# America's Democracy THE IDEAL AND THE REALITY

Third Edition

FRED R. HARRIS

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FREID R. HARRIS

University of New Mexico

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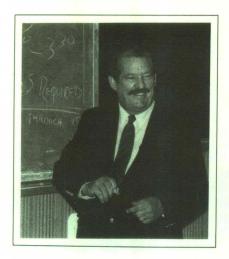
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#### \_About the Author\_



One of the University of New Mexico's most popular professors, Fred R. Harris came to the political science profession with unusually solid preparation. He has been a student of government and politics from both the inside and the outside. A member of Phi Beta Kappa and Order of the Coif, he holds a B.A. degree in political science from the University of Oklahoma (1952) and a J.D. degree "with distinction" from the same university (1954). He is the author of five books, co-author of a sixth, and editor of a seventh.

Upon graduation from law school, he practiced law and served as a member of the Oklahoma State Senate. Twice elected to the U.S. Senate (D., Okla.), he was a member of the powerful Finance Committee, as well as the Government Operations Committee. In 1967, he was the most influential member of the President's National Advisory Commission on Civil Disorders (Kerner Commission), and in 1969 and 1970 served as the reform-minded Chairman of the Democratic National Committee. He was an unsuccessful candidate for his party's nomination for President in 1976.

Professor Harris was a Fulbright Scholar for travel and research in Mexico in 1981, and, in 1982, was a Visiting Professor at the National University of Mexico, in Mexico City. He has been a guest lecturer at many U.S. and foreign universities and is a frequent panelist and discussant at professional political science meetings.

#### \_\_Preface\_\_

The late U.S. Supreme Court Justice William O. Douglas, who had suffered from polio when young and had overcome any lingering impairment through vigorous wilderness hiking, wrote in one of his books, Go East, Young Man: The Early Years, that one of his most proud accomplishments was his wilderness-survival ability. Douglas said that if he had been dropped down in a trackless wilderness, he could, in effect, live off the land—and make it.

Each of us has been dropped down into what is to the uninitiated a wilderness of sorts, the American political system. We can learn how to survive in this system and use it.

When the principal Soviet leader died in 1985, a group of high-level Russian officials were in Washington for meetings. They hurried home for the funeral and for the elevation of Mikhail Gorbachev to the supreme post. I noted that one member of that delegation was the Soviet Union's principal "Americanologist," Georgi Arbatov, with whom I had once had a spirited discussion in Moscow. I remembered that Arbatov had taken me to task for what he charged were serious political and economic failings in the American system. I probably knew more about the failings (and strengths) of our system than he did but didn't feel it was my proper role as a U.S. senator to travel around the world at taxpayers' expense to criticize my home country. So, partly to change the subject, I said, "You have me at a disadvantage, Mr. Arbatov. American scholars are not allowed to study the ways economic and political decisions are made in the Kremlin. Ours, on the other hand, is an open system, which you can and do study freely."

Arbatov paused only briefly. "That is no disadvantage to you," he said. "We study your system, and we still don't understand it!"

Growing up in the American political system, studying our country's history, and perhaps taking a government or civics course in high school, most of us probably feel that we know how American government works. It looks like a simple system, easy to understand. But, as Arbatov's comment indicated, if we want to go past the forms of American government and learn how things really work—and how to influence policymaking—we are faced with a labyrinth of complexity.

The great success of America's Democracy in its earlier editions confirmed the importance of the five goals I had in mind when I first wrote it. Now as achievements, rather than goals, they still are central to this much-improved third edition. First, it is a book that is readable and engaging. Second, it is a

book of fundamentals, with attention to their historical context and development. Third, it ties the fundamentals to present-day actors and events and the policy process, to show their immediacy and relevance for our lives today. Fourth, it is a book that not only explains "how" government policy is made, but also "why"—or "why not." Finally, *America's Democracy* emphasizes participation and the value of such participation, both for society and for the individual participants.

This third edition builds on those achievements while retaining certain unique features. There is a separate chapter on *direct* citizen participation through such nonelectoral vehicles as boycotts, tenants' organizations, and cooperatives. Three chapters are devoted to the policy process, using discussions of environmental, economic, and foreign and national security policy as illustrations. "Viewpoint" inserts on particular subjects appear within the chapters; they are separated from the main text and are intended to spark thought and discussion. These have been updated in the third edition, and ten new ones have been added, dealing with a wide range of subjects—from "Should We Keep the Civil Service?" to "Environmental Policy Under Reagan."

Another popular feature, the "How to" mini-manuals, have been retained in the third edition. They have been updated, too, and eight new ones have been added, from "How to . . . Get a Job in the Federal Government" to "How to . . . Become a Lawyer."

There is a comprehensive discussion of contemporary democratic theory, which is centered on the question of whether more participation is desirable, and an Epilogue which outlines methods for increasing participation. Finally, at the end of the book, as in earlier editions, the Declaration of Independence and the Constitution are printed in full.

