THE CHALLENGES OF DEMOCRACY

ALSO BY JONATHAN SUMPTION

Trials of the State

Law in a Time of Crisis

THE CHALLENGES OF DEMOCRACY

AND THE RULE OF LAW

JONATHAN SUMPTION

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I

INTRODUCTION

All but one of the chapters in this volume originated as lectures delivered to a variety of audiences in different places. They are occasional pieces, but there is an underlying theme. Britain, like other European countries, is a democracy. But what does that mean? What are the conditions in which democracy can exist? What part does law play in creating those conditions, or perhaps in extinguishing them? Can democracy survive an age of polarised opinion and hostility to dissent? Will Britain still be a democracy in fifty years' time? Until recently, these questions hardly seemed worth asking. Politics is the essential mechanism of the democratic state, but the disrepute into which politics have fallen, both in Britain and elsewhere, has pushed the travails of democracy to the top of today's agenda. As I write this, in July 2024, disillusionment with democracy and an appetite for authoritarian styles of government is growing across Europe and in the United States. Each succeeding poll points to a declining faith in democratic politics and an overpowering contempt for politicians.

Why has this happened? One view is that our politicians are uniquely vicious, incompetent or corrupt. That is a fair criticism of a very small number of them, but it is plainly not a fair description of the generality of those involved in politics. It seems likely that there are more fundamental causes at work than the supposed failings of the current generation of

politicians. Three factors in particular have had an important impact on current perceptions of the political process.

The first is about representation. In spite of the occasional resort to referenda, all modern democracies operate on the basis that the electorate chooses others to make decisions on their behalf, and may remove them at stated intervals if they are dissatisfied. This has advantages that no other system can replicate. It is more likely to achieve long-term stability than direct democracy. It dilutes the electorate's prejudices and enthusiasms which may be short-lived. It tends to marginalise extremes, as representatives try to satisfy the broadest range of opinion in the interest of getting re-elected. Representation disperses power and inhibits its arbitrary exercise. By making office-holders answerable to a permanent body that is broader than their own cronies, representative democracy encourages a more consultative style of decision-making and a more careful approach to the dilemmas that are an inherent part of government. These things usually make for better policymaking. In a representative democracy governments will not necessarily govern well, but they are more likely to govern well than autocrats. These are some of the reasons why we need elites. Democratic elites at least have the advantage that they are answerable to the public at periodic elections, so that no political class can diverge for very long or very fundamentally from the values of the population at large. However, representation inevitably creates a professional political class, and no professional political class can ever be truly representative of its electors. Success in politics requires single-minded ambition and determination. Success in government requires high levels of intelligence, judgement and application. These qualities are uncommon, which means that democracies are in reality removable aristocracies of knowledge. This has sometimes been contemptuously labelled 'bystander democracy'. The eighteenth-century

philosopher Jean-Jacques Rousseau had harsh things to say about it. 'The day you elect representatives,' he observed, 'you lose your freedom.' Many people today who have never read *The Social Contract* share Rousseau's instinct. Elites are rarely popular. Contempt for them is one of the oldest tropes of democratic politics.

A second problem is that public expectations are unrealistically high. For most of human history, the main limitation on the power of the state was its ignorance. Since the middle of the nineteenth century, the capacities of government have been transformed. Today's state is characterised by immense bureaucracies, vast resources of information, and elaborate electronic tools for retrieving and filtering it as required. Economic surpluses over subsistence levels have grown so as to make a far higher proportion of personal incomes taxable. It has become possible to direct impressive resources towards collective welfare, as it was not in earlier periods. These changes have coincided with the onset of mass democracy, and have encouraged high hopes for improving the lot of mankind. Yet there are many desirable things that the state cannot achieve. Governments can create the conditions for prosperity and remove artificial barriers to prosperity, but they cannot create prosperity. Governments have proved unable to halt the spread of infectious disease, or even significantly limit it. Governments cannot seal off their borders against illegal immigrants any more than the Roman Empire could stop the Germanic hordes at the Rhine or the Danube. These are merely the most topical examples. There are many others. Politicians are expected to promise the undeliverable and are then damned for failing to deliver it. The result is to undermine the trust in institutions that is indispensable in any state not founded on mere force. The failure of trust is aggravated by a mismatch between the way that the public and ministers think about policy. When the public

criticises the government it commonly focuses on one issue at a time: the government has failed to improve outcomes in the National Health Service, or it has failed to resolve the problem of housing shortage, or it has failed to control crime. But governments do not have the luxury of thinking of one thing at a time. Most policy decisions have side effects in other policy areas. Many things that the state can do to address one problem serve to aggravate another. Some things are only deliverable at the expense of other important values such as liberty, acceptable levels of taxation or economic growth.

Thirdly, democracies have proved incapable of dealing with some major modern challenges, precisely because they are democracies. Democratic pressures have stood in the way of potential solutions. Britain faces a severe housing shortage as a result of the failure of housebuilding programmes to keep up with the rate of household formation. The result has been a steep rise in house prices and rents. Even with help from the bank of Mum and Dad, the average age at which people buy their first home outside London has risen from 29 in the 1990s to 33.4 in 2023. In London it has been as high as 36.7 (in 2019). The main problems are the planning system and environmental regulation. The planning system makes it too easy to block development in the interest of protecting the amenities of existing home-owners. Recent attempts to reform the planning system hit the buffers in June 2021 when the Conservatives lost a 'safe' home counties seat at Amersham in which the reforms were a major issue. Building houses would be easier without environmental regulation, but this is a classic case of inconsistent goods. We can only solve one problem at the cost of generating another.

