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POLITICAL ORDER



AND POLITICAL



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DECAY

FROM THE INDUSTRIAL REVOLUTION
TO THE GLOBALIZATION OF DEMOCRACY

INTRODUCTION

Development of Political Institutions to the French Revolution

Consider a number of very different scenarios that have been playing out at the beginning of the second decade of the twenty-first century.

In Libya in 2013, a militia armed with a panoply of heavy weapons briefly kidnapped the country's prime minister, Ali Zeidan, demanding that his government provide them with back pay. Another militia has shut down much of the country's oil production, which is virtually the only source of export earnings. Other militias were earlier responsible for the killing of U.S. ambassador Christopher Stevens in Benghazi, and for shooting dozens of demonstrators in the capital, Tripoli, who protested their continuing occupation of the city.

These militias were formed in various parts of the country in opposition to Libya's longtime dictator, Muammar Qaddafi, whom they ousted, with significant help from NATO, in the first year of the Arab Spring in 2011. The protests against authoritarian governments that broke out that year not just in Libya but also in Tunisia, Egypt, Yemen, Syria, and other Arab countries were often propelled by demands for greater democracy. But two years later, democracy as it is practiced in Europe and North America seems like a distant dream. Libya since then has taken some tentative steps toward establishing a constituent assembly that would write a new constitution. But at the moment, its most fundamental problem is that it lacks a state—that is, a central authority that can exercise a monopoly of legitimate force over its territory to keep the peace and enforce the law.

In other parts of Africa, states claiming a monopoly of force exist on paper and are less chaotic than Libya. But they remain very weak. Radical

Islamist groups, having been pushed out of South Asia and the Middle East, have been setting up shop in countries with weak governments such as Mali, Niger, Nigeria, and Somalia. The reason that this part of the world is so much poorer in terms of income, health, education, and the like than booming regions like East Asia can be traced directly to its lack of strong government institutions.

Over the same time period, a very different scenario was playing out in the United States with regard to its financial sector. The United States is in many ways at the opposite end of the political spectrum from post-Qaddafi Libya: it has a very large and well-institutionalized state, one that dates back more than two hundred years and draws on a deep well of democratic legitimacy. But that state is not working well, and its problems may be related to the fact that it is too institutionalized.

Prior to the financial crisis of 2008, there were nearly a dozen federal agencies with regulatory authority over financial institutions, as well as banking and insurance regulators in each of the fifty states. For all of this regulation, however, the U.S. government was nonetheless unaware of the looming subprime mortgage crisis, allowing the banks to take on excessive leverage and permitting the emergence of a huge shadow banking system built around derivatives that were far too complex to properly value. Some commentators have tried to blame the crisis exclusively on government-guaranteed mortgages from agencies like Fannie Mae and Freddie Mac, which did in fact contribute to the meltdown.¹ But the private sector was a happy participant feeding the mortgage frenzy and could take undue risks because large banks knew that they would ultimately get bailed out by the government if they got into trouble. This is exactly the scenario that occurred in the wake of the Lehman Brothers bankruptcy in September 2008, leading to a near collapse of the global payment system and the deepest U.S. recession since the Great Depression.

What is perhaps more shocking, however, is what has happened since the crisis. Despite widespread recognition of the enormous risk posed by “too-big-to-fail” banks, the American banking sector became even more concentrated than it was in 2008. In the years following the crisis, Congress passed the Dodd-Frank Act that was supposed to solve this problem. But the legislation ignored simpler remedies, such as sharply raising bank

capital requirements or putting hard caps on the size of financial institutions, in favor of a highly complex stew of new regulations. Three years after passage of the legislation, many of those detailed rules had not yet been written and would likely not solve the underlying too-big-to-fail problem even if they were.

