

With all its limitations, assembly democracy has much to be said for it.

BUT BIGGER IS BETTER, SOMETIMES

As we saw in Chapter 2, the Greeks did not escape the dilemma. As they were aware, the Achilles heel of the small state is its military weakness in the face of a large state. Ingenious and valiant though the Athenians were in preserving their independence, they could not prevent defeat by the superior forces of Philip of Macedon in 322 B.C.E. or the centuries of foreign domination that followed. Once the centralized national state began to emerge, the remaining city-states were doomed. The last great city-state republic, Venice, fell without resistance to Napoleon Bonaparte's forces in 1797 and thereafter never regained independence.

In recent centuries, notably the twentieth, the limited capacities of self-governing units small enough for assembly democracy have shown up again and again, not only in military matters but in dealing with economic affairs, traffic, transportation, communications, the movement of people and goods, health, family planning, agriculture, food, crime, education, civil, political, human rights, and a host of other matters of concern.

Short of a world cataclysm that would drastically and permanently reduce the world's population and destroy its advanced technology, it is impossible to foresee a world in which all large political units will have vanished, to be replaced *entirely* by completely independent political units with populations so small (say fewer than fifty thousand persons at most) that its citizens could govern themselves, and would choose to govern themselves, exclusively by a system of assembly democracy. To make matters worse, a world of small and completely independent units would surely be unstable, for it would take only a few such units to coalesce, engage in military

aggression, pick off one small unit after another, and thus create a system too large for assembly government. To democratize this new and larger unit, democratic reformers (or revolutionaries) would have to reinvent representative democracy.

THE DARK SIDE: BARGAINING AMONG ELITES

For all its advantages, representative government has a dark side. Most citizens in democratic countries are aware of it; for the most part they accept it as a part of the price of representation.

The dark side is this: under a representative government, citizens often delegate enormous discretionary authority over decisions of extraordinary importance. They delegate authority not only to their elected representatives but, by an even more indirect and circuitous route, they delegate authority to administrators, bureaucrats, civil servants, judges, and at a still further remove to international organizations. Attached to the institutions of polyarchal democracy that help citizens to exercise influence over the conduct and decisions of their government is a nondemocratic process, *bargaining among political and bureaucratic elites*.

In principle, elite bargaining takes place within limits set through democratic institutions and processes. But these limits are often broad, popular participation and control are not always robust, and the political and bureaucratic elites possess great discretion. Despite the limits on popular control, the political elites in democratic countries are not despots, out of control. Far from it. Periodic elections compel them to keep a ready eye on popular opinion. In addition, as they arrive at decisions the political and bureaucratic elites mutually influence and check one another. Elite bargaining has its own system of mutual checks and balances. To the extent that elected representatives participate in the bargaining process, they are a channel through which popular desires, goals, and values enter into

governmental decisions. Political and bureaucratic elites in democratic countries are powerful, far more powerful than ordinary citizens can be; but they are not despots.

CAN INTERNATIONAL ORGANIZATIONS BE DEMOCRATIC?

So far we have been concerned with the possibilities of democracy in units of a smaller scale than a country or nation-state. But what about units of a larger scale, or at least a very different scale: international organizations?

During the late twentieth century democratic countries increasingly felt the consequences of internationalization—economic, cultural, social, political, bureaucratic, military. What does the future hold for democracy? Even if the governments of independent countries yield much of their power to international governments of one kind or another, won't the democratic process simply move up to the international level? If so, as emerging international governments are democratized, democratic values won't be impaired and may even be enhanced.

One might draw on history for an analogy. As we saw in Chapter 2, the original locus for the idea and practice of democracy was the city-state. But city-states could not withstand the increasing power of national states. Either the city-states ceased to exist as recognizable entities or, like Athens and Venice, they became local governments subordinate to the government of the country. In the twenty-first century, then, won't national governments simply become more like local governments that are subordinate to democratic international governments?

After all, one might say, the subordination of smaller local governments to a national government was not the end of democracy. On the contrary, the democratization of national governments not only vastly extended the domain of democracy but allowed an im-

portant place for democratic processes in the subordinate units—towns, cities, cantons, states, provinces, regions, and the like. So, in this view, the challenge is not to halt internationalization in its tracks, which is impossible. The challenge is to democratize international organizations.

Appealing as this vision is to anyone who places a high value on democracy, to my regret I am compelled to conclude that it is excessively optimistic. Even in countries where democratic institutions and practices have long existed and are well established, it is extremely difficult for citizens to exercise effective control over many key decisions on foreign affairs. It is far more difficult for them to do so in international organizations.