Done especially for this edition are six part-opening interviews with people who help explain, firsthand, how America's democracy works and thus make it come alive for students. In this distinguished group are former Supreme Court Justice Potter Stewart; CBS Television journalist Bill Moyers; Senate Majority Leader Robert Dole; Secretary of Transportation Elizabeth Dole; and Foreign Policy Editor Charles William Maynes. I am pleased to be included with this group and am most grateful for their participation.

The third edition contains a new chapter on federalism, which includes a concise overview of state and local government. There is expanded treatment of the media throughout the book, especially in Chapter 6, "Public Opinion and the Media." This chapter combines separate earlier chapters on political socialization and public opinion, eliminating unnecessary detail while adding more current material.

There is complete coverage and analysis of the 1984 congressional and presidential elections in Chapter 9, including discussion of campaign financing and the role of interest groups and the media. Chapter 7 on interest groups has substantial new and updated material, and a clearer and more easily understood classification of such groups. There has been considerable revision of Chapter 8 on political parties which includes the recently debated question of party realignment. The chapters on government institutions—Congress, the Presidency, the bureaucracy and the courts—also contain much current material.

A new design and an updated photograph and illustration program make this edition even more appealing and engaging. The glossary at the end of the book has been improved and is keyed to the pages in the text where the boldfaced terms appear.

Of especial importance for this third edition are the supplementary materials. Paul Chardoul and Jack Van Aartsen, of Grand Rapids Junior College, and Wendell Mott, of Ferris State College, have written an excellent, all-new Study Guide. Also new is the Instructor's Manual, prepared by R. H. Payne and James Carter, of Sam Houston State College. A comprehensive Test Item File has been prepared by Larry Buys, Northwestern Michigan College; James Duke, Richland College; Stephen Haag, Austin Community College; and Helen Ridley, Kennesaw College.

No book of this scope can be produced without the help of a great many people. A number of teachers and political scientists reviewed all or a part of this third edition. Others reviewed chapters of the second edition. They are listed alphabetically:

Don Alper, Western Washington University James V. Calvi, West Texas State University Daniel E. Farlow, Southwest Texas State University Dean B. Flippo, Monterey Peninsula College Loren Gresham, Bethany Nazarene College Lauren Holland, University of Utah Marilyn Hoskin, State University of New York at Buffalo Ted G. Jelen, Illinois Benedictine College Robert Lively, Bethany Nazarene College Neil C. Lucas, College of Alameda William S. Maddox, University of Central Florida James Malachowski, University of Kentucky R. H. Payne, Sam Houston State College Robert H. Petty, Oscar Rose State College Ron Perrin, University of Montana George E. Pippin, Jones Junior College Helen Ridley, Kennesaw College Debra C. Rosenthal, University of New Mexico John S. Shockley, Western Illinois University Edward I. Sidlow, Miami University Neil Snortland, University of Arkansas, Little Rock 1. Soule, San Diego State University Joel Verner, Illinois State University

I also appreciate the help I received from Laura Harris and the outstanding research assistance of Jonathan Eldredge. I am grateful, too, for the encouragement of my wife, Margaret S. Elliston.

Again, the people of Scott, Foresman and Company have been wonderful to work with. Bruce Borland was among those who helped guide work on the earlier editions. I am grateful for this help on the third edition, also. Others—such as Scott Hardy, Paula Fitzpatrick, and Ginny Guerrant in editorial; Ellen

Pettengell in design; Arlene Hagan, the picture researcher; Victoria Moon, production coordinator; Meredith Hellestrae who supervised the brochure work; Iris Ganz, who helped with retyping; and, in marketing, many great friends such as Greg Odjakjian, Jane Gunton, Tana Vega-Romero, Ben Whitney, Robert Johnson, and Charles Dawkins—have contributed so much to make this a book that we hope students will want to read and study—and keep.

I dedicate this book to students. I have seen great numbers of them, in lots of places. I like them. They are serious and concerned about their futures. They want to understand themselves and their world better. America's system is not the only way—or even the most usual way—a democracy can be organized. It is not a simple system. Further, our government is not neutral. It takes sides. And it is more likely to take the side of those who understand how it works and participate in its processes. I hope this book will make understanding easier and participation more attractive, to the end that students, like William O. Douglas in a wilderness, will learn how to survive in our system—and prosper.

FRED R. HARRIS Albuquerque, New Mexico

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\*\*Ldeals, or standards of perfection, and reality are not simple concepts. Indeed, explaining what "reality" is has been the main preoccupation of philosophers throughout human history. But for our purposes, we can put these concepts in terms that anyone who has ever planted a seed will understand. The ideal is the picture on the front of the seed packet—the cluster of full, colorful marigolds, say, or the perfect, uniform pods of green beans-and reality is what sprouts and grows. They may or may not be the same.

In Part 1, we examine American political ideals, primarily from the standpoint of the people who first planted them. Even the seeds of these ideals were not always perfect, and they were not always intended to be. We will see that the seeds have been changed or improved since they were

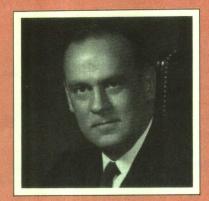
planted.