There are two fundamental reasons for this failure. The first has to do with intellectual rigidity. The banks, in their own self-interest, have argued that strong new regulations of their activities would cut into their ability to lend, and therefore undermine economic growth, while producing harmful unintended consequences. Such arguments are often quite valid when applied to nonfinancial institutions like manufacturing industries, and appeal to many conservative voters who are distrustful of “big government.” But, as the scholars Anat Admati and Martin Hellwig among others have shown, large banks are very different from nonfinancial firms, due to their ability to harm the rest of the economy in ways not possible for a manufacturing company.² The second reason for the failure is that the banks are very rich and powerful, and can hire a legion of high-priced lobbyists to work on their behalf. Despite enormous public anger against the banking sector and the taxpayer bailouts, these lobbyists have succeeded in blocking meaningful regulation that would have gone directly to the heart of the too-big-to-fail problem. Some legislators may have found the bankers’ arguments against new regulation persuasive based on their ideological beliefs; for others, the arguments were a useful cover to protect the stream of campaign contributions flowing from the banking sector.³

A third scenario links the Arab Spring to the protests that broke out in Turkey and Brazil in 2013. These two countries were leading “emerging market” economies, which had seen rapid economic growth during the preceding decade. Unlike the Arab dictatorships, both were democracies with competitive elections. Turkey had been ruled by the Islamist Justice and Development Party (AKP in its Turkish initials), whose leader, Prime Minister Recep Tayyip Erdoğan, had initially made his mark as mayor of Istanbul. Brazil for its part had elected a president, Dilma Rousseff, who hailed from a Socialist party and had been jailed in her youth by the military dictatorship that ruled the country from 1964 to 1985.

Despite these impressive economic and political accomplishments, both countries were briefly convulsed with mass protests against their governments. In Turkey, the issue was a park in Istanbul that the government wanted to make over as a shopping mall. Many of the young protesters felt that Erdoğan, despite his democratic mandate, had authoritarian inclinations and was seriously out of touch with the younger generation of Turks. In Brazil, the issue was corruption and a failure of the government to provide reliable basic services, even while spending billions to host the football World Cup and summer Olympic Games.

What linked these protests to each other, and to the Arab Spring that occurred two years earlier, was the fact that they were driven primarily by the middle class. As a result of the economic development that had taken place over the preceding generation, a new middle class had emerged in both countries, whose expectations were much higher than those of their parents' generation. Tunisia and Egypt had experienced lower rates of growth than Turkey or Brazil; nonetheless, both produced large numbers of university graduates whose hopes for work and career were stymied by the cronyism of those countries' autocratic regimes. The fact that Turkey and Brazil held democratic elections was not sufficient to satisfy the protesters. Government actually had to deliver better results if it was to be regarded as legitimate, and needed to be more flexible and responsive to changing public demands. China, another economic success story, has begun to face similar challenges from its rising middle class, which now numbers in the hundreds of millions. While they have been the beneficiaries of the country's breakneck economic growth over the past generation, they, like their counterparts elsewhere, have different and higher expectations of government. The survival of the political systems of all these countries will depend critically on the degree to which they can adapt to the new social landscape created by economic growth.

THE PROBLEM WITH GOVERNMENT

These three examples may seem like very different cases, where problems are driven by specific policies, personalities, and historical context. But they are in fact linked by a common thread that serves as a background

condition for all political life: institutions. Institutions are “stable, valued, recurring patterns of behavior” that persist beyond the tenure of individual leaders.⁴ They are, in essence, persistent rules that shape, limit, and channel human behavior. Post-Qaddafi Libya’s problem is a lack of basic institutions, most notably a state. Until there is a single, central source of authority that exercises a legitimate monopoly of force in that country, there will be no citizen security or the conditions for individuals to flourish.

At the other end of the scale, the United States has long-standing and powerful institutions, but they have been subject to political decay. Government institutions that are supposed to serve public purposes have been captured by powerful private interests, such that democratic majorities have a difficult time asserting their control. The problem is not just one of money and power; it also has to do with rigidities of the rules themselves, and of the ideas supporting them.

