for industrial use, apartment use, and single-family homes.

To Justice Sutherland, the second division was as important as the first, for with ill-concealed racial overtones he described apartment houses as “parasites” in neighborhoods with single-family homes. No racial issue was directly before the Court in *Euclid*. Still, the bottom line was that this zoning scheme stripped about 75 percent of value from the site. Was that loss in value, driven by the regulation, compensable? The Supreme Court said no, by a six-to-three vote.

In one abstract sense, the *Euclid* scheme had a perverse internal logic. If the Village *had* to divide the property into zones, better that the area next to the railroad tracks be zoned industrial, and the area near residential neighborhoods be zoned residential. But why zone at all? The one obvious consequence of the Village’s zoning decision was a loss of roughly \$510,000 in land value, because the divided parcel was much less attractive to develop than the integrated parcel, which Ambler Realty could develop, taking care to limit the negative spillovers from one portion of its parcel to another. In other words, if that parcel had been kept intact after development, Ambler would have borne the loss from any noxious use directly. But since the parcel was divided, buyers paid less for land that was encumbered with unwanted noises or smells. The

welfare of the owner therefore tracks the overall social welfare, whether he holds or subdivides. Ironically, enforced division within the middle of the tract increased the likelihood of boundary conflicts on the one hand and reduced the use value of the plot on the other.

So where was the social gain that offset the \$510,000 hit? The short answer is nowhere, at least at that magnitude. The project in question would probably not have had any adverse physical effects on neighbors: sixty-eight acres allowed for setbacks to avoid conflicts. And the public could have attacked any remaining noxious use that survived without the zoning law through the law of nuisance, which awards both damages for the hurt and an injunction against continuation of the harm. Some indirect costs could have come from siting the new project in the neighborhood. But even the direction of those effects was uncertain at best, for (some) housing values could have swung upward if the new industrial plant had provided jobs for the people who live nearby. In addition, the proposed industrial use was in fact more consistent with the overall patterns of industrial land use in immediate environs adjacent to the Village of Euclid. So the decision by a provincial local government probably caused more external dislocation, not less.

The resolution of the relevant legal issue now quickly follows. Why should these formal restrictions on use *not* be treated as though they were a taking of property? The perverse public-choice dynamic – excessive government activity at no price – works as powerfully for any restrictions on use as it does for the outright confiscation of property. In a world without just compensation, the political forces that constitute the dominant coalition will impose these restrictions so long as the benefits they receive

are greater than the costs that *they, not society*, have to incur to achieve those gains.

The values lost in zoning cases can be worth literally tens of millions of dollars (as with downzoning of developable agriculture land). But in all cases the *private* losses to the owner are part of the *social* calculus. They cannot be ignored. Nor can we overlook the gratuitous loss of property value stemming from the uncertainty created by the instability that hangs over these use rights, like a regulatory sword of Damocles. Yet the moment that compensation for these losses in value has to come out of government coffers, the political calculus changes: the forces in favor of zoning have to persuade the neighbors through democratic politics to tax themselves \$510,000, and for what? The proposal will fail because no one can identify the net positive benefits that make this social venture worth undertaking.

At this point, a skeptic might ask me whether this means that, without cash on the barrelhead, all zoning ordinances are categorically off-limits. The answer to that question is a cautious but principled no: certain focused zoning ordinances may generate packages of burdens and benefits that make sense socially. In certain cases, for example, restrictions on exterior design imposed on a given region (similar to the restrictive covenants in a private planned development) allow a benevolent kind of canceling-out to take place: the restriction on each party is a negative to each owner, but it is more than offset by the indirect gains obtained from the parallel restrictions imposed on others. The compensation formula thus has an internal gyroscope that tends to weed out regulations that cause negative-sum games from those that generate positive-sum games. But this will only work if the logic that

we use for outright confiscation covers all forms of government-mandated property transactions.

This entire issue of compensation is often clouded by a distinction that economists like to draw between two kinds of externalities, which they (misleadingly) describe as ‘real’ and ‘pecuniary.’ The former covers cases in which the restrictions in question impose overall allocative losses on the system. In contrast, pecuniary externalities cover changes, positive or negative, which do not have any ‘real allocative effect.’ For example, a change in housing prices because of an influx of new buyers is a pecuniary externality, but pollution is a real externality.⁴

These two opposing examples help explain the conventional, if puzzling, verbal distinction. A pecuniary externality covers the losses suffered by disappointed participants in a competitive market. Those ubiquitous losses are ‘real’ to the party who sustains them, but if they were compensable, then any technological improvement that results in lower prices would be the target of nonstop litigation from disappointed competitors. Every competitive loss is offset by some greater gains, so that behind a Rawlsian veil of ignorance *all* people would prefer to bear those losses rather than the greater systemwide losses from private monopolies or state regulation. In contrast, real externalities, like pollution, result in private losses to the aggrieved party that accurately reflect some overall systemwide losses. Hence it is sensible to protect persons against real losses but not against pecuniary ones.

The traditional law on takings and just compensation was alert to that distinc-

4 http://en.wikipedia.org/wiki/Pecuniary_externality.

tion: it rightly treated nuisances as real externalities for which it provided legal remedies. Competitive losses, on the other hand, were considered pecuniary externalities that traveled under the rubric *damnum absque injuria* (“harms without legal injury”) and were thus not compensable.

That distinction should guide our assessment of the political activities of local governments. Once the current rules allow local governments (through their deliberative processes) to impose real losses without paying just compensation, persons who suffer only pecuniary externalities (that is, competitive losses) will have a field day trying to get political relief. Nothing is as common as an effort by one competitor to ‘zone out’ a rival from the central business district, by persuading local government to designate suitable sites for rivals as non-commercial. Yet just as in *Euclid*, the huge losses to the downzoned landowner are not offset by external social gains, and the zoning restrictions create a geographical monopoly that harms consumers.

What is true with respect to commercial developments is also true with respect to residential ones, which take on cockeyed form once the compensation requirement is absent. The severe zoning and building restrictions on *new* construction around Lake Tahoe, for example, unwisely sustained in *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Regional Planning Agency*,⁵ show how insiders who impose these neighborhood losses on others purport to act with high environmental purpose. In this case, the runoff into Lake Tahoe, which has destroyed its matchless deep blue, stems from the excessive paving over of bare land by early landowners of the nearby lands.

The correct solution is to pull up chunks of asphalt devoted to low-value uses. But the entrenched homeowners have found political ways to force the costs of their own excesses on the non-voting landowners of vacant lots. Having contributed nothing toward the pollution of Lake Tahoe, the nonvoters are saddled with the full costs of harm prevention. Only the rich on huge lots can now afford to build at all. Yet the hard ground covering already in place just remains.

Requiring compensation to the outsiders who cannot build would lead to more (and more intelligent) environmental protection. If the just compensation requirement were in place, the current owners would probably prefer to rip out their own expensive asphalt than pay owners of vacant land huge amounts of money in order to prohibit all new construction on lakeside lots. And the same policy works well for wholly undeveloped areas. The last thing we want to do is foster a ‘race’ mentality that induces landowners to rush construction on vacant land because they cannot otherwise protect their future rights to build!

In international trade, it is well recognized that phony health and safety claims often conceal anticompetitive entry restrictions. The same social danger is at work in the zoning cases, which falls prey to the pettiness of local protectionist politics. The just compensation requirement fights that ugly form of localism, by seamlessly taking into account the interests and desires of outsiders to the (voting) community, including future buyers from developers, *without* compromising local protection against real externalities like pollution.

In contrast, ignoring the difference between pecuniary and real externalities undermines the mechanisms of social choice when political participation,

5 535 U.S. 302 (2002).

without financial accountability, is made the centerpiece of land-use policy. Here is one telltale sign of how it works. The New York's SEPA statute was at issue in *Chinese Staff & Workers Association v. City of New York*.⁶ The case held that the construction of a luxury condominium on a vacant lot in Chinatown had enough of an adverse effect on the "physical environment" – defined to cover historical and aesthetic changes as well as population shifts within the community – to trigger a full-scale environmental impact statement, which delayed the project and galvanized political opposition. Just look at who was suing: Chinese groups (which had themselves moved into what was once Little Italy) that feared their displacement owing to new competitive entry. Invariably overlooked in this process were the gains to the new owners, their employees, and customers. *Chinese Staff* thus illustrates the unwise territorialism of deliberative processes, which silences all outsiders to 'the' community.

The alert reader might at this point rightly ask: aren't the real negative externalities more complicated because of traffic, parking, and the like? And so they are. But don't let the tail wag the dog. To see how to attack this issue, it is necessary to have some understanding of a central issue in land-use law – the problem of exactions.

Go back to *Euclid*, where the zoning law generated few external benefits and large owner losses, and ask what maneuvers are likely to take place once the zoning ordinance is put in place. If it produced some net benefit, then no one would have an incentive to buy their way out of the status quo. But that is not what happened in *Euclid*. Rather, in a depressingly familiar pattern, the land was

eventually rezoned for industrial use, allowing the construction of GM's Fisher Body plant. Both the local government and the landowner looked for ways to undo the original zoning move.⁷

Suppose that the reduction in the Ambler Realty site was \$510,000, while the gain to the rest of the township was only \$100,000. Now the parties are in a position to make a bargain that allows Ambler to build its plant in exchange for providing the community, say, \$205,000 in side benefits. Town and landowner each gain \$205,000 by a deal that calls for building anything from new roads to new schools, or indeed, as in one case, a contribution to community artwork.

At this point, we have this odd inversion. The defenders of broad state power see in the exaction game a useful application of the principle of freedom of contract, since both sides are better from the transaction than they were before. Yet the defenders of markets are suspicious of these gains, and for good reason. Note that the bargain would have been unproblematic if the Village of Euclid had *purchased* its initial downzone for cold hard cash. As owner of those development rights, it could sell them off to anyone, including Ambler, at a price. But of course, the Village did not buy these rights. It just took them. The danger is that the prospect of a free bargaining chip for resale will provide a greater incentive to take property rights in the first place. Allow exactions and no one has any idea which initial land-use restrictions make sense, for it is not credible to believe that the Village would have paid \$350,000 to acquire the benefits that it exacted, if it never had the power to downzone the property at all.

7 See Nicolas M. Kublicki, "Land Use By, For, and of the People," *Pepperdine Law Review* 19 (1991): 112.

6 502 N.E. 2d 176 (N.Y. 1986).

Sensing both the use and the dangers of these exactions, the Supreme Court has tried with only middling success to place some limits on the exaction game. In *Nollan v. California Coastal Commission*,⁸ the Court narrowly held that the Commission could not tell a landowner that he could rip down a shack and build a beachfront house, like his neighbors, only if he first donated a lateral easement to the public that would allow everyone to walk to and fro in front of his house. In one sense that deal makes perfect sense because Nollan's right to build a new home is probably worth ten times the cost of that lateral easement. But this analysis leaves unexplained why the Commission has the right to single him out for permit denial when an enlarged house will pose no threat to the health or safety of any other individual.

Unfortunately, Justice Scalia muddled the analysis, by holding only that the easement in front of the house was not "germane" or "tightly connected" with the Commission's legitimate interest in preserving a "viewspot" from the Pacific Coast Highway, which ran behind the houses, parallel to the beach. The right result is to recognize that the viewspot has to be purchased just like the easement, for it does not make a particle of difference that the easement can be termed 'possessory' while the restriction on use is a mere 'restrictive covenant.' Both are property interests that private parties must buy. Both are still property interests when the state wants to acquire them for the public at large. We will get better social results if government agencies are not able to bundle the two interests together, but are instead forced to condemn each separately at a price that reflects the losses they impose on owners.

8 483 U.S. 825 (1987).

All of this does not mean that new construction never creates additional harms. Revert back to the Tahoe example, and now any new owner who paves over his land should be held responsible for his share of the runoff damage caused to the lake, just like the other owners are. In some cases, that could mean requiring that owner to pay his fair share for the construction of a conduit or a well to control dangerous runoff. But it hardly follows that he has the sole burden of paying for the removal of all water generated by his neighbors. And once the right metric is found, then the political process will no longer give rise to the corrupt exaction deals that followed in the wake of *Euclid*. Instead, the disputes will focus on the principled and narrow liability question of just how much harm to a common pool resource (the clear lake) this landowner contributed.