Housing is not the only example. The welfare budget disproportionately favours pensioners. The 'triple lock' requires annual increases in pensions significantly more generous than

the benefits enjoyed by people of working age. Rising expectation of life means that society has to support a growing proportion of economically inactive citizens. The result is an inexorable increase in the cost of these benefits as a proportion of both public expenditure and GDP. In the long run, this will represent an unsustainable burden on younger generations whose taxes pay for it. Any solution to the problem will be electorally unpopular, especially among older voters who are assiduous voters and have for many years been the mainstay of the Conservative Party. In May 2017, the Conservative election manifesto proposed some relatively modest changes to the system of public provision for the care costs of those living at home. The cost would have been recoverable from the value of their homes after their death, as already happened for the costs of those in care homes. This was promptly labelled a 'dementia tax' and the party was forced to abandon the scheme. The incident is thought to have contributed significantly to the loss of its parliamentary majority on polling day. These problems are not peculiar to Britain. In France, President Macron increased the retiring age in order to make the provision of pensions financially sustainable, but the change provoked strikes, riots and cost him his electoral base. He now faces a National Assembly dominated by both left and right extremes that are agreed on only one thing – the repeal of his pension reforms. As a former President of the European Commission observed about the eurozone crisis of 2009–10, 'We all know what we have to do, but we just don't know how to get re-elected when we have done it.'

Climate change is probably the most significant issue on which democratic pressures inhibit effective solutions. It seems beyond question that some measures will have to be taken to curb emissions if life on this planet is to remain tolerable. The longer that these measures are delayed, the

more expensive and intrusive they will have to be. Earlier environmental concerns, such as those surrounding the use of pesticides and other pollutants, called for measures that did not significantly affect standards of living. But dealing with climate change will almost certainly involve reducing consumption, which will be hard to sell in a democracy. The electoral kickback has already begun. In Britain, measures to phase out the uses of hydrocarbon fuels for heating have been postponed in response to public hostility. In Germany, electoral politics are leading to the phasing out of one of the main sources of clean energy, namely nuclear power. A major populist party, Alternativ für Deutschland, has garnered significant electoral support by denying that any climate crisis exists. The Netherlands, much of which is below sea level, is probably more vulnerable to climate change than any other European country, but hostility to measures to deal with it has boosted the electoral prospects of extremists who promise to resist them. In France, plans to increase fuel taxes and reduce speed limits on motorways were greeted with riots and ultimately abandoned. In the United States, Donald Trump is campaigning on a programme of boosting oil production and taking an axe to most of the measures taken by American governments to date to curb emissions.

In Britain, these problems have opened up a dangerous political gap between generations. Housing shortage, pension provision and climate change are all examples of major issues on which the interests of older and younger generations conflict. This is part of a wider pattern in which opinion is polarised between generations on a range of issues: Brexit, student loans, immigration, racial tension, transgender rights, Gaza and many more. Support for centre-right and right-wing parties has always tended to increase with age, but the current (June 2024) figures are more extreme than they have ever been. In the general election of July 2024,

only 8 per cent of voters aged under thirty voted Conservative, and another 10 per cent voted Reform UK. The only age group in which right-of-centre parties commanded a majority were the over-sixties. Surveys of opinion such as those published in 2020 by the Bennett Institute in Cambridge or in 2023 by the Open Society Foundation, all suggest that disillusionment with democracy is strongest among younger citizens. They are much more dissatisfied than their elders were at the same stage in life, and the situation is getting worse. This is reflected in their growing interest in anti-democratic methods of political expression. Climate change is once again the clearest illustration. Climate change activists, who are mostly young, are resorting to tactics designed not to persuade but to inconvenience a public seen to be indifferent or lukewarm to their cause. They are an expression of frustrated outrage at the failure of democratic politics to accommodate their views. A climate protester recently jailed for climbing onto the Dartford Bridge and forcing police to close it for several hours argued in an interview with the *Guardian* that disruption was necessary because persuasion had not worked. 'Politics as usual was not going to deliver,' he is quoted as saying. For protesters, no process of collective decision-making can be legitimate if it might lead to any other outcome than the one that they support. This is an essentially autocratic outlook and an implicit rejection of the democratic process. If an important, identifiable sector of the population is consistently marginalised on major issues affecting them, this will happen more often.

Democracy has a natural tendency to create interest groups for whom the preservation of their current advantages or the acquisition of new ones are the dominant factors in their political choices. It is asking a lot to expect people to look beyond their own interest at the broader interests of society and to future problems that may not materialise until

after their death. Historical experience is not encouraging. But if democracy is to survive, a higher political morality may be required not just of politicians but of those who elect them. This is a big thing to ask, but it may be in their interest, for unless it happens we are likely to move to a much more autocratic model of government.