Finally, in the case of emerging market countries like Turkey and Brazil, the problem is one of social change outstripping existing institutions. By definition, institutions are persistent patterns of behavior that are created in response to the needs of a particular historical moment. But societies, especially those experiencing rapid economic growth, do not stand still. They create new social classes, educate their citizens, and employ new technologies that shuffle the social deck. Existing institutions often fail to accommodate these new actors and, as a result, come under pressure to change.

The study of “development”—that is, change in human societies over time—is therefore not just an endless catalog of personalities, events, conflicts, and policies. It necessarily centers around the process by which political institutions emerge, evolve, and eventually decay. If we are to understand the fast-changing political and economic developments of our contemporary world, it is important to put them in the context of the long-term story of the underlying institutional structure of societies.

The present book is the companion volume to *The Origins of Political Order: From Prehuman Times to the French Revolution*. This project started out as an effort to rewrite and update Samuel P. Huntington’s classic *Political Order in Changing Societies*, first published in 1968. The current volume takes its title from the first chapter of the latter book, which in turn

was based on an article originally published in *World Politics*. Huntington's work was critical in making people understand that political development was a separate process from economic and social growth, and that before a polity could be democratic, it had to provide basic order. For all of the differences between Huntington's book and my own in form and substance, I come to the same basic conclusions that he did. The first volume gave an account of the origins of three critical sets of political institutions: the state, the rule of law, and procedures promoting democratic accountability. It explained how these institutions separately or in combination emerged, or failed to emerge, in China, India, the Middle East, and Europe. For those who have not read the first volume, the following sections recap the story presented there.

SOCIAL ANIMALS

The first volume began not with primitive human societies but with mankind's primate ancestors, because political order is rooted in human biology. Contrary to the theories of philosophers such as Jean-Jacques Rousseau or modern neoclassical economists, science now shows us that human beings did not start out as isolated individuals who gradually came to form societies over the course of historical time. The behaviorally modern human beings who emerged somewhere in Africa about fifty thousand years ago were socially organized from the start, just like their primate forebears.

Natural human sociability is built around two phenomena: kin selection and reciprocal altruism. The first is a recurring pattern by which sexually reproducing animals behave altruistically toward one another in proportion to the number of genes they share; that is, they practice nepotism and favor genetic relatives. Reciprocal altruism involves an exchange of favors or resources between unrelated individuals of the same species, or sometimes between members of different species. Both behaviors are not learned but genetically coded and emerge spontaneously as individuals interact.

Human beings, in other words, are social animals by nature. But their natural sociability takes the specific form of altruism toward family (genetic relatives) and friends (individuals with whom one has exchanged favors).

This default form of human sociability is universal to all cultures and historical periods. Natural sociability can be overridden by the development of new institutions that provide incentives for other types of behavior (for example, favoring a qualified stranger over a genetic relative), but it constitutes a form of social relationship to which humans always revert when such alternative institutions break down.

Human beings by nature are also norm-creating and norm-following creatures. They create rules for themselves that regulate social interactions and make possible the collective action of groups. Although these rules can be rationally designed or negotiated, norm-following behavior is usually grounded not in reason but in emotions like pride, guilt, anger, and shame. Norms are often given an intrinsic value and even worshipped, as in the religious laws of many different societies. Since an institution is nothing more than a rule that persists over time, human beings therefore have a natural tendency to institutionalize their behavior. Due to the intrinsic value with which they are typically endowed, institutions tend to be highly conservative, that is, resistant to change.

For the first forty or so thousand years of the existence of the modern human species, individuals were organized into what anthropologists label band-level societies, consisting of small groups of individuals, almost all of them genetic relatives, who subsisted off of hunting and gathering. The first major institutional transition, which occurred perhaps ten thousand years ago, was the shift from band- to tribal-level societies, which are organized around a belief in the power of dead ancestors and unborn descendants. We typically call these tribes; anthropologists sometimes use the term “segmentary lineages” to describe individuals who trace ancestry to a common progenitor who might be several generations removed. Such tribal societies existed in ancient China, India, Greece, Rome, the Middle East, and pre-Columbian America, and among the Germanic forebears of modern Europeans.