Nollan was an easy case not because of any lack of "tight" relationship between the lateral easement and the public views over the land. It was easy because the construction of an ordinary beachfront home created no dangerous runoff in the first place.

Zoning has been advertised as a way in which local democratic politics can improve land-use decisions relative to those of the simpler common law, which used nuisance law to control harmful externalities and contracts to organize voluntary efforts among neighbors. Like so much of Progressive rhetoric of the first third of the twentieth century, this foray into democratic politics has been widely oversold. The huge losses that zoning and similar land-use restrictions incur *do* count as part of the losses of the community. And the political process that allows for their exercise brings in its wake a set of undesirable social practices

*Richard A.
Epstein
on
capitalism
& democ-
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that reveal the dangers that lurk when political majorities are able to impose extensive regulation on others at no cost to themselves. We desperately need to broaden the application of the just compensation requirement. For, ultimately, stronger property rights will lead to better deliberative processes.

Jerry Z. Muller

*The democratic threat
to capitalism*

While there have been many historical instances of capitalism without liberal, representative democracy, there are no known cases of liberal, representative democracy without capitalism. But with few exceptions, academic analysts have tended to focus either on the threat capitalism poses to democratic institutions, or on the support democratic politics offer to capitalist legitimacy.

Academic discussion of the *tensions* between democracy and capitalism tends to treat capitalism as a hindrance, or even danger, to democracy. Capitalism is based upon inequality of reward, while democracy is based upon some notion of equality. The inequality of wealth, and the ability of the wealthy to influence the holders of political power, is said to undermine the equality of representation inherent in the democratic ideal.

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There are also powerful arguments for the *compatibility* of democracy and capitalism. Democracy smooths away the rougher edges of capitalism in a manner that ultimately contributes to capitalism's legitimacy. Transfer payments from the wealthy to the less wealthy; insurance against illness, unemployment, and old age; and other policies associated with the democratic welfare state soften the harsh effects of the market, reconciling the vast majority of the populace to market institutions.

My purpose in this essay is to explore the other, less examined side of the coin: a series of arguments that democracy may be a threat to the functioning of the capitalist market.

Most of these arguments begin with the assumption that as an information and incentive system, the market tends to be more efficient than representative democracy. It was Adam Smith, in *The Wealth of Nations* (1776), who explained why productivity tends to increase with the expansion of the market. The existence of a market in which supply and demand, rather than political fiat, determine prices creates monetary incentives for entrepreneurs, landlords, and workers to move their resources into the most profitable use. Prices and wages supply information indicating where effective

demand is greater than supply. For entrepreneurs, landlords, and workers, prices act as signals; and larger profits, rents, and wages offer monetary incentive to follow those signals.

In the twentieth century, theorists such as Friedrich Hayek have expanded our understanding of the role of the market in providing actionable information. In a social world of remarkable complexity, in which prices are affected by everything from the weather to political developments to ongoing changes in the tastes of billions of consumers, prices are “sound proxies for relevant information, proxies that every day allow billions of people to make adjustments to new supply and demand circumstances of which they may be entirely ignorant.”¹ All of the critical analyses that follow assume that because the competitive market is more productive, efficient, and innovative, it tends to produce a rising standard of living.

A rising standard of living, in turn, tends to be conducive to democracy. Indeed, modern democracies derive no small part of their legitimacy from their ability to provide a rising standard of living. Modern society, in Ernest Gellner’s trenchant characterization,

is the only society ever to live by and rely on sustained and perpetual growth, on an expected and continuous improvement. . . . Its favored mode of social control is universal Danegeld, buying off social ag-

gression with material enhancement; its greatest weakness is its inability to survive any temporary reduction of the social bribery fund, and to weather the loss of legitimacy which befalls it if the cornucopia becomes temporarily jammed and the flow falters²

A growing economy also blunts political conflict, since it allows for some degree of redistribution of wealth, in which increasing the income of some need not come at the expense of others.

Economic growth is of course not the only good in life or in politics, and politics with other strong sources of legitimacy can weather substantial economic downturns and even depressions. But historically, economic stagnation and decline have often spelled the end of representative democracy, as was so often the case in interwar Europe.

But can democratic political processes themselves contribute to economic stagnation or even decline? The question is bound to occur, especially to anyone observing recent attempts in Western Europe to reform pension systems, taxes, and labor laws in order to reinvigorate stagnant economies.³

The notion that political interests may distort or diminish the potential beneficial effects of the market precedes the democratic age. We find powerful statements of such arguments in the works of Adam Smith and Edmund Burke. It was a major theme of *The Wealth of Na-*

1 Jeffrey Friedman, “Popper, Weber and Hayek: The Epistemology and Politics of Ignorance,” *Critical Review* 17 (1–2) (2005): xxvii. Friedman’s entire piece is highly relevant to the theme of this essay. Hayek’s classic papers on these issues are “The Use of Knowledge in Society” (1945) and “The Meaning of ‘Competition’” (1946), both in Friedrich A. Hayek, *Individualism and Economic Order* (Chicago: University of Chicago Press, 1948).

2 Ernest Gellner, *Nations and Nationalism* (Ithaca, N.Y.: Cornell University Press, 1983), 22.

3 Timothy B. Smith, *France in Crisis: Welfare, Inequality and Globalization since 1980* (Cambridge: Cambridge University Press, 2004); Meinhard Miegel, *Die deformierte Gesellschaft: Wie die Deutschen ihre Wirklichkeit verdrängen* (Munich: Propyläen, 2002).

tions. Most of the first half of the book explains how the capitalist market, under the right conditions, can lead to “universal opulence” – an ongoing rise in the standard of living for the vast majority of the populace. Much of the second half of the book examines the forces that stand in the way of the optimal functioning of the market.

For the market to operate most effectively, everyone must be able to sell labor, invest capital, or rent land in a manner that best promotes their self-interest. But as Smith showed, much of European society and government was structured to impede the free movement of labor, capital, land, and goods. Smith believed that the public interest would be best served if every man channeled his self-interest *through the market*. But he realized that from the point of view of the individual producer or group of producers, it was most beneficial to *circumvent the competitive market*, and use all available means to prevent competition, in order to obtain the highest possible price for their wares.

Smith thought that wherever and whenever individuals or groups could promote their own interests by protecting themselves from market competition, even at the expense of the public, they would. “People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices,” Smith wrote. The citizens of the towns, Smith documented, contrived to keep the price of urban-made goods high, at the expense of the inhabitants of the countryside. Manufacturers were the most successful in pressing their private interests through their disproportionate influence over members of parliament.

Merchants, too, were well positioned to persuade those in power that what

they wanted was identical to the general interest. Though they were few in number, they were located in large cities and had economic means at their disposal, making their “sophistry and clamour” more effective than that of rival groups. Long accustomed to limiting competition in the towns, merchants had in more recent decades learned to stem competition in international trade. One of the five books of *The Wealth of Nations* is devoted to an attack on the policies of international trade then dominant in Europe. Smith dubbed these policies “the mercantile system” because he believed it reflected the interests of merchants and manufacturers.

With the expansion of the franchise in the century and a half after the publication of *The Wealth of Nations*, the problems and tactics of groups organized to exert political influence to circumvent market competition were not so much eliminated as universalized.

Edmund Burke’s *Thoughts and Details on Scarcity* (1796) adumbrated the theme of economic ignorance among politicians and voters, a topic later explored by John Stuart Mill, Joseph Schumpeter, and more recent analysts of democratic politics. In 1794 and 1795, poor harvests had led to a rise in British food prices and to rural unrest. The result was a series of proposals for the government to lower the price of food or to raise the wages of laborers. Burke maintained that most people poorly understood the functioning of the market for basic foodstuffs, and that those who traded in such goods were the objects of great prejudice.

One role of the intellectual in politics, for Burke, was to advise legislators to stand up to short-term political and moral pressures when they threaten long-term national economic interests.

To have wages set by government officials, rather than through negotiations between employers and employees, he maintained, placed crucial decisions about the agricultural economy into the hands of those who lacked either knowledge of, or interest in, agriculture. It was also foolish for politicians to heed the cries of urban dwellers who demanded government intervention to lower food prices, for such city folk “are in a state of utter ignorance of the means by which they are to be fed.” Agriculture, Burke argued, ought to operate according to the common principles of commerce, namely, that all involved should be on the lookout for the highest profit.

The government’s task was to protect middlemen, such as the “factor, jobber, salesman, or speculator, in the markets of grain,” from the ignorance and envy of farmers and consumers. Against those who objected to large-scale middlemen in the grain trade, Burke argued that their larger capital made it possible for them to operate with lower profit margins, ultimately benefiting the producer and consumer. The poor, Burke complained, envied and resented the rich without understanding the function of the rich in accumulating capital, and so were apt to act against their own interests.

But the throats of the rich ought not to be cut, nor their magazines plundered; because, in their persons they are trustees for those who labour, and their hoards are the banking-houses of these latter When the poor rise to destroy the rich, they act as wisely for their own purposes as when they burn mills, and throw corn into the river, to make bread cheap.⁴

4 R. B. McDowell, ed., *The Writings and Speeches of Edmund Burke*, vol. 9 (Oxford: Clarendon Press, 1991), 121.

Smith and Burke were reflecting upon the effects of political institutions that were representative, though with too limited a suffrage to count as democratic. But the themes they delineated – the use of political influence to distort the market, and ignorance about the functioning of the capitalist market by politicians and voters – have proved remarkably durable. With the extension of the franchise in Western societies in the course of the nineteenth and twentieth centuries, the two themes were extended and refined by subsequent thinkers down to our own time.

In *Considerations on Representative Government* (1861), John Stuart Mill voiced the recurrent fear of nineteenth-century liberals that the political power of the non-property-owning majority in a democracy might have disastrous economic consequences. Even if that non-possessing majority recognized that “it is not for their advantage to weaken the security of property . . . by any act of arbitrary spoliation,” they might still be inclined to enact policies that would damage or destroy the capitalist market. These included imposing an undue burden of taxation upon the possessors of property and especially on savings; repudiating the national debt, taxing away inheritances, and increasing government spending “without scruple, expending the proceeds in modes supposed to conduce to the profit and advantage of the laboring classes”; raising wages, limiting competition in the labor market, or discouraging labor-saving innovations; and adopting tariffs to protect local producers from foreign competition. Though all of these policies would be at odds with the long-term interests of the working classes, such measures might well conform to their short-term interests and certainly to their *perceived* short-term interests.

The turn of the century Italian sociologist and economist Vilfredo Pareto popularized the term ‘spoliation’ to refer to the use of political power by the less productive to extract gains from the more productive. “Illegal appropriation by violence is easily explained by the law of the strongest,” Pareto noted. “Likewise it is understandable that the majority which makes the laws is in a position to exact for itself whatever tribute it pleases.” The more intriguing question, for him, was “how a small number of individuals is able, by underhand methods, to get the majority to pay tribute to a minority.”⁵

Pareto’s answer has been reformulated by many later analysts, of whom the best known is perhaps Mancur Olson, in his books *The Logic of Collective Action: Public Goods and the Theory of Groups* (1971) and *The Rise and Decline of Nations: Economic Growth, Stagflation, and Social Rigidities* (1981). The logic of collective action – like its methodological cousin, public choice theory – begins with the premise that individuals in the political arena can best be understood as self-interested actors, just as they are assumed to be in the marketplace for purposes of economic analysis.⁶ “An individual in any large group with a common interest will reap only a minute share of the gains from whatever sacrifices the individual makes” to achieve the common goals of his group, Olson explained. But in a small group, where each individual

stands to gain a great deal from the attainment of the group’s goal, the members have a far bigger incentive to influence politicians on behalf of the group’s interest.