Democracy is fragile. It requires what political philosophers from Aristotle onwards have called 'virtue', an ability to put common interests above personal ones. It requires a degree of tolerance and cooperative empathy that is not natural to mankind, especially when opinion on major issues is as polarised as it is today in many major democracies. It depends on a culture that takes decades, even centuries, to take root but that can be destroyed quite quickly. These are some of the reasons why democracy is a relatively recent creation whose survival cannot be taken for granted. In Britain, universal male franchise is barely 150 years old. Women did not get the vote on the same terms as men until 1928. In France it did not happen until 1946. Today, democracy is very far from being the default condition of mankind. The Economist Intelligence Unit, which has published a Democracy Index since 2006, reckons that in 2022 only 24 of the 167 countries covered, with 8 per cent of the world's population, ranked as full democracies, down from 28 in 2006. Britain was one of them. In many countries, ostensibly democratic institutions have been imperceptibly emptied of everything that made them democratic. The world is full of autocracies that grew out of democracies without any criminal or illegal conduct, when authoritarian groups manipulated the distribution of favours and penalties, took control of state broadcasting organisations and 'regulated' private media, harassed potential opponents, exploited gaps in the constitution and rode roughshod over political conventions. Venezuela under Chavez and Hungary under Orbán are

good examples. Many countries, including important ones like Russia and China, have never been democracies. Their leaders have publicly expressed their contempt for the political systems of Western liberal democracies. 'Democracy is not our tradition', said a spokesman for the Hong Kong government quite recently. The United States is one of the world's oldest democracies, but its recent history shows how easy it is for even a sophisticated modern state to slide into autocracy. Donald Trump has openly expressed his admiration for Vladimir Putin, Xi Jinping and Kim Jong Un. Today, the United States counts as only a 'flawed democracy' in the *Economist*'s tables. By some definitions, nearly three-quarters of the world's population today live under authoritarian regimes of one kind or another. Will Britain be one of them?

POLITICS AND THE STATE

II

DEMOCRACY AND ITS ENEMIES*

Towards the end of his long life John Adams, one of the founding fathers of American democracy, became increasingly gloomy about its prospects. Writing to the Virginia politician John Taylor in 1814, he observed that 'democracy never lasts long. It soon wastes, exhausts and murders itself. There never was a democracy yet that did not commit suicide.' When Adams chose the word 'suicide' to describe the death of democracies, he was not just resorting to a dramatic turn of phrase. He was making a deliberate and important point. Democracies fail from within. They are not usually overwhelmed by external forces such as invasion or insurrection. They fail because people spontaneously turn to more authoritarian forms of government. Adams had in mind the

* *This is a slightly expanded version of a lecture originally delivered in October 2021 at the Sheldonian Theatre in Oxford in memory of Roger Scruton. Scruton was one of the most original minds of our time. He was commonly described as a conservative. But he was not a party man, and it would have been more accurate to call him a traditionalist. He believed in the organic development of human societies, and in the cumulative wisdom which humanity derives from its past. Scruton was a romantic, but he was not just a romantic. He was an intensely rational thinker, who deployed reason to great effect but he also understood the limits to what reason could achieve. He was also, of course, many other things: a fine musician, an elegant writer, a fierce horseman, a good friend, a wise counsellor and a devoted husband and father. I wish that I could have submitted the text to him in draft for his comments, but as it is, I offer it to honour his life now that it has ended.*

democracies of the ancient world, the only precedents available before the foundation of the United States. According to the orthodox narrative, the democracies of the ancient world had died because people succumbed to the appeal of demagogues, who promised them security at home and triumphs abroad in return for their acceptance of autocracy. People simply lost interest in democratic government. John Adams's sombre prediction did not come true in his own day. But is it becoming true in ours?

The Pew Research Centre has been tracking attitudes to democracy in different countries for some thirty years. Dissatisfaction with democracy has been rising in advanced democracies for most of that time. This is especially true of young people living in the oldest democracies: the United States, the United Kingdom and France. In a recent survey, the United Kingdom was found to have had one of the highest levels of dissatisfaction in the world, at 69 per cent. It seems that only the Bulgarians and the Greeks think less of democracy than the British. Of course, dissatisfaction with democracy does not necessarily imply a preference for some other system. But more disturbing findings emerge from the regular surveys of political engagement conducted in Britain by the Hansard Society. In the 2019 survey, 54 per cent of respondents agreed with the statement that 'Britain needs a strong leader willing to break the rules'. Only 23 per cent disagreed. Nearly half of those who agreed wanted a strong leader willing to break the rules. They thought that such a person 'shouldn't have to worry so much about votes in Parliament'. Polling evidence is not infallible, but these polls track attitudes over a considerable period of time, and indicate the direction in which we are travelling. They are consistent with the historically high levels of electoral support for authoritarian figures such as Donald Trump, Marine Le Pen, Jörg Haider and the leading lights of Alternativ für Deutschland.