Tribal societies have no central source of authority. As with band-level societies, they tend to be highly egalitarian and have no third-party enforcement of laws. They prevailed over band-level societies largely because they were capable of achieving enormous scale simply by pushing back the dating of common ancestry. Both band- and tribal-level societies are rooted in kinship and hence human biology. But the shift to tribal

organization required the emergence of a religious idea, belief in the ability of dead ancestors and unborn descendants to affect health and happiness in one's current life. This is an early example of ideas playing a critical independent role in development.

EMERGENCE OF THE STATE

The next important political transition was from a tribal to a state-level society. A state, in contrast to a band or tribe, possesses a monopoly on legitimate coercion and exercises that power over a defined territory. Because they are centralized and hierarchical, states tend to produce higher degrees of social inequality than earlier kinship-based forms of organization.

There are in turn two broad types of state. In those described by the sociologist Max Weber as "patrimonial," the polity is considered a type of personal property of the ruler, and state administration is essentially an extension of the ruler's household. The natural forms of sociability, reliance on family and friends, are still at work in patrimonial states. A modern state, on the other hand, is impersonal: a citizen's relationship to the ruler does not depend on personal ties but simply on one's status as citizen. State administration does not consist of the ruler's family and friends; rather, recruitment to administrative positions is based on impersonal criteria such as merit, education, or technical knowledge.

There are numerous theories about what is called "pristine" state formation, the formation of the first states out of tribal societies. There were necessarily a number of interacting factors at work, such as the availability of agricultural surpluses and the technology to support them, and a certain level of population density. Physical circumscription—what is called "caging," the bounding of territories by impassable mountains, deserts, or waterways—allowed rulers to exercise coercive power over populations and prevented enslaved or subordinated individuals from running away. Patrimonial states began to form in many parts of the world around eight thousand years ago, primarily in fertile alluvial valleys in Egypt, Mesopotamia, China, and the Valley of Mexico.

Development of modern states, however, required specific strategies for shifting political organization away from family- and friends-based organizations to impersonal ones. China was the first world civilization to establish a nonpatrimonial, modern state, which it did some eighteen centuries before similar political units appeared in Europe. State building in China was driven by the same circumstances that necessitated centralized states in early modern Europe: prolonged and pervasive military competition. Military struggle created incentives to tax populations, to create administrative hierarchies to provision armies, and to establish merit and competence rather than personal ties as the basis for recruitment and promotion. In the words of sociologist Charles Tilly, “War made the state and the state made war.”

Modern states have to move beyond friends and family in the way that they recruit officials. China did this by inventing the civil service examination as early as the third century B.C., though it was not routinely used until later dynasties. Both the Arabs and Ottomans came up with a novel approach to the same problem: the institution of slave-soldiers by which non-Muslim boys were captured, taken from their families, and raised to be soldiers and administrators loyal to the ruler and lacking ties to the surrounding society. In Europe, this problem was solved on a social rather than a political level: early in the Middle Ages, the Catholic church changed the rules of inheritance to make it much more difficult for kin groups to pass resources down to their extended families. As a result, extended kinship among the Germanic barbarian tribes dissolved within a generation or two of their conversion to Christianity. Kinship was ultimately replaced by a more modern form of social relationship based on legal contract, known as feudalism.

THE RULE OF LAW

The rule of law, understood as rules that are binding even on the most politically powerful actors in a given society, has its origins in religion. It is only religious authority that was capable of creating rules that warriors needed to respect. Religious institutions in many cultures were essentially legal bodies responsible for interpreting a set of sacred texts and giving

them moral sanction over the rest of society. Thus in India, the Brahmin class of priests was understood to be higher in authority than the Kshatriyas, the warriors who held actual political power; a raja or king would have to seek legitimation from a Brahmin before he could rightly rule. In Islam as well, the law (sharia) was presided over by a separate hierarchy of scholars known as the ulama; a network of qadis or judges did the routine work of administering religious law. Though early caliphs united political and religious authority in the same person, in other periods of Islamic history the caliph and sultan were separate individuals, and the former could act as a constraint on the latter.

