

# THE DEVELOPMENT OF LIBERAL DEMOCRACY: FOR AND AGAINST THE STATE

The historical changes that contributed to the emergence of modern liberal and liberal democratic thought were immensely complicated. Struggles between monarchs and estates over the domain of rightful authority; peasant rebellions against the weight of excessive taxation and social obligation; the spread of trade, commerce and market relations; changes in technology, particularly military technology; the consolidation of national monarchies (notably in England, France and Spain); the growing influence of Renaissance culture; religious strife and the challenge to the universal claims of Catholicism; the struggle between church and state – all played a part. In the material that follows, a number of these developments will be dwelt on, but it is useful to clarify first the notion of the 'absolutist' state.

From the fifteenth to the eighteenth century two different forms of political regime were dominant in Europe: the 'absolute' monarchies of France, Prussia, Austria, Spain and Russia, among other places, and the 'constitutional' monarchies and republics of England and Holland (see Mann, 1986, ch. 14). There are significant conceptual and institutional differences between these regime types, although in terms of the history of state/society relations some of the differences have been more apparent than real. Constitutional states will be discussed shortly, but the focus in the first instance will be on absolutism.

Absolutism marked the emergence of a form of state based upon: the absorption of smaller and weaker political units into

larger and stronger political structures (at the beginning of the sixteenth century there were some 500 more or less independent political units in Europe); a strengthened ability to rule over a unified territorial area; an alteration and extension of fiscal management; a tightened system of law and order enforced throughout a territory (linked to a growing centralization of armed force); and the application of a more 'continuous, calculable, and effective' rule by a single, sovereign head (Poggi, 1978, pp. 60–1). Although the actual power of absolutist rulers has often been overstated, these changes signalled a substantial increase in 'public authority' from above (see P. Anderson, 1974b). Certainly, absolutist rulers proclaimed that they alone held the legitimate right of decision over state affairs. One of the most remarkable statements of this view has been attributed to Louis XV:

In my person alone resides the sovereign power, and it is from me alone that the courts hold their existence and their authority. That ... authority can only be exercised in my name.... For it is to me exclusively that the legislative power belongs.... The whole public order emanates from me since I am its supreme guardian.... The rights and interests of the nation ... are necessarily united with my own and can only rest in my hands. (quoted in Schama, 1989, p. 104)

The absolutist monarch claimed to be the ultimate authority on all matters of human law, although it is important to note that this broad writ was understood to derive from the law of God. The king's legitimacy was based on 'divine right'.

The absolutist monarch was at the peak of a system of rule which was progressively centralized and anchored on a claim to supreme and indivisible power: *sovereign power* or *sovereignty*. This system was manifest in the routines and rituals of courtly life. However, linked to the court there developed a new administrative apparatus involving the beginnings of a permanent bureaucracy and army (Mann, 1986, p. 476). If the French monarchy of the seventeenth century represents the best example of an absolutist court, Prussia under the Hohenzollern dynasty provides the best example of the 'prototypes of ministries' (Poggi, 1990, p. 48). These 'prototypes' increased the state's involvement in the promotion and regulation of a hitherto unparalleled diversity of activities. Absolutism helped set in motion a process of state-making which began to reduce the social, economic, cultural and legal variation *within* states and expand the variation *among* them (Tilly, 1975, p. 19).

According to one interpretation of these changes, the expansion

of state administrative power was made possible to a significant extent by the extension of the state's capacity for the collection and storage of information about members of society, and the related ability to supervise subject populations (Giddens, 1985, pp. 14–15, 198ff; cf. P. Anderson, 1974b, pp. 15–42). As the state's sovereign authority expanded and its administrative centres became more powerful, there was not simply, however, a concentration of power at the apex. For the increase in administrative power increased the state's dependence on cooperative forms of social relations; it was no longer possible for the state to manage its affairs and sustain its offices and activities by coercion alone. As a result, greater reciprocity was created between the governors and the governed, and the more reciprocity was involved, the more opportunities were generated for subordinate groups to influence their rulers. Absolutism, in short, created within itself a momentum towards the development of new forms of and limits on state power – constitutionalism and (eventually) participation by powerful groups in the process of government itself.

The proximate sources of the modern state were absolutism and the inter-state system it initiated. In condensing and concentrating political power in its own hands, and in seeking to create a central system of rule, absolutism paved the way for a national and secular system of power. But of all the developments that helped trigger new ways of thinking about the proper form of the state, it was perhaps the Protestant Reformation that was the most significant. For the Reformation did more than just challenge papal jurisdiction and authority across Europe; it raised questions about political obligation and obedience in a most stark manner. To whom allegiance was owed – the Catholic Church, a Protestant ruler, particular religious sects – was an issue that did not easily resolve itself. The bitter struggles between religious factions which spread across Europe during the last half of the sixteenth century, and reached their most intensive expression during the Thirty Years War in Germany, made it clear that religion was becoming a highly divisive force (see Sigler, 1983). Very gradually it became apparent that the powers of the state would have to be separated from the duty of rulers to uphold any particular faith (Skinner, 1978, p. 352). This conclusion alone offered a way forward through the dilemmas of rule created by competing religions, all seeking to secure for themselves the kinds of privilege claimed by the medieval Church.

However, it was not just the strife created by the Reformation that had a lasting impact on political thought. For the teachings of Luther and Calvin contained at their very heart an unsettling con-

ception of the person as 'an individual'. In the new doctrines, the individual was conceived as alone before God, the sovereign judge of all conduct and directly responsible for the interpretation and enactment of God's will. This was a notion with profound and dynamic consequences. In the first instance, it loosened the individual from the direct 'institutional support' of the church and, in so doing, helped stimulate the notion of the individual agent as 'master of his destiny', the centrepiece of much later political reflection. It directly sanctioned, in addition, the autonomy of secular activity in all domains which did not directly conflict with moral and religious practice (see ch. 5, and Weber, *The Protestant Ethic and the Spirit of Capitalism*). This development, when joined with the momentum for political change initiated by the struggle among religions, and between religions and secular powers, constituted a major new impetus to re-examine the nature of state and society.

The impetus was given added force by a growing awareness in Europe of a variety of possible social and political arrangements, which followed in the wake of the discovery of the non-European world (see Sigler, 1983, pp. 53–62). The relationship between Europe and the 'New World', and the nature of the rights (if any) of non-Europeans, became a major focus of discussion. It sharpened the sense of a plurality of possible interpretations of the nature of politics (see S. Hall and Gieben, 1992, ch. 6). The direction these interpretations actually took was, of course, directly related to the context and traditions of particular European countries. The changing nature of politics was experienced differently throughout Europe. But it is hard to overestimate the significance of the processes and events which ushered in a new era of political reflection.

In modern Western political thought, the idea of the state is often linked to the notion of an impersonal and privileged legal or constitutional order with the capability of administering and controlling a given territory. While this notion found its earliest expression in the ancient world (especially in Rome), it did not become a major object of concern until the late sixteenth century. It was not an element of medieval political thinking. The idea of an impersonal and sovereign political order, i.e. a legally circumscribed structure of power separate from ruler and ruled with supreme jurisdiction over a territory, could not predominate while political rights, obligations and duties were closely tied to religious tradition, monarchical powers and the feudal system of property rights. Similarly, the idea that human beings were 'individuals' or 'a people', with a right to be citizens of their state, could not gain

widespread currency until the constraining influence of such institutions was weakened.

Among the traditions of political thought that emerged during these times two were to become central: the republican tradition, discussed in the previous chapter, and the liberal tradition of which Thomas Hobbes (1588–1679) and John Locke (1632–1704) were among the first exponents. Hobbes marks an interesting point of transition between a commitment to absolutism and the struggle of liberalism against tyranny. Locke, by contrast, signals the clear beginnings of the liberal constitutionalist tradition, which became the dominant thread in the changing fabric of European and American politics from the eighteenth century.

It is important to be clear about the meaning of 'liberalism'. While it is a controversial concept, and its meaning has shifted historically, it is used here to signify the attempt to uphold the values of freedom of choice, reason and toleration in the face of tyranny, the absolutist system and religious intolerance (cf. Macpherson, 1966; Dunn, 1979; Pateman, 1985; Rahe, 1994, esp. the epilogue). Challenging clerical power and the church, on the one side, and the powers of 'despotic monarchies', on the other, liberalism sought to restrict the powers of both and to define a uniquely private sphere independent of church and state. At the centre of this project was the goal of freeing the polity from religious control and freeing civil society (personal, family and business life) from political interference. Gradually, liberalism became associated with the doctrine that individuals should be free to pursue their own preferences in religious, economic and political affairs – in fact, in most matters that affected daily life. While different 'variants' of liberalism interpreted this objective in different ways, they were all united around the advocacy of a constitutional state, private property and the competitive market economy as the central mechanisms for coordinating individuals' interests. In the earliest (and most influential) liberal doctrines, it is important to stress, individuals were conceived as 'free and equal' with 'natural rights'; that is, with inalienable rights endowed upon them at birth. However, it should also be noted from the outset that these 'individuals' were regarded (once again) as men (see Pateman, 1988). It was generally the male property-owning individual who was the focus of so much attention; and the new freedoms were first and foremost for the men of the new middle classes or the bourgeoisie (who were benefiting so directly from the growth of the market economy). The dominance of men in public and private life was largely left unquestioned by prominent thinkers.

The central problem facing liberal political theory was how to

reconcile the concept of the state as an impersonal, legally circumscribed structure of power with a new view of the rights, obligations and duties of subjects. The question was: how was the 'sovereign state' to be related to the 'sovereign people' who were recognized as the legitimate source of the state's powers? Most liberal and liberal democratic theory has been faced with the dilemma of finding a balance between might and right, power and law, duties and rights. For while the state must have a monopoly of coercive power to provide a secure basis upon which 'free trade', business and family life can prosper, its coercive and regulatory capability must be contained so that its agents do not interfere with the political and social freedoms of individual citizens, with the pursuit by them of their particular interests in competitive relations with one another.

In order to understand the nature of liberalism more fully, it is important to examine its development in some detail. It is only by understanding the emergence of the liberal tradition – and the questions it raised about the nature of sovereignty, state power, individual rights and mechanisms of representation – that it is possible to grasp the foundations of the new liberal democratic models which began to emerge in the eighteenth and nineteenth centuries. Two such models will be examined in this chapter: 'protective' and 'developmental' democracy, models IIIa and IIIb, respectively. These have clear parallels with aspects of the republican models introduced in the previous chapter. Protective democracy holds that, given the pursuit of self-interest and individually motivated choices in human affairs, the only way to prevent domination by others is through the creation of accountable institutions; developmental democracy avers that political participation is a desirable end in itself and is a (if not *the*) central mechanism for the development of an active, informed and involved citizenry. In both strands of thinking elements of republican influence can be detected, but neither strand can be understood properly if its special origins in early liberal thought are not grasped. Accordingly, it is to the latter that this chapter now turns and, in particular, to the early modern debate about the nature and scope of the powers of monarchs and clergy. In this debate Hobbes occupies a critical (if somewhat ambiguous) place.

### **Power and sovereignty**

In his great *Leviathan* (1651), Hobbes portrayed human beings as profoundly self-interested, always seeking 'more intense delight'

and a strong position, as Machiavelli had held, from which to secure their ends. Conflicts of interest and the struggle for power define the human condition. Hobbes emphasized 'a generall inclination of all mankind, a perpetuall and restlesse desire of Power after power that ceaseth onely in Death' (*Leviathan*, p. 161). From this perspective, the idea that human beings might come to respect and trust one another, honour contracts and cooperate politically, seems remote indeed. However, writing against the backdrop of the English Civil War, Hobbes desired to show that a consistent concern with self-interest does not have to lead, and should not lead, to endless conflict and warfare. In order to prove this and to establish, thereby, the proper form of the state, he introduced a 'thought experiment'. It is worth briefly examining this 'experiment' for it reveals in a most acute form some of the issues that arise when considering the relation between the individual and the state.