The first question that we need to ask is what we mean by democracy. We are so familiar with its use as a general term of approval that some definition seems necessary. What I mean by the word is a constitutional mechanism for collective self-government. Democracy is a way of entrusting decision-making to people acceptable to the majority, whose power is defined and limited, and whose mandate is revocable. That is the institutional framework. But the institutional framework is not enough. Plenty of countries have the institutional framework of a democracy without being one. This is because democracy can only work in a legal and social culture where there is freedom of thought, speech and association, uncontrolled access to reliable information, and a large tolerance of political dissent. A culture of this kind is vulnerable. Where democracies fail, it is not usually because the institutional framework has failed. It is because the necessary cultural foundation has collapsed. The opposite of democracy is some form of authoritarian government. It is of course possible for democracies to confer considerable coercive power on the state without losing their democratic character. It has happened in wartime, and it happened more recently during the Covid-19 pandemic. But there is a point beyond which the systematic application of coercion is no longer consistent with any notion of collective self-government. The fact that it is hard to define where that point lies does not mean that there isn't one. A degree of respect for individual autonomy seems to me to be a necessary feature of anything that deserves to be called a democracy.

The chief enemies of democracy are economic insecurity, intolerance and fear.

Let me first address economic insecurity. Historically, democracies have always been heavily dependent on economic optimism. Except for two short periods, the United States has until quite recently enjoyed continuously rising

levels of prosperity, both in absolute terms and relative to other countries. Britain's economic history, like that of other European countries, has been more chequered. But the trajectory has generally been upward. Sixty years of post-war expansion have raised those expectations to a very high level. Today, the outlook is darker. We face problems of faltering growth, relative economic decline, redundant skills and capricious patterns of inequality. These symptoms are particularly acute in Britain, where they are aggravated by historically low productivity, poor levels of investment, and self-inflicted wounds such as an ill-conceived and badly managed departure from the European Union and a highly destructive response to the pandemic. The consciousness of Britain's past economic greatness makes the impact of these problems that much greater. In most Western democracies, including ours, gross domestic product is still rising, albeit slowly. But people measure their well-being against their expectations. The shattering of optimism is therefore a dangerous moment in the life of any community. Disillusionment with the promise of progress was a major factor in the thirty-year crisis of Europe which began in 1914 and ended in 1945. That crisis was characterised by a resort to totalitarianism in much of Europe. Britain, the United States and France escaped that fate, but in all three countries, there were powerful authoritarian movements of left and right that drew their strength mainly from economic misfortune. Russia and Germany were widely regarded as the models that showed the way out, just as totalitarian China was until very recently.

Economic insecurity has another potentially disruptive consequence. It heightens concerns about inequality. Hostility to great fortunes and especially to new ones is natural to mankind and always has been. It was a perennial theme of the politics of the ancient world. Seven centuries ago Dante placed the new rich in one of the lower pits of

hell. Yet inequality is an inevitable consequence of liberty. It reflects the diversity, energy, ambition and enthusiasm of disparate human beings in any society in which these qualities are not artificially suppressed. In particular, it is a natural consequence of innovation, which is a necessary condition of economic growth but inevitably disrupts the existing distribution of income and wealth. Those who perceive and exploit new economic opportunities will almost always fare better than their fellows. This is one reason why the United States, with the world's most dynamic economy, is also among the world's most unequal societies. I do not accept the various theories, which writers like Thomas Piketty and Brett Christophers have made fashionable, which underrate the dynamic quality of economic life and attribute inequality mainly to institutional factors or the leaden legacies of the past. But there are legitimate concerns about fortunes made by activities that have no discernable economic value or those that are due to market distortions or the exploitation of social goods. Economic misfortune bears hardest on the poorest members of society. Extremes of inequality can be socially disruptive, promoting resentments that undermine the sense of shared identity that is the foundation of any democracy. Whether inequality has reached anything like that level in Britain is a controversial question. I doubt it. By most measures, inequality in Britain is broadly in line with other western European countries and well below the world average. What is clear is that when growth falters people become more interested in the distribution of income and wealth. This can poison democratic politics whether it is justified or not.

The second of democracy's great enemies is fear. People who are sufficiently frightened will submit to an authoritarian regime that offers them security against some real or imagined threat. Historically, the threat has usually been

war. In the two world wars of the twentieth century Britain transformed itself into a temporary despotism with substantial public support. Wars, however, are rare. This country has generally conducted its wars at a distance. It has not faced an existential threat from external enemies since 1940. The real threat to democracy's survival is not major disasters like war. It is comparatively minor perils that in the nature of things occur more frequently. This may seem paradoxical. But it must be obvious that the more routine the perils from which we demand protection from the state, the more frequently will those demands arise. If we confer despotic powers on government to deal with perils that are an ordinary feature of human existence, we will end up doing it most or all of the time. Because the demand for security has grown dramatically in modern democracies, the perils against which we now demand protection are more numerous than they were. This is likely to lead to a more fundamental and durable change in our attitudes to the state. It is a more serious problem for the future of democracy than war.