The rule of law was most deeply institutionalized in Western Europe, due to the role of the Roman Catholic church. Only in the Western tradition did the church emerge as a centralized, hierarchical, and resource-rich political actor whose behavior could dramatically affect the political fortunes of kings and emperors. The central event marking the autonomy of the church was the investiture conflict that began in the eleventh century. This clash pitted the church against the Holy Roman Emperor, over the question of the latter's interference in religious matters. In the end, the church won the right to appoint its own priests and bishops, and emerged as the guardian of a revived Roman law based on the sixth-century Corpus Juris Civilis or Justinian Code. England developed an equally strong but different legal tradition: the Common Law emerged after the Norman Conquest out of the law of the king's court. There it was promoted less by the church than by early monarchs who used their ability to dispense impersonal justice as a means of cementing their legitimacy.

Thus in Western Europe, law was the first of the three major institutions to emerge. China never developed a transcendental religion; perhaps for this reason, it never developed a true rule of law. There, the state emerged first, and up to the present day law has never existed as a fundamental constraint on political power. The sequence was reversed in Europe: law preceded the rise of the modern state. When European monarchs aspired to behave like Chinese emperors from the late sixteenth century on and create modern, centralized absolutist states, they had to do so against the backdrop of an existing legal order that limited their powers. The result was that few European monarchs ever acquired the concentrated powers of the Chinese

state, despite aspirations to do so. Only in Russia, where the Eastern Church was always subordinated to the state, did such a regime emerge.

DEMOCRATIC ACCOUNTABILITY

The last of the three sets of institutions to emerge was democratic accountability. The central mechanism of accountability, the parliament, evolved out of the feudal institution of estates, variously known as Cortes, Diet, sovereign court, *zemskiy sobor*, or, in England, Parliament. These institutions represented the elites in society—the upper nobility, gentry, and in some cases the bourgeoisie in independent cities. Under feudal law, monarchs were required to go to these bodies to raise taxes, since they represented the asset-owning elites in the agrarian societies of the time.

Beginning in the late sixteenth century, ambitious monarchs deploying novel theories of absolute sovereignty undertook campaigns to undermine the powers of these estates and to acquire the right to tax their populations directly. In each European country, this struggle played out over the next two centuries. In France and Spain, the monarchy succeeded in reducing the power of the estates, though they remained enmeshed in an existing system of law that continued to limit their ability to simply expropriate the property of their elite subjects. In Poland and Hungary, the estates were victorious over the monarch, creating weak central authorities dominated by rapacious elites that were in time conquered by their neighbors. In Russia, the estates and the elites supporting them were less well established than their Western European counterparts, and law exerted a much weaker influence; as a result, a more robust form of absolutism emerged there.

Only in England was there a relatively even contest between the king and the estates. When the early Stuart kings sought to build absolutist powers, they found themselves blocked by a well-organized and armed Parliament. Many members of this body were, in contrast to the monarchy's high church Anglicanism, Puritan Protestants who believed in a more grassroots form of organization. The parliamentary forces fought a civil war, beheaded King Charles I, and briefly established a parliamentary dictatorship under Oliver Cromwell. This conflict continued through the Restoration and culminated in the Glorious Revolution of 1688–1689,

wherein the Stuart dynasty was deposed and a new monarch, William of Orange, agreed to a constitutional settlement embodying the principle of “no taxation without representation.”

Accompanying William and his wife, Mary, from the Netherlands to London was the philosopher John Locke, whose *Second Treatise on Government* enunciated the principle that obedience to rule should rest on the consent of the governed. Locke argued that rights were natural and inhered in human beings qua human beings; governments existed only to protect these rights and could be overturned if they violated them. These principles—no taxation without representation and consent of the governed—would become the rallying cry of the American colonists when they revolted against British authority less than a century later in 1776. Thomas Jefferson incorporated Locke’s ideas of natural rights into the American Declaration of Independence, and the idea of popular sovereignty would become the basis of the Constitution that was ratified in 1789.