Domestic producers of sugar, for example, are relatively few in number, and each stands to gain a lot from tariffs on imported sugar, which prevent a free market in sugar and hence raise its price by impeding downward pressure on sugar prices from foreign competition. The consumers of sugar, by contrast, are a large and diffuse group, and each stands to lose only a little by being forced to pay more for sugar through tariffs. The handful of producers will therefore be more likely to organize to influence elected representatives, devoting substantial resources to getting and retaining the tariffs from which the sugar producers profit. Meanwhile it is unlikely that sugar consumers will form a lobby at all (though, of course, candy manufacturers may well lobby against sugar tariffs in an attempt to lower their raw material costs and enhance their profits). Thus, each group seeks protection from market competition for the commodity or service it produces. As groups gain protection, the efficiency and productivity of the market decline and, in extreme cases, stop altogether.

A related theorem of the logic of collective action is that of ‘rational ignorance.’ Acquiring the knowledge of government policy needed to ascertain the interests of one’s group requires time, money, and attention. For those with a small stake in the outcome (the sugar consumers), it is not worth their while to obtain the necessary knowledge, just as it is not worth the effort required to pursue their self-interest. Thus their ignorance is rational.

A telling criticism of the rational ignorance thesis is that it radically overesti-

5 Vilfredo Pareto, *Sociological Writings*, trans. Derick Mirfin (New York: Praeger, 1966), 115, 139 – 142 and passim.

6 On public choice theory, see the collection of seminal articles by its most prominent exponent, James M. Buchanan, *The Logical Foundations of Constitutional Liberty*, in *The Collected Works of James M. Buchanan*, vol. 1 (Indianapolis: Liberty Fund, 1999).

mates the rationality of individuals as voters. Academic theorists of democracy often overlook the many empirical studies that demonstrate how little voters know about the candidates for whom they cast their ballots and about the policies they represent. Analysts from Burke through Joseph Schumpeter down to Jeffrey Friedman in our own day have argued that voters fail to pursue their economic self-interest in the political arena because they lack the relevant information or understanding of economic processes to decide intelligently. These analysts contrast this inability to make informed judgments about matters of public policy with the ability of individuals to make informed decisions in the marketplace. As Schumpeter put it:

In the ordinary run of often repeated decisions the individual is subject to the salutary and rationalizing influence of favorable and unfavorable experience. He is also under the influence of relatively simple and unproblematical motives and interests which are but occasionally interfered with by excitement. Historically, the consumers' desire for shoes may, at least in part, have been shaped by the action of producers offering attractive footwear and campaigning for it; yet at any given time it is a genuine want, the definiteness of which extends beyond "shoes in general" and which prolonged experimenting clears of much of the irrationalities that may originally have surrounded it. Moreover, under the stimulus of those simple motives consumers learn to act upon unbiased expert advice about some things (houses, motorcars) and themselves become experts in others. It is simply not true that housewives are easily fooled in the matter of foods, familiar household articles, wearing apparel.

When voters seek their economic self-interest through politics, Schumpeter acknowledged, they do so in a way that democratic theory rightly regards as corrupt, by placing their self-interest above the interests of the commonweal:

[T]here are many national issues that concern individuals and groups so directly and unmistakably as to evoke volitions that are genuine and definite enough. The most important instance is afforded by issues involving immediate and personal pecuniary profit to individual voters and groups of voters, such as direct payments, protective duties, silver policies and so on. Experience that goes back to antiquity shows that by and large voters react promptly and rationally to any such chance. But the classical doctrine of democracy evidently stands to gain little from displays of rationality of this kind. Voters thereby prove themselves bad and indeed corrupt judges of such issues, and often they even prove themselves bad judges of their own long-run interests, for it is only the short-run promise that tells politically and only short-run rationality that asserts itself effectively.⁷

But when it comes to larger issues of national and international policy, Schumpeter argued, the likelihood of voters being either well-informed or thoughtful diminishes:

[W]hen we move still farther away from the private concerns of the family and the business office into those regions of national and international affairs that lack a direct and unmistakable link with those private concerns, individual volition, command of facts and method of inference soon cease to fulfill the require-

7 Joseph A. Schumpeter, *Capitalism, Socialism and Democracy*, 3rd ed. (New York: Harper and Row, 1950), 258–261.

ments of the classical doctrine [of democracy]....

The reduced sense of responsibility and the absence of effective volition in turn explain the ordinary citizen's ignorance and lack of judgment in matters of domestic and foreign policy which are if anything more shocking in the case of educated people and of people who are successfully active in non-political walks of life than it is with uneducated people in humble stations. Information is plentiful and readily available. But this does not seem to make any difference. Nor should we wonder at it. We need only compare a lawyer's attitude to his brief and the same lawyer's attitude to the statements of political fact presented in his newspaper in order to see what is the matter. In the one case the lawyer has qualified for appreciating the relevance of his facts by years of purposeful labor done under the definite stimulus of interest in his professional competence; and under a stimulus that is no less powerful he then bends his acquirements, his intellect, his will to the contents of the brief. In the other case, he has not taken the trouble to qualify; he does not care to absorb the information or to apply to it the canons of criticism he knows so well how to handle; and he is impatient of long or complicated argument. All of this goes to show that without the initiative that comes from immediate responsibility, ignorance will persist in the face of masses of information however complete and correct....⁸

Because they are so removed from actual responsibility for their opinions, voters can be swayed by emotional and irrational appeals. An incident reported by Peter Drucker in *The End of Rational Man* (1939) comes to mind, in which he witnesses the enthusiastic response of a crowd to a National Socialist orator who

proclaims, "We don't want lower bread prices. We don't want higher bread prices. We want *National Socialist* bread prices!"

The emotion most hazardous to capitalist economic growth is envy, or the more virulent desire to bring the high low that Nietzsche called *ressentiment*, a combination of jealousy and inferiority.⁹ W. H. Mallock, Schumpeter, Hayek, and a variety of lesser lights have focused on the significance of entrepreneurial minorities in capitalist economic growth.¹⁰ Whether by virtue of higher intelligence, stronger will, higher risk tolerance, greater perseverance, or superior resourcefulness, the more entrepre-

9 As John Stuart Mill put it in *Considerations on Representative Government* (London: Parker, Son, and Bourn, 1861), 72–73:

Where there exists a desire for advantages not possessed, the mind which does not potentially possess them by means of its own energies is apt to look with hatred and malice on those who do . . . [T]hose who, while desiring what others possess, put no energy into striving for it, are either incessantly grumbling that fortune does not do for them what they do not attempt to do for themselves, or overflowing with envy and ill-will toward those who possess what they would like to have.

10 W. H. Mallock, *Aristocracy and Evolution: A Study of the Rights, the Origin, and the Social Functions of the Wealthier Classes* (London: Macmillan & Co., Ltd., 1898), excerpted in Jerry Z. Muller, *Conservatism: An Anthology of Social and Political Thought from David Hume to the Present* (Princeton, N.J.: Princeton University Press, 1997); Joseph Schumpeter, "Die sozialen Klassen im ethnisch homogen Milieu" (1927), translated by Heinz Norden as "Social Classes in an Ethnically Homogeneous Environment" (1951) and excerpted as "Aptitude and Social Mobility," in Muller, *Conservatism*. On the theme in Hayek, see Jerry Z. Muller, *The Mind and the Market: Capitalism in Modern European Thought* (New York: Knopf, 2002), chap. 13.

8 *Ibid.*, 261–262.

neurial contribute disproportionately to capitalist innovation and growth. Yet this innovative minority can easily become a lightning rod or scapegoat for democratic discontent. Stigmatized by members of declining, older elites as greedy parvenus who do not know or respect the rules of the established game, they can also become the objects of mass resentment by the less successful or unsuccessful.

This problem presents itself most acutely when economic success coincides with ethnicity or religion. Just as economic success *among* nations is variable, and influenced by a range of historical and cultural factors, so too is economic success among ethnic groups *within* nations. Greeks and Armenians in the Ottoman empire, ethnic Chinese in the Pacific Rim, Lebanese Christians in West Africa and Latin America, Parsis in India, Indians in East Africa, and Jews in a variety of contexts are examples of mercantile and professional minorities who combine the transgenerational cultural transmission of knowledge about commerce with other advantages, often including translocal and transnational contacts and an emphasis on education.

Such minorities often play a prominent role in the economic and thus social and cultural transformation of society – a process bound to disrupt settled hierarchies and ways of life. That role, combined with their disproportionate success and their salience as an ethnic ‘other,’ makes them frequent objects of *ressentiment*. Authoritarian rulers can manipulate such emotions, but even they are historically more likely to protect such useful minorities than are newly or recently created democratic regimes adopted in times of rapid capitalist transformation. Despoiling the merchant minority – either through infor-

mal violence or through the ballot box – may be the road to economic perdition, by destroying the knowledge, talent, and capital that make growth possible. But it offers short-term emotional satisfactions that have often proved irresistible in mass polities.¹¹

Guilt is another emotion that may impede the innovative minority’s econom-

11 Reflecting on the rise of National Socialism, Friedrich Hayek noted in his 1944 *Road to Serfdom* (139 – 140):

In Germany and Austria the Jew had come to be regarded as the representative of capitalism because a traditional dislike of large classes of the population for commercial pursuits had left these more readily accessible to a group that was practically excluded from the more highly esteemed occupations. It is the old story of the alien race’s being admitted only to the less respected trades and then being hated still more for practicing them. The fact that German anti-Semitism and anti-capitalism spring from the same root is of great importance for the understanding of what has happened there, but this is rarely grasped by foreign observers . . . That in Germany it was the Jew who became the enemy . . . [was the] result of the anticapitalist resentment on which the whole movement was based . . . [much like] the selection of the kulak in Russia.

Amy Chua deals with tensions between democracy and disparate ethnic achievement in *World on Fire: How Exporting Free Market Democracy Breeds Ethnic Hatred and Global Instability* (New York: Doubleday, 2003), while systematically ignoring the role of culture and of human capital in explaining the success of what she terms “market-dominant minorities.” On the subject of merchant minorities and their political vulnerability, see also Gellner, *Nations and Nationalism*, 101 – 109; Joel Kotkin, *Tribes: How Race, Religion, and Identity Determine Success in the New Global Economy* (New York: Random House, 1994); Yuri Slezkine, *The Jewish Century* (Princeton, N.J.: Princeton University Press, 2004), 20 – 39; and Daniel Chirot and Anthony Reid, eds., *Essential Outsiders: Chinese and Jews in the Modern Transformation of Southeast Asia and Central Europe* (Seattle: University of Washington Press, 1997).

ic effectiveness. In a democratic culture, the successful themselves may find inequality of achievement culturally suspect. At some level, they may feel that their own success is unjustified and unjustifiable. Under the impetus of such guilt, government may spend substantial sums on programs that do little good or even harm, but that serve to assuage the guilt of the successful and demonstrate their good intentions.¹² This guilt also helps account for the appeal of the egalitarian ideal of 'social justice.' Hayek pointed out that the concept has no definable meaning, and that it often serves as a substitute for traditional religious content among those in search of some higher purpose. The mantra of 'social justice,' he argued, is easily manipulated by groups in search of allies whose support they need to increase their economic gains through political pressure.¹³

Another more mundane hazard to capitalist growth posed by democratic politics is inflation. Currency inflation disrupts the informational function of prices. For if the monetary unit by which self-interested individuals determine the most profitable use of their resources is itself changing in unpredictable ways, economic calculation becomes more difficult, like trying to measure with a ruler that keeps changing in size.

When inflation occurs steadily and gradually, it is more easily factored into economic decision making. But such inflation becomes harder to maintain the more democratic forces are allowed to

influence governmental monetary decisions. In the short run inflation is popular. It is one way governments deal with the surfeit of economic pressures upon them. When spending exceeds revenue it is tempting for government simply to print more money to pay off its bills. Inflation also helps borrowers by diminishing the real value of their debts.

