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## **Democracy, But Not Necessarily Freedom** **by Sheldon Richman**

Democracy is breaking out all over. Or that's the impression we get from the daily news. Maybe it's true. Elections have been held in Afghanistan, Iraq, Saudi Arabia, and the Palestinian territories. There's talk (just talk) of a real presidential election in autocratic Egypt. Who's next?

One need not sanction the imperial Bush Doctrine to take inspiration from two salient features of these developments. First, the people participating in those elections apparently believe that they should have some say in who governs them. That is surely preferable to their believing it's none of their business. Second, many of them were willing to risk their lives to have that say. Those of us who never face the sort of physical danger that occurs daily in the Middle East can only watch in admiration.

And yet, it would be wrong to mistake the sprouting of democratic procedures with liberalism, the philosophy of individual freedom, private property, and the rule of law. They are not the same, and thinking they are has done a good deal of mischief. Many thinkers over the millennia have taken pains to distinguish democracy from freedom. In F.A. Hayek's third volume of *Law, Legislation, and Liberty*, we find this passage from Aristotle's *Politics*:

Where laws are not sovereign ... since the many are sovereign not as individuals but collectively ... such a democracy is not a constitution at all.

Aristotle recognized that constitutions in an important sense are *undemocratic*, if by "democracy" we mean "the untrammelled authority of the majority." When the U.S. Constitution enumerates a finite set of congressional powers or the First Amendment states, "Congress shall make no law ..." they impose limits on what "the people" collectively may do. By doing so, they protect the people — individually.

## **Power versus freedom**

Aristotle thus shows himself to be a “modern,” rather than an “ancient.” In the early 19th century the French liberal Benjamin Constant distinguished two notions of liberty. The ancient notion was collectivist: it consisted in the unrestricted freedom of the polity (the majority) to do what it wished. The individual’s freedom lay exclusively in his ability to participate in collective decision-making, that is, in voting. In this theory, when the individual was forced to conform to the majority’s wishes, even in matters of religion, that was simply the polity exercising its rightful freedom. To defy the majority was to limit the people’s freedom. If Aristotle was an ancient “modern,” the German philosopher Oswald Spengler, like Rousseau, was a modern “ancient,” as shown by this statement:

Power belongs to the whole. The individual serves it. The whole is sovereign.... Everyone is given his place. There are commands and obedience.

The modern notion of liberty, Constant went on, consists in individual autonomy, which is actuated only through private property. Voting is simply one, rather minor, aspect of freedom. “The aim of the ancients,” Constant wrote,

was the sharing of social power among the citizens of the same fatherland: this is what they called liberty. The aim of the moderns is the enjoyment of security in private pleasures; and they call liberty the guarantees accorded by institutions to these pleasures.

Constant did not proclaim the modern notion superior to the ancient. He merely reported the change in meaning. We may go further and identify the incoherence in the ancient approach. Politics cannot properly be described as having freedom or rights. Groups do not value, prefer, intend, or act. Those verbs apply to persons only. Thus, when the majority coerces the minority, we cannot legitimately say that the society exercises its freedom. All we can say is that the larger group of individuals coerces the smaller group. By what authority? Since they are all persons, they all must be presumed, individually, to have not only the same rights, but also the same *authority* with respect to each other. As Auburn University philosopher Roderick T. Long, drawing on John Locke, writes in his essay “Equality: The Unknown Ideal” ([www.mises.org/fullstory.aspx?control=804](http://www.mises.org/fullstory.aspx?control=804)),

Lockean equality involves not merely equality *before* legislators, judges, and police, but, far more crucially, equality *with* legislators, judges, and police.

## **Illiberal democracy**

Today, unfortunately, the ancient notion of freedom is dominant, if inconsistently applied. All one needs to do to sanctify a government measure is to invoke democracy. The majority is held supreme — and so much for the lip service paid to protecting the “rights of the minority.” In fact, the traditional formulation of democracy — majority rule with protection for the minority — is logically defective. If the minority have inviolable rights, in what sense does the majority rule?

Another thinker who saw the distinction between freedom and democracy was the Spanish philosopher Jose´ Ortega y Gasset. Randall Holcombe’s excellent book *From Liberty to Democracy* contains this from Ortega:

Liberalism and democracy happen to be two things which begin by having nothing to do with each other, and end by having, so far as tendencies are concerned, meanings that are mutually antagonistic. Democracy and liberalism are two answers to two completely different questions.

Democracy answers this question — “who ought to exercise the public power?” The answer it gives is — “the exercise of public power belongs to the citizens as a body.” ...

Liberalism, on the other hand, answers this other question — “regardless of who exercises the public power, what should its limits be?” The answer it gives is — “whether the public power is exercised by an autocrat or by the people, it cannot be absolute; the individual has rights which are over and above any interference by the state.”

Or as I like to put it, *who* rules is less important than *which* rules. The subtitle of Fareed Zakaria’s 2003 book, *The Future of Freedom*, is “Illiberal Democracy at Home and Abroad.” “Across the globe,” writes Zakaria, editor of *Newsweek International*,

democratically elected regimes, often ones that have been re-elected or reaffirmed through referenda, are routinely ignoring constitutional limits on their power and depriving their citizens of basic rights. This disturbing phenomenon — visible from Peru to the Palestinian territories, from Ghana to Venezuela — could be called “illiberal democracy.”

... Democracy is flourishing; liberty is not.

To hear some people tell it, “illiberal democracy” is a contradiction in terms. Alas, it is not. Thomas Jefferson warned of “elective despotism.” One can even imagine a totalitarian democracy; in *The Road to Serfdom* Hayek discussed how it might emerge. We’re back to Ortega’s question: “Regardless of who exercises the public power, what should its limits be?” There’s more

to freedom than the vote. In fact, for most people, voting is less instrumental to their living the sort of lives they wish to live than is control of their incomes and other possessions. We may go further: the more important the vote is, the more liberty is in jeopardy.

Zakaria's book, although not without problems, is noteworthy because it states what other pundits either cannot fathom or are unwilling to say.

Constitutional liberalism ... is not about procedures for selecting government but, rather, government's goals. It refers to the tradition, deep in Western history, that seeks to protect an individual's autonomy and dignity against coercion, whatever the source — state, church, or society. The term marries two closely connected ideas. It is liberal because it draws on the philosophical strain, beginning with the Greeks and Romans, that emphasizes individual liberty. It is constitutional because it places the rule of law at the center of politics....

(In a footnote he distinguishes the original sense of liberalism from the “modern, American sense, which associates it with the welfare state, affirmative action, and other policies.”)

Zakaria also writes, “What is distinctive about the American system is not how democratic it is but rather how undemocratic it is.” He means that as a compliment.

The problem is that for many years the system has been getting more democratic. That is, the constitutional restraints on representative government have weakened. When “the people” gain power, the individual loses his freedom. When the state, as Bastiat put it, becomes the means by which “everyone seeks to live at the expense of everyone else,” democracy becomes antagonistic to liberty.

What does this say for the spread of democracy in the Middle East and elsewhere? It says that the celebrations are premature. The journey from autocratic despotism to elective despotism is neither far nor rewarding. We can hope that the conviction “I should have a say in who governs me” will metamorphose into “I should be free to run my own life,” but there is nothing automatic about it. Western liberalism took many centuries to evolve, emerging spontaneously from many diverse sources, religious and secular. It was an unplanned order that could not have been designed or imposed. Neither can it be designed or imposed in regions where today it is strange and untrusted.

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