Hobbes imagined a situation in which individuals are in a state of nature – that is, a situation without a 'Common Power' or state to enforce rules and restrain behaviour – enjoying 'natural rights' to use all means to protect their lives and to do whatever they wish, against whomever they like, and to 'possess, use, and enjoy all that [t]he[y] would, or could get' (*Leviathan*, part I, chs 13–15). The result is a constant struggle for survival: Hobbes's famous 'Warre of every one against every one'. In this state of nature individuals discover that life is 'solitary, poore, nasty, brutish, and short' and, accordingly, that to avoid harm and the risk of an early death, let alone to ensure conditions of greater comfort, the observation of certain natural laws or rules is required (part I, ch. 13). Natural laws are things the individual ought to adhere to in dealings with others if there is sufficient ground for believing that others will do likewise (see Plamenatz, 1963, pp. 122–32). Hobbes says of these laws that 'they have been contracted into one easie sum, intelligible, even to the meanest capacity; and that is, *Do not that to another, which thou wouldest not have done to thy selfe*' (see *Leviathan*, chs 14, 15). There is much in what he says about laws of nature that is ambiguous (above all, their relation to the 'will of God'), but these difficulties need not directly concern us here. For the key problem, in Hobbes's view, is: under what conditions will individuals trust each other enough to 'lay down their right to all things' so that their long-term interest in security and peace can be upheld? How can individuals make a bargain with one another when it may be, in certain circumstances, in some people's interest to break it? An agreement between people to ensure the regulation of their lives is necessary, yet it seems an impossible goal.

Hobbes's argument, in short, is as follows: individuals ought willingly to surrender their rights of self-government to a powerful single authority – thereafter authorized to act on their behalf – because, if all individuals do this simultaneously, the condition would be created for effective political rule, and for security and peace in the long term. A unique relation of authority would be created – the relation of sovereign to subject – and a unique political power would be established: sovereign power or sovereignty – the authorized, hence rightful, use of state powers by the person or assembly established as sovereign. The sovereign's subjects would have an obligation and duty to obey the sovereign; for the office of 'sovereign' is the product of their agreement, and 'sovereignty' is a quality of this agreed position rather than of the person who occupies it (cf. Benn, 1955; Peters, 1956; Skinner, 1989, pp. 112ff).

It is important to stress that, in Hobbes's opinion, while the office of sovereign must be self-perpetuating, undivided and ultimately absolute, it is established by the authority conferred by the people (*Leviathan*, pp. 227–8). The state's right of command and the subjects' duty of obedience are the result of 'consent', the circumstances individuals would have agreed to if there had actually been a social contract. Although there is little about Hobbes's conception of the state which today we would call representative, he argues in fact that the people rule through the sovereign. The sovereign is their representative: 'A Multitude of men, are made *One* Person, when they are by one man, or one Person, Represented' (*Leviathan*, p. 220). Through the sovereign a plurality of voices and interests can become 'one will', and to speak of a sovereign state assumes, Hobbes held, such a unity. Hence, his position is at one with all those who argue for the importance of government by consent and reject the claims of the 'divine right of kings' and, more generally, the authority of tradition. Yet, his conclusions run wholly counter to the inferences of those who often take such an argument to imply the necessity of some kind of popular sovereignty or democratic representative government (for a fuller discussion of this theme, see Held, 1995, ch. 2).

Hobbes's position stands at the beginning of modern liberal preoccupations with the need to establish both the liberty of the individual and sufficient power for the state to guarantee social and political order. It is a decisive contribution to the formation of liberalism, but it is a contribution that combines, like the thought of Machiavelli, profoundly liberal and illiberal elements. It is liberal because Hobbes was concerned to uncover the best circumstances for human nature to find expression; to explain or derive the most

suitable form of society and state by reference to a world of 'free and equal' individuals; and to emphasize, in a novel way, the importance of consent in the making of a contract or bargain, not only to regulate human affairs and secure a measure of independence and choice in society, but also to legitimate, i.e. justify, such regulation. Yet Hobbes's position is also quite illiberal: his political conclusions emphasize the necessity of a virtually all-powerful sovereign to create the laws and secure the conditions of social and political life. Hobbes was not actually asking his fellow countrymen to make a contract; he was asking them to acknowledge the reasonable nature of the obligations that follow if one were to presume that such a contract had been made (*Leviathan*, p. 728; see Macpherson, 1968, p. 45). His conception of these obligations drastically tipped the balance between the claims of the individual on the one hand, and the power of the state on the other, in favour of the latter. The sovereign power of the modern state was established, but the capacity of citizens for independent action – albeit, it must be stressed again, male citizens with 'high standing' and substantial property – was compromised radically. Hobbes sought to defend a sphere free from state interference in which trade, commerce and the patriarchal family could flourish: civil society. But his work failed, ultimately, to articulate either the concepts or the institutions necessary to delimit state action satisfactorily.

### **Citizenship and the constitutional state**

John Locke's famous objection to the Hobbesian argument that individuals could only find a 'peaceful and commodious' life with one another if they were governed by the dictates of an indivisible authority anticipated the whole tradition of protective democracy. He said of this type of argument: 'This is to think that Men are so foolish that they take care to avoid what Mischiefs may be done them by *Pole-Cats*, or *Foxes*, but are content, nay think it Safety, to be devoured by *Lions*' (Locke, *Two Treatises of Government*, p. 372, para. 93). In other words, it is hardly credible that people who do not fully trust each other would place their trust in an all-powerful sovereign to look after their interests. Locke approved of the revolution and settlement of 1688 in England, which imposed certain constitutional limits on the authority of the crown. He rejected the notion of a great power pre-eminent in all spheres. For him, the institution of 'government' can and should be conceived as an 'instrument' for the defence of the 'life, liberty and estate' of its

citizens; that is, government's *raison d'être* is the protection of individuals' rights as laid down by God's will and as enshrined in law (see Dunn, 1969, part 3).

Locke thought, as Hobbes had done, that the establishment of the political world followed from the prior existence of individuals endowed with natural rights. Like Hobbes, he was concerned about what form legitimate government should take and about the conditions for security, peace and freedom. But the way he conceived of these things was fundamentally different. In the important second of his *Two Treatises of Government* (which was first published in 1690), Locke starts with the proposition that individuals were originally in a state of nature: a '*State of perfect Freedom to order their Actions, and dispose of their Possessions and Persons as they think fit, within the bounds of the Law of Nature, without asking leave, or depending upon the will of any other Man*' (*Two Treatises*, p. 309, para. 4).<sup>1</sup> This state of nature, the basic form of human association, is a state of liberty but not 'a state of license'. Individuals are bound by duty to God and governed by the law of nature. The law of nature (the precise meaning of which is difficult to pin down in the *Two Treatises*) specifies basic principles of morality: individuals should not take their own lives, they should try to preserve each other and should not infringe upon one another's liberty. The law can be grasped by human reason but it is the creation of God, the 'infinitely wise Maker' (*Two Treatises*, p. 311, para. 6).

Within the state of nature, humans are free and equal because reason makes them capable of rationality, of following the law of nature. Moreover, they enjoy natural rights. The right to govern one's affairs and to enforce the law of nature against transgressors is presupposed, as is the obligation to respect the rights of others. Individuals have the right to dispose of their own labour and to possess property. The right to property is a right to 'life, liberty and estate' (*Two Treatises*, p. 395, para. 123), though Locke also uses 'property' in the narrower sense to mean the exclusive use of objects (cf. Macpherson, 1962; Plamenatz, 1963; Dunn, 1969).

Adherence to the law of nature, according to Locke, ensures that the state of nature is not a state of war. However, the natural rights of individuals are not always safeguarded in the state of nature, for certain 'inconveniences' exist: not all individuals fully respect the rights of others; when it is left to each individual to enforce the law of nature there are too many judges and hence

<sup>1</sup> In so arguing, of course, Locke was laying important trails which others later pursued. See, for example, pp. 56-7.

conflicts of interpretation about the meaning of the law; and when people are loosely organized they are vulnerable to aggression from abroad (*Two Treatises*, pp. 316–17, para. 13). The central ‘inconvenience’ suffered can be summarized as the inadequate regulation of property in its broad sense: the right to ‘life, liberty and estate’ (p. 308, para. 3, and pp. 395–6, para. 124). Property is prior to both society and government; and the difficulty of its regulation is the critical reason which compels ‘equally free men’ to the establishment of both. Thus, the remedy for the inconveniences of the state of nature is an agreement or contract to create, first, an independent society and, second, a ‘civil association’ or government (*Two Treatises*, pp. 372–6, paras 94–7; see Laslett, 1963). The distinction between these two agreements is important, for it makes clear that authority is bestowed by individuals in society on government for the purpose of pursuing the ends of the governed; and should these ends fail to be represented adequately, the final judges are the people – the citizens – who can dispense both with their deputies and, if need be, with the existing form of government itself.

In Locke’s opinion, it should be stressed, the formation of a governmental apparatus does not signal the transfer of all subjects’ rights to the political realm (*Two Treatises*, pp. 402–3, para. 135, and pp. 412–13, para. 149). The rights of law-making and enforcement (legislative and executive rights) are transferred, but the whole process is conditional upon government adhering to its essential purpose: the preservation of ‘life, liberty and estate’. Sovereign power, i.e. the capacity to determine the proper use of political power, remains ultimately with the people. The legislative body enacts rules as the people’s agent in accordance with the law of nature, and the executive (to which Locke also tied the judiciary) enforces the legal system. This separation of powers was important because:

It may be too great a temptation to humane frailty apt to grasp at Power, for the same Persons who have the Power of making Laws, to have also in their hands the power to execute them, whereby they may exempt themselves from Obedience to the Laws they make, and suit the Law, both in its making and execution, to their own private advantage, and thereby come to have a distinct interest from the rest of the community, contrary to the end of Society and Government. (*Two Treatises*, p. 410, para. 143)

Thus, the integrity and ultimate ends of society require a constitutional government in which ‘public power’ is legally circumscribed and divided. Locke believed in the desirability of a constitutional

monarchy holding executive power and a parliamentary assembly holding the rights of legislation, although he did not think this was the only form government might take and his views are compatible with a number of other conceptions of political institutions.

The government rules, and its legitimacy is sustained, by the 'consent' of individuals. 'Consent' is a crucial and difficult notion in Locke's writings. It could be interpreted to suggest that only the continually active personal agreement of individuals would be sufficient to ensure a duty of obedience, i.e. to ensure a government's authority and legitimacy (Plamenatz, 1963, p. 228). However, Locke seems to have thought of the active consent of individuals as being crucial only to the initial inauguration of a legitimate civil government. Thereafter, consent ought to follow from majority decisions of 'the people's' representatives, so long as they, the trustees of the governed, maintain the original contract and its covenants to guarantee 'life, liberty and estate'. (See Lukes, 1973, pp. 80-1, and Dunn, 1980, pp. 36-7, for a full discussion of the issues involved.) If they do, there is a duty to obey the law. But if those who govern flout the terms of the contract with a series of tyrannical political acts, rebellion to form a new government, Locke contended, might be not only unavoidable but justified.

Political activity for Locke is instrumental; that is, it secures the framework or conditions for freedom so that the private ends of individuals might be met in civil society. The creation of a political community or government is the burden individuals have to bear to secure their ends. Thus, membership of a political community, i.e. citizenship, bestows upon the individual both responsibilities and rights, duties and powers, constraints and liberties (Laslett, 1963, pp. 134-5). In relation to Hobbes's ideas, this was a most significant and radical view. For it helped inaugurate one of the most central tenets of modern European liberalism; that is, that government exists to safeguard the rights and liberties of citizens who are ultimately the best judges of their own interests; and that accordingly government must be restricted in scope and constrained in practice in order to ensure the maximum possible freedom of every citizen. In most respects it was Locke's rather than Hobbes's views that helped lay the foundation for the development of liberalism and prepared the way for the tradition of popular representative government. Compared to Hobbes, Locke's influence on the world of practical politics has been considerable (see Rahe, 1994, pp. 291-311).

Locke's writings seem to point in a number of directions at once. They suggest the importance of securing the rights of indi-

viduals, popular sovereignty, majority rule, a division of powers within the state, constitutional monarchy and a representative system of parliamentary government: a direct anticipation of key aspects of democratic government as it developed in the nineteenth and early twentieth centuries, and of the central tenets of the modern representative state. But, at best, most of these ideas are only in rudimentary form, and it is certain that Locke did not foresee many of the vital components of democratic representative government; for instance, competitive parties, party rule and the maintenance of political liberties irrespective of class, sex, colour and creed (cf. Laslett, 1963, p. 123). It is not a condition of legitimate government or government by consent, in Locke's account, that there be regular elections of a legislative assembly, let alone universal suffrage. (Locke would almost certainly not have dissented from a franchise based strictly on the property holdings of male adults. Cf. Plamenatz, 1963, pp. 231, 251–2; Dunn, 1969, ch. 10.) Moreover, he did not develop a detailed account of what the limits might be to political interference in people's lives and under what conditions civil disobedience is justified. He thought that political power was held 'on trust' by and for the people, but failed to specify adequately who were to count as 'the people' and under what conditions 'trust' should be bestowed. While Locke was unquestionably one of the first great champions of liberalism – and although his works clearly stimulated the development of liberal and liberal democratic government – he cannot, like many of his predecessors, be considered a democrat without careful qualification (cf. Dunn, 1980, pp. 53–77).