When labor unions use their political power to push up wage rates beyond the level of profits, the result may be bankruptcy and growing unemployment. Under such circumstances, governments may try to stimulate growth by injecting more and more credit into the economy. But that leads to an inflationary spiral, as workers demand higher wages and businesses raise their prices to keep up with the declining value of money. Eventually this may get out of hand, as was the case in much of Western Europe and the Americas in the late 1970s and 1980s.¹⁴

In response to the agonies of inflation, democratic polities have adopted a variety of policies to remove control of the currency from democratic pressures. Many Western countries now insulate central banks from the influence of elected representatives and the constituencies they represent. The countries of the European Union, for example, have ceded control of their currency to the European Central Bank and are inhibited from excessive budget deficits by EU rules. A number of nations beyond the United States and the European Union have pegged their currencies to the dollar or the euro in an attempt to avoid the inflationary effects of their domestic politics.

12 Edward Banfield, *The Unheavenly City Revisited* (Boston: Little, Brown, 1974), excerpted in Muller, *Conservatism*, esp. 351–357.

13 Friedrich A. Hayek, *The Mirage of Social Justice*, in *Law, Legislation and Liberty*, vol. 2 (Chicago: University of Chicago Press, 1976).

14 For an early analysis of this process, see Friedrich Hayek, *The Constitution of Liberty* (Chicago: University of Chicago Press, 1960), 280–283.

After a lifetime of reflecting upon the hazards posed by democracy to capitalism and to liberalism, Hayek asked rhetorically, “Is there really no other way for people to maintain a democratic government than by handing over unlimited power to a group of elected representatives whose decisions must be guided by the exigencies of a bargaining process in which they bribe a sufficient number of voters to support an organized group of themselves numerous enough to outvote the rest?”¹⁵

Perhaps the answer to Hayek’s characterization of the public choice critique of democracy is no. Perhaps there are no definitive solutions to the difficulties created by economic ignorance on the part of politicians and voters, the influence of the irrational forces of envy and guilt, and the rational but self-defeating forces leading to inflation. These may be the inherent hazards of capitalist democracy. To regard the problems presented by democracy to capitalism as problems is not to delegitimize democracy. As we noted, democracy and capitalism have in many times and places stood in mutually fructifying tension. Yet an awareness of inherent hazards is a first step toward minimizing them.

15 Friedrich Hayek, *The Political Order of a Free People*, in *Law, Legislation and Liberty*, vol. 3 (Chicago: University of Chicago Press, 1979), 4–5.

Robert W. Fogel

Capitalism & democracy in 2040

What, if any anything, can economic and demographic forecasts tell us about the prospects for capitalism and democracy around the world?¹ To help answer that question, I divided the world into groups based on economic output, tabulated population and gross domestic product (GDP) in 2000, and then forecast population and GDP for 2040. The population forecasts are those of the United Nations. The economic forecasts are mine, but were influenced by the forecasts of the CIA and *The Economist*.

In the year 2000, as Table 1 shows, six groupings of countries dominated the global economy: the United States, the European Union (which then consisted of fifteen countries [EU15]), India, Chi-

na, Japan, and a group of six Southeast and East Asian countries (Singapore, Malaysia, Indonesia, Thailand, South Korea, and Taiwan [SE6]). As measured by GDP, these six groupings accounted for 73 percent of the world's economic output and 57 percent of the global population. The balance of the world (including Latin America, Africa, and Eastern Europe) accounted for about 28 percent of GDP and 42 percent of the global population.

Although political power is difficult to define, the United States, at least according to its advanced military technology and its ability to project its military might anywhere, obviously ranks first. The EU15 also has great wealth and advanced military technology. The number of active troops in the armies of the EU15 nations is collectively slightly higher than that of the United States; and although their annual defense budgets, taken together, are only a third of that of the United States, they have nearly as many fighter aircraft as, and more tanks than, the United States does. Perhaps the biggest gap is in hard assets: the EU15 is

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¹ A fully annotated version of this essay is available on http://ironwood.cpe.uchicago.edu/publications/publication_list.php?query_type=list.

Table 1
The Global Distribution of Gross Domestic Product (GDP) in 2000, by Grouping of Nations

Grouping	Population (in millions)	Percent of total	GDP in billions of dollars (PPP)	Percent of total
United States	282	5	9,601	22
EU15 ^a	378	6	9,264	21
India	1,003	16	2,375	5
China	1,369	22	4,951	11
Japan	127	2	3,456	8
SE6 ^b	381	6	2,552	6
Subtotals	3,540	57	32,199	73
Rest of the World	2,546	42	12,307	28
World	6,086	99*	44,506	101*

* Totals do not equal 100 percent due to rounding.

a The fifteen countries that comprised the European Union in 2000.

b A group of six Southeast and East Asian countries: Singapore, Malaysia, Indonesia, Thailand, South Korea, and Taiwan.

far behind the United States in aircraft carriers, missile cruisers, destroyers, and submarines.

It is noteworthy that the United States and the European nations that control these military resources generally have freely elected representative governments, and constitutions that guarantee basic human rights. Ever since World War II, the countries that have dominated the world economy have shared a broad commitment to liberal and democratic values.

Table 2 presents the forecasts for 2040. To my mind, the most striking feature of Table 2 is the relative decline in economic power of the EU15, implied by its stagnant population and its modest growth in GDP. This is unsettling, not least because of the central political role that Europe, along with the United

States, has long played in promoting open societies.

Although the EU15 population in 2000 exceeded that of the United States by about a third, by 2040 the EU15 population will be somewhat smaller than that of the United States. The projected stagnation of the EU15 population is based primarily on the persistence of extremely low fertility rates. The *total fertility rate* (roughly the average number of children a woman is expected to have during the course of her childbearing years) has fallen far below the level required for the reproduction of the population (2.1 children) in most EU15 countries, and has been that way for several decades.

One implication of the low fertility rate is that the population of the EU15 is aging rapidly. In the year 2000, the

Table 2
The Global Distribution of Gross Domestic Product (GDP) in 2040, by Grouping of Nations

Grouping	Population (in millions)	Percent of total	GDP in billions of dollars (PPP)	Percent of total
United States	392	5	41,944	14
EU15 ^a	376	4	15,040	5
India	1,522	17	36,528	12
China	1,455	17	123,675	40
Japan	108	1	5,292	2
SE6 ^b	516	6	35,604	12
Subtotals	4,369	50	258,083	85
Rest of the World	4,332	50	49,774	16
World	8,701	100	307,857	101*

Note: GDP in U.S. dollars of 2000.

* Total does not equal 100 percent due to rounding.

a The fifteen countries that comprised the European Union in 2000.

b A group of six Southeast and East Asian countries: Singapore, Malaysia, Indonesia, Thailand, South Korea, and Taiwan.

median age in Italy and Germany, for example, was about forty, which is a decade higher than in China and half a decade higher than in the United States. By 2040, the median age in Italy and Germany is predicted to be about fifty. This rapid aging of many EU15 countries means that their *dependency ratios* (the ratio of economically inactive to economically active persons) will soar. These demographic factors will, by themselves, significantly curtail the capacity for economic growth.

However, political and cultural factors appear to be reinforcing the impediments to economic growth. These include limitations on the length of the workweek and increasingly heavy taxes on businesses to support large social-welfare programs (which are neverthe-

less facing bankruptcy). These measures are threatening to make EU15 firms uncompetitive in the global market.

I do not mean to imply that labor productivity and per-capita income in the EU15 will not grow. They will grow at a rate that by past standards was not bad (about 1.8 percent per annum), but they will not be able to match the surge in growth that will prevail in Asia (see Table 3). The European market will be about 60 percent larger in 2040 than it was in 2000. But the U.S. market will be over 300 percent larger, India's will be over 1,400 percent larger, and China's will be 2,400 percent larger. Indeed, the Chinese market in 2040 by itself will probably be larger than the combined markets of the United States, the EU15, India, and Japan. It may well be the case

Table 3
Annual Rates of Growth, 2000 – 2040

Grouping	Population (percent)	GDP (percent)	GDP per capita (percent)
United States	0.8	3.8	2.8
EU15 ^a	0.0	1.2	1.2
India	1.0	7.1	6.0
China	0.2	8.4	8.0
Japan	-0.4	1.1	1.5
SE6 ^b	0.8	6.8	6.0
Subtotals	0.5	5.3	4.8
Rest of the World	1.3	3.6	2.2
World	0.9	5.0	4.0

a The fifteen countries that comprised the European Union in 2000.

b A group of six Southeast and East Asian countries: Singapore, Malaysia, Indonesia, Thailand, South Korea, and Taiwan.

that English will survive as the principal commercial language until 2040, but I suspect that there will be an explosion of business managers in the West who speak Mandarin.

To many, the most provocative aspect of Table 2 is the forecast that, in 2040, the Chinese economy will reach \$123 trillion, or nearly three times the output of the entire globe in the year 2000. Moreover, the per-capita income of China will reach \$85,000, more than twice the forecasted per-capita income of the EU15, and also much higher than India's or Japan's. In other words, China is predicted to go from a poor country in 2000 to a superrich country in 2040, although it will not have overtaken the United States. The basis for so optimistic a view of the course of the Chinese economy needs to be elucidated, with attention

paid to both economic and political issues.

When analyzing the constraints on Chinese economic growth, I have found it useful to divide the economy into three sectors: agriculture, services, and industry. Over the quarter century between 1978 and 2003, the growth of labor productivity has been high in each of these sectors, averaging about 6 percent per annum. At the national level, output per worker grew by 9 percent. That is because the level of output per worker was much higher in industry and services than in agriculture. Hence, by shifting workers from agriculture – where the bulk of labor was concentrated – to industry or services, the economy obtained an additional boost. This interindustry shift added 3 percentage points to the annual national growth rate. I expect interindustry shifts to continue to

affect China's economic growth over the next generation.

In addition, a more important factor in sustaining China's high growth rate will be the enhancement of the quality of labor by education. China has invested heavily in rapidly expanding enrollment ratios in both secondary and tertiary education. As I have reported elsewhere, U.S. data indicate that college-educated workers are 3 times as productive, and a high-school graduate 1.8 times as productive, as a worker with less than a ninth-grade education. Thus, increasing the enrollment ratio in high school to 100 percent and in college to 50 percent over the next generation would, by itself, add over 6 percentage points to the annual growth rate.

These targets for higher education are not out of reach. One should remember that as recently as 1980, the Western European nations had tertiary enrollment ratios of about 25 percent. Only the United States had tertiary enrollment ratios above 50 percent. The movement to ratios of 50 percent in Western Europe was a product of the last two decades of the twentieth century. In the case of the United Kingdom, two-thirds of the increase from 19 to 52 percent took place between 1990 and 1997.

The significance of investment in human capital as an engine of economic growth has not eluded the State Council. In 1998, Jiang Zemin called for a massive increase in enrollments in higher education. The response was swift: over the next four years enrollment in higher education increased by 165 percent (from 3.4 million to 9.0 million), and the number of students studying abroad also rose by 152 percent. Since the tertiary enrollment ratio increased by about 50 percent between 2000 and 2004 (from 12.5 to 19.0 percent), my projection for 2040 is not overly optimistic.

So far I have focused purely on economic issues. Some analysts argue that political instability is a serious impediment to China's ability to maintain high rates of economic growth. They have outlined several scenarios in which political factors could thwart economic goals. Some of these scenarios begin with an economic breakdown brought on by a sharp cyclical downturn that would raise unemployment and undermine a precarious social stability. Others warn that the financial problems and inefficiencies of the state-owned enterprises (SOEs) have brought on a growing social unrest. These problems have not only led to rising urban unemployment but have also resulted in the failure to pay promised wages, pensions, health-care allowances, and housing allowances. Still others warn of an impending collapse in the banking system, which is beset by a huge burden of non-performing loans, a breakdown that could undermine the microeconomic stability of the economy.