While these new political orders established the principle of accountability, neither England in 1689 nor the United States in 1789 could be considered a modern democracy. The franchise was restricted in both countries to white male property owners who represented a very small part of the entire population. Neither the Glorious Revolution nor the American Revolution produced anything like a genuine social revolution. The American Revolution was led by a merchant-planter-gentry elite who were jealous of the rights that the British king had infringed. These same elites remained in charge once independence was achieved, and they were the ones who drafted and approved the new country’s constitution.

To focus on these limitations, however, is to radically underestimate the political dynamic that the new American order set in train and the galvanizing power of ideas. The Declaration of Independence boldly declared that “All men are created equal, that they are endowed by their Creator with certain unalienable rights.” The Constitution squarely vested sovereignty not in a king or an amorphous state but rather in “We the People.” These documents did not seek to re-create Britain’s hierarchical, class-defined society in North America. While there were many political and social barriers to de facto equality in the United States over the next two centuries, the burden was on anyone claiming special rights or privileges for a particular class to justify how they were compatible with the

nation's founding creed. This was one reason why the franchise was expanded to all white males a little more than a generation after ratification of the Constitution, long before any country in Europe was to do so.

The contradictions between founding principles and social reality came to a head in the decades before the Civil War, as southern defenders of their “peculiar institution,” slavery, started to make novel arguments for why exclusion and subjugation of blacks was morally and politically justified. Some used religious arguments, some talked about a “natural” hierarchy among the races, and others defended it on the grounds of democracy itself. Stephen Douglas in his debates with Abraham Lincoln said he cared not whether a people voted slavery up or down, but that their democratic will should prevail.

Lincoln, however, made a decisive counterargument that necessarily harked back to the founding. He said that a country based on the principle of political equality and natural rights could not survive if it tolerated so blatantly contradictory an institution as slavery. As we know, it shamefully took another century after the Civil War and the abolition of slavery before African Americans finally won the political and juridical rights they were promised by the Fourteenth Amendment. But the country eventually came to understand that the equality proclaimed in the Declaration of Independence could not be made compatible with laws making some people second-class citizens.⁵

Many other social movements emerged in later years that expanded the circle of people bearing natural and hence political rights—workers, women, indigenous peoples, and other formerly marginalized groups. But the basic political order established by the Glorious Revolution and the American Revolution—an executive accountable to a representative legislature and to the whole society more broadly—would prove remarkably durable. No one subsequently argued that the government should not be accountable to “the People”; later debates and conflicts revolved entirely around the question of who counted as a full human being whose dignity was marked by the ability to participate in the democratic political system.

The other great revolution of the late eighteenth century took place in France. Gallons of ink have been spilled describing and interpreting this cataclysmic event, and the descendants of those on opposite sides still have not resolved some of the bitter controversies it aroused.

It may seem surprising, then, that quite a number of observers from Edmund Burke to Alexis de Tocqueville to the historian François Furet have questioned whether the revolution was as consequential as many believed.⁶ The revolution was originally animated by the “Declaration of the Rights of Man and of the Citizen,” which, like the American Declaration of Independence, set forth a view of the universality of human rights grounded in the laws of nature. But the First Republic was short-lived. Like the Bolshevik and Chinese revolutions that were to follow, it established its own revolutionary dynamic of radicalization in which today’s left-wingers became tomorrow’s counterrevolutionaries, a cycle that led to the Committee of Public Safety and Reign of Terror in which the revolution devoured its own children. This unstable process was brought to an end by external war, the Thermidorian reaction, and finally the coup of 18 Brumaire that brought Napoleon Bonaparte to power in 1799.⁷

The violence of the revolution and the violence of the counterrevolution engendered a deep polarization in French society that made incremental political reform of a British sort much harder to achieve. The French would experience the July Revolution of 1830, the Revolution of 1848, and then, in the 1870s, occupation by Prussia and the Paris Commune, before a more enduring limited-franchise democracy could be established. By this point, there had been democratic elections under varying restrictive rules in many other European countries, including the archconservative Prussia. France, which had led the way toward democracy in 1789, proved to be something of a laggard. Worse, one of the revolution’s legacies was a French left that in the twentieth century was prone to glorify violence and attach itself to totalitarian causes from Stalin’s to Mao’s.