### **Separation of powers**

It is sometimes said that while Locke advanced consideration of the principles of representative government, it was the French philosopher and political theorist Charles Louis de Secondat, Baron de Montesquieu (1689–1755), who understood better the necessary institutional innovations for the achievement of a reformed representative government. There is some truth in this. Montesquieu never justified at any length his preference for limited government. In broad terms, he was a follower of Locke, and an advocate of what he took to be the distinctively 'English' notions of freedom, toleration and moderation which, he claimed, were admirably expressed (after 1688) by the English constitution itself: 'the mirror of liberty'. Against the background of marked dissatisfaction with absolutist government (the government of

Louis XIV in particular), he became preoccupied with how to secure a representative regime dedicated to liberty and capable of minimizing corruption and unacceptable monopolies of privilege. Locke wrote little about the desirable characteristics of public power, or about the ways in which public power should be organized, while Montesquieu devoted considerable energy to this question. He analysed a variety of conditions of freedom, but the one which is most notable concerns how constitutions might set inviolable limits to state action (see Bellamy, 1996).

Montesquieu championed constitutional government as the central mechanism for guaranteeing the rights of the (adult, male, property-owning) individual. Although he believed in a given, unchangeable natural law, his writings indicate as much, if not more, concern with the development of a system of positive law: a formal, explicitly designed legal structure for the regulation of public and private life. He defended urgently the idea of a society in which 'individuals'' capacities and energies would be unleashed in the knowledge that privately initiated interests would be protected. Montesquieu took for granted that there 'are always persons distinguished by their birth, riches or honours' who have 'a right to check the licentiousness of the people' (*The Spirit of Laws*, p. 71 (first published 1748)); and he took for granted that there are many people (among others, labourers and those without substantial wealth) who 'are in so mean a situation as to be deemed to have no will of their own'. None the less, his writings advanced decisively the idea of a constitutional state maintaining law and order at home and providing protection against aggression from abroad. He did not directly use the term 'constitutional state', but the arguments he developed were aimed in part at 'depersonalizing' the state's power structure so that it might be less vulnerable to abuse by individuals and groups.

Montesquieu much admired the classical *polis* (see N. O. Keohane, 1972). He held in high esteem the ideal of active citizenship, dedication to the life of the political community and the deep sense of civic duty which animated the ancient world. But the general conditions which had led to the florescence of the city-state in antiquity and Renaissance Italy had, he contended, disappeared for ever.

As in a country of liberty, every man who is supposed a free agent ought to be his own governor; the legislative power should reside in the whole body of the people. But since this is impossible in large states, and in small ones is subject to many inconveniences, it is fit the people should transact by their representatives what they cannot transact by themselves. (*The Spirit of Laws*, p. 71)

The emergence of states controlling substantial territories and the spread of free trade and the market economy had created an irreversible trend towards social and political heterogeneity. Compare ancient and contemporary Greece: 'The politic Greeks, who lived under a popular government, knew no other support than virtue. The modern inhabitants of that country are entirely taken up with manufacture, commerce, finances, opulence, and luxury' (*The Spirit of Laws*, p. 21). The contrast between the ancient and the modern is, according to Montesquieu, one between particular locales, tightly knit communities, a frugal economy, a concern for virtue and civic discipline promoting active citizenship, on the one hand, and large nation-states, centralized bureaucratic hierarchies, loosely connected commercial societies, inequality of fortunes and the free pursuit of private interests, on the other (*The Spirit of Laws*, pp. 15–21, 44ff; Krouse, 1983, pp. 59–60; cf. Pangle, 1973). Under the conditions of modern life, Montesquieu's preferred form of government was a state system modelled on the constitutional monarchy of England. In so thinking, he wanted to connect notions of monarchic government rooted in claims to stability, honour and glory with a broader system of checks and balances. Rearticulating both republican and liberal concerns about the problem of uniting private interest and the public good, he sought in institutional means a way to take account of the interests of different groups in public life while not sacrificing the liberty of the community overall.

Montesquieu's interpretation of the English constitution has been subjected to much criticism; it is often regarded as neither particularly accurate nor original. However, what he had to say about it was influential, especially on the founders of new political communities, notably in North America (see Ball, 1988, pp. 52–4; Manin, 1994).<sup>2</sup> While classical Greek philosophers, as well as figures like Machiavelli and Locke, had grasped the significance of a 'mixed state' or 'division of powers' for the maintenance of liberty, Montesquieu made it pivotal to his overall teachings. The state must organize the representation of the interests of different powerful 'groups'; that is, it must be a 'mixed regime' balancing the position of the monarchy, the aristocracy and 'the people'. Without such representation the law, he argued, will always be skewed to particular interests, governments will stagnate and political order will be vulnerable in the long run. In his view, the

<sup>2</sup> It seems that it is scarcely an exaggeration to suggest that 'American republicans regarded selected doctrines of Montesquieu's as being on a par with Holy Writ', the central points of which they could recite 'as if it had been a catechism' (McDonald, 1986, pp. 80–1; and see the discussion of Madison, pp. 89–94, below).

aristocracy was essential to the effective maintenance of a balance between the monarchy and 'the people', both of whom, when left to their own devices, inclined to despotism. But the liberty of the individual and moderate government depended, above all, on particular guarantees against oppression:

constant experience shows us that every man invested with power is apt to abuse it, and to carry his authority as far as it will go . . . To prevent this abuse, it is necessary from the very nature of things that power should be a check to power. A government may be so constituted, as no man shall be compelled to do things to which the law does not oblige him, nor forced to abstain from things which the law permits. (*The Spirit of Laws*, p. 69)

Montesquieu distinguished, in a more precise way than Locke had done, between the executive, the legislature and the judiciary. And he was firmly of the view that there would be no liberty worth its name 'were the same man or the same body, whether of the nobles or of the people, to exercise those three powers, that of enacting laws, that of executing public resolutions, and of trying the causes of individuals' (*The Spirit of Laws*, p. 70). In a famous chapter of *The Spirit of Laws* (book XI, ch. 6, pp. 69–75), Montesquieu argued that under modern conditions liberty can only be based on the careful creation of an institutionalized separation and balance of powers within the state. Previously, the idea of mixed government had tended to mean limited 'participation' of different estates within the state. By making the case for a constitution based upon three distinct organs with separate legal powers, Montesquieu recast this idea and established an alternative account that was to be critical in attempts to curtail highly centralized authority, on the one hand, and to ensure that 'virtuous government' depended less on heroic individuals or civic discipline and more on a system of checks and balances, on the other.

Executive power ought to be in the hands of the monarch; this branch of government 'having need of dispatch', Montesquieu reasoned, 'is better administered by one than by many' (*The Spirit of Laws*, p. 72). Decisive leadership, the creation of policy, the efficient administration of law and the capacity to sustain a clear set of political priorities are marks of a 'glorious executive'. Accordingly, the executive ought to have the power to veto unacceptable legislation (legislation deemed to encroach upon its power), regulate the meetings of the legislative body (their timing and duration) and control the army, for 'from the very nature of the thing, its business consists more in action than in deliberation' (pp. 70–4). On the other hand, the monarch's powers must be

restrained in law. To this end, it is vital that legislative power consist not only of the right to deliberate over policy and to amend and alter the law, but also of the right to hold the executive to account for unlawful acts, restrict the executive's scope by retaining control of the fiscal basis of the state and, if necessary, disband the army or control it by the provision of finance on an annual basis (p. 74). All this Montesquieu claimed to glean from the English constitution of his day. From the latter he also found grounds for approving the division of legislative power into two chambers: the one for hereditary nobles and the other for the representatives of 'the people', i.e. periodically elected individuals of distinction serving as trustees for the electorate's interests (responsive to the latter, but not directly accountable to them). Between the two chambers the views and interests of all 'dignified' opinion would be respected. The nobles would retain the right to reject legislation while 'the commons' would have the power of legal initiative. Separate from both these bodies must be the judiciary. Locke had thought of the judiciary as an arm of the executive, but Montesquieu thought its independence was crucial to the protection of the rights of individuals. Without an independent judiciary, people might have to face the awesome power of a combined executor, judge and jury – and then their rights could certainly not be guaranteed.

Montesquieu's analysis of the separation of powers was neither systematic nor fully coherent (see Pangle, 1973; Ball, 1988, pp. 52–3; Bellamy, 1996). For instance, the precise powers of the executive and legislative were left quite ambiguous. However, his explication of these issues was far more penetrating than that of any of his predecessors. Moreover, his insights allowed him to offer clear reasons why the risks associated with government in extended territories – risks, that is, of succumbing to despotism or powerful interests – might be overcome. Montesquieu was aware that in 'an extensive republic there are men of large fortunes, and consequently of less moderation' and that 'the public good' could be 'sacrificed to a thousand private views' (*The Spirit of Laws*, p. 120). But he thought that the division of powers could pose a fundamental obstacle to 'immoderate fortune'; and that, if entrenched in a 'confederate republic' – a republic built upon smaller governmental units – it might be possible for some of the freedoms associated with city-republican government to be enjoyed while preserving sufficient legal and political competence to resist both 'internal corruption' and 'external enemies' (*The Spirit of Laws*, pp. 126ff).

The great significance of Montesquieu's political writings lies in his thesis that in a world in which individuals are ambitious and

place their own particular interests above all others, institutions must be created which can convert such ambition into good and effective government (see Krouse, 1983, pp. 61–2). By institutionalizing a separation of powers, and by providing a forum within the state for contending groups and factions to clash, Montesquieu thought he had uncovered a most practical and valuable political arrangement for the modern world: a world properly divided into the 'public sphere' of state politics run by men, on the one hand, and the 'private sphere' of economy, family life, women and children, on the other. For him, liberty, as has been aptly remarked, 'does not flourish because men have natural rights or because they revolt if their rulers press them too far; it flourishes because power is so distributed and organized that whoever is tempted to abuse it finds legal restraints in his way' (Plamenatz, 1963, pp. 292–3).

However, in exploring the relation between state and civil society, Montesquieu ultimately failed to establish adequate arguments and mechanisms for the protection of the sphere of private initiative. He spent enormous energy trying to explain variations in political structures by reference to geographical, climatic and historical conditions. These determined, in his account, the specific nature of the laws and the customs and practices of nations and states. Political possibilities were circumscribed by geoclimatic factors as well as by the organization of power. This contention is certainly plausible, but it generated a number of difficulties about reconciling, on the one hand, the view that there was considerable scope for constitutional change and, on the other hand, the view that political life was determined by natural and historical circumstances beyond particular agents' control. Second, a fundamental difficulty lay at the very heart of his conception of liberty. Liberty, he wrote, 'is the right of doing whatever the law permits'. People are free to pursue their activities within the framework of the law. But if freedom is defined in direct relation to the law, there is no possibility of arguing coherently that freedom might depend on altering the law or that the law itself might under certain circumstances articulate tyranny. Despite Montesquieu's defence of important institutional innovations, he formally resolved the dilemma of balancing the relation between state and society in favour of the former; that is, in favour of the law-makers. In democratic terms, the position would have been more acceptable if the law-makers had been held accountable to the people. But Montesquieu thought of few people as potential voters; he did not conceive of legislators or representatives as accountable to the electorate, and he ascribed

the monarch vast power, including the capacity to dissolve the legislature. In addition, he ignored important issues that had been central to Locke: the right of citizens to dispense with their 'trustees' or alter their form of government if the need arose. In Montesquieu's thought, the governed remained in the end accountable to the governors.

*The idea of protective democracy: a résumé and elaboration*

Since Hobbes, a (if not *the*) central question of liberal political theory has been how, in a world marked by the legitimate and reasonable pursuit of self-interest, government can be sustained, and what form government should take. Hobbes was the theorist *par excellence* who departed systematically from the assumptions of the classical *polis*; only a strong protective state could reduce adequately the dangers citizens faced when left to their own devices. Locke's modification of this argument was decisive: there were no good reasons to suppose that the governors would on their own initiative provide an adequate framework for citizens to pursue their interests freely. In different but complementary ways, Locke and Montesquieu argued that there must be limits upon legally sanctioned political power. But neither of these thinkers developed their arguments to what seems today at least their logical conclusion. The protection of liberty requires a form of political equality among all mature individuals: a formally equal capacity to protect their interests from the arbitrary acts of either the state or fellow citizens. It was not until this insight was developed systematically that the protective theory of democracy was fully expressed, although it has been contended here that many of the theory's central elements find their origin and most succinct analysis in the political writings of the seventeenth and eighteenth centuries.