This has happened because of the growing aversion of Western societies to risk. We crave protection from many risks that are inherent in life itself: financial loss, economic insecurity, crime, sexual violence and abuse, sickness, accidental injury. Even the Covid-19 pandemic, serious as it was, was well within the broad range of mortal diseases with which human beings have always had to live. We call upon the state to save us from these things. This is not irrational. It is in some ways a natural response to the remarkable increase in the technical competence of mankind since the middle of the nineteenth century, which has considerably increased the range of things that the state can do. For all perils, there must be a governmental solution. If there is none, that implies a lack of governmental competence. Attitudes to death provide a striking example. There are few things as routine

as death. 'In the midst of life, we are in death', says *The Book of Common Prayer*. Yet the technical possibilities of modern, publicly financed medicine have accustomed us to the idea that except in extreme old age, any death from disease is premature, and that all premature death is avoidable. Starting as a natural event, death has become a symptom of societal failure. In modern conditions, risk aversion and the fear that goes with it, are a standing invitation to authoritarian government. If we hold governments responsible for everything that goes wrong, they will take away our autonomy so that nothing can go wrong. In Britain, we had had a spectacular demonstration of this during the pandemic, when coercive measures with radical effects on our lives were made by ministers with strong public support but minimal parliamentary input. Whatever one thinks about this, it unquestionably marks a significant change in our collective mentality.

The quest for security at the price of coercive state intervention is a feature of democratic politics which was pointed out in the 1830s by the great political scientist Alexis de Toqueville in his remarkable study of American democracy, a book whose uncanny relevance still takes one by surprise even after nearly two centuries. His description of the process cannot be bettered. The protecting power of the state, he wrote:

> extends its arm over the whole community. It covers the surface of society with complicated rules, minute and uniform, through which the most original minds and the most energetic characters cannot penetrate, to rise above the crowd. The will of man is not shattered. But it is softened, bent, and guided. Men are seldom forced to act, but they are constantly restrained from acting. Such a power does not destroy, but it prevents existence; it does not tyrannize, but it compresses, enervates, extinguishes. It

> stupefies a people until each nation is reduced to nothing better than a flock of timid and industrious animals, of which the government is the shepherd.

This brings me to the problem of intolerance or, as we call it when it reaches a sufficient scale, polarisation. In many ways, the biggest threat to democracy is not oppression by the state, but the intolerance of our fellow citizens. In the early years of British democracy, the great apostle of Victorian liberalism John Stuart Mill foresaw that the main threat to its survival would be the conformity imposed by public opinion. Roger Scruton once wrote that 'the freedom to entertain and express opinions, however offensive … [is] the precondition of a political society.' Scruton had more personal experience of this than any of us. He was a persistent and joyful dissentient. In the same article, he identified the problem with unerring accuracy. To guarantee freedom of opinion,' he wrote, 'goes against the grain of social life, and imposes risks that people may be reluctant to take. For in criticising orthodoxy, you are not just questioning a belief – you are threatening the social order that has been built on it.'

The deliberate campaigns of suppression conducted by pressure groups against politically unfashionable or 'incorrect' opinions on, for example, race, gender reassignment or same-sex relationships, the attempts to impose a new vocabulary that implicitly accepts the campaigners' point of view, these things are symptoms of the narrowing of our intellectual world. The tests recently imposed on freshers at the University of St Andrews and the campaign against Kathleen Stock at the University of Sussex suggest that intellectual persecution is alive even in our universities, for the first time, perhaps, since Thomas Cranmer was burned at the stake just 200 yards from the Sheldonian Theatre. Demonstrations, such as those organised by Extinction Rebellion and Insulate

Britain, are based on the notion that the campaigners' point of view is the only legitimate one. It is therefore perfectly acceptable deliberately to bully people and disrupt their lives until they submit, instead of resorting to ordinary democratic procedures. This is the mentality of terrorists, but without the violence. Democracy can only survive if our differences are transcended by our common acceptance of the legitimacy of the decision-making process, even when we disagree profoundly with the outcome. This implicit bargain breaks down if people feel more strongly about the issues than they do about democratic procedures for settling them. The result is the abandonment of political engagement and a growing resort to direct action of one kind or another.

Direct action is an invitation to authoritarian government, because it implicitly rejects diversity of opinion. It assesses the value of democratic institutions by one criterion only, namely the degree to which the activists' programme has prevailed. Those who engage in direct action instinctively feel that the end is so important that it justifies the means, but they rarely confront the implications of their acts. Since we are never likely to agree on controversial issues of principle, what holds us together is not consensus, but a common respect for a method of resolving our differences, whether or not we approve of the result. Conflicts of opinion and interest are natural features of any free society. The task of a political community is to accommodate them so that we can live together in peace without systematic coercion. This is necessarily a political process, which is why the contempt for politics expressed by so many activists is potentially a mortal threat to our democracy.

The successive surveys of the Hansard Society paint a picture of a society in which interest in public affairs is strong, but people are unwilling to engage actively in politics. The Conservative Party has been the dominant party

of government for the past century. Yet its membership has declined from about 2.8 million in the mid-1950s to about 170,000 according to the latest estimates. Labour Party membership is larger, at about 430,000, but still a long way below its earlier peak. This pattern is fairly typical internationally. The membership rolls of established political parties has declined steeply in most European democracies. By comparison, support for new parties dedicated to the wholesale rejection of normal party politics has increased, jerkily but noticeably: in France La République en Marche (as it was originally called), in Italy the Five Star Movement, in Spain Podemos and Reform UK in Britain have all in their day presented themselves as representatives of a new electorate, and as spontaneous expressions of the popular will rather than traditional political parties. Podemos has declared that there is no left or right. There is only 'the people', identified with Podemos itself, versus 'the caste', i.e. professional politicians. In Italy, the Five Star Movement claimed not to be a political party but a movement, and promoted direct democracy with electronic voting. Remarkably, lack of political experience was a central part of the successful candidates' pitch in the US presidential election of 2016, the French presidential election of 2017 and the Italian legislative elections of 2018.