When speculating about the future, the range of possible scenarios is virtually unlimited. The point at issue is not what might occur, but what is likely to occur. Moreover, many of the problems singled out are of long standing, such as the inefficiency of many SOEs. While these SOEs may be a drag on the economy, China has nevertheless been able to grow at over 8 percent per capita for more than a quarter of a century. The idea that these inefficient firms will suddenly go bankrupt is far-fetched. The policy of China's State Council has been to phase them out gradually or to reorganize them on a profitable basis so as not to increase unemployment sharply. Not only does the Chinese government have the finances needed to continue subsidizing inefficient firms if it chooses to do so for economic or political rea-

sons, but also the burden of these subsidies will progressively diminish as the share of the industrial output supplied by these underperforming SOEs steadily declines and the burden of a given level of subsidies rapidly diminishes with the economy growing so quickly.

Although China's top leaders disagree about points of economic policy, the proposition that China should continue to transform itself into a market economy is no longer at issue. Nor do they disagree over the policy of promoting increasing autonomy in economic decisions as a lever of rapid economic growth. As many analysts have pointed out, the government is unified around a policy called "market-preserving federalism." This Chinese form of federalism limits the central government's control over economic decision making, promotes creative competition among local governments, constrains rent seeking, and provides an array of incentives to induce innovative local enterprises. This type of federalism is also apparent in the design of the tax system, "fiscal federalism," which aims to prevent taxation from stifling economic growth. In the tax reform of 1994, the central government limited its primary administration to VAT and taxes on centrally owned enterprises. It also set up local tax bureaus under the direction of local governments to supervise income taxes.

While much remains to be done in the design of the fiscal system, especially with respect to narrowing regional inequalities, these issues are on the leadership's agenda of needed reforms. The central leadership is also aware of the danger that local autonomy may move in counterproductive ways that promote rent seeking, moral hazard, and other forms of corruption, and that it must monitor performance and penalize corruption where possible. The successful

unfolding of autonomy requires a center strong enough to integrate national and local goals, to discipline local authorities whose corrupt practices threaten the progress of reform, and to provide rewards to those who advance it.

Some analysts argue that unless China permits competing political parties, powerful pressures will build up between the provinces and the center that will undermine political stability and thwart continued high rates of economic growth. Others caution that the unresolved inequalities have also built up pressures at the grassroots that threaten to become unmanageable. Additional issues stressed by analysts include mounting environmental hazards, lagging development of public-health programs, and endemic corruption.

The difficulty with these arguments is that they assume that the leaders of the Chinese Communist Party (CCP) and the State Council are unaware of these problems. The leaders are quite well aware that the successes of their growth policies have weakened the central government's control over daily life and access to information. Indeed, their reforms were meant to promote creativity at the local level by fostering local initiative, and to facilitate new ideas and technologies by encouraging the entry of global firms into the Chinese market. Moreover, the leaders of the CCP encourage critiques of current policies that hamper economic growth, although they prohibit competitive political parties. Debates over governmental policies at all levels are as vigorous and wide-ranging at the meetings of the Chinese Economists Society as they are at the American Economic Association.

The leaders of the CCP have responded to changing economic and social conditions by modifying the central goal of the CCP and by co-opting the elites who

are at the forefront of China's economic and social transformation. The slogan of the CCP, "Three Represents," introduced by Jiang Zemin in the spring of 2000 to replace the slogan of "Three Revolutionary Classes" (peasants, workers, and soldiers), reflects this process of adaptation. Zemin's slogan portrayed the CCP as: (1) the embodiment of society's most advanced productive forces; (2) the promoter of an advanced culture; and (3) representing the needs and interests of the great majority of the Chinese population.

To extend its connections with the elites who are bringing about the transformation of China, the CCP encouraged the formation of a wide array of new business and professional societies with strong ties to the state. It also transformed the membership of the CCP, bringing into its fold the technocratic leaders of business, social, and intellectual life. During the two decades following 1982, the proportion of the Central Committee members holding college degrees increased from a little over half to nearly 99 percent.

The Sixteenth Congress of the CCP, which met in November 2002, made provincial leaders the most prominent group in the Politburo, representing 42 percent of its membership. By contrast, the military represented only 8 percent of the Politburo, and central-party institutions accounted for 25 percent. The balance of the Politburo membership came from Shanghai political circles or from institutions other than provincial leaderships or central-government institutions. Given the dominant role of provincial leaders in the shaping of national policy, it makes little sense to dwell on the possibility of a conflict between the national and provincial leaders, especially when many of the central leaders came from provincial posts.

Other analysts argue that leaders of the CCP and the State Council are out of touch with public opinion. However, the weight of evidence contradicts that view. Since the late 1980s, local and provincial governments have been using polling techniques to determine public opinion on an array of economic and social issues. Academic critics of government policies abound, and interactions between these critics and top government leaders are numerous. The range of problems raised by respondents to surveys mirrors the complaints of academic critics and foreign analysts, including widespread corruption, increasing inequality, persistent unemployment, burdensome taxes, and unpaid pensions. Nevertheless, the polls also reveal majority support for the central government and overwhelming belief that the courts, the press, and government institutions will be responsive to their grievances.

Popular confidence in the government reflects the widespread belief among the Chinese that their living conditions have improved (67 percent better, 12 percent worse, 20 percent no change). The level of confidence about whether living conditions will continue to improve is similar. According to another poll, optimism about the future is slightly higher in rural areas (75 percent) than in the cities (68 percent). Hence, it is not surprising that political reform is quite limited, although there is an expectation that the government will gradually improve legal and governmental institutions. This generally favorable view of government is a result of not only the pragmatic responses of leaders at all levels of government to grievances, but also the frequent intervention of the central government with local officials when they are too slow to respond to complaints. It also reflects the rapid in-

creases in income experienced by the great majority of households for more than a quarter of a century.

This combination of widely shared economic advances and governmental attention to public opinion, especially with respect to grievances, is a formula for continued political stability. One indication of the stability of the regime and the self-confidence of its leaders is its successful bid for the 2008 Olympic Games. Another is its encouragement of Chinese students to enroll in American and European universities. The gradual loosening of constraints on expression in China is likely to continue over the next several decades. Whether or not these developments lead to a multiparty system of the American type remains to be seen. However, the government's responsiveness to popular concerns indicates that political stability is likely to remain at the level required for continued long-term economic growth.

In the case of India, it is not only necessary to explain why I am so optimistic about its economic future, but also why I am more optimistic about Chinese economic growth than Indian economic growth. Although India's per-capita income has been growing at quite high rates by global standards – about 6 percent per annum (7 percent since 1996) – its growth rate has been a third less than the Chinese rate. Constraints on Indian economic growth are still substantial.

Although India has an excellent system of higher education, which is capable of supplying the engineers, chemists, statisticians, and other professionals needed to run a modern economy, India lags substantially behind China, South Korea, and other ASEAN countries in current educational achievement. Over 40 percent of the population is still illiterate, and gross secondary-school en-

rollment rates in 2002 were less than half of those of China. Enrollment in institutions of higher education has grown by 5 percent per year between 1980 and 2002. But this expansion rate is only half of that experienced by China over the same period.

Another problem for India is the low rate of growth of labor productivity in agriculture, which is about half that of China. Since about two-thirds of India's labor force is in agriculture, this problem hinders the growth of the overall economy in two ways. It slows down the rate of transfer of labor from agriculture to industry and services, where output per worker is much higher. Second, the culture of rural areas is less conducive to education than that of the urban areas. Hence, the high-school dropout rate in India's rural areas is quite high, especially when compared with China's.

The prospects for growth in India face political threats from three sources: unresolved religious tensions, especially between Hindus and Muslims; unresolved ethnic disputes; and unresolved pressures created by the caste system.

Sharp religious tensions prevail between the Hindu majority and the large minority of Muslims. These tensions periodically erupt into violent clashes, such as the 2002 riots in the state of Gujarat, which produced some two thousand deaths. Terrorist attacks are also related to disputes over Kashmir. In 2001, Kashmiri terrorists attacked the Indian parliament in New Delhi, killing a dozen people. In 2006, terrorists planted explosives on a train in West Bengal, killing five and injuring scores more.

The Indian caste system, which divides the population into a hereditary hierarchy that determines economic and social opportunities, has relaxed somewhat as a result of government policies. The government has also sought to off-

set the discrimination against lower castes with educational subsidies. However, the caste system remains rigid in rural areas and is propped up by parties that seek to represent themselves as the champions of the lower castes.

Nevertheless, India has so far contained the social, religious, and ethnic clashes that threaten to undermine the conditions for its economic growth. Moreover, the commitment of the leaders of both major parties to ease these divisions suggests that conditions for rapid economic growth will continue during the next generation.

Thus far I have dealt with political questions primarily as they bear on the potential for economic growth. However, Tables 1 and 2 indicate that the richer countries that were the chief bastions of liberal democracy during the second half of the twentieth century – the EU15, the United States, and Japan – will decline in relative importance by 2040. In 2000, these groups represented 51 percent of global GDP, but by 2040 their combined share is projected to decline to 21 percent. Most worrisome is the projected decline in the EU15 from 21 percent to just 5 percent of the global share of GDP. Given Western Europe's role during the past several centuries as the cradle of liberal democracy – exporting it to the New World, Oceania, and other continents – who will take up the slack during the next generation?

My answer is Asia. Liberal democracy is thriving in India and has become rooted in four of the SE6 (Taiwan, South Korea, Indonesia, and Singapore), although it is more fragile in Thailand and Malaysia. The United States is an influential Pacific power that is helping to promote liberal democracy throughout Asia and Oceania. On this account, the nations representing 45 percent of global GDP in

2040 – the United States, the EU15, India, Japan, and the SE6 – will be promoters of liberal democracy, in the six categories singled out by Tables 1 and 2.

However, Tables 1 and 2 were designed to point to economic trends, not trends in liberal democracy. Some of the most notable promoters of liberal democracy fall into the category I call 'Rest of the World.' Tables focused on trends in liberal democracy must include countries that are not yet global economic powerhouses, such as South Africa, Australia, New Zealand, Chile, Mexico, and Canada, among others.

Fiction by Nadine Gordimer

Tape Measure

No one of any kind or shape or species can begin to imagine what it's like for me being swirled and twisted around all manner of filthy objects in a horrible current. I, who was used to, knew only, the calm processes of digestion as my milieu. How long will this chaos last (the digestion has its ordained program) and where am I going? Helpless. All I can do is trace back along my length – it is considerable also in the measure of its time – how I began and lived and what has happened to me.

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My beginning is ingestion – yes, sounds strange. But there it is. I might have been ingested on a scrap of lettuce or in a delicacy of raw minced meat known as, I believe, Beefsteak Tartare. Could have got in on a finger licked by my human host after he'd ignored he'd been caressing his dog or cat. Doesn't matter. Once I'd been ingested I knew what to do where I found myself, I gained consciousness; nature is a miracle in the know-how it has provided, ready, in all its millions of varieties of eggs: I hatched from my minute containment that the human eye never could have detected on the lettuce, the raw meat, the finger, and began to grow myself. Segment by segment. Measuredly. That's how my species adapts and maintains itself, advances to feed along one of the most intricately designed passageways in the world. An organic one. Of course, that's connected with perhaps an even more intricate system, the whole business of veins and arteries – bloody; our species has nothing to do with that pulsing about all over in narrow tubes.

My place was warm and smooth-walled, rosy-dark, and down into its convolutions (around thirty coiled feet of it) came, sometimes more regularly than others, always ample, many differ-

ent kinds of nourishment to feed on, silently, unknown and unobserved. An ideal existence: The many forms of life, in particular that of millions of the species of my host who go hungry in the cruel light and cold my darkness protected me from (with the nourishment comes not only what the host eats but intelligence of what he knows of his kind's being and environment) – they would envy one of my kind. No enemy, no predator after you, no rival. Just your own winding length, moving freely, resting sated. The nourishment that arrived so reliably – years and years in my case – was even already broken down for consumption, ready-mashed, you might say, and mixed with sustaining liquids. Sometimes during my long habitation there would be a descent of some potent liquid that roused me pleurably all my length – which, as I've remarked, had become considerable – so that I was lively, so to speak, right down to the last, most recently added segments of myself.