Two classic statements of the protective theory of democracy will be focused upon now: the political philosophy of one of the key architects of the American constitution, James Madison (1751–1836); and the views of two of the key spokesmen of nineteenth-century 'English liberalism', Jeremy Bentham (1748–1832) and James Mill (1773–1836). In their hands, the protective theory of liberal democracy received arguably its most important elaboration: the governors must be held accountable to the governed through political mechanisms (the secret ballot, regular voting and competition between potential representatives, among other things) which give citizens satisfactory means for choosing, author-

izing and controlling political decisions. Through these mechanisms, it was argued, a balance could be attained between might and right, authority and liberty. But despite this decisive step, who exactly were to count as 'individuals', and what the exact nature of their envisaged political participation was, remained either unclear or unsettled in the Anglo-American world.

### **The problem of factions**

In a series of extraordinary writings in the *Federalist* (published in 1788), Madison translated some of Hobbes's, Locke's and Montesquieu's most notable ideas into a coherent political theory and strategy. He accepted, in the tradition of Hobbes, that politics is founded on self-interest. Following Locke, he recognized the central importance of protecting individual freedom through the institution of a public power that is legally circumscribed and accountable ultimately to the governed. And following Montesquieu, he regarded the principle of a separation of powers as central to the formation of a legitimate state. But his own position can perhaps best be grasped in relation to his assessment of classical democracy. For in his thought, classical democracy is thoroughly criticized, if not fully repudiated, and what threads remain of the republican tradition overall – especially its concern with the corruption of public life by private interests, its anti-monarchical focus and its advocacy of mixed government – are rearticulated and combined with liberal emphases.

Unlike Montesquieu, who admired the ancient republics but thought their 'spirit' undermined by the forces of 'modernization', Madison was extremely critical of both the republics and their spirit. His judgement is similar to Plato's (see pp. 28–33), and sometimes seems even more severe, underpinned as it is by Hobbesian assumptions about human nature. In Madison's account, 'pure democracies' (by which he means societies 'consisting of a small number of citizens, who assemble and administer the government in person') have always been intolerant, unjust and unstable. In the politics of these states a common passion or interest, felt by the majority of citizens, generally shapes political judgements, policies and actions. Moreover, the direct nature of all 'communication and concert' means invariably that 'there is nothing to check the inducements to sacrifice the weaker party or an obnoxious individual' (Madison, *The Federalist Papers*, no. 10, p. 20). As a consequence, pure democracies 'have been spectacles of turbulence and contention' and have always been 'incompatible with

personal security or the rights of property'. It can come as no surprise that 'they have in general been as short in their lives as they have been violent in their deaths'. Madison is scathing about 'theoretic politicians' who have 'patronized this species of government and have erroneously supposed that by reducing mankind to a perfect equality in their political rights, they would, at the same time, be perfectly equalized and assimilated in their possessions, their opinions, and their passions' (*The Federalist Papers*, no. 10, p. 20). History testifies, from classical times to the Renaissance, that such suppositions are far from the truth.

Dissent, argument, clashes of judgement, conflicts of interest and the constant formation of rival and competing factions are inevitable. They are inevitable because their causes 'are sown in the nature of man' (*The Federalist Papers*, no. 10, p. 18). Diversity in capacities and faculties, fallibility in reasoning and judgement, zeal for a quick opinion, attachment to different leaders, as well as a desire for a vast range of different objects – all these constitute 'insuperable obstacles' to uniformity in the interpretation of priorities and interests. Reason and self-love are intimately connected, creating a reciprocal influence between rationality and passion. Where civic virtue has been proclaimed, it has been a mask generally for ceaseless, self-interested motion. The search for pre-eminence, power and profit are inescapable elements of the human condition which have constantly

divided mankind ... inflamed them with mutual animosity, and rendered them much more disposed to vex and oppress each other than to co-operate for their common good. So strong is this propensity of mankind to fall into mutual animosities, that when no substantial occasion presents itself, the most frivolous and fanciful distinctions have been sufficient to kindle their unfriendly passions and excite their most violent conflicts. (*The Federalist Papers*, no. 10, p. 18)

But the most common and durable source of antagonism and factionalism, Madison argued, has always been 'the various and unequal distribution of property'. Those who hold property and those who are without have consistently formed 'distinct interests in society'. This emphasis on the role of property was shared by many of the most prominent political theorists from Plato onwards. (It is intriguing, though, that it has been rejected most frequently by twentieth-century liberals and liberal democrats.) In Madison's hands, it led to an appreciation that all nations are divided by classes founded on property, 'actuated by different sentiments and views'. Unlike Marx, Engels and Lenin, who later

sought to resolve the political problems posed by class conflict by recommending the removal of their cause (i.e. the abolition of private ownership of productive property), Madison contended that any such ambition was hopelessly unrealistic. Even if 'enlightened statesmen' could radically reduce the unequal possession and distribution of property – and it is very doubtful that they could, for human beings always recreate patterns of inequality – a homogeneity of interests would not follow. Thus, Madison concluded, 'the inference to which we are brought' is that relief from factional disputes 'is only to be sought in the means of controlling its effects' (no. 10, p. 19). The formation of factions is inescapable; and *the* problem of politics is the problem of containing factions.

By a faction, Madison understood 'a number of citizens, whether amounting to a majority or minority of the whole, who are united and actuated by some common impulse or passion, or interest, adverse to the rights of other citizens, or the permanent and aggregate interests of the community' (no. 10, p. 17). The task he set himself was to find ways of regulating 'the various and interfering interests' in such a way that they become involved in the 'necessary and ordinary operations of government'. Madison argued for a powerful American state as a safeguard against tyranny and as a means to control 'the violence of faction', but it was to be a state organized on 'representative principles', with government facing the judgement of all citizens on a regular basis; that is, facing the electoral power of citizens to change their leaders. Madison's arguments sometimes suggest that he thought of citizenship as a universal category, applying to all adults irrespective of sex, colour and the possession of property. But while he thought of the franchise as legitimately extending to more people than Locke or Montesquieu would ever have found acceptable, it is very improbable indeed, given the time at which he was writing, that he would have supported the extension of the vote to women, white non-propertied working people and black slaves. Certainly, a much more restrictive view of the scope of the voting population is outlined in some of his writings (see Madison, in Meyers, 1973; Main, 1973). None the less, he clearly thought that a form of 'popular government' with a federal structure and a division of powers would not only ameliorate the worst consequences of factions, but crucially involve citizens in the political process of protecting their own interests.

The political difficulties caused by minority interest groups can be overcome by the ballot box, 'which enables the majority to defeat their sinister views by regular vote' (*The Federalist Papers*, no. 10, p. 19). The major difficulties posed by factions, however,

occur when one faction forms a majority. For then there is a danger that the very form of popular government itself will enable such a group to 'sacrifice to its ruling passions or interests both the public good and the rights of other citizens'. The 'tyranny of the majority', as it has often been called, can only be forestalled by particular constitutional arrangements. Of these, a system of political representation and a large electoral body are essential.

Political representation involves the permanent transfer of government to 'a small number of citizens elected by the rest' (no. 10, p. 21). It involves representatives acting as the trustees of the electors, making up their own minds and exercising their own judgement about their constituents' interests and how these might most appropriately be met (see Ball, 1988, pp. 61–7).<sup>3</sup> Such a system, Madison argued, is important, since public views can be 'refined and enlarged' when 'passed through the medium of a chosen body of citizens'. Representative government overcomes the excesses of 'pure democracy' because elections themselves force a clarification of public issues; and the elected few, able to withstand the political process, are likely to be competent and capable of 'discerning the true interest of their country', i.e. the interests of all citizens. But representative rule alone is not a sufficient condition for the protection of citizens: it cannot in itself stop the elected from degenerating into a powerful exploitative faction. At this point, Madison offered a novel argument, contrary to the whole spirit of 'pure democracies', about the virtue of scale in public affairs. An 'extended republic', covering a large territory and embracing a substantial population, is an essential condition of non-oppressive government. Several reasons are given. In the first instance, the number of representatives must be raised to a certain level 'to guard against the cabals of the few' (while not being so numerous, Madison quickly added, as to risk 'the confusion of a multitude') (no. 10, p. 21). More importantly, if the proportion of 'fit characters' is constant in both a small and a large republic, the latter will possess a far greater number from whom the electorate can choose. Further, in a large state representatives will be chosen by an extended electorate, who are more likely to spot 'unworthy candidates'. And in a large state with an economy based on the pursuit of private wants, there is inevitably great social diversity

<sup>3</sup> This view of representation is sometimes referred to as the 'independence' theory, since it places emphasis on citizens being best served by their representatives when the latter act to a significant degree independently of them. It contrasts with the 'delegate' account of representation, commonly advocated by the Marxist tradition, in which the duty of representatives is to present faithfully the immediate views and interests of their constituents (see Pitkin, 1967, ch. 7).

and, therefore, less chance of a tyrannous majority forming among either the electorate or the elected. Social diversity helps create political fragmentation, which prevents an excessive accumulation of power.<sup>4</sup> Although representatives might become progressively more remote and impersonal in a large state, a federal constitution – which binds overlapping communities together – can offset this: ‘the great and aggregate interests being referred to the national, the local and particular to the State legislatures’ (no. 10, p. 22). If, finally, the respective legal powers of the executive, legislature and judiciary are separated at both national and local levels, freedom can best be protected.

Madison’s concern with faction-based politics and his solution to the problem of how to unite the private interest to the public good was inspired partly by a Machiavellian conception of republicanism, emphasizing the necessity to shape politically and institutionally a commitment to the public realm (see pp. 50–5; Bellamy, 1996). Within this framework, he interpreted the role of representatives and of a strong federal state not simply negatively as devices to be adopted in the light of the undesirability of direct democracy, but also positively as institutional vehicles to establish a form of politics with the best chance of creating serious deliberation and effective decision-making in public life. But his account of the extended republic should not be confused with earlier classic interpretations of civic life and the public realm. The theoretical focus is no longer on the rightful place of the active citizen in the life of the political community; it is, instead, on the legitimate pursuit by individuals of their interests and on government as, above all, a means for the enhancement of these interests. Although Madison sought clear ways of reconciling particular interests to ‘the republic’, his position signals the clear interlocking of protective republican with liberal preoccupations (cf. Wood, 1969; Pocock, 1975, pp. 522–45). Thus, he conceived of the federal representative state as the key mechanism to aggregate individuals’ interests and to protect their rights. In such a state, he believed, security of person and property could be sustained, and politics could be made compatible with the demands of large, modern nation-states with their complex patterns of trade, commerce and international relations. To summarize his views, in the words of one commentator:

only . . . a sovereign national government of truly continental scope, can assure non-oppressive popular rule. A republican leviathan is

<sup>4</sup> This argument had a profound influence on the ‘pluralist’ tradition after World War II (see ch. 6).

necessary to secure life, liberty, and property from the tyranny of local majorities. The extended republic is not simply a means of adapting popular rule to new political realities, but an inherently desirable corrective for deep intrinsic defects in the politics of the small popular regime. (Krouse, 1983, p. 66)

Madison's preoccupation with faction and his desire to protect individuals from powerful collectivities was an ambiguous project in certain respects. On the one hand, it raised important questions about the principles, procedures and institutions of popular government and about the necessity to defend them against impulsive, unreasonable action, whatever its source. Critics of democracy have frequently raised these matters: how 'popular' regimes remain stable, how representatives are held to account, how citizens understand the 'rules of the political game' and in what ways they follow them are all legitimate considerations. On the other hand, if these questions are pursued at the expense of all others, they can readily be associated with an unjustified conservative desire to find a way of protecting, above all, 'the haves' (a minority) from the 'have nots' (the rest). Madison insisted, as have all critics of democracy and nearly all theorists of protective democracy, on a natural right to private property. The basis of this right remains mysterious and it was precisely this mystery (as we shall see) that Marx and Engels sought to disentangle. Madison was in favour of popular government so long as there was no risk that the majority could turn the instruments of state policy against a minority's privilege. Despite the considerable novelty and significance of his overall arguments, Madison was unquestionably a reluctant democrat. He had this in common with Jeremy Bentham and James Mill, who, for my purposes here, can be discussed together.

