

DOUGLAS

A.

CHALMERS

REFORMING DEMOCRACIES

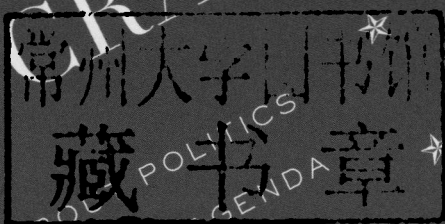
SIX FACTS ABOUT POLITICS
THAT DEMAND A NEW AGENDA



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COLUMBIA UNIVERSITY PRESS
NEW YORK



COLUMBIA UNIVERSITY PRESS

Publishers Since 1893

New York Chichester, West Sussex

cup.columbia.edu

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Library of Congress Cataloging-in-Publication Data

Chalmers, Douglas A.

Reforming democracies : six facts about politics that demand a new
agenda / Douglas A. Chalmers.

p. cm. — (Leonard Hastings Schoff memorial lectures)

Includes bibliographical references and index.

ISBN 978-0-231-16294-4 (cloth : alk. paper)

ISBN 978-0-231-53105-4 (e-book)

1. Democracy. 2. Representative government and representation.

I. Title.

JC423.C51245 2012

312.8—dc23

2012024444



Columbia University Press books are printed on permanent and
durable acid-free paper.

This book is printed on paper with recycled content.

Printed in the United States of America

c 10 9 8 7 6 5 4 3 2 1

COVER DESIGN: Thomas Beck Stvan

References to Internet Web sites (URLs) were accurate at
the time of writing. Neither the author nor Columbia University Press
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REFORMING DEMOCRACIES

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PREFACE

A half century of studying the establishment or reestablishment of democratic institutions in Europe after World War II and in Latin America in the last third of the twentieth century has left me with puzzles. Certain facts came up again and again that distorted the analysis and stood in the way of analytically simple recipes for enhancing democracy. I found myself studying the impact of clientelism and personal dependence, the presence of foreigners wheeling and dealing, the volatility of nongovernmental organizations, the way “crazy” (or new) ideas change the actors and their engagement, and the “back rooms” where decisions are “really” made—all of which are outside or contrary to the usual standards for democracy, but in some form often have had a significant and positive role to play. They are too much a part of the systems to be “banned.” They need attention in any effort to assess democracy—and to reform it.

These facts are

- The political importance of noncitizens inside a country
- The similar importance of people in other jurisdictions
- The rapidity of the rise and fall of a large number of civil society associations

- The continuing importance of personal ties
- The crucial role of ideas (when our worldview emphasizes material interests)
- The enormous range of places within a system where consequential decisions about law and policy are made

The political processes pointed to by these six facts were being treated as marginal to the question of what makes a system democratic, but I have come to believe that they are, in fact, central. Democracy depends on shaping them, the way that sixteenth- to twentieth-century Europe shaped its politics by institutionalizing elections, representative legislatures, separation of powers, civil rights, and political party systems in order to pull together the nation-state, deal with uncontrolled monarchs and aristocrats, and, eventually, cope with class conflict. The contemporary challenges demand that actions pointed to by the six facts—which have always existed, but are assuming new importance—be regulated and guided (i.e., institutionalized) if democratic outcomes will be more than the accidents of good luck. We need a new agenda of institutional reform.

I will argue that as a result of these six problems, we must think about additional kinds of institutions, around three headings:

- Institutions that regulate the processes of creating and reshaping decision-making networks that are, in fact, constructed ad hoc
- Institutions that regulate the way we mobilize, vet, debate, and deploy the facts, theories, and interpretations that shape decision making
- Institutions that shape the way noncitizens are linked to and, therefore, represented in the process of making particular decisions

This book is only a beginning. It points to important political and social processes and conditions that have too often been assumed away by reformers. It suggests where reforms are needed, but only begins to specify the appropriate democratic institutions.