In Chapter 1, we consider the implications of the Declaration of Independence. In Chapter 2, we discuss the origins and meaning of the U.S. Constitution. In Chapter 3, we examine our system of federalism, envisioned by the Constitution, and how it has evolved through the years. In Chapters 4 and 5, we consider how the ideals of the Declaration of Independence were made more specific in the Bill of Rights and were added to the Constitution immediately after the new nation began to function, and how the Civil War Amendments were added following the war between the states.

These chapters demonstrate that the American ideals of citizen participation in government and protection of human rights are well established, because of both historical inheritance and modern belief. We will begin to see that there is a dynamic tension between those ideals, on one hand, and our institutions and practices, on the other.

Part 1

## AN INTERVIEW WITH FORMER SUPREME COURT JUSTICE POTTER STEWART



Potta HI

Associate Justice Potter Stewart served on the U.S. Supreme Court from his appointment by then President Dwight Eisenhower in 1958 until his retirement in 1981. As a student at Yale, he received a B.A. degree "cum laude" in 1937 and an LL.B. degree in 1941, in between studying at Cambridge University in England. He practiced law in New York City and Cincinnati, Ohio, holding elective offices in the latter city. Prior to becoming a member of the Supreme Court, he served as a judge of the U.S. Court of Appeals for the 6th Circuit.

Q How did you get to be a Supreme Court justice—and did you aim for it?

A I graduated from Yale Law School in 1941 and was in private practice from then until 1954 when I became a circuit judge on the Court of Appeals for the 6th circuit in Cincinnati. It covers Michigan, Ohio, Kentucky, and Tennessee. In 1958 President Eisenhower appointed me to the Supreme Court. I didn't know the President very well, though I did know the Attorney General, Bill Rogers, quite well. I don't think anyone aims to be a Supreme Court justice; if they do, they're likely to be disappointed. Becoming a justice is more of a surprise, like having lightning hit you.

How long have you been retired and was it by your own choice?

A Since 1981. I left the bench knowingly and deliberately.

Q Are there any situations where a justice can be taken from the bench by any other means than his or her own?

A Short of impeachment, no, there are none. But a justice who becomes disabled, and that fortunately has happened very few times, if ever, on the Supreme Court of the United States, can just be omitted from the decision-making process.

Q Should a justice be appointed for a term of years, rather than for life?

A I think not, although a justice is not appointed for life, but rather "during good behavior." It was decided long ago that growing old is not bad behavior.

What restraints are there on a justice's decision in a case?

A A justice has to follow the law and the Constitution, even if he or she doesn't agree with the law or the constitutional provision.

O So most of the rulings that you are making are on constitutionality issues?

A About half of them are. The other half would be on tax cases, labor cases, patent cases, and so on.

Q Does public opinion play a part, directly or indirectly, in the Supreme Court's decisions?

A Maybe subconsciously, but members of the Supreme Court, unlike the other two branches of the government are not responsible to an electorate, or to a constituency, but are responsible alone to the Constitution and the law, and therefore public opinion should not knowingly, directly, play any part. But I suppose all of us are products of our time.

What about the other branches of government? What kind of influence can they put on the judicial process itself?

A None at all.

Os if we were to look at a hierarchy in the decision-making process, you are the ultimate authority.

A That's correct. The Constitution is the ultimate authority. The Supreme Court is accountable only to the Constitution.

Q Then your decisions cannot be overruled by another branch of government?

A Only by constitutional amendment, constitutional decision.

Q If the Supreme Court is accountable only to the Constitution, are there any criteria we should use to be able to evaluate the workings of the Court?

A Well I doubt it, but of course there is a responsibility; therefore its duty is to be self-restrained.

Q Is it a strength or a failing of our Constitution that it is worded generally and can be reinterpreted with changing times?

A I think it is a strength, because that's the reason the Constitution is a contemporary document. Those who framed our Constitution knew they were not framing a traffic code good for today or tomorrow only, but they were framing a Constitution. Therefore, they put some of the important constitutional phrases in very general language, like "due process of law," and "cruel and unusual punishment." What was considered cruel and unusual in the 18th century is no longer—I'm thinking of putting people in the stocks, or throwing eggs, or whipping. Cruel and unusual punishment is subject to contemporary interpretation. And due process of law is a current contemporary concept.

Q Is the Court a defender of human rights or government majority rule? That is, does it protect citizens from government when necessary?

A The vast majority of constitutional provisions were directed toward creating the new federal government. But the heart of the Constitution is primarily the Bill of Rights. It is there to protect the citizens.

Q Is there anything you can say in summation to people who are consumers of this process?

A I think it is important to remember that the Supreme Court is only involved, is only concerned with federal law—federal constitutional or statutory law and not state law. We are interpreters of the Constitution and the constitutionality of issues more than we are concerned with the relative merits of the issues themselves.