The European Union offers telling evidence. There, such nominally democratic structures as popular elections and a parliament are formally in place. Yet virtually all observers agree that a gigantic “democratic deficit” remains. Crucial decisions mainly come about through bargaining among political and bureaucratic elites. Limits are set not by democratic processes but mainly by what negotiators can get others to agree to and by considering the likely consequences for national and international markets. Bargaining, hierarchy, and markets determine the outcomes. Except to ratify the results, democratic processes hardly play a role.

If democratic institutions are largely ineffective in governing the European Union, the prospects for democratizing other international systems seem even more remote. To achieve a level of popular control that is anywhere near the level already existing within democratic countries, international organizations would have to solve several problems about as well as they are now dealt with in democratic countries. Political leaders would have to create political institutions that would provide citizens with opportunities for political participation, influence, and control roughly equivalent in effectiveness to those already existing in democratic countries. To

take advantage of these opportunities, citizens would need to be about as concerned and informed about the policy decisions of international organizations as they now are about government decisions in their own countries. In order for citizens to be informed, political and communication elites would need to engage in public debate and discussion of the alternatives in ways that would engage the attention and emotions of the public. To insure public debate, it would be necessary to create an international equivalent to national political competition by parties and individuals seeking office. Elected representatives, or functional equivalents to them (whatever they might be), would need to exercise control over important international bureaucracies about as well as legislatures and executives now do in democratic countries.

How the representatives of a hypothetical international citizen body would be distributed among the people of different countries poses an additional problem. Given huge differences in the magnitude of the populations of different countries, no system of representation could give equal weight to the vote of each citizen and yet prevent small countries from being steadily outvoted by large countries; thus all solutions acceptable to the smaller democracies will deny political equality among the members of the larger demos. As with the United States and other federal systems, acceptable solutions may be cobbled together as one has been for the European Union. But whatever compromise is reached, it could easily be a source of internal strain, particularly in the absence of a strong common identity.

Strain is all the more likely because, as I have said, just as in national democracies most decisions are bound to be seen as harming the interests of some persons, so, too, in international organizations. The heaviest burden of some decisions might be borne by particular groups, regions, or countries. To survive these strains, a political culture supportive of the specific institutions would help—

might indeed be necessary. But developing a political culture takes time, perhaps many generations. In addition, if policy decisions are to be widely acceptable and enforceable among the losers, probably some common identity, equivalent to that in existing democratic countries, would have to develop.

It seems to me highly unlikely that all these crucial requirements for the democratization of international organizations will be met. But if the requirements are not met, by what process will international decisions be made? They will be made mainly, I think, by bargaining among political and bureaucratic elites—chief executives, ministers, diplomats, members of governmental and non-governmental bureaucracies, business leaders, and the like. Although democratic processes may occasionally set the outside limits within which the elites strike their bargains, to call the political practices of international systems “democratic” would be to rob the term of all meaning.

A ROBUST PLURALISTIC SOCIETY WITHIN DEMOCRATIC COUNTRIES

Although democracy is unlikely to move up to the international level, it's important for us to keep in mind that every democratic country needs smaller units. In a modern country, these are of staggering variety. Even the smallest democratic countries require municipal governments. Larger countries may have others: districts, counties, states, provinces, regions, and others. No matter how small a country may be on a world scale, it will require a rich array of independent associations and organizations—that is, a pluralistic civil society.

How best to govern the smaller associations of state and society—trade unions, economic enterprises, specialized interest groups, educational organizations, and the rest—admits of no single answer. Democratic government may not be justified in all associations;

marked differences in competence may impose legitimate limits on the extent to which democratic criteria should be met. And even where democracy is justified no single form is necessarily the best.

Yet no undemocratic aspect of any government should go unchallenged, whether of the state and its units or independent associations in a pluralist civil society. Democratic principles suggest some questions we might ask about the government of any association.

- In arriving at decisions, does the government of the association insure equal consideration to the good and interest of every person bound by those decisions?
- Are any of the members of the association so definitely better qualified than others to govern that they should be entrusted with complete and final authority over the government of the association? If not, then in governing the association, must we not regard the members of the association as political equals?
- If the members are political equals, then should the government of the association not meet democratic criteria? If it should, then to what extent does the association provide its members with opportunities for effective participation, equality in voting, gaining enlightened understanding and exercising final control over the agenda?

In almost all, perhaps all, organizations everywhere there is some room for some democracy; and in almost all democratic countries there is considerable room for more democracy.

Varieties II

CONSTITUTIONS

Just as democracy comes in different sizes, so, too, democratic constitutions come in a variety of styles and forms. But, you might well ask, do differences in the constitutions of democratic countries really matter? The answer, it seems, is no, yes, and maybe.