In the introduction, I argue that institutional reform is necessary. Then, in part I, I define “representative democracy” in a way not tied to the existing models of political institutions so that we can see how the activities referred to as the six facts fit into a more relevant model. The definition points to three parts of the process:

- Identifying “the people” to be represented
- Organizing the elites that make the decisions for “the people”
- Creating the links that connect the elites to “the people”

I sketch the reigning models of institutions conventionally assumed to be crucial to making these three elements work democratically. Parts II to IV discuss aspects of modern politics not embraced by the established models. There are two such aspects each for “the people,” the decision makers, and the links between them. The conclusion offers a few guidelines to new thinking.



This book is an outgrowth of lectures in the Leonard Hastings Schoff Memorial Lecture series sponsored by the University Seminars of Columbia University in November 2007 under the title “Representative Government Without Representatives.” I want particularly to thank Robert Belknap for his support and encouragement. I also owe a debt to my students in a seminar on this topic, my colleagues in the Department of Political Science, the anonymous reviewer, and friends who have demonstrated how risky it is to reconceptualize an entrenched set of understandings.



REFORMING DEMOCRACIES



CONTENTS

Preface vii

Introduction: Why Do
We Need Institutional Reform? i

PART I. THE CONCEPTS

1. Rethinking the Institutions of
Representative Democracy 13

PART II. THE PEOPLE

2. Which "People" Are Represented
in a Representative Democracy? 31

3. Fact: Quasi-Citizens in the
Community Are Represented 38

4. Fact: Quasi-Citizens in Other
Jurisdictions Are Represented 51

PART III. THE LINKS

5. Connecting People and
Decision Makers 65

6. Fact: Organizations and
Their Alliances Change Rapidly 69
7. Fact: Personal Networks Are Important 83

PART IV. THE DECISION MAKERS

8. Law- and Policy Making 93
9. Fact: Deliberation Is as Important
as Bargaining 97
10. Fact: Decisions Are Made
in Multiple Venues 112
- Conclusion: A Review 123

- Notes* 143
- Works Cited* 159
- Suggested Readings* 165
- Index* 171



INTRODUCTION

WHY DO WE NEED INSTITUTIONAL REFORM?

Democratic institutions are under attack in even the most “advanced” democracies. They must be rebuilt and repaired. Reforming the institutions of democratic government is essential to overcoming serious faults and creating more just societies. Reforms are proposed and adopted with great regularity. But they often are marginal or fail not only because of incompetence or malfeasance—the usual explanations—but also because, I suggest, they do not address some highly relevant sets of norms, practices, laws, and procedures; in other words, they do not address the right institutions. My argument is that knowledge of and reform of the institutions that regulate important aspects of politics and that are left out of the usual discussions are required to deal with the current discontents. To construct enduring, genuinely democratic regimes, it is necessary to represent the interests of noncitizens acting within a country and in other jurisdictions, to deal with the rapidly changing civil society, to promote beneficial personal links, to encourage useful information and effective deliberation on policy and law, and to manage the myriad decision networks that constitute the political system.

First, however, why do we have to worry?

The ideal of democracy is so strong that almost all governments now claim to be, or to be on the way to being, democracies. Yet criticism of the performance of even the most advanced democracies has been steady and increasing. Democracy is the approved ideal of governance, and thus it is no surprise that demands become stronger and more focused on making democracy work (as opposed to junking it for “something better”). But it is surprising that more progress has not been made, given the enormous arsenal of skills that are applied to the analysis of reforms by politicians, academics, bloggers, legal authorities, and pundits.

The problems are manifest and often taken for granted as “the way things are,” but the costs are great. Many of the concerns are similar to those that the standard institutions of representative democracy, which evolved in the great constitution-writing period in the seventeenth and eighteenth centuries, were designed to combat. They stand as the failures of representative democracy.

- *Inequality*: Shifting power from the royal court to elected legislatures was meant to put political power in the hands of those who would dismantle privilege (or assign it more rationally), yet excessive inequality not only persists but increases. The idea that everyone is represented in a democratic system has been widely proclaimed and celebrated, yet dramatic inequality is notable in income, education, health care, financial security, and many other dimensions. Some inequalities—such as those based on working-class status, race, and gender—have been weakened, but hardly eliminated. Some attributes remain as “legitimate” reasons for unequal treatment, such as being young, being disabled, and being a criminal. New or expanded old categories—migrants, ethnic minorities, and refugees—often become new underclasses. Once hidden differences, such as sexual orientation and drug use, become grounds for discrimination. The justice of some inequalities is defended by most, and the definition of “equality” calls up endless discussion. Good representative processes would ideally identify all these groups clearly, treat each justly, promote respect for each, and equalize opportunities and rewards where appropriate. We are a long way from such a state.