### **Accountability and markets**

Bentham and Mill were impressed by the progress and methods of the natural sciences and were decidedly secular in their orientations. They thought of concepts like natural right and social contract as misleading philosophical fictions which failed to explain the real basis of citizens' interests, commitment and duty to the state. This basis could be uncovered, they argued, by grasping the primitive and irreducible elements of actual human behaviour. The key to their understanding of human beings lies in the thesis that humans act to satisfy desire and avoid pain. Their argument, in brief, is as follows: the overriding motivation of human beings is to fulfil their desires, maximize their satisfaction or utility and minimize their suffering; society consists of individuals seeking as much utility as they can get

from whatever it is they want; individuals' interests always conflict with one another for 'a grand governing law of human nature' is, as Hobbes thought, to subordinate 'the persons and properties of human beings to our pleasures' (see Bentham, *Fragment on Government*). Since those who govern will naturally act in the same way as the governed, government must, if its systematic abuse is to be avoided, be directly accountable to an electorate called upon frequently to decide whether their objectives have been met.

With these arguments, the protective theory of democracy received its clearest explication (see Macpherson, 1977, ch. 2; cf. Harrison, 1993, ch. 6). For Bentham and Mill, liberal democracy was associated with a political apparatus that would ensure the accountability of the governors to the governed. Only through democratic government would there be a satisfactory means for generating political decisions commensurate with the public interest, i.e. the interests of the mass of individuals. As Bentham wrote: 'A democracy ... has for its characteristic object and effect ... securing its members against oppression and depredation at the hands of those functionaries which it employs for its defence' (Bentham, *Constitutional Code*, book I, p. 47). Democratic government is required to protect citizens from despotic use of political power whether it be by a monarch, the aristocracy or other groups. For the temptation to abuse power in the public sphere – to act corruptly – is as universal as the force of gravity. Only through the vote, the secret ballot, competition between potential political representatives, a separation of powers, and freedom of the press, speech and public association could 'the interest of the community in general' be sustained (see Bentham, *Fragment on Government*, and J. Mill, *An Essay on Government*).

Bentham, Mill and the Utilitarians generally (i.e. all those who defended the utility principle) provided one of the clearest justifications for the liberal democratic state, which ensures the conditions necessary for individuals to pursue their interests without risk of arbitrary political interference, to participate freely in economic transactions, to exchange labour and goods on the market and to appropriate resources privately. These ideas were at the core of nineteenth-century 'English liberalism': the state was to have the role of umpire or referee while individuals pursued in civil society, according to the rules of economic competition and free exchange, their own interests. Periodic elections, the abolition of the powers of the monarchy, the division of powers within the state, plus the free market would lead to the maximum benefit for all citizens. The free vote and the free market were *sine qua non*. For a key presupposition was that the collective good could be

properly realized in many domains of life only if individuals interacted in competitive exchanges, pursuing their utility with minimal state interference.

Significantly, however, this argument had another side. Tied to the advocacy of a 'minimal' state, whose scope and power were to be strictly limited, there was a strong commitment in fact to certain types of state intervention, for instance the curtailment of the behaviour of the disobedient, whether individuals, groups or classes (see J. Mill, 'Prisons and prison discipline'). Those who challenged the security of property or the market society threatened the realization of the public good. In the name of the public good, the Utilitarians advocated a new system of administrative power for 'person management' (cf. Foucault, 1977, part 3; Ignatieff, 1978, ch. 6). Prison systems were a mark of this new age. Moreover, whenever *laissez-faire* was inadequate to ensure the best possible outcomes, state intervention was justified to reorder social relations and institutions. The enactment and enforcement of law, and the creation of policies and institutions, were legitimate to the extent that they all upheld the principle of utility; that is, to the extent they contributed directly to the achievement, by means of careful calculation, of the greatest happiness for the greatest number – the only scientifically defensible criterion, Bentham and Mill contended, of the public good. Within this overall framework government ought to pursue four subsidiary goals: to help provide subsistence by protecting workers and by making them secure in the knowledge that they will receive the fruits of their labour; to help produce abundance by ensuring no political obstacles to 'natural incentives' to meet one's needs through work; to favour equality, because increased increments of material goods do not bring successively more happiness to those who possess them (the law of diminishing utility); and to maintain security of individual goods and wealth (see Bentham, *Principles of the Civil Code*). Of these four objectives the last is by far the most critical; for without security of goods and property there would be no incentive for individuals to work and generate wealth: labour would be insufficiently productive and commerce could not prosper. Accordingly, given the necessity to choose between 'equality' and 'security' in public policy and law, the former must yield to the latter (*Principles of the Civil Code*, part I, ch. 11). If the state pursues security (along with the other goals to the extent that they are compatible), it will, Bentham maintained, be in the citizen's self-interest to obey it.

Utilitarianism, and its synthesis with the *laissez-faire* economic doctrines of Adam Smith (1723–90), had a most radical edge. First, it represented a decisive challenge to excessively centralized politi-

cal power and, in particular, to hitherto unquestioned regulations on civil society. Liberalism's constant challenge to the power of the state has in this respect been of enduring significance. Second, utilitarianism helped generate a new conception of the nature and role of politics; it provided a defence of selective electorally controlled state *intervention* to help maximize the public good. Bentham, for instance, became a supporter of a plan for free education, a minimum wage and sickness benefits. The utilitarian legacy has had a strong influence on the shaping of the politics of the welfare state (see ch. 6). On the other hand, it has to be stressed, Bentham's and Mill's conception of the legitimate participants in, and scope of, democratic politics has much in common with the typically restrictive views of the liberal tradition generally: 'politics', the 'public sphere' and 'public affairs' remained synonymous with the realm of men, especially men of property. From Hobbes to Bentham and James Mill the patriarchal structure of public (and private) life, and its relation to the distribution of property, were persistently taken for granted. For instance, in considering the extent of the franchise, Bentham and Mill found grounds at one time for excluding, among others, the female population and large sections of the labouring classes, despite the fact that many of their arguments seemed to point squarely in the direction of universal suffrage. It should be noted, however, that Bentham became much more radical on the question of the suffrage than Mill and, in later life, abandoned his earlier reservations about universal manhood suffrage, though he retained some reservations about the proper extent of women's political involvement.

Bentham's and Mill's ideas have been appropriately referred to as a 'founding model of democracy for a modern industrial society' (Macpherson, 1977, pp. 42–3). Their account of democracy establishes it as a logical requirement for the governance of a society, freed from absolute power and tradition, in which individuals have unlimited desires, form a body of mass consumers and are dedicated to the maximization of private satisfaction. Democracy, accordingly, becomes a means for the enhancement of these ends, not an end in itself for, perhaps, the cultivation and development of all people. As such, Bentham's and Mill's views represent at best, along with the whole tradition of protective democracy, a very partial or one-sided form of democratic theory (see Pateman, 1970, ch. 1).

What is democratic politics? While the scope of politics in Athenian democracy and in the Renaissance republican tradition extended to all the common affairs of the city-republic, the liberal tradition of protective democracy (summarized in model IIIa)

pioneered a narrower view: the political is equated with the world of government or governments and with the activities of individuals, factions or interest groups who press their claims upon it. Politics is regarded as a distinct and separate sphere in society, a sphere set apart from economy, culture and family life. In the liberal tradition, politics means, above all, governmental activity and institutions. A stark consequence of this is that issues concerning, for instance, the organization of the economy or violence against women in marriage (rape) are typically thought of as non-political, an outcome of 'free' private contracts in civil society, not a public issue or a matter for the state (see Pateman, 1983; 1988).<sup>5</sup> This is a very restrictive view, and one that will be subsequently rejected. But having noted it, it is also important to stress that the liberal idea of protective democracy has had profound effects.

The idea of freedom *from* overarching political authority ('negative freedom', as it has been called) shaped the attack from the late sixteenth century on the old state regimes of Europe and was the perfect complement to the growing market society; for freedom of the market meant in practice leaving the circumstances of people's lives to be determined by private initiatives in production, distribution and exchange. But the liberal conception of negative freedom is linked to another notion, the idea of choosing among alternatives. A core element of freedom derives from the *actual capacity* to pursue different choices and courses of action ('positive freedom'). This notion was not developed systematically by the liberal tradition we have considered, although some pertinent issues were pursued by James Mill's son, John Stuart Mill (1806–73), whose work is examined next. None the less, the liberal idea of political equality as a necessary condition of freedom – the formally equal capacity of citizens to protect their own interests – contains an implicitly egalitarian ideal with unsettling consequences for the liberal order (see Mansbridge, 1983, pp. 17–18). If individuals' interests must have equal protection because only individuals can decide in the end what they want and because, hence, their interests have equal weight in principle, then two questions arise: should not all mature individuals (irrespective of sex, colour, creed and wealth) have an equally weighted way of protecting their interests, i.e. a vote and equal citizenship rights more generally? Should not one consider whether in fact individual interests can be protected equally by the political mechanisms of liberal democracy, i.e. whether the latter creates an equal distribution of political power?

<sup>5</sup> Despite the broader conception of politics in Greek thought, it is not at all clear that the Greeks would have addressed themselves to these particular questions (see S. M. Okin, 1991; Saxonhouse, 1991). On Renaissance republicanism, cf. Pitkin (1984); Phillips (1991).

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*In sum: model IIIa*  
*Protective Democracy*

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*Principle(s) of justification*

Citizens require protection from the governors, as well as from each other, to ensure that those who govern pursue policies that are commensurate with citizens' interests as a whole

*Key features*

Sovereignty ultimately lies in the people, but is vested in representatives who can legitimately exercise state functions

Regular elections, the secret ballot, competition between factions, potential leaders or parties and majority rule are the institutional bases for establishing the accountability of those who govern

State powers must be impersonal, i.e. legally circumscribed, and divided among the executive, the legislature and the judiciary

Centrality of constitutionalism to guarantee freedom from arbitrary treatment and equality before the law in the form of political and civil rights or liberties, above all those connected to free speech, expression, association, voting and belief

Separation of state from civil society, i.e. the scope of state action is, in general, to be tightly restricted to the creation of a framework which allows citizens to pursue their private lives free from risks of violence, unacceptable social behaviour and unwanted political interference

Competing power centres and interest groups

*General conditions*

Development of a politically autonomous civil society

Private ownership of the means of production

Competitive market economy

Patriarchal family

Extended territorial reach of the nation-state

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*Note:* The model presents, like many of the others in this volume, a general summary of a tradition; it is not an attempt to represent accurately, nor could it, the particular positions and the many important differences among the political theorists examined.

The first of these considerations was at the centre of the struggle for the extension of the franchise in the late nineteenth and twentieth centuries. Many of the arguments of the liberal democrats could be turned against the status quo to reveal the extent to which democratic principles remained in practice unapplied. The second consideration became central to Marxist, feminist and other radical traditions. While each step towards formal political equality is an advance, 'real freedom' is undercut by massive inequalities which have their roots in the social relations of private production and reproduction. The issues posed by this standpoint require careful examination, but they are not confronted directly in model IIIa. This is hardly surprising, given the model's preoccupation, in the last instance, with the legitimation of the politics and economics of self-interest.

### **Liberty and the development of democracy**

If Bentham and James Mill were reluctant democrats but prepared to develop arguments to justify democratic institutions, John Stuart Mill was a clear advocate of democracy, preoccupied with the extent of individual liberty in all spheres of human endeavour. Liberal democratic or representative government was important for him, not just because it established boundaries for the pursuit of individual satisfaction, but because it was an important aspect of the free development of individuality. Participation in political life – voting, involvement in local administration and jury service – was vital, he maintained, to create a direct interest in government and, consequently, a basis for an informed and developing citizenry, male or female, and for a dynamic 'developmental polity'. Like Rousseau and Wollstonecraft before him, Mill conceived of democratic politics as a prime mechanism of moral self-development (cf. Macpherson, 1977, ch. 3; Dunn, 1979, pp. 51–3). The 'highest and harmonious' expansion of individual capacities was a central concern.<sup>6</sup> However, this concern did not lead him to champion any form of direct democratic rule or non-representative democracy; he was extremely sceptical, as we shall see, of all such conceptions.