So the question is reasonably asked, What did the French Revolution achieve? If the answer was not establishment of democracy in France, it did have a great, immediate, and lasting impact in the other institutional domains. First, it led to the development and promulgation in 1804 of Europe’s first modern law code, the Civil Code or Code Napoléon. And the

second was the creation of a modern administrative state, through which the code was implemented and enforced. Even in the absence of democracy, these constituted major advances that made government less arbitrary, more transparent, and more uniform in its treatment of citizens. Napoleon, looking backward after his defeat at Waterloo, claimed that the Civil Code constituted a greater victory than any he had won on the battlefield, and he was right in many ways.⁸

French law up to that point was a pastiche of rules that varied from region to region, some inherited from the Roman law, some based on customary law, as well as the countless accretions that had been added over the centuries from ecclesiastical, feudal, commercial, and secular sources. The resulting tangle of laws was often self-contradictory or ambiguous. The Code Napoléon replaced all this with a single modern code that was clear, elegantly written, and extremely compact.

The Code Napoléon cemented many of the gains of the revolution by eliminating from law feudal distinctions of rank and privilege. All citizens henceforth were declared to have equal rights and duties that were clearly laid out *ex ante*. The new Civil Code enshrined modern concepts of property rights: “the right to enjoy and to dispose of one’s property in the most absolute fashion, provided that it is not used in a manner prohibited by law.” Land was freed of feudal and customary entails, opening the way for development of a market economy. Seigneurial courts—courts controlled by the local lord, over which peasant grievances had boiled forth during the revolution—were abolished altogether and replaced with a uniform system of civil magistrates. Births and marriages now had to be recorded with civil rather than religious authorities.⁹

The Code Napoléon was immediately exported to the countries France was then occupying: Belgium, Luxembourg, the German territories west of the Rhine, the Palatinate, Rhenish Prussia, Geneva, Savoy, and Parma. It was subsequently forcibly introduced into Italy, the Netherlands, and the Hanseatic territories. The Civil Code was voluntarily accepted by many of the smaller German states. As we will see in chapter 4, this body of law was to become the inspiration for the reform of the Prussian Code that took place after the defeat by the French at Jena. It was used as a model for countless other civil codes outside Europe, from Senegal to Argentina to

Egypt to Japan. While legal codes forcibly imposed on other societies do not have a great record of success, the Code Napoléon did: countries like Italy and the Netherlands that resisted its adoption eventually ended up with laws that were very similar in substance if not in name.¹⁰

The second major accomplishment of the revolution was the creation of a modern bureaucratic state, something China had achieved a couple of millennia earlier. The French Old Regime was a curious hybrid. Beginning in the middle of the seventeenth century, centralizing monarchs like Louis XIII and Louis XIV had created a modern system of administrators based on officials known as intendants. Sent from Paris to the provinces, they had no kinship or other ties with the local population and therefore could govern more impersonally. As Alexis de Tocqueville noted, this was the beginning of the modern centralized state in France.¹¹

But the intendants had to operate in parallel with another administrative group, that of venal officeholders. French kings were perpetually short of money to finance their wars and lifestyles. Starting with a major bankruptcy known as the Grand Parti in 1557, the government resorted to increasingly desperate measures to raise money, including the outright sale of public offices to wealthy individuals. Under a system known as the Paulette, introduced in 1604 by Henry IV's minister Sully, these offices could not only be bought but also handed down to children as part of their inheritance. These venal officeholders, of course, had no interest in impersonal public administration or good government; what they wanted was to milk their offices for all they were worth.