- *Reckless executives*: Liberal democratic government arguably emerged as a counterforce to the recklessness of monarchs of the seventeenth

through nineteenth centuries who pursued fruitless wars abroad, religious persecution at home, or grandiose personal projects. The conversion of advisory councils, laws, and courts into sovereign legislatures, constitutions with bills of rights, and independent judiciaries was predicated on the belief that representative institutions would act as watchdogs over executives on behalf of the welfare of the people.

Yet the failed colonial experiences of the nineteenth and twentieth centuries, the reckless slide into weakness of the European powers faced with the rise of Hitler, the rise of Nazism itself, and the recent experience of the reckless wars fought by the United States in Vietnam, Iraq, and Afghanistan point to drastic limits on the capacity of the representative political process to prevent the escalation of “mistakes” and “tentative efforts to solve problems” into disasters. Many Americans are justly proud that the mobilization against the Vietnam War contributed to its termination and that constitutional and electoral processes brought new leadership to Washington after the dramatic failures of the George W. Bush administration. But in both cases, years passed during which the actions of the president failed to accomplish their declared goals and, more important, failed to promote the public interest. The system may ultimately right itself, but it was unable to stop the waste of an unacceptable number of lives and an enormous amount of treasure, and the loss of the credibility and moral stature of the United States in the world. The most damaging processes are being terminated, but any organization that takes so long to correct such egregious errors and that proves unable to absorb new information about its own failures has to be considered at least a partial failure.

- *Corruption:* Creating representative government was part of a shift of power from the elites to the people, presumably weakening the impunity of powerful leaders who used public positions to satisfy their greed and self-interest. Nevertheless, those who have the power to make decisions that affect a very large number of people—whether formally public or, perhaps more sensationally, private (such as executives of major companies or financial institutions)—are able to amass enormous fortunes using public power. Sometimes this takes the form of old-fashioned secret manipulation of regulations, sale of public offices and licenses, and the like. Sometimes, however, the corruption lies in legal maneuvers to avoid taxes, to engage in insider trading, and to create financial “instruments”—like the Ponzi

scheme and devices to bet on and, in fact, trigger failure—that stretch the laws in ways that cannot be prosecuted as corruption, but use public power for personal gain with no corresponding public advantage. A government for the people should be the instrument through which such corruption is outlawed and punished. Yet it continues—even flourishes.

- *Weakness in mobilizing for action:* The recent recession drives home the fact that contemporary democratic systems have a great deal of difficulty in avoiding the costs associated with sharp swings in economic activity. The phenomenon, based on contagious reductions in purchasing and producing, is treated almost as a force of nature. Steps taken to avoid the swings are tentative and contested. Disagreements about the policies and competing strategies to survive during a recession are not dealt with and block consensus and action. In this case, at least, collective action that involves applying the right information and mobilizing energies to act collectively is hesitant, slow acting, and sometimes counterproductive.

How might we respond to these problems? Perhaps there is nothing to do beyond exhorting our representatives to greater vigilance. Corruption, we might say, is always with us. Inequality is inevitable, injustices should be addressed only at the margins, and it is in the nature of any government that executive authorities may engage in reckless, badly conceived actions—and periodic elections are the means to hold them accountable. Democracies have long been held to be inherently incapable of decisive action. Or, perhaps, as some hard-core libertarians might say, whether the problem is serious and fixable or not, it is not the government's role to address it. Many suggest that recessions are inevitable and have to work themselves out.

Most people would agree, I believe, that an effort should be made to correct the failures of representative democracy. But perhaps institutional reform is too slow, uncertain, and costly. Thus a variety of actions other than institutional reform are often proposed rhetorically and sometimes seriously.