John Stuart Mill largely set the course of modern liberal democratic thought. Writing during a period of intense discussion

<sup>6</sup> Mill likened periodic voting to the passing of a 'verdict by a juryman': ideally the considered outcome of a process of active deliberation about the facts of public affairs, not a mere expression of personal interest.

about the reform of British government, Mill sought to defend a conception of political life marked by enhanced individual liberty, more accountable government and an efficient governmental administration unhindered by corrupt practices and excessively complex regulations. The threats to these aspirations came, in his view, from many places, including 'the establishment' which sought to resist change, the demands of newly formed social classes and groups who were in danger of forcing the pace of change in excess of their training and general preparedness, and the government apparatus itself which, in the context of the multiple pressures generated by a growing industrial nation, was in danger of expanding its managerial role beyond desirable limits. Unfolding Mill's view on these issues brings into clear relief many of the questions that have become central to contemporary democratic thought.

Mill's distinctive approach to the liberty of the individual is brought out most clearly in his famous and influential study, *On Liberty* (1859). The aim of this text is to elaborate and defend a principle which will establish 'the nature and limits of the power which can be legitimately exercised by society over the individual', a matter rarely explored by those who advocate direct forms of democracy (*On Liberty*, p. 59; and pp. 61–2, 151–4, of this volume). Mill recognized that some regulation and interference in individuals' lives are necessary but sought an obstacle to arbitrary and self-interested intervention. He put the crucial point thus:

The object ... is to assert one very simple principle, as entitled to govern absolutely the dealings of society with the individual in the way of compulsion and control, whether the means used be physical force in the form of legal penalties or the moral coercion of public opinion. That principle is that the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. (*On Liberty*, p. 68)

Social or political interference with individual liberty may be justified only when an act (or failure to act), whether it be intended or not, 'concerns others' and then only when it 'harms' others. The sole end of interference with liberty should be self-protection. In those activities which are merely 'self-regarding', i.e. only of concern to the individual, 'independence is, of right, absolute'; for 'over himself, over his own body and mind, the individual is sovereign' (*On Liberty*, p. 69).

Mill's principle is, in fact, anything but 'very simple': its meaning and implications remain far from clear. For instance, what exactly constitutes 'harm to others'? Does inadequate education cause harm? Does the existence of massive inequalities of wealth and income cause harm? Does the publication of pornography cause harm? But, leaving aside questions such as these for the moment, it should be noted that in his hands the principle helped generate a defence of many of the key liberties associated with liberal democratic government. These are: first, liberty of thought, feeling, discussion and publication (unburdening 'the inward domain of consciousness'); second, liberty of tastes and pursuits ('framing the plan of our life to suit our own character'); and third, liberty of association or combination so long as, of course, it causes no harm to others (*On Liberty*, pp. 71–2). The 'only freedom which deserves the name is that of pursuing our own good in our own way, so long as we do not attempt to deprive others of theirs or impede their efforts to obtain it' (*On Liberty*, p. 72). For Mill the principle of liberty provided a point of demarcation between the people and the power of government; and through its specification in clusters of distinct liberties it could help delineate 'the appropriate region' of human freedom and, thus, the necessary domains of action citizens require in order to control their own lives. And it is by and through this freedom, he argued, that citizens can develop and determine the scope and direction of their own polity. He contended, moreover, that the current practice of both rulers and citizens was generally opposed to his doctrine and, unless a 'strong barrier of moral conviction' could be established against such bad habits, growing infringements on the liberty of citizens could be expected as the state expanded to cope with the pressures of the modern age (*On Liberty*, ch. 5).

### **The dangers of despotic power and an overgrown state**

The uniqueness of Mill's position becomes very clear if we set it, as he did, against what he took to be, first, the unacceptable nature of 'despotic power', which in various guises was still championed by some influential figures during his lifetime, and, second, the risk of ever greater infringements on the liberty of citizens if the state developed too rapidly in an attempt to control complex national and international problems. There was plenty of evid-

ence, Mill maintained, to suggest that an 'overgrown state' was a real possibility.<sup>7</sup>

In *Considerations on Representative Government* (1861), Mill criticized the absolutist state (which he referred to as 'absolute monarchy') and, more generally, the despotic use of political power, first, for reasons of inefficiency and impracticality in the long run and, second, on the grounds of undesirability *per se*. Against all those who advocated a form of absolute power, Mill argued that it could lead to a 'virtuous and intelligent' performance of the tasks of government only under the following extraordinary and unrealizable conditions: that the absolute monarch or despot be not only 'good', but 'all-seeing'; that detailed information be available at all times on the conduct and working of every branch of government in every district of the country; that an effective share of attention be given to all problems in this vast field; and that the capacity exist for a 'discerning choice' of all the personnel necessary for public administration (Mill, *Considerations*, pp. 202–3). The 'faculties and energies' presupposed for the maintenance of such an arrangement are, Mill says, beyond the reach of ordinary mortals and, hence, all forms of absolute power are unfeasible in the long run. But even if, for the sake of argument, we could find supermortals fit for absolute power, would we want what we should then have: 'one man of superhuman mental activity managing the entire affairs of a mentally passive people?' (*Considerations*, p. 203). Mill's answer is an unambiguous 'no'; for any political system which deprives individuals of a 'potential voice in their own destiny' undermines the basis of human dignity, threatens social justice and denies the best circumstances for humans to enjoy 'the greatest amount of beneficial consequences deriving from their activities'.<sup>8</sup>

Human dignity would be threatened by absolute power, for without an opportunity to participate in the regulation of affairs in which one has an interest, it is hard to discover one's own needs and wants, arrive at tried-and-tested judgements and

<sup>7</sup> It is interesting to note that Mill's arguments against absolutism parallel contemporary arguments against the possibility of centralized planning, while his arguments against a large, unwieldy state parallel many aspects of today's debates on the same topic.

<sup>8</sup> Mill extensively criticized many of the assumptions of Bentham's utilitarian doctrines, introduced to him directly by his father and by Bentham himself (to whom he, for a time, served as secretary), but he affirmed the general principle of utility as the fundamental criterion for determining what are just ends, or what is right. However, his defence of this principle by no means led him to apply it unambiguously (cf. Ryan, 1974, ch. 4; Harrison, 1993, pp. 105–12).

develop mental excellence of an intellectual, practical and moral kind. Active involvement in determining the conditions of one's existence is the prime mechanism for the cultivation of human reason and moral development. Social justice would be violated because people are better defenders of their own rights and interests than any non-elected 'representative' can be and is ever likely to be. The best safeguard against the disregarding of an individual's rights consists in his or her being able to participate routinely in their articulation. Finally, when people are engaged in the resolution of problems affecting themselves or the whole collectivity, energies are unleashed which enhance the likelihood of the creation of imaginative solutions and successful strategies. In short, participation in social and public life undercuts passivity and enhances general prosperity 'in proportion to the amount and variety of the personal energies enlisted in promoting it' (*Considerations*, pp. 207–8, 277–9).

The conclusion Mill draws from these arguments is that a representative government, the scope and power of which is tightly restricted by the principle of liberty, and *laissez-faire*, the principle of which should govern economic relations in general, are the essential conditions of 'free communities' and 'brilliant prosperity' (*Considerations*, p. 210).<sup>9</sup> Before commenting further on Mill's account of the 'ideally best form of polity' and the 'ideally best form of economy', it is illuminating to focus on what he considered a major modern threat to them: 'the tyranny of the majority' and the burgeoning of governmental power.

### *From popular government to the threat of bureaucracy*

The questions posed by the possibility of a tyrannous majority have already been raised in a number of different contexts: as issues of direct concern to the critics of classical democracy and republicanism, and as a problem addressed directly by defenders of protective democracy (Madison). However, it was the French theorist and historian Alexis de Tocqueville (1805–59) who most influenced Mill on this issue. In his major study, *Democracy in America*, de Tocqueville had argued that the progressive enfranchisement of the adult population, and the extension of democracy in general,

<sup>9</sup> I shall not be concerned here with many of the apparent inconsistencies in Mill's argument. For example, he was quite prepared to justify despotic rule over 'dependent' territories. For an interesting recent commentary see Ryan (1983), and for a full study see Duncan (1971).

created a levelling process in the broad social conditions of all individuals. On behalf of the *demos*, government was inevitably being turned against the privileges of the old ranks and orders; in fact, against all traditional forms of status and hierarchy. These developments, in de Tocqueville's view, fundamentally threatened the possibility of political liberty and personal independence. Among the many phenomena on which he dwelt was the ever-growing presence of government in daily life as an intrusive regulatory agency. In the midst of 'the democratic revolution', the state had become the centre of all conflict: the place where policy, on nearly all aspects of life, was fought over. On the assumption that it was an essentially 'benign' apparatus, the state had come to be regarded as the guarantor of public welfare and progressive change. De Tocqueville thought that this assumption was gravely mistaken and, if not countered in theory and practice, would become a recipe for capitulation to 'the dictate' of the public administrator.<sup>10</sup>

This latter concern was among several issues taken up by Mill. His views can be set out in summary form as follows:

- 1 The modern apparatus of government, with each addition of function (transportation, education, banking, economic management), expands.
- 2 As government expands, more and more 'active and ambitious' people tend to become attached to and/or dependent on government (or on a party seeking to win control of the governmental apparatus).
- 3 The greater the number of people (in absolute and relative terms) who are appointed and paid by government, and the more central control of functions and personnel there is, the greater the threat to freedom; for if these trends are unchecked 'not all the freedom of the press and popular constitution of the legislature would make this or any other country free otherwise than in name' (*On Liberty*, p. 182).
- 4 Moreover, the more efficient and scientific the administrative machinery becomes, the more freedom is threatened.

<sup>10</sup> De Tocqueville recommended a series of countervailing forces, including the decentralization of aspects of government, strong independent associations and organizations in political, social and economic life to stand between the individual and the state, and the nurturing of a culture which respected the spirit of liberty, to help form barriers to the exercise of excessive centralized power (see Krouse, 1983; Dahl, 1985, ch. 1). De Tocqueville's broad 'pluralistic vision of society' was largely shared by Mill, despite his criticism of several aspects of de Tocqueville's position (see J. S. Mill, 'M. de Tocqueville on democracy in America').

Mill summarizes the essence of these points eloquently:

If every part of the business of society which required organized concert, or large and comprehensive views, were in the hands of the government and if government offices were universally filled by the ablest men, all the enlarged culture and practised intelligence in the country, except the purely speculative, would be concentrated in a numerous bureaucracy, to whom alone the rest of the community would look for all things – the multitude for direction and dictation in all they had to do; the able and aspiring for personal advancement. To be admitted into the ranks of this bureaucracy and when admitted, to rise therein, would be the sole objects of ambition. (*On Liberty*, pp. 182–3)

But his argument is by no means complete with these points, for there are other significant considerations concerning the special impact of an overgrown governmental apparatus on ‘the multitude’:

- 5 If administrative power expands ceaselessly, citizens – for want of practical experience and information – would become increasingly ill-informed and unable to check and monitor this power.
- 6 No initiatives in policy matters, even if they stemmed from public pressure, would be taken seriously unless they were compatible with ‘the interests of the bureaucracy’.
- 7 The ‘bondage’ of all to the state bureaucracy would be still more complete and would even extend to the members of the bureaucracy themselves, ‘[f]or the governors are as much the slaves of their organization and discipline as the governed are of the governors’ (*On Liberty*, p. 184). The routine of organizational life substitutes for the ‘power and activities’ of individuals themselves; under these conditions, creative mental activity and the potential progressiveness of the governing body become stifled.

Mill put the last point this way:

Banded together as they are – working a system which, like all systems, necessarily proceeds in a great measure by fixed rules – the official body are under the constant temptation of sinking into indolent routine, or, if they now and then desert that mill-horse round, of rushing into some half-examined crudity which has struck the fancy of some leading member of the corps, and the sole check to these closely allied, though seemingly opposite, tendencies, the only stimulus which can keep the ability of the body itself up to a high standard, is liability to the watchful criticism of equal ability outside the body. It is indispensable, therefore, that the means

should exist, independently of the government, of forming such ability and furnishing it with the opportunities and experience necessary for a correct judgement of great practical affairs. (*On Liberty*, pp. 184–5)<sup>11</sup>

## Representative government

What, then, did Mill consider the 'ideally best polity'? In general terms, Mill argued for a vigorous democracy to offset the dangers of an overgrown, excessively interventionist state. He seemed to draw a sharp contrast between democracy and bureaucracy: democracy could counter bureaucracy. But several questions arose from this general formulation which posed dilemmas for Mill, as they do for all liberals and liberal democrats. First, how much democracy should there be? How much of social and economic life should be democratically organized? Second, how can the requirements of participation in public life, which create the basis for the democratic control of the governors, be reconciled with the requirements of skilled administration in a complex mass society? Is democracy compatible with skilled, professional government? Third, what are the legitimate limits of state action? What is the proper scope for individual as against collective action? It is worth looking briefly at Mill's response to each of these questions.

