Introduction

The democratic ideal now reigns unchallenged, but regimes claiming to be democratic come in for vigorous criticism almost everywhere. In this paradox resides the major political problem of our time. Indeed, the erosion of citizens' confidence in political leaders and institutions is among the phenomena that political scientists have studied most intently over the past twenty years. National and comparative research has yielded a clear diagnosis. The literature on voter abstention is also abundant. Significantly, even the newest democracies suffer from this affliction, as a glance at the formerly Communist countries of Eastern Europe and the erstwhile dictatorships of Asia and Latin America shows. How are we to understand this situation, which has been variously described as a "crisis," a "malaise," a "disaffection," and a "breakdown"? Most explanations invoke a series of factors, including the rise of individualism, anxious retreat into the private sphere, decline of political will, and rule by elites increasingly cut off from the broader public. We hear frequently about the "decline of politics," and blame is said to lie with rulers who cannot see or abdicate their responsibilities as well as with people who have become discouraged by or indifferent to the political. Something is missing, critics say; something has gone wrong. Today's democracies have somehow deviated from an original model, somehow betrayed their original promise. Such judgments are commonplace nowadays: a bleak or bitter appraisal

of the present is linked to nostalgia for a largely idealized civic past. In some cases what emerges from these expressions of disappointment is a muted or partially concealed hatred of democracy.

This work takes a different approach to understanding the current state of democracies. In particular, I propose to expand the scope of analysis by attending to the ways in which different societies have responded to the dysfunctions of representative regimes. Historically, the rise of democracy has always represented both a promise and a problem: a promise insofar as democracy reflected the needs of societies founded on the dual imperative of equality and autonomy; and a problem, insofar as these noble ideals were a long way from being realized. Wherever democracy was tried, it remained incomplete – in some places grossly perverted, in others subtly constricted, in still others systematically thwarted. In a sense, there has never been a fully "democratic" regime, if we take the word in its fullest sense. Actual democracies have failed to develop as fully as they might have done, and some have been snuffed out. Thus disappointment has always coexisted with the hope of liberation from dependence and despotism. The idea of basing the legitimacy of government on election has nearly always gone hand-in-hand with citizen mistrust of the powers-that-be. The famous "Agreement of the Free People of England," published in London on May 1, 1649, was the first modern democratic manifesto, yet already we can see a duality of trust and distrust in its text. Guarantees of civil and religious liberties, trial by jury, universal suffrage, limited terms of office, strict subordination of the military to the civilian powers, and universal access to public office – all the principles

on which the revolutions of the seventeenth and eighteenth centuries would thrive can be found here. Significantly, however, the document also refers to the "woeful experience" of corruption, to the risk that special interests might, in spite of all precautions, seize power and turn representative government to domination of a novel sort. Thus, even as the terms of legitimate government were set forth, a "reserve of mistrust" found expression in the same breath.

The society of distrust

The history of *real* democracies has always involved tension and conflict. Thus legitimacy and trust, which the theory of democratic-representative government has tried to link through the electoral mechanism, are in fact distinct. These two political attributes, which are supposedly fused in the ballot box, are actually different in kind. Legitimacy is a juridical attribute, a strictly procedural fact. It is a