To explain why, I'll begin by drawing mainly on the constitutional experience of the older democracies, countries where the basic democratic institutions have existed continuously since about 1950—twenty-two in all (Australia, Austria, Belgium, Canada, Costa Rica, Denmark, Finland, France, Germany, Iceland, Ireland, Israel, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Sweden, Switzerland, the United Kingdom, and the United States).¹

The variations among them are sufficient to provide a fair idea of the range of possibilities. The constitutional arrangements of newly democratized countries, however, are no less important. Indeed, they may be even more because they can be crucial to the success of democratization.

In describing *constitutions* and *constitutional arrangements* I wish to use these terms broadly so as to include important practices that may not be specified in the constitution, such as electoral and party systems. My reason for doing so will become clear in the next chapter.

What then are the important variations in democratic constitutions, and how much do they matter?

CONSTITUTIONAL VARIATIONS

Written or unwritten? An unwritten constitution may seem to be a contradiction in terms, yet in a few countries certain well-established institutions and practices are understood as comprising the constitutional system, even though they are not prescribed in a single document adopted as the country's constitution. Among the older democracies (and assuredly among the newer ones), an unwritten constitution is a result of highly unusual historical circumstances, as it was in the three exceptional cases of Great Britain, Israel,² and New Zealand. The adoption of written constitutions has, however, become the standard practice.

Bill of Rights? Does the constitution include an explicit bill of rights? Again, although an explicit constitutional bill of rights is not universal among the older democracies, it is now standard practice. For historical reasons and because of the absence of a written constitution, the notable exception has been Britain (where, however, there is significant support for the idea).

Social and economic rights? Although the American constitution and those that survive from the nineteenth century in the older democratic countries generally have little to say explicitly about social and economic rights,³ those adopted since World War II typically do include them. Sometimes, however, the social and economic rights prescribed (occasionally at great length) are little more than symbolic.

Federal or unitary? In a federal system the governments of certain smaller territorial units—states, provinces, regions—are guaranteed permanence and a significant range of authority; in unitary systems their existence and authority depend on decisions by the national government. Among the twenty-two older democratic countries, only six are strictly federal (Australia, Austria, Canada, Germany,

Switzerland, and the United States). In all six countries, federalism is the result of special historical circumstances.⁴

Unicameral or bicameral legislature? Although bicameralism predominates, Israel has never had a second chamber, and since 1950 the four Scandinavian countries, Finland, and New Zealand have abolished their upper houses.

Judicial review? Can a supreme court declare unconstitutional laws properly enacted by the national legislature? This practice, known as judicial review, has been a standard feature in democratic countries with federal systems, where it is seen as necessary if the national constitution is to prevail over laws enacted by the states, provinces, or cantons. But the more relevant issue is whether a court can declare a law enacted by the *national* parliament unconstitutional. Switzerland, in fact, limits the power of judicial review *only* to cantonal legislation. As we have just seen, however, most democratic countries are not federal, and among the unitary systems only about half have some form of judicial review. Moreover, even among countries where judicial review does exist, the extent to which courts attempt to exercise this power varies from the extreme case, the United States, where the Supreme Court sometimes wields extraordinary power, to countries where the judiciary is highly deferential to the decisions of the parliament. Canada provides an interesting variant. A federal system, Canada has a supreme court endowed with the authority to declare both provincial and federal laws unconstitutional. The provincial legislatures and the federal parliament can override the court's decision, however, by voting a second time to pass the act in question.

Tenure of judges for life or limited term? In the United States members of the federal (that is, national) judiciary are, by constitutional provision, given life tenure. The advantage of life tenure is to insure judges greater independence from political pressures. But if

they also have the power of judicial review, their judgments may reflect the influence of an older ideology no longer supported by popular and legislative majorities. Consequently, they may employ judicial review to impede reforms, as they sometimes have in the United States, famously during the great reform period from 1933 to 1937 under the leadership of President Franklin D. Roosevelt. With American experience in view, some democratic countries that have explicitly provided for judicial review in constitutions written after World War II have rejected life tenure and instead have chosen to provide for limited, though lengthy, terms, as in Germany, Italy, and Japan.

Referenda? Are national referenda possible, or in the case of constitutional amendments, perhaps obligatory? Switzerland provides the limiting case: there, referenda on national issues are permissible, obligatory for constitutional amendments, and frequent. At the other extreme, the U.S. Constitution makes no provision for referenda (and no national referenda have ever been held), although they are common in many states. In contrast to the United States, however, in more than half the older democracies a referendum has been held at least once.

Presidential or parliamentary? In a presidential system the chief executive is elected independently of the legislature and is constitutionally vested with important powers. In a parliamentary or cabinet system the chief executive is chosen and may be removed by the parliament. The classic example of presidential government is the United States; the classic example of parliamentary government is Great Britain.

Presidential government was invented by the delegates to the American Constitutional Convention in 1787. Most of the delegates admired the British (unwritten) constitution for its "separation of powers" into a judiciary independent of both the legislature and the executive; a legislature (Parliament) independent of the executive;