According to Mill, the ancient Greek idea of the *polis* could not be sustained in modern society. The notion of self-government or government by open meeting is, he held (in accord with the liberal tradition as a whole), pure folly for any community exceeding a single small town. Beyond small numbers, people cannot participate 'in any but some very minor portions of the public business' (*Considerations on Representative Government*, pp. 217–18). Apart from the vast problems posed by sheer numbers, there are obvious geographical and physical limits to when and where people can meet together: these limits are hard to overcome in a small community; they cannot be overcome in a large one. The problems posed by coordination and regulation in a densely populated country are insuperably complex for any system of classical or direct democracy (*Considerations*, pp. 175–6, 179–80). Moreover, when government is government by all citizens there is the con-

<sup>11</sup> Among the examples Mill cites of the domination of officials over society is, most notably, 'the melancholy condition of Russia'. The tsar himself is 'powerless against the bureaucratic body' of the state: he can 'send any one of them to Siberia but he cannot govern without them or against their will' (*On Liberty*, p. 183).

stant danger that the wisest and ablest will be overshadowed by the lack of knowledge, skill and experience of the majority. This danger can be slowly countered by experience in public affairs (voting, jury service, extensive involvement in local government), but only to a limited extent. Hence, the 'ideally best polity' in modern conditions comprises a representative democratic system in which people 'exercise through deputies periodically elected by themselves the ultimate controlling power' (*Considerations*, p. 228).

A representative system, along with freedom of speech, the press and assembly, has distinct advantages: it provides the mechanism whereby central powers can be watched and controlled; it establishes a forum (parliament) to act as a watchdog of liberty and centre of reason and debate; and it harnesses, through electoral competition, leadership qualities with intellect for the maximum benefit of all (*Considerations*, pp. 195, 239–40). Mill argued that there was no desirable alternative to representative democracy, although he was aware of certain of its costs. Today, he wrote, representative democracy and the newspaper press are 'the real equivalent, though not in all respects an adequate one, of the Pnyx and the Forum' (pp. 176ff). Participation in political life is sadly but inescapably limited in a large-scale, complex, densely populated society.

Mill ultimately, however, trusted extraordinarily little in the judgement of the electorate and elected. While arguing that universal suffrage was essential, he was at pains to recommend a complex system of plural voting so that the masses, the working classes, 'the democracy', would not have the opportunity to subject the political order to what he labelled simply as 'ignorance' (p. 324). Given that individuals are capable of different kinds of things and only a few have developed their full capacities, would it not be appropriate if some citizens have more sway over government than others? Regrettably for the cogency of some of Mill's arguments, he thought as much and endorsed a plural system of voting; all adults should have a vote but the wiser and more talented should have more votes than the ignorant and less able. As he put it:

It is important that every one of the governed should have a voice in the government . . . A person who is excluded from all participation in political business is not a citizen . . . But ought every one to have an *equal* voice? This is a totally different proposition; and in my judgement . . . palpably false . . . There is no one who, in any matter which concerns himself, would not rather have his affairs managed by a person of greater knowledge and intelligence, than by

one of less. There is no one who, if he was obliged to confide his interest jointly to both, would not desire to give a more potential voice to the more educated and more cultivated of the two. ('Thoughts on parliamentary reform', pp. 17-18, 20-2)

Mill took occupational status as a rough guide to the allocation of votes and adjusted his conception of democracy accordingly: those with the most knowledge and skill (who were in the better-rewarded and most privileged jobs) should not be outvoted by those with less, i.e. the working classes.<sup>12</sup> But, escape from the rule of 'the operative classes' and, for that matter, from the self-interested rule of the propertied classes – from political ignorance in its most dangerous form and class legislation in its narrowest expression – lay not only in a voting system to prevent this state of affairs ever coming about; it lay also in a guarantee of expertise in government (*Considerations*, p. 324). How could this be ensured?

There is a 'radical distinction', Mill argued, 'between controlling the business of government and actually doing it' (pp. 229-30). Control and efficiency increase if people do not attempt to do everything. The business of government requires skilled employment (p. 335). The more the electorate meddles in this business, and the more deputies and representative bodies interfere with day-to-day administration, the greater the risk of undermining efficiency, diffusing lines of responsibility for action and reducing the overall benefits for all. The benefits of popular control and of efficiency can only be had by recognizing that they have quite different bases:

There are no means of combining these benefits except by separating the functions which guarantee the one from those which guarantee the other; by disjoining the office of control and criticism from the actual conduct of affairs and devolving the former on the representatives of the many, while securing for the latter, under strict responsibility to the nation, the acquired knowledge and practised intelligence of a specially trained and experienced Few. (*Considerations*, p. 241)

Parliament should appoint individuals to executive positions; it should provide the central forum for the articulation of wants and demands and for the pursuit of discussion and criticism; it should act as the final seal of national approval or assent. But it should

<sup>12</sup> There is evidence in *Considerations on Representative Government* that Mill saw plural voting as a transitional educative measure which would eventually (when the masses attained higher moral and intellectual standards) be replaced by a system of one-person-one-vote. The reasons why those with several votes would be willing to give them up at a subsequent stage are not, however, fully explained.

not administer or draw up the details of legislation; for it has no competence in this domain.<sup>13</sup>

Representative democracy, thus understood, can combine accountability with professionalism and expertise. It can combine the advantages of bureaucratic government without the disadvantages (table 3.1). The latter are offset by the vitality injected into government by democracy (*Considerations*, pp. 246–7). Mill valued both democracy and skilled government and believed firmly that each was the condition of the other: neither was attainable alone. And to achieve a balance between them was, he thought, one of the most difficult, complicated and central questions ‘in the art of government’ (*On Liberty*, p. 168).

**Table 3.1** Summary of advantages and disadvantages of government by bureaucracy according to Mill

<i>Advantages</i>	<i>Disadvantages</i>
Accumulates experience	Inflexibility
Acquires well-tested maxims	Rigid routines
Ensures skills in those who actually conduct affairs	Loses its ‘vital principle’
Persistent pursuit of ends	Undermines individuality and individual development, thus limiting innovation

The question remains: in what domains of life might or should the democratic state intervene? What are the proper limits of state action? Mill sought to specify these clearly via the principle of individual liberty: self-protection – the prevention of ‘harm’ to any citizen – is the sole end which warrants interference with freedom of action. The state’s activity should be restricted in scope and constrained in practice in order to ensure the maximum possible freedom of every citizen. The latter can be secured through representative democracy combined with a free-market political economy. In *On Liberty* Mill spoke of the doctrine of *laissez-faire* as resting on grounds as solid as those of the principle of liberty. He regarded all restraints on trade as evil – *qua* restraints – and ineffective because they did not produce the desired result, that is, the maximization of the economic good: the maximum economic benefit for all (*On Liberty*, pp. 164–5). Although there are signifi-

<sup>13</sup> In fact, Mill went so far as to recommend that parliament should have a right of veto only on legislation proposed and drawn up by a non-elected commission of experts.

cant ambiguities in Mill's argument (over state intervention to protect workers in dangerous occupations, for instance), the thrust of *On Liberty* is that the pursuit of economic exchange in the market and minimal interference by the state are the best strategies for the protection of individual rights and the maximization of beneficial consequences including, importantly, the possibility of self-development. In other works (notably *Principles of Political Economy*, first published in 1848 but revised in significant ways by its third edition, 1852), Mill's defence of *laissez-faire* is more hesitant; extensive arguments are offered for government intervention to resolve 'coordination problems' and to provide public goods such as education.

None the less, Mill arrives at a vision of reducing to the lowest possible extent the coercive power and regulatory capacity of the state. It is a vision which can be referred to as liberal democracy's conception of 'dynamic harmonious equilibrium': dynamic, because it provides for the free self-development of individuals; harmonious equilibrium, because competitive political and economic relations, based on equal exchange, apparently make control of society in many respects superfluous. Arbitrary and tyrannical forms of power are not only challenged as a matter of principle but rendered unnecessary by competition which creates, as one commentator put it, 'the only natural and just organization of society: organization according to merit . . . everyone stands in the place [s]he merits' (Vajda, 1978, p. 856). The 'hidden hand' of the market generates economic efficiency and economic equilibrium in the long run, while the representative principle provides the political basis for the protection of freedom.

### **The subordination of women**

If Mill accepts the equation of politics with, above all, the sphere of government and governmental activity, and the necessity to draw a sharp division between state and society, he is remarkable in breaking with the dominant masculine assumptions of the liberal tradition by counting women as 'mature adults' with a right to be 'free and equal' individuals. It is important to dwell on his position on these issues for a moment; for it raises, along with Wollstonecraft's reflections, vital questions about the conditions for the participation of women and men in a democracy. The liberal tradition has generally taken for granted that 'the private world' free of state interference is a non-political world and that women naturally find their place in this domain. Accordingly,

women are located in a wholly marginal position in relation to the political and the public. While maintaining a strict conception of what should be and what should not be a public matter, Mill did not map the 'generic' split (man–woman) onto the political–non-political dichotomy (cf. Siltanen and Stanworth, 1984, pp. 185–208).

In the (until recently) much neglected *The Subjection of Women* (1869), Mill criticized directly, as Wollstonecraft had done before him, conceptions of women's nature based exclusively on domestic roles, affective relations and commitments to home and family life. If women have been conventionally *defined* in terms of the latter by men and sometimes, indeed, by women themselves, it is because for the vast portion of human history they have been restricted in the scope of their lives and activities. The subordination of women to men – in the home, in work life and in politics – is 'a single relic of an old world of thought and practice' (*Subjection*, p. 19). Despite the declaration by many that equality of rights has been achieved, there lingers, Mill affirmed, a 'primitive state of slavery' which has not lost 'the taint of its brutal origin' (*Subjection*, pp. 5–6). The relation between men and women was 'grounded on force' and, although some of its most 'atrocious features' have softened with time, 'the law of the strongest' has been enshrined in 'the law of the land' (see *Subjection*, pp. 1–28). Ever since Locke rejected the view that some men have an inherent and natural right to govern, liberals have given a prominent place to the establishment of the consent of the governed as the means to ensure a balance between might and right. Yet the notion that men are the 'natural' masters of women has been left generally unquestioned. The position of women, Mill concluded, is a wholly unwarranted exception to the principles of individual liberty, equal justice and equality of opportunity – a world in which authority and privilege ought to be linked directly to merit, not to institutionalized force.

*The Subjection of Women* was certainly an argument for the enfranchisement of women, but it was not only that. Nor was it merely an extension of the arguments Mill made in *On Liberty* and *Considerations on Representative Government*, although in many respects it was that as well (Mansfield, 1980, pp. ix–xix). Mill's position was novel amongst those of liberal democrats in its insistence on the impossibility of the realization of human happiness, freedom and democracy while the inequality of the sexes persisted. The subordination of women has created fundamental 'hindrances to human improvement' (*Subjection*, p. 1). In the first instance, it has led to the underestimation of the significance of

women in history and the overestimation of the importance of men. The result has been a distorting effect on what men and women think about their own capabilities: men's abilities have almost constantly been overinflated, while women's capacities have been almost everywhere underrated. The sexual division of labour has led, moreover, to the partial and one-sided development of the characters of women and men. Women have suffered 'forced repression in some directions', becoming, for instance, excessively self-sacrificing, and 'unnatural stimulation in others', searching, for example, for incessant (male) approval (*Subjection*, pp. 21ff). On the other hand, men have become above all self-seeking, aggressive, vain and worshippers of their own will. The ability of both sexes to respect merit and wisdom has been eroded. Too often men believe themselves to be beyond criticism and women acquiesce in their judgement to the detriment of government and society generally.

Think what it is to a boy, to grow up to manhood in the belief that without any merit or any exertion of his own, though he may be the most frivolous and empty or the most ignorant and stolid of mankind, by the mere fact of being born a male he is by right the superior of all and every one of an entire half of the human race: including probably some whose real superiority to himself he has daily or hourly occasion to feel; but even if in his whole conduct he habitually follows a woman's guidance, still, if he is a fool, he thinks that of course she is not, and cannot be, equal in ability and judgement to himself; and if he is not a fool, he does worse – he sees that she is superior to him, and believes that, notwithstanding her superiority, he is entitled to command and she is bound to obey. What must be the effect . . . of this lesson? (*Subjection*, p. 80)

The inequality of the sexes has deprived society of a vast pool of talent. If women had 'the free use of their faculties' along with 'the same prizes and encouragements' as men, there would be a doubling of the 'mass of mental faculties available for the higher service of humanity' (*Subjection*, p. 83).