- One common reaction is to demand new policies—new laws and uses of resources—rather than basic political reforms. Particularly when rhetoric is at a premium—for example, during election campaigns—politicians argue that righting the wrongs of the system can be accomplished by well-crafted policies, not reforms of representative institutions. Programs and

laws could solve specific problems. Elect us, and we will pass laws that will bring corrupt officials to trial, attack inequality through redistributive and anti-discrimination laws, and thwart a rogue executive by blocking his access to resources, prosecuting his advisers, and withdrawing funding for his adventures. The incumbent president or legislators may not know what to do to avoid the costs of a recession, for example, but it is not the institutions of democratic government that are at fault, but the ability of those in charge of making and implementing policy to perceive what has to be done and summon the political smarts to implement solutions.

- A second, more drastic answer is a call for revolution. Problems like financial and social inequality and economic downturns are serious, it is held, and cannot be remedied by normal politics. The business cycle is built into the free-enterprise system and can be dealt with only by abolishing that system. Inequality results from cultural prejudices and/or is created by the economic necessities of capitalism. These structural failures are beyond the reach of any existing government, which was established to support the prevailing racial-cultural-nationalist prejudices or existing economic systems. The only way to deal with them is massive destruction and reconstruction. Historically, a frequent way people think about inequality is that only overturning social structures and the institutions that support them can resolve such problems.¹ Eliminating corruption may take a religious awakening. Out-of-control executives can be handled only by rooting out the entrenched, conspiratorial cabals that are guiding them and installing more righteous advisers.

- A third strategy, which may be considered a surgical revolution, is the social-movement model. While a total overhaul of the sociopolitical structure may be a dangerously blunt instrument of change, the sources of social and economic problems are so integral to the entrenched political practices that a dramatic confrontation is necessary. Popular demonstrations and boycotts of companies led by corrupt executives, marches and civil disobedience to highlight inequality, and public shows of defiance of political leaders may force reconsideration of faulty policies. Marches by the unemployed or confrontations in town-hall meetings may compel political leaders to take action against a recession. Although social movements may take many forms, the words “mobilization,” “contestation,” and “challenge” suggest the kind of shock that could bring about change.² These approaches strive to and sometimes succeed in altering the conditions

under which the representative institutions work, by awakening the people, mobilizing them to vote for change, or transforming hegemonic ideas. The implication is that reform of the institutions is secondary or can result most readily from taking to the streets—literally or figuratively.

- A fourth response to social and economic problems is the “dictator” solution (taking the name from ancient practice). It classically involves giving all power to a single leader, but these days it would more likely subject a government to a superior power that could guide it “correctly.” Historically, this remedy has been tried by the military undertaking a coup d’état, a religious authority asserting its God-given power, an international commission (such as one urging the jurisdiction of a human rights authority), a central government intervening in a state or province in a federal system, or a colonial power shouldering its “burden” to “civilize the natives.”

Each of these responses—legislate problems away, smash and rebuild the system, dramatically confront the powers that be, import a *deus ex machina*—may be rational in some circumstances. But the failures of democracy are long term and persistent. They are not likely to be solved in a single blow, no matter how heavy or well placed. They require long-lasting remedies, and the reform of political institutions may be the only enduring solution.

Perhaps, though, the reform of political institutions may not require rebuilding them and rewriting constitutional documents, but simply affecting their context to make them work better. For example, media reform can improve the public’s awareness of issues before they vote or even when interest groups lobby. The vast expansion of available information is accompanied by overload and extraordinary levels of manipulation. So there is a sense that the exposure of such manipulation or guidance in how the media operate will produce better-informed citizens, which will lead to better voting and more savvy poll taking. Another familiar example is get-out-the-vote campaigns. Yet another is encouraging investigative reporting by the media. It might weaken corruption by exposing it, for example. In the United States, it has certainly redefined the nature of corruption, which now includes marital infidelity and sexual misconduct as well as material gain. These are, no doubt, good steps to take, although they seem limited in dealing with the failures of the political system.

Changing the behavior of such a politically relevant sector as the media would change something, but the direction is not so certain. For example,