Come to think of it, there were a couple of attempts on my life before the present catastrophe. But they didn't succeed. No! I detected at once, infallibly, some substance aggressive toward me concealed in the nourishment coming down. Didn't touch that delivery. Let it slowly urge its way wherever it was going – in its usual pulsions, just as when I have had my fill; untouched! No thank you. I could wait until the next delivery came down: clean, I could tell. Whatever my host had in mind, then, I was my whole length aware, ahead of him. Yes! Oh, and there was one occurrence that might or might not have had to do with whatever this aggression against my peaceful existence might mean. My home, my length, were suddenly irradiated with some weird seconds-long form of what I'd learnt secondhand from my host must have been light, as if some –

Thing – was briefly enabled to look inside my host. All the wonderful secret storage that was my domain. But did those rays find me? See me? I didn't think so. All was undisturbed, for me, for a long time. I continued to grow myself, perfectly measured segment by segment. Didn't brood upon the brief invasion of my privacy; I have a calm nature, like all my kind. Perhaps I should have thought more about the incident's implication: that thereafter my host knew I was there; the act of ingestion conveys nothing about what's gone down with the scrap of lettuce or the meat: he wouldn't have been aware of my residency until then. But suspected something? How, I'd like to know; I was so discreet.

The gouts of that agreeable strong liquid began to reach me more frequently. No objection on my part! The stuff just made me more active for a while, I had grown to take up a lot of space in my domain, and I have to confess that I would find myself inclined to ripple and knock about a bit. Harmlessly, of course. We don't have voices so I couldn't sing. Then there would follow a really torpid interval of which I'd never remember much when it was over...

A contented, shared life; I knew that my host had always taken what he needed from the nourishment that came on down to me. A just and fair coexistence, I still maintain. And why should I have troubled myself with where the residue was bound for, when both of us had been satisfied?

O how I have come to know now!
How I have come to know!

For what has just happened to me – I can only relive again, again, in all horror, as if it keeps recurring all along me. First there was that period, quite short, when no nourishment or liquid came down at all. My host must have been abstaining.

Then –

The assault of a terrible flood, bitter burning, whipping and pursuing all down and around down into a pitch-black narrow passage filled with stinking filth. I've become part of what is pushing its path there – *that* was where the nourishment was bound for all the years, after the host and I had done with it, a suffocating putrefaction and unbearable effusions.

Jonah was spewed by the whale.

But I – the term for it, I believe – was shat out.

From that cess I've been ejected into what was only a more spacious one, round, hard-surfaced, my segments have never touched against anything like it, in my moist-padded soft home space, and I am tossed along with more and many, many kinds of rottenness, objects, sections of which I sense from my own completeness must be dismembered from organic wholes that one such as myself, who has never before known the outside, only the insides, of existence, cannot name. Battered through this conduit by these forms, all ghostly, lifeless, I think I must somehow die among them – I have the knowledge how to grow but not how to die if, as it seems, that is necessary. And now! Now! The whole putrid torrent had somewhere it was bound for – it discharges (there is a moment's blinding that must be light) and disperses into a volume of liquid inconceivable in terms of the trickles and even gouts that had fed me. Unfathomable: I am swept up in something heady, frothy, exhilarating; down with something that flows me. And I am clean, clean the whole length of me! Ah, to be cleansed of that filth I had never suspected was what the nourishment I shared with my host became when we'd taken our fill of it. Blessed ignorance, all those years I was safe inside ...

My host. So he knew. This's how he planned to get rid of me. Why? What for? This's how he respected our coexistence, after even sharing with me those gouts of agreeable liquid whose happy effects we must have enjoyed together. It ends up, him driving me out mercilessly, hatefully, with every kind of ordure. Deadly.

But I'm adapting to this vastness! Can, at least, for a while, I believe. It's not what I was used to and there's no nourishment of my habitude, but I find that my segments, the entire length of me still obeys; I can progress by my normal undulation. Undulating, I'm setting out in an element that also does, I'm setting out for what this powerful liquid vastness is bound for – nature's built into my knowledge that everything has to move somewhere – and maybe there, where this force lands, one of my eggs (we all have a store within us, although we are loners and our fertilization is a secret) will find a housefly carrier and settle on a scrap of lettuce or a fine piece of meat in a Beefsteak Tartare. Ingestion. The whole process shall begin over again. Come to life.

Susan Goldin-Meadow

*on inventing
language*

There is no human group, no matter how remote, that does not have language – and no nonhuman group that does. By *language* I mean a combinatorial system of symbols with structure at more than one level (sentence, word, morpheme, etc.), used not only to make things happen but also to share thoughts about the present and the nonpresent. Many nonhuman animals have signaling systems to attract mates, locate food, and warn each other about predators, but they cannot combine these signals hierarchically to create new, meaningful communications in any other context.

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Not only are nonhuman groups unable to invent a communication system like human language spontaneously, but, despite arduous attempts, they cannot be taught one either (even a potentially accessible one, like a system produced with the hands). Chimpanzees and bonobos, our closest primate relatives, are able to learn the words of the system but not the underlying or surface structures that organize those words. Moreover, they use those words only to make requests (of humans), and not to make comments about the world around them. In contrast, when exposed to a language, human children acquire that language without any explicit instruction at all. Indeed, human children are arguably the best language learners around, arriving at more complex and complete linguistic systems than do older learners.

But can human children invent language? Language was clearly invented at some point in the past and then transmitted from generation to generation. Was it a one-time invention, requiring just the right assembly of factors, or is language so central to being human that it can be invented anew by each generation? This is a question that seems impossible to answer – today’s children do not typically have the opportunity to invent a language, as they are all exposed from birth to the language of their community. The only way to address the question is to find children who have *not* been exposed to a human language.

There are tales, perhaps apocryphal, of human children being raised by animals, who would, of course, not provide them with human language. Under such circumstances, children do not invent language. Even children raised by inhumane parents, who deprive their children of input from language, do not invent language. But it is hard to imagine

why a child living under such inhospitable circumstances would – at a minimum, there is no one with whom to use the language.

It turns out, however, that there are children, raised by caring parents, who are unable to take advantage of the language to which they are exposed. These children are congenitally deaf, with hearing losses so severe that they cannot acquire the spoken language that surrounds them, even with intensive instruction. Moreover, they are born to hearing parents who do not know a sign language and have not placed their children in a situation where they would be exposed to one. These children lack an accessible model for human language. Do they invent one?

My colleagues and I have been studying children in these circumstances for thirty years. When we began, it was common for hearing parents to send their deaf children to oral schools. But despite the schools' best efforts, many profoundly deaf children were unable to acquire spoken language (this was many years before cochlear implants came on the scene). The children we studied had made little progress in English and had not been exposed to either American Sign Language or any form of Signed English.

We found that the children were able to communicate with the hearing individuals in their worlds, and used gesture to do so. This is hardly noteworthy since all hearing speakers gesture when they talk. The surprising result was that the deaf children's gestures did not look like the gestures their hearing parents produced. Their gestures had language-like structure; the parents' gestures did not.

The children combined gestures, which were themselves composed of parts (akin to morphemes in conventional sign languages), into sentence-

like strings that were structured with grammatical rules for deletion and order. For example, to ask me to share a snack, one child pointed at the snack, gestured *eat* (a quick jab of an O-shaped hand at his mouth), and then pointed at me. He typically placed gestures for the object of an action *before* gestures for the action, and gestures for the agent of an action *after*.

Moreover, the children's gesture systems were generative: the children combined gestures conveying several propositions within the bounds of a single gesture sentence. For example, one child produced several propositions about snow shovels within a single (albeit run-on) sentence: that they are used to dig, that they are used when boots are worn, that they are used outside and kept downstairs. The gesture systems had parts of speech (nouns, verbs, adjectives). They were also used to make generic statements (as in the snow shovel example) and to tell stories about the past, the present, the future, and the hypothetical. The children even used their gestures to talk to themselves and about their own gestures.

In contrast, the children's hearing parents used their gestures as all speakers do. Their sloppily formed gestures were synchronized with speech and rarely combined with one another. The gestures speakers produce are meaningful, but they convey their meanings holistically, with no componential parts and no hierarchical structure.

The striking finding is not that the deaf children communicate with their gestures. It's that the gestures are structured in language-like ways, while their parents' gestures are not. Indeed, their gestures are sufficiently language-like that they have been called *home signs*. The children could have used mime to communicate – for example, miming

eating a snack to invite me to join the activity. But they did not. They produced discrete, well-formed gestures that looked more like beads on a string than a continuous unsegmentable ribbon of movement. Segmentation and combination are at the heart of human language, and they formed the foundation of the deaf children's gesture systems. But segmentation and combination were *not* modeled for the children in their parents' gestures. The children had spontaneously imposed this organization on their communications.

While the deaf children created the rudiments of language without a model to guide them, they did not formulate a full-blown linguistic system – perhaps for good reason. Their parents wanted them to learn to talk and thus did not share the children's gesture systems with them. As a result, the children's systems were one-sided: they produced language-like gestures to their parents, but received nonlinguistic co-speech gestures in return.

What would happen if such a child were given a partner with whom to develop language? Just such a situation arose in the 1980s in Nicaragua when deaf children were brought together in a group for the very first time. The deaf children had been born to hearing parents and, like the deaf children I have described, presumably had invented gesture systems in their individual homes. When they were brought together, they developed a common sign language, which has come to be called Nicaraguan Sign Language (NSL). The distance between the home signs invented by individual children without a partner and the sign system created by this first cohort of NSL can tell us which linguistic properties require a shared community in order to be introduced into human language.

But Nicaraguan Sign Language has not stopped growing. Every year, new deaf children enter the group and learn to sign among their peers. A second cohort of signers had as its input the sign system developed by the first cohort. Interestingly, the second-cohort signers continued to adapt the system so that the product became even more language-like. The properties of language that cropped up in the second and subsequent cohorts are properties that depend on passing the system through fresh minds – linguistic properties that must be transmitted from one 'generation' to the next in order to be introduced into human language.

NSL is not unique among sign languages – it is likely that all sign languages (including American Sign Language) came about through a similar process. Another recent example, a deaf community now in its seventh generation and containing 3,500 members, was founded two hundred years ago by the Al-Sayyid Bedouins. Within the last three generations, 150 deaf individuals were born into this community, all descended from two of the founders' five sons. Al-Sayyid Bedouin Sign Language (ABSL) was thus born. ABSL differs from NSL in that it is developing in a socially stable community, with children learning the system from their parents. The signers from each of the three generations are likely to differ, and to differ systematically, in the system of signs they employ. By observing signers from each generation, we can therefore make good guesses as to when a particular linguistic property first entered the language.

Furthermore, because the individual families in the community are tightly knit, with strong bonds within families but not across them, we can chart changes in the language in relation to the social network of the community.

For example, some linguistic properties remain within a single family; others spread throughout the community. Is there a systematic difference between properties that do and do not spread? In addition, because we know who talks to whom, we may be able to determine who was responsible for spreading a particular property (the men in the community? the women? the adolescents? a socially dominant family?). This small and self-contained community consequently offers a singular perspective on some classic questions in historical linguistics.

A priori we might have expected sign languages to be structured differently from spoken languages. After all, sign languages are processed by eye and hand, whereas spoken languages are processed by ear and mouth. But, in many ways, the languages are not different. Sign languages all over the world are characterized by the same hierarchy of linguistic structures (syntax, morphology, phonology), and thus draw on the same human abilities as spoken languages. Furthermore, children exposed to sign language from birth acquire that language as naturally as hearing children acquire the spoken language to which they are exposed, achieving major milestones at approximately the same ages.

However, the manual modality makes sign languages unique in at least one respect. It makes it easy to invent representational forms that can be immediately understood by naïve observers (e.g., indexical pointing gestures, iconic gestures). As a result, as we have seen here, sign languages can be created anew by individuals and groups, and thus offer us a unique opportunity to glimpse language in its infant stages and watch it grow.

Homemade sign systems also allow us to address questions about the rela-

tion between language and thought. Languages around the globe classify experience in different ways. Benjamin Whorf, following Edward Sapir, first popularized the notion that linguistic classifications might influence not only how people talk but also how they think. More specifically, Whorf suggested that the required use of a particular linguistic categorization might, at some point, also affect how speakers categorize the world even when they are not talking.