These facts reflect a fundamental problem about democracy, which was pointed out more than two millennia ago by Aristotle. Aristotle regarded professional politics as an evil because he thought that it created a political elite that would end up serving its own interests. This has been the received opinion for centuries, right up to Noam Chomsky and beyond. In my experience it is untrue, at any rate in Britain. Professional politicians can never be intellectually pure. They are constrained by the need to compromise in order to build majorities. But almost all of them are public-spirited individuals with a genuine ambition to serve their

country. They would acquire a great deal more money and status by pursuing other careers. Nevertheless, the old trope that politicians are a bunch of corrupt, self-interested and power-crazed hypocrites is deeply embedded in the public mind and always has been. Aristotle's solution was to abolish the political class and replace it with a system in which public offices would be held for short periods by men chosen by lot or serving in rotation. Everyone can then feel that they are at least potentially engaged in a system of self-government. This is hardly realistic in an electorate of some 47 million. But Aristotle had put his finger on the reason why many people reject democracy. They feel alienated from the political class that democracies inevitably generate. They do not regard politicians as representative of themselves, even if they voted for them. There is no cure for this condition. Successful politicians are in the nature of things unlikely to be representative of the electorate. They require an altogether exceptional degree of ambition, application and intellect. Those who are in government have to apply themselves to complex issues with an intensity for which most of us have neither time nor inclination. If one object of representative politics is to choose politicians who are best-qualified to perform the exceptionally difficult job of governing, then our representatives will always be unrepresentative.

None of this has stopped enthusiasts for constitutional innovation from exploring a variety of ways in which to sideline the political class. Referenda are one possibility, but Britain's experience with referenda has not been entirely happy. They only work if people are voting about precise proposals (necessarily formulated by politicians) whose acceptance or rejection by the electorate will resolve the whole issue. Otherwise, they are simply the prelude to further rounds of political infighting. The referenda on Scottish independence in 2014 and Brexit in 2016 perfectly

illustrate the problem. Citizens' assemblies are currently the favourite proposals for circumventing professional politics. They are the modern equivalent of Aristotle's selection by lot. They seek to introduce into our constitutional arrangements a succession of ad hoc focus groups. But there are a number of problems about this approach to decision-making. The first concerns the selection of the participants. They are usually chosen on the assumption that people of a given socio-economic class or level of education will be politically representative of the categories to which they belong. That assumption seems likely to be wrong. Groups such as manual workers, members of particular ethnic groups or over-sixty-fives, for example, are no more uniform or consistent in their political opinions than the electorate at large. It is therefore largely a matter of accident whether our divisions are replicated in a citizen's assembly of, say, one hundred people. They have not been chosen by the electorate and are not answerable to anyone. They therefore have no democratic legitimacy. Secondly, citizens' assemblies by definition lack the experience that enables professional politicians to assess what they are being told. They are heavily dependent on the expert advisers who endeavour to analyse the options and their consequences. The system is too vulnerable to manipulation and facile solutions. Thirdly, they are generally invited to consider one issue at a time and to choose the best of a number of available options. But government is not like that. Problems crowd in on decision-makers all at once. Potential solutions compete for finite resources. They inter-react. The best solution to one problem may seriously aggravate another. The quest is not always for the best or most popular option, but for the least bad, something perhaps that nobody wants but most people can live with.

There are measures that might palliate the current problems of democracy, but without solving them. Foremost

among them is proportional representation. Proportional representation would probably create a multiplicity of political parties. That would more fairly reflect the diversity of opinion among the electorate than the current system. For the same reason it might also increase popular participation in the political process. It is probably the system that we would choose if we were building a constitution from scratch. But first past the post is the system that we have inherited, and the power of inertia in a complex and stable society is such that we are probably stuck with it. Proportional representation would be contrary to the interests of the two major national parties and there is no real demand for it among the electorate. The alternative vote referendum of 2011 suggests that the British prefer the crude simplicity of the first-past-the-post system to anything more elaborate. Recent polling evidence points to the same conclusion. It is fair to say that proportional representation would do nothing to address the alienation of the electorate from the political process. Indeed, it might well increase it, since it would lead to less stable governments and more political infighting.

I am not about to suggest my own solution to Aristotle's problem with professional politics, because I do not believe that there is one. Whatever we may think of our politicians, it is an inescapable truth that we cannot have democracy without politics or politics without politicians. We have to learn to accept the vices and virtues of professional politics, because they are inherent in the whole nature of government. Getting rid of professional politics would almost certainly lead to the replacement of the current political elite by a different one that would be more permanent, more authoritarian and less representative. Ultimately all political systems are aristocracies of knowledge. Democracies are no different, except that the aristocracies of the moment are removable.