Although French governments of the late eighteenth century made two major efforts to eliminate the venal officeholders, both were defeated because this elite group held great power and had too much to lose as a result of reform. The rottenness and unreformability of this system was one of the factors leading to the revolution itself. During that event, all of the venal officeholders were dispossessed of their offices, and in many cases of their heads for good measure. It was only after the decks had been cleared in this purge that a new Conseil d'État could be created in 1799, an institution that would become the pinnacle of a truly modern bureaucratic system.

The new administrative hierarchy would not have worked but for the creation of a more modern educational system designed to support it. The Old Regime had established technical schools in the eighteenth century to train engineers and other specialists. But in 1794 the revolutionary government created a number of Grandes Écoles (schools) such as the École Normale Supérieure and the École Polytechnique for the specific purpose of training civil servants. Such schools, the forerunners of the post-World War II École Nationale d'Administration (ENA), were fed in turn by a system of lycées or elite secondary schools.

These two institutional innovations—introduction of a new legal code and creation of a modern administrative system—are not the same thing as democracy. But they nevertheless achieved certain egalitarian ends. The law no longer privileged certain classes who got to manipulate the system to their own advantage; it was now committed to the equal treatment of all individuals, in principle if not always in reality. Private property was no longer subject to feudal restrictions, and a new, much larger market economy could begin to flourish as a result. The law, moreover, could not be implemented without the newly reformed bureaucracy, which was freed of the corrupt baggage it had accumulated over the centuries. And both together—law and an administrative state—acted in many ways as a constraint on the arbitrariness of would-be absolutist rulers. The sovereign had theoretically unlimited powers, but he had to exercise them through a bureaucracy acting on the basis of law. This is something that the Germans would label the Rechtsstaat. It had a very different character from the totalitarian dictatorships that would arise in the twentieth century under Lenin, Stalin, and Mao, whose reality was a despotic state unconstrained by either law or democratic accountability.

LAYING THE FOUNDATIONS

The American Revolution institutionalized democracy and the principle of political equality. The French Revolution laid the basis for an impersonal modern state, much as the Qin unification had done in China. Both fortified and expanded the rule of law in its two sister versions, the Common Law and the Civil Code.

The first volume of this book concluded just at the historical moment when the foundations for the three sets of institutions had been put in place, but before any of them was fully developed into its modern form. In Europe and other parts of the world, law was the most developed institution. But as in the case of the Code Napoléon, a great deal of work had to be done to formalize, codify, reconcile, and update laws to make them truly neutral with respect to persons. The idea of a modern state had been germinating in Europe since the end of the sixteenth century, but no administration, including the new bureaucracy in Paris, was fully merit based. The vast majority of state administrations across the Continent remained patrimonial. And even though the idea of democracy had been implanted in England and particularly in its North American colonies, there was no society on earth in which a majority of the adult population could vote or participate in the political system.

Two monumental developments were unfolding at this moment of political upheaval. The first was the Industrial Revolution, in which per-person output moved to a much higher sustained level than in any previous period of human history. This had enormous consequences because economic growth began to change the underlying nature of societies.

The second great development was a second wave of colonialism, which was setting Europe on a collision course with the rest of the world. The first wave had begun with the Spanish and Portuguese conquests of the New World, followed a century later by British and French settlement of North America. The first colonial surge had exhausted itself by the late eighteenth century, and the British and Spanish empires were forced to retreat as a result of independence movements on the part of their New World colonies. But beginning with the Anglo-Burmese War of 1824, a new phase began that was to see virtually the entire rest of the world swallowed up into the colonial empires of the Western powers by the end of the century.

The present volume thus picks up the story from where the first one left off, giving an account of how state, law, and democracy developed over the last two centuries; how they interacted with one another and with the other economic and social dimensions of development; and, finally, how they have shown signs of decay in the United States and in other developed democracies.