This provocative hypothesis is most often explored by comparing the non-linguistic performance of speakers whose languages differ systematically in the way they categorize experience. But deaf children who have had no exposure to a conventional language and invent their own are also relevant to the hypothesis. Their thoughts cannot possibly have been shaped by a conventional language. Therefore, the conceptual categories the children *do* express in their invented languages must reveal thoughts that *do not* depend on conventional language. And the categories that the deaf children *do not* introduce into their homemade languages have the potential to reflect thoughts that *do* depend on language. If, for example, a deaf child does not invent gestures for the spatial relations *top*, *middle*, *bottom*, will that child have more difficulty solving a task that depends on these relations than will a child whose language provides her with linguistic terms for the relations?

Whatever the answers to these questions, it is clear that language is not a fragile ability in humans. It is handed down from generation to generation, but it need not be. Each new generation of human children has the potential to invent language. The language we learn is thus influenced not only by the language around us, but also by the language within us.

Keith T. Poole
& Howard Rosenthal

*on party polarization
in Congress*

Beginning in the mid-1970s, congressional politics became much more divisive. More Democrats staked out consis-

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tently liberal positions, and more Republicans supported wholly conservative ones. Pundits, the press, and politicians themselves often use the term 'polarization' to describe contemporary American politics. But how do we know, scientifically, that politics has become more polarized over the past thirty years?

The fact that the members of Congress form overlapping cohorts suggests a possible method to investigate this question. The conservative Rick Santorum recently held the Pennsylvania Senate seat once held by the moderate John Heinz. How can we claim that Santorum was more conservative than Heinz? Heinz served with Arlen Specter, who also served with Santorum. Heinz and Specter had very similar voting records. In contrast, Specter voted with the liberals (or Democrats) much more frequently than Santorum did. Observations like this one form the basis for measuring increases in polarization. Thus replacements like that of Heinz by Santorum in Pennsylvania, or of Ervin by Edwards in North Carolina, are the symptoms of polarization.

By adapting the standard dichotomous-choice model, we have created a procedure for measuring ideology – DW NOMINATE. We have used it to analyze all of the roll-call votes in the first 108 Congresses (1789 – 2004), a project we discuss in greater detail in our book *Ideology and Congress*. This procedure is based on a simple geometric model of voting behavior. Each legislator is represented by one point, and each roll call is represented by two points – one for 'yea' and one for 'nay.' These points form a *spatial map* (maps available at voteview.ucsd.edu and voteworld.berkeley.edu).

Jordan Ellenberg, in "Growing Apart: The Mathematical Evidence for Congress' Growing Polarization," a *Slate*

article about our research, likened this map to a road map. While a spreadsheet that tabulates the distances between every pair of sizable cities in the United States contains the same information as the corresponding road map, the spreadsheet, unlike the road map, does not give us an idea of what the United States looks like. Likewise, a spatial map formed from roll calls allows us to visualize the political world of a legislature in a way that a mere spreadsheet with the data cannot. The closeness of two legislators on the map shows how similar their voting records are, and the distribution of all the legislators displays what the dimensions are.

The number of dimensions needed to represent a legislature is usually small, because legislators typically decide how to vote on the basis of their positions on a small number of underlying evaluative, or *basic*, dimensions. In recent U.S. Congresses, we can easily predict how a ‘liberal’ or a ‘conservative’ will vote on most issues. In fact, just two dimensions can account for almost all of the fourteen million choices of the twelve thousand members who have served in Congress. And one dimension alone suffices in most cases, except in two periods, roughly 1829 – 1851 and 1937 – 1970, when race-related issues introduced a second dimension. The two brief periods where the spatial model fails are the Era of Good Feelings, when there was a one-party system, and the 32nd Congress (1851 – 1853), when the Compromise of 1850 unraveled. In these periods, there is a poor fit, even when ten or more dimensions are used. Voting is chaotic.

The first dimension centers on the role of government in the economy. The second dimension differentiates the members by region mainly over race and civil rights, although in the latter part of the nineteenth century it picked up regional

differences on bimetallism and the free coinage of silver as well.

Our current political-party system emerged at the end of Reconstruction in 1879. Republicans have always anchored the conservative end of the first – the liberal-conservative – dimension. They moderated to the left beginning in the early 1900s through the 1960s but then turned back to the right in the early 1970s. Before the late 1920s the Southern Democrats anchored the liberal end of this dimension. After World War I they drifted to the right, until the early 1970s when they reversed course and began moving back to the left. During this whole span of time the Northern Democrats have remained fairly stable on the left side of the spectrum.

The split in the Democratic Party occurred during the latter part of the New Deal when, in the wake of the 1936 elections, Northern Democrats heavily outnumbered Southern Democrats in Congress. Many of the programs initiated during the subsequent Second New Deal were not to the liking of the South. Voting on minimum wages in 1937 and 1938, followed by voting during World War II on the poll tax and on voting rights in the armed forces, helped to splinter the Democratic Party into two highly distinct regional wings. Voting in Congress became two-dimensional in order to differentiate Northerners from Southerners on civil-rights and related votes.

With the passage of the 1964 Civil Rights Act, the 1965 Voting Rights Act, and the 1968 Open Housing Act, this second dimension slowly declined in importance and is now almost totally absent. Issues that are related to race – affirmative action, welfare, Medicaid, subsidized housing, the earned income tax credit, etc. – are now questions of *re-distribution*. Voting on these issues largely takes place now along the liberal-conser-

vative dimension; and the old split in the Democratic Party between North and South has largely disappeared. Voting in Congress is now almost purely one-dimensional – the liberal-conservative dimension accounts for about 93 percent of *nonunanimous* roll-call voting choices in the 109th House and Senate.

At the same time that voting has become one-dimensional again, the two parties have become increasingly polarized. We use the *difference* in party means to measure polarization. Polarization declined in both chambers from roughly the beginning of the twentieth century until World War II. This was the consequence of the Republicans moderating and the Southern Democrats becoming more conservative. Polarization was then fairly stable until the mid-1970s. Over the past thirty years, however, polarization has increased sharply despite rhetoric about ‘compromise,’ ‘working together,’ and ‘compassionate conservatism.’

This polarization has been mainly the result of the Republican move to the right during the past thirty years. Conservative Republicans have replaced more moderate Republicans outside the South, and moderate and conservative Democrats in the South. The effect has been a rightward movement on the liberal-conservative dimension of the Republican Party as a whole. As the number of Southern Democrats declined sharply, the reduced Democratic contingent has become much more liberal.

The polarization trend is essentially the same in both the House and Senate despite the differences in the institutions and their apportionment. The correlation between the two series in general is 0.93. The 1879 – 2006 correlation between the House and Senate Republican liberal-conservative means is 0.94, and for the Democrats the correlation is

0.84. These numbers indicate that the forces driving changes in polarization are broader events (like the Great Depression and wars) and ideas (like a vigorous antigovernment conservatism) that arise outside of Congress.

Indeed, our research has ruled out a number of institutional forces widely believed to cause polarization. For example, primaries existed when polarization was decreasing. There would not have been an institutional barrier to prevent a Ned Lamont from challenging a Joe Lieberman in the 1960s. Gerrymandering is also not a factor, since polarization is being driven by the sharply different ways in which Republicans and Democrats are representing the same or similar constituencies, and not by how the nation is sorted into Republican and Democratic districts.

The modern trend to polarization began with the breakdown of the three-party system. For almost fifty years, from the late 1930s to the early 1980s, the United States had three political parties: the Northern Democrats, the Southern Democrats, and the Republicans. Depending on the issue at hand, each of the three parties could easily form coalitions with one of the others against the third. The Northern and Southern Democrats united to organize the House and Senate, thereby seizing the spoils due the ‘majority’ party. The Northern Democrats and Republicans combined to pass the 1964 Civil Rights Act and the 1965 Voting Rights Act; and the ‘conservative coalition’ of Republicans and Southern Democrats unified to block liberal economic (and, in the 1970s, social) policies.

The demise of this system started with the assassination of President Kennedy. President Johnson was able to do what Kennedy was unable to do: push fundamental civil-rights legislation through

Congress. President Johnson's 1964 landslide victory over an 'extremist' Barry Goldwater followed, producing a liberal Northern Democratic congressional majority for the first time since 1936. This destabilized the Democratic coalition. Democrats in the 89th Congress no longer required Southern support to pass many of the expansive federal programs that are so much a part of our current political debate. These programs, along with other redistributive programs initiated by the federal courts (mandatory school busing being the most conspicuous), led to a polarizing backlash in the late 1960s and early 1970s. Watergate blunted the effects of this backlash, though, and the Republican Party did not fully recover its footing until the 1980 elections.

But the old Southern Democratic Party, in effect, disintegrated, and with it the second dimension of congressional voting. Race has been drawn into the first dimension, as race-related issues increasingly became questions of redistribution. The end result is that the Democrat and Republican parties have become more homogeneous. The moderates are gone, leaving us with a polarized, one-dimensional Congress.

Whether we have finally reached the peak of the modern polarization trend remains to be seen. If anything, the most recent Congresses (1987–2006) mark an *acceleration* of polarization. In the Senate polarization has continued unabated through the 109th Congress (2005–2006), and the House has shown no sign of moderating. The leaders then and now reflect this trend to polarization: Nancy Pelosi and John Boehner are more extreme and far less bipartisan than Tip O'Neill and Gerald Ford were thirty years ago. But perhaps the center will hold. Certainly the agreement by the 'Gang of Fourteen' to forestall the 'nu-

clear option' in the Senate in 2005 is a promising sign. We have some hope that over the next decade polarization may finally plateau and start to decline.

Party polarization in Congress

Victor S. Navasky

*on civil liberties
on campus*

Ever since I took Tom Emerson's course on political and civil rights and liberties at Yale Law School in the late 1950s, I have thought of myself as a First Amendment absolutist. I still do, even though I understand that technically there can be no such thing.

After I became editor of *The Nation* in the late 1970s (I'm now emeritus), I thought of myself and the magazine as independent, even though I know that we are somewhere on the liberal-left end of the political spectrum (but that, of course, is at least partly because the country has drifted so far to the right.)

The Nation (and I) had no problem supporting the ACLU's position in the early 1980s defending, on civil liberties grounds, the neo-Nazis' right to march in Skokie, Illinois. And I might mention

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that in the 1950s – the height and depths of the McCarthy period – I believed in the rights of Communists and others accused of so-called subversion to teach, write movies, work for the government, and all the rest.

When, a couple of years ago, I took on the chairmanship of the *Columbia Journalism Review*, some in the blogosphere, and a letter-to-the-editor writer or two, raised the question of whether the former editor of *The Nation* could preside over an impartial media-monitoring journal. I pointed out at the time that one of my predecessors at *CJR* had previously been the editor of *Fortune* and *Money* and somehow managed to put out a distinguished journal. Could a former editor of *The Nation* do so as well? Only time would tell.

I mention all of the above by way of declaring my interest, as the English say, in what follows: the dangers to civil liberties on college campuses from both the left and the right.

During the McCarthy years, the issue was academic freedom, and the principal danger was from the right, in the sense that the government (in the form of Congressional investigators backed up by J. Edgar Hoover's FBI) put pressure on colleges and universities not to employ Reds or even those who refused on principle to cooperate with the investigators because they didn't want to name names, didn't believe these retrograde committees had the right to inquire into political and personal beliefs, and didn't want to concede any legitimacy to those they regarded as opportunistic inquisitors embarked on a political wrecking expedition.

During the 1980s and 1990s, those on the right claimed that the principal danger to the free flow of ideas on campus was from the left. They blamed multiculturalism and the practitioners of

identity politics – feminists, gay rights activists, black nationalists, and even supporters of affirmative action – whom they believed dominated academia and enforced their politically correct party line through informal intimidation and the corrupt distribution of various academic plums.