A generation ago, the enemies of democracy were small groups of cranks and extremists of left and right. But today democracy needs a coherent defence, not just against those who would like to dispense with it in favour of more authoritarian models, but against those who would like to redefine it out of existence. We have to have something to say to the 54 per cent of our fellow citizens who would apparently prefer to be ruled by a British Putin. Why are they wrong? The simplest thing to be said against them is that democracy is an efficient way of getting rid of unsatisfactory governments without violence. But there are at least three other, more profound reasons why people living in a country like ours ought to believe in democracy.

In the first place, it is the best protection that we have for liberty. Since a large measure of individual autonomy is a necessary condition for human happiness and creativity, this is a consideration of some importance. I am well aware of the oppressive possibilities of democracy. I do not doubt that democracy has the potential to oppress not just ethnic or social minorities, but political or moral minorities, people who believe something that majorities object to. That was pointed out by Madison and Mill at the birth of modern democracy, and indeed by Aristotle more than twenty centuries before that. In most periods of history, the best guarantee of liberty has been the powerlessness and ignorance of the state. Historically, it was relatively easy to escape its scrutiny, and take shelter in the domain of private life. The immense power of the modern state and its almost unlimited access to information makes it harder for us to hide. Access to the levers of state power by democratic majorities is therefore potentially more dangerous today than it has ever been. But democracy at least offers the possibility of redemption. Its values can be turned against those currently in power. By comparison, authoritarian states entrench themselves in

power. They institutionalise repression and cultural control in a way that is more difficult to reverse.

Secondly, the creation of a political class, which Aristotle regarded as the great vice of democracy, may well be its chief merit. Political parties operate in what I have previously called the political market. They are coalitions of opinion, united by a loose consistency of outlook and the desire to win elections. To command a parliamentary majority, parties have traditionally had to bid for support from a highly diverse electorate. Their policy offerings mutate in response to changes in the public's sentiments that seem likely to influence voting patterns. Their whole object is to produce a slate of policies that perhaps only a minority would have chosen as their preferred option, but which the broadest possible range of people can live with. This has traditionally made them powerful engines of national compromise and effective mediators between the state and the electorate. It has also served as a good protection against extremes. Autocracy, by comparison, offers no protection at all against extremes.

Thirdly, democracy is usually more efficient. There is a common delusion, which I suspect is shared by many of the 54 per cent, that strongmen get things done. They do not waste time in argument or debate. Historical experience should warn us against this idea, which is almost always wrong. The concentration of power in a small number of hands and the absence of wider deliberation and scrutiny enables authoritarian governments to make major decisions on the hoof, without proper forethought, planning, research or consultation. Within the government's ranks, it promotes loyalty at the expense of wisdom, flattery at the expense of objective advice, and self-interest at the expense of the public interest. The want of criticism encourages self-confidence, and self-confidence banishes moderation and restraint. The

opacity of authoritarian governments is a standing invitation to corruption.

These have always been the main advantages of representative democracy, and they are just as obvious today. But will they prevail? I am a natural optimist, but I have to say that I am not optimistic about the future of democracy, in this country or elsewhere in the West. All of the threats to democracy that I have discussed above seem likely to intensify in the coming years. The public attitudes that I have been talking about are all too natural to human beings. Democracy has existed for barely two centuries in Europe and the United States, less in other places. It was the creation of an exceptional combination of political and cultural factors, which would never have been easy to sustain and whose impact is now fading. The craving for security is too deeply embedded in human nature to go away. Fear will never lose its capacity to distort our collective judgements. The decline of political tolerance and the rise of moral absolutism are trends which are just as unlikely to be reversed.

The major challenge to democracy in the coming years will, I believe, be climate change. Climate change is likely to be the main generator of collective fear in the decades to come and quite possibly the main temptation to direct action. It is of course possible that we will do nothing very much about climate change and simply chug along dealing locally with the consequences as and when they arise. But I do not doubt that more radical measures to deal with climate change are necessary. On the assumption that some action is taken, it is likely to run into strong democratic headwinds. Most of the measures needed to deal with climate change involve reducing consumption and curtailing economic growth. This will not be popular and may not be accepted by democratic electorates, especially if groups come forward to offer easier and perhaps specious alternatives. Climate

change can only effectually be dealt with at an international level. This will require major decisions to be made internationally, in a world where lines of democratic accountability are still national. Democracy requires a common loyalty to the decision-making process, which is strong enough to transcend people's disagreements about particular issues. That depends on a common sense of identity and a large measure of mutual solidarity. At the moment, this sense of solidarity exists, if at all, only at the level of the nation state. We have had a stark reminder of that in the Brexit referendum.

Perhaps in future, climate change will generate a measure of international solidarity that will resolve this problem, but I would not count on it. National identities are becoming stronger, and climate change is likely to make them stronger still. This is because although all humanity has a common interest in dealing with climate change, they do not have a common interest in the measures necessary to do it. We have seen this on issues like fossil fuels and deforestation. Countries like India, China, Malaysia and Brazil, are not likely to accept measures that will restrict their ability to achieve the same standard of living as the West. Especially when they reflect that historically the West has to some degree achieved that standard of living by polluting the world. Countries like the United States and Britain are not likely to accept a disproportionate reduction of their own standard of living as the price of international agreement. The logical outcome of the threat of climate change is not international harmony in the face of a common danger. It is a world of competitive despotisms.