The injustice perpetuated against women has depleted the human condition:

every restraint on the freedom of conduct of any of their human fellow-creatures (otherwise than by making them responsible for any evil actually caused by it) dries up *pro tanto* the principal fountain of human happiness, and leaves the species less rich, to an inappreciable degree, in all that makes life valuable to the individual human being. (*Subjection*, p. 101)

For Mill, only 'complete equality' between men and women in all legal, political and social arrangements can create the proper

conditions for human freedom and a democratic way of life. In turning many key liberal principles against the patriarchal structure of state and society, Mill was arguing that the emancipation of humanity is inconceivable without the emancipation of women.

While Wollstonecraft reached this conclusion before Mill, and no doubt countless other unrecorded women reached it earlier, it was a striking conclusion for someone in Mill's position to champion.<sup>14</sup> *The Subjection of Women's* uncompromising attack on male domination is probably the key reason for its relative obscurity when considered in relation to his, for example, 'academically acceptable' *On Liberty* (Pateman, 1983, p. 208). But radical as the attack unquestionably was, it was not without ambiguities. Two should be stressed. First, the whole argument rests rather uneasily with Mill's narrow conception of the political. The principle of liberty could be taken to justify a massive range of state initiatives to restructure, for instance, economic and childcare arrangements so that women might be better protected against the 'harm' caused by inequality and might gain the chance to develop their own interests. However, Mill does not appear to interpret the principle in this way. The new policies he defended were, while of the greatest significance, limited; they included the enfranchisement of women, reform of the marriage laws to strengthen the independent position of women in the family, and suggestions to help create equal educational opportunities (see Mansfield, 1980, pp. xxii–xxiii). The limits Mill placed on legitimate state action are to be explained in part by his belief that women, once they attained the vote, would be in an advantageous position to specify further the conditions of their own freedom. The position would be advantageous because if the 'emancipation' of women were left to existing political agencies, it would be distorted by traditional patriarchal interests: women must enjoy equal rights to enable them to explore their own capacities and needs. On the other hand, Mill probably did not think through more interventionist strategies because they would infringe upon the liberty of individuals to decide what was in their own best interests. Individuals must be free of political and social impediments to choose how to arrange their lives – subject, of course, to their choices causing no 'harm' to

<sup>14</sup> Some scholars have argued that Mill's position owes a great deal to Harriet Taylor, for many years a friend and from 1851 until her death in 1858 his wife (see Eisenstein, 1980), while others have claimed it owes a good deal to William Thompson's *Appeal of One Half of the Human Race*, published in 1825 (see Pateman, 1983, p. 211).

others. But this proviso radically weakens the political implications of Mill's analysis; for it leaves the powerful (men) in a strong position to resist change in the name of liberty and freedom of action.

Second, Mill does not analyse in any detail the domestic division of labour. Without the sharing of domestic duties, the ability of women actively to pursue courses of action of their own choosing is considerably weakened. Mill reveals his ultimate view of the role of women by assuming that even if there were a 'just state of things' most women would rightly choose – as 'the first call upon [their] exertions' – to marry, raise children and manage households exclusively (see *Subjection*, pp. 47–8; S. M. Okin, 1979; Pateman, 1983). Without pursuing arguments about the obligations men must accept with respect to the care of children and households, and about the loss of unjustifiable privileges to which they must adapt (issues returned to later), the conditions of human freedom and democratic participation cannot be analysed adequately. But despite Mill's failing in this regard (a failing he shares to some extent with Wollstonecraft, whose own esteem for motherhood led her on occasion to adopt a fairly uncritical view of the duties of fathers), it is hard to overestimate the importance of his contribution in *The Subjection of Women* and its unsettling consequences for the liberal democratic tradition as a whole – and, indeed, for political thought more generally.

### **Competing conceptions of the 'ends of government'**

Liberty and democracy create, according to Mill, the possibility of 'human excellence'. Liberty of thought, discussion and action are necessary conditions for the development of independence of mind and autonomous judgement; they are vital for the formation of human reason or rationality. In turn, the cultivation of reason stimulates and sustains liberty. Representative government is essential for the protection and enhancement of both liberty and reason. A system of representative democracy makes government accountable to the citizenry and creates wiser citizens capable of pursuing the public interest. It is thus both a means to develop self-identity, individuality and social difference – a pluralistic society – and an end in itself, an essential democratic order. If, in addition, all obstacles to women's participation in politics are removed, there will be few 'hindrances to the improvement of humankind'. Model IIIb summarizes Mill's position in broad terms.

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*In sum: model IIIb*  
*Developmental Democracy*

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*Principle(s) of justification*

Participation in political life is necessary not only for the protection of individual interests, but also for the creation of an informed, committed and developing citizenry. Political involvement is essential to the 'highest and harmonious' expansion of individual capacities

*Key features*

Popular sovereignty with a universal franchise (along with a 'proportional' system of vote allocation)

Representative government (elected leadership, regular elections, secret ballot, etc.)

Constitutional checks to secure limitations on, and divisions in, state power and to ensure the promotion of individual rights, above all those connected with freedom of thought, feeling, taste, discussion, publication, combination and the pursuit of individually chosen 'life plans'

Clear demarcation of parliamentary assembly from public bureaucracy, i.e. the separation of the functions of the elected from those of the specialist (expert) administrator

Citizen involvement in the different branches of government through the vote, extensive participation in local government, public debates and jury service

*General conditions*

Independent civil society with minimum state interference

Competitive market economy

Private possession and control of the means of production alongside experiments with 'community' or cooperative forms of ownership

Political emancipation of women, but preservation in general of traditional domestic division of labour

System of nation-states with developed relations among states

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*Note:* It is important to recall that Mill is building on and developing many aspects of the liberal tradition and, hence, several of the features and conditions of developmental democracy are similar to those in model IIIa (see p. 99).

Towards the close of *Considerations on Representative Government*, Mill summarized the 'ends of government' in the following way: 'Security of person and property and equal justice between individuals are the first needs of society and the primary ends of government: if these things can be left to any responsibility below the highest, there is nothing, except war and treaties, which requires a general government at all' (p. 355). One needs to ask at this point whether Mill was trying to 'reconcile irreconcilables' (Marx, *Capital*, vol. I, p. 16). For Mill's work entails the attempt to link together into a coherent whole security of person and property, equal justice, and a state strong enough to prevent or prosecute wars and sustain treaties. In fact, Mill's work lends itself to a variety of interpretations concerning not only matters of emphasis but the very political thrust of liberalism and liberal democracy. There are, at least, three possible interpretations worth emphasizing.

First, Mill tried to weave arguments for democracy together with arguments to 'protect' the modern political world from 'the democracy'. While he was extremely critical of vast inequalities of income, wealth and power (he recognized, especially in his later writings, that they prevented the full development of most human beings and especially the working classes), he stopped far short of a commitment to political and social equality. In fact, Mill's views could be referred to as a form of 'educational elitism', since they clearly seek to justify a privileged position for those with knowledge, skill and wisdom: in short, for a modern version of philosopher-kings. The leading political role in society is allotted to a class of intellectuals, who, in Mill's system of vote allocation, hold substantial voting power. He arrives at this view through his emphasis on the importance of education as a key force in liberty and emancipation. It is a position fully committed to the moral development of all individuals but which simultaneously justifies substantial inequalities in order for the educators to be in a position to educate the ignorant. Thus, Mill presents some of the most important arguments on behalf of the liberal democratic state alongside arguments which would in practice cripple its realization.

Second, Mill's arguments concerning free-market political economy and minimal state interference anticipate later 'neo-liberal' arguments (see model VII: legal democracy, in ch. 7). According to this position, the system of law should maximize the liberty of citizens – above all, secure their property and the workings of the economy – so that they may pursue their chosen ends unhindered. Vigorous protection of individual liberty allows 'the fittest'

(the most able) to flourish and ensures a level of political and economic freedom which benefits all in the long run.

Third, while Mill remained throughout most of his life firmly of the opinion that the liberal state should be neutral between competing individuals' goals and styles of life (individuals should be left as free as possible), some of his ideas can be deployed to justify a 'reformist' or 'interventionist' view of politics (see ch. 6). For Mill's liberal democratic state is assigned an active role in securing people's rights through the promotion of laws designed to protect groups such as ethnic minorities and to enhance the position of women. Additionally, if we take Mill's principle of liberty seriously, that is, explore those instances in which it would be justified to intervene politically to prevent 'harm' to others, we have, at the very least, an argument for a fully fledged 'social democratic' conception of politics. Occupational health and safety, maintenance of general health and protection from poverty (in fact, all those areas of concern to the welfare state from the early twentieth century) might be included as part of the sphere for legitimate state action to prevent harm. In the *Principles of Political Economy* (third edition), Mill adopted such a line of reasoning and argued not only that there should be many exceptions to *laissez-faire* economic doctrines but also that all workers should experience the educational effects of ownership and control of the means of production. While he certainly believed that the principle of individual private property will and ought to be the dominant form of property for the foreseeable future, he advocated practical experiments with different types of ownership to help find the most advantageous form for 'the improvement of humanity' (see *Principles of Political Economy* and Mill's essays on socialism, originally published in 1879, in G. L. Williams, 1976, pp. 335–58). Taken together, these views can be read as one of the earliest statements of the idea of the democratic welfare interventionist state and the mixed economy (Green, 1981).<sup>15</sup>

### *Summary remarks*

From classical antiquity to the seventeenth century, democracy was largely associated with the gathering of citizens in assemblies and public meeting places. By the late eighteenth century it was beginning to be thought of as the right of citizens to participate in

<sup>15</sup> Towards the end of his life, in fact, Mill came to regard himself more as a socialist than a liberal democrat (see his *Autobiography*).

the determination of the collective will through the medium of elected representatives (Bobbio, 1989, p. 144). The theory of representative liberal democracy fundamentally shifted the terms of reference of democratic thought: the practical limits that a sizeable citizenry imposes on democracy, which had been the focus of so much critical (anti-democratic) attention, were practically eliminated. Representative democracy could now be celebrated as both accountable and feasible government, potentially stable over great territories and time spans (see Dahl, 1989, pp. 28–30). As one of the great advocates of the 'representative system' put it, 'by ingrafting representation upon democracy' a system of government is created that is capable of embracing 'all the various interests and every extent of territory and population' (Paine, *The Rights of Man*, in Paine, 1987, p. 281). Representative democracy could even be heralded, as James Mill wrote, as 'the grand discovery of modern times' in which 'the solution of all difficulties, both speculative and practical, would be found' (quoted in Sabine, 1963, p. 695). Accordingly, the theory and practice of popular government broke away from its traditional association with small states and cities, opening itself to become the legitimating creed of the emerging world of nation-states. But who exactly was to count as a legitimate participant, or a 'citizen' or 'individual', and what his or her exact role was to be in this new order, remained either unclear or unsettled in the leading theories of both protective and developmental democracy considered in this chapter.

It was left by and large to the extensive and often violently suppressed struggles of working-class and feminist activists in the nineteenth and twentieth centuries to accomplish a genuinely universal suffrage in some countries. Their achievement was to remain fragile in places such as Germany, Italy and Spain, and was in practice denied to some groups, for instance, many African-Americans in the US before the civil rights movement in the 1950s and 1960s. However, through these struggles the idea that the rights of citizenship should apply equally to all adults slowly became established; many of the arguments of the liberal democrats could be turned against existing institutions to reveal the extent to which the principles and aspirations of equal political participation and equal representation remained unfulfilled. It was only with the actual achievement of citizenship for all adult men and women that liberal democracy took on its distinctively contemporary form: a cluster of rules and institutions permitting the broadest participation of the majority of citizens in the selection of representatives who alone can make political decisions (that is, decisions affecting the whole community).

This cluster includes elected government; free and fair elections in which every citizen's vote has an equal weight; a suffrage which embraces all citizens irrespective of distinctions of race, religion, class, sex and so on; freedom of conscience, information and expression on all public matters broadly defined; the right of all adults to oppose their government and stand for office; and associational autonomy – the right to form independent associations including social movements, interest groups and political parties (see Bobbio, 1987, p. 66; Dahl, 1989, pp. 221, 233). The consolidation of representative democracy, thus understood, has been a twentieth-century phenomenon; perhaps one should even say a late twentieth-century phenomenon (see ch. 8). For it is only in the closing decades of this century that liberal representative democracy has been securely established in the West and widely adopted in principle as a suitable model of government beyond the West (see Held, 1993d, esp. part IV).