These allegations always struck me as overblown and largely unproven, but *The Shadow University: The Betrayal of Liberty on America's Campuses*, by Alan Charles Kors and Harvey Silverglate, abundantly documents that such charges were not entirely without substance. For instance, speech codes, prohibiting speech that 'offends,' have served to insulate the self-appointed spokespersons of these groups from criticism and the need to debate debatable subjects. As civil-liberties activist Wendy Kaminer has written regarding the sensibilities of the oppressed: "Who's oppressed? Just about everyone except the Caucasian heterosexual males who don't claim to be disabled. Never mind that you're at Harvard; if you're a non-Caucasian or female, then, like a woman in Afghanistan you can claim to be oppressed."

After the cold war and the culture wars came 9/11 and, on campus, the so-called language wars. In the name of combating terrorism, right-wing personalities and groups (some of them already in place) began to target individuals (like Ward Churchill at the University of Colorado, who gave a speech referring to World Trade Center victims as "little Eichmans") and departments (like Middle East and Asian Languages and Civilization at Columbia). They argued that the individuals ought to be banned from teaching or tenure and that the departments, which they regarded as biased, ought to be purged and/or forced to hire more 'balanced' faculty who would teach in the approved manner.

Groups with names like Accuracy in Academia, Students for Academic Freedom, Students for a Better America, Education Watch, and Professors Watch all seemed to agree with Campus-watch.org that there were too many professors "who love bin Laden and hate America." One even offered to pay students for taping and turning in the guilty. ("\$100 to Rat Out Rad Profs," proclaimed a *New York Post* headline.) A so-called Academic Bill of Rights was introduced in something like seventeen state legislatures, including, in its most extreme version, Arizona's, where a Senate Committee proposed a bill that would ban professors from "endorsing, supporting or opposing any candidate for local, state or national office"; endorsing or opposing litigation; and advocating "one side of a social, political, or cultural issue that is a matter of partisan controversy."

Recently, the Zionist Organization of America filed a civil-rights complaint with the U.S. Civil Rights Commission against UC Irvine. The organization sought to "protect" Jewish students from the Muslim Students Association, which had sponsored lectures with titles of such dubious taste as "Hamas: The People's Choice," "Israel: The 4th Reich," and "Zionism Hijacking Judaism." The Commission issued a report recognizing the right of Jewish students to be protected from anti-Semitism.

Is all of this cause for concern? Of course. And yet I feel that most of the 'oppressed,' including the Jewish community, can take care of themselves. I also tend to agree with UC Irvine's Jon Wiener that many of these misleadingly named right-wing campus watch groups turn out to be paper tigers: a majority of them are fronts for the fundraising activities of former lefty – now neocon righty – David Horowitz, who presides over a right-wing think tank, deceptive-

ly titled *The Center for Popular Culture*, and who last year published a book called *The Professors: The 101 Most Dangerous Academics in America*. Here it is incumbent upon me to say, I made the cut! (Although I was flattered to be included, factual errors aside, I don't believe I or, for that matter, most of my fellow dangers earned the honor. But then again, I have a conflict of interest.)

Are civil liberties on college campuses in danger? Always. It was not so long ago that students at Brown actually seized and destroyed copies of the campus newspaper containing an ad by provocateur Horowitz opposing reparations for African Americans. But to ask whether the pendulum of danger has swung left or right may be to ask the wrong question. David Nasaw, executive director of CUNY's Center for the Humanities, will tell you that perhaps he is in a special situation, but he worries more about federal, state, and other intrusions on faculty autonomy than he does about attacks from the left or right: "What I worry about is what happens at state and community colleges where there is no tradition of faculty autonomy, and where more and more college and university presidents want to behave like high school principals and run their own show."

Although there is no longer a McCarthy or Hoover to symbolize the federal government's intrusions on faculty prerogatives, Ellen Schrecker, author of *No More Ivory Towers*, a leading study of McCarthyism on campus, has written that in some respects the situation today is more dangerous: "McCarthyism dealt mainly with off-campus political activities. Now they focus on what is going on in the classroom. It's very dangerous because it's reaching into the core academic functions of the university, particularly in Middle Eastern studies."

Jonathan Cole, the former provost of Columbia, who has documented in these pages how the U.S. Patriot Act has inadvertently kept scientists from doing their research, believes that actions the federal government has taken in the name of national security suggest that we may be in for more federal repression. He pointed out that Columbia University's budget, in the early 1950s less than \$50 million, is now roughly \$2.4 billion, more than a quarter of which comes from the federal government. Even as I write this, *The New York Times* is reporting on what *The Chronicle of Higher Education* has called "the IRBs wars." The so-called Institutional Review Boards (IRBs), originally set up by the federal government to protect human subjects from abuse, as in the notorious Tuskegee syphilis study, are now intruding on the research techniques of sociologists, journalists, and oral historians, among others. The requirement that subjects fill out consent forms, and the micromanagement of the questions scholars may ask, is something new in the academic firmament. So new that legal scholars have argued that the requirement of prior approval may violate the First Amendment.

Where does this leave us? Neither the Right nor the Left enters this fray with clean hands. But those like Horowitz, who trespass on the heretofore sacred precincts of classroom autonomy, pose a greater danger to democracy than those they complain about. As the historian David Brion Davis has said, over time the countersubversives invariably do more damage than the alleged subversives they set out to disable. But in assessing the dangers to civil liberties on campus, we should look not only to the left and to the right of us, but also at what used to be called, in another context, the Vital Center, which includes the state itself.

David E. Apter

on Clifford Geertz

My association with Cliff goes back to when we were both students at Antioch College. He was a fidgety, scratchy, given-to-mumbling sort of guy, in no way prepossessing although I knew on

David E. Apter, a Fellow of the American Academy since 1966, is Henry J. Heinz II Professor Emeritus of Political Science and Sociology at Yale University. His numerous publications include "The Political Kingdom in Uganda" (1961), "Ghana in Transition" (1965), "The Politics of Modernization" (1965), "Choice and the Politics of Allocation" (1971), "Against the State: Politics and Social Protest in Japan" (with Nagayo Sawa, 1984), "Political Discourse in Mao's Republic" (with Tony Saich, 1994), "Political Protest and Social Change" (with Charles F. Andrain, 1996), and several edited volumes, including "The Legitimization of Violence" (1997). Apter was on the editorial board of "Daedalus" from 1978 to 2001; Clifford Geertz also served on the board and as an advisor to "Daedalus" from 1970 to 2006. This essay was first delivered on March 3, 2007, at a memorial service for Geertz at the Institute for Advanced Study in Princeton, New Jersey.

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first exchange that he was no ordinary student. Not that he was given over much to casual conversation, even in that high academic moment known as the Veteran Generation, when student discussions (or better, arguments), usually about politics, were pretty much the order of the day. Cliff tended not to get involved, but if drawn in he invariably delivered some uncommon insight, often in the form of a quick retort followed by silence – a silence that some of us took as a reproach or embarrassment, as if our commentary fell short in some way. I remember in particular one heated and very undergraduate discussion over whether values were objective or relative. Cliff put an end to the conversation by saying that the only way to affirm a value is in terms of another value. It was the kind of oracular pronouncement that could put some people off.

We had a number of common bonds – for one, a miserable childhood. I was a high school dropout. Cliff grew up effectively without family – farmed out to a family in Santa Rosa who treated him badly. He discovered how bright he was more or less by chance, when he took the Navy V-12 examinations during the war and knocked the top off them. A former high school teacher suggested Antioch. It was an inspired choice: there, a good deal of learning was by doing. And there, we both got married, to women who fully shared our professional and academic lives.

At first he intended to major in English. He did a stint as editor of *The Antiochian*, the student literary journal (which had the foresight to publish a piece by fellow student Rod Serling). He then shifted to philosophy, coming under the wing of George Geiger, a convincing Deweyite who proctored Cliff intellectually and helped persuade him to go to Harvard in Social Relations.

Among the looming intellectual influences of that day was, of course, Talcott Parsons. Cliff studied with him at Harvard, even though he found the rigidity of structural functionalism off-putting. While Cliff's proclivities were always more or less phenomenological, he was right to say, "We are all parsnips now." What comes through in two memoirs (meditations, really, with their marvelous titles), *After the Fact* (1995) and *Available Light* (2000), is a profoundly aesthetic sense of intellectual design and a career of serendipitous encounters.

After we graduated, our paths continued to cross although my field was political science and his anthropology. We were fascinated by the multiple transitions taking place in the so-called developing world: colonialism to independence, traditional to modernist cultures, political systems under duress, nationalism, and how they all affected opportunities for civility and institutional democracy. We tried to make sense of the entangled and entangling networks, the webs of meaning and organization, that such transitions entailed.

Moreover, we were not just hothouse academics but field workers as well, he in Indonesia and Morocco and I in Africa and elsewhere. Cliff never hesitated at disciplinary boundaries (indeed, I believe he once entertained the notion of doing an anthropological study of the disciplines as savage tribes). Rather, his was an extraordinary capacity to combine the philosophical, the hermeneutical, the empirical, the structural, and the linguistic, converting their theoretical abstruseness into a coherence that reappeared as common sense. His writing was always direct and elegant – with a style and clarity of thought that made for wide appeal in many scholarly fields.

From 1958 to 1959 we both had fellowships at the Center for Advanced Study

in the Behavioral Sciences. It was an extraordinary year. Among the fellows were W. V. Quine, Tom Kuhn (who was writing *The Structure of Scientific Revolutions*), Tom Fallers, Roman Jacobson, Meyer Fortes, Fred Egan, Edward Shils, Morris Janowitz, and many others of similar caliber. Cliff and Tom were on leave from Berkeley, Shils and I from the University of Chicago.

It was at the Center that we got the idea of establishing an interdisciplinary group at Chicago to study new nations; the intense intellectual atmosphere there at the time made it the perfect venue. We made Shils the director, and Cliff agreed to come, as did Fallers and Janowitz. Our first year of full activity was 1961. It was Cliff who edited our first collective effort, *Old Societies and New States* (1963). His article in that book, "The Integrative Revolution: Primordial Sentiments and Civil Politics in the New States" can only be described as prescient, with its emphasis on what was later referred to as identity politics and the ways in which development exacerbated rather than mediated ethnic, religious, and linguistic claims to loyalty and jurisdiction.

Virtually all the comparative problems discussed in the committee – on law, civil society, identity, development, education, institution building, corruption, the role of the military, and democracy itself – are as relevant today as they were when the Committee began its work. Nor, despite all the work done since then, have our knowledge and understanding of such matters progressed much beyond what we knew in those days. We all had knowledge of certain cases in depth and combined such knowledge with broad comparative and theoretical interests. It was that combination by members from all the social-science disciplines as well as law that

gave the Committee its special intellectual bite. When I left Chicago for Berkeley, Cliff took over as Executive Secretary, and the Committee continued its work for many years until, one might say, the new nations stopped being new.

My own relationship with Cliff lasted for exactly sixty years. During those years Cliff was the most intellectually stimulating figure I knew. I was instrumental to his career twice: first in bringing him to Chicago, and second in being one of several who nominated him for the first social-science post at the Institute for Advanced Study. He was, in my judgment, the first among social scientists. Over the years, he developed a marvelous sense of public humor, too. In a phone conversation a few weeks before he died, he said, "You know, a lot of people are dying now who never died before." Perhaps it was his way of saying goodbye.

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Inside back cover: Detail of a lithograph by Honoré Daumier (1808 – 1879), “Le ventre législatif” (The legislative paunch, 1834). In his early work, published in the weekly magazine *Caricature* before it was shut down by Louis-Phillipe, the last King to rule France, Daumier was merciless in depicting the politicians of his day as self-serving swine who had betrayed the democratic ideals of the French Revolution. See Gerhard Loewenberg on *Paradoxes of legislatures*, pages 56 – 66: “Since legislatures symbolize democracy, and have often been agents of democratization, the contradictions of the institution feed skepticism about democracy generally The extremely negative evaluation of Congress in the last few years is typical. Cynicism about lawmakers is hardly a new phenomenon, nor is it limited to the United States.” Photo Credit: Bridgeman-Giraudon/Art Resource, NY.



RES

H. Daumier

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