The transition from democracy to authoritarian rule is generally smooth and unnoticed. It is easy to sleepwalk into it. The outward forms and the language of politics are unchanged. But the substance is gone. These things do not happen with a clap of thunder. Democracy is not formally

abolished but quietly redefined. It ceases to be a method of government, and becomes instead a set of political values, like communism or human rights, which are said to represent the people's true wishes without regard to anything that they may actually have chosen for themselves. Historically, the default position of human societies has always been some form of autocracy. The world is full of countries which have reverted to type. The democratic label is still on the bottle but the substance has been poured out of it by governments, usually with substantial public support. Chile, Peru, Venezuela, Brazil, Hungary, Egypt, Turkey, Russia: the list gets longer every year. Will Britain end up on that list? A generation ago, it would have seemed strange even to ask the question, but it is now a real issue.

III

WHAT IS GOING ON IN THE UNITED KINGDOM?*

Looking back on a tumultuous decade, 2012–2022

A lot has happened in British politics in the last ten years. There have been two major referenda. Scottish independence narrowly failed to obtain majority support in the referendum of 2014. Two years later, an even narrower majority called for Britain to leave the European Union, as we have now done. We have had many changes of government in a short time. Britain has been a byword for political stability for three centuries, the polar opposite, in a European context, of Italy. Yet in 2022, we had as many prime ministers in four months as Italy had had in four years.

The events of the past decade are sometimes described as a constitutional crisis, but they really marked a crisis of the party system, and in particular a crisis of the Conservative Party. The Conservative Party governed Britain from

* *In 2022 and 2023, British politics provided an unedifying spectacle to the world, which I was occasionally asked to explain to puzzled observers at home and abroad. My response has been through a number of iterations, as events have unfolded. This version originated in a lecture delivered at Queens' College, Cambridge in July 2023 to the biennial Cambridge seminar of the Canadian Institute, a gathering of judges and senior lawyers from Canada. I have updated it in the light of events since then.*

2010 to 2024 and indeed for most of the two centuries since it emerged in something like its present form in the early nineteenth century. In its heyday, it was one of the most successful election-winning machines in the world. It represented an important strand in British political thinking: pragmatic, moderate, competent, patriotic and non-ideological, suspicious of the overreaching state and disruptive change, but open to evolutionary reform. This combination has had considerable appeal to its major constituencies: business people great and small, the more prosperous members of what used to be called the working class, and metropolitan liberals. The Conservative Party has survived as long as it has because it is a chameleon. It is not so much a political platform as an attitude of mind, which is capable of accommodating many different political platforms. It subtly changes its offering in response to perceived changes in public sentiment. All political parties do that, but historically the Conservative Party has done it more successfully for longer than any other party in the Western world.

Crises of the party system are the natural consequence of the process of adaptation to change that all long-standing political parties undergo in a democracy. Before the Second World War, there were many such crises, involving major shifts in the parliamentary tectonic plates. Irish Home Rule and imperial tariff preference before the First World War, the attempt of Lloyd George to cling to power in the 1920s, and the crash of 1929 all generated political crises that dissolved party loyalties and destabilised governments. Earlier generations had experienced similar crises in the eighteenth and nineteenth centuries, provoked by disputes over, for example, the British response to the French revolutionary wars at the dawn of the nineteenth century, Catholic emancipation in the 1820s and 1830s, and the repeal of the Corn Laws in the mid-1840s. Crises like these were once the stuff

of politics. In a sense we have simply reverted to an earlier norm.

Many of the major crises of party politics in our history have been about trade policy. And so it is today. The issue that has loosened party loyalties in our own time is Brexit. Brexit is the modern equivalent of the parliamentary crises provoked by the Corn Laws, which nearly destroyed the Conservative Party in the 1840s, and imperial tariff preference, which nearly destroyed the Liberal Party in the 1890s. The Conservatives had brought Britain into the European Community in 1973, at a time when hostility to Europe was concentrated on the left. But the party's traditional support for Europe began to erode during the 1980s, when the European Community moved into the area of social policy and appeared to threaten the small-state model in which most conservatives believed. By the first decade of the present century, the rise of the anti-European UK Independence Party was eating into the Conservative Party's political base. It forced its then leader David Cameron to promise a referendum on Europe in the party's manifesto for the general election of 2015. He expected to win the referendum campaign and believed that that would lay the whole issue to rest for at least a generation. As we now know, that was a miscalculation. He lost the referendum of 2016, provoking the worst political crisis since the Second World War. Even if he had won it, the issue would not have been laid to rest.

The underlying problem is a growing radicalisation of both major national parties at constituency level. Originally, the constituency associations of British political parties were relatively powerless. Their members contributed funding and hard work, but political direction came from the leadership of the parliamentary party. Arthur Balfour, who was Conservative prime minister from 1902 to 1905, is said to have declared that he would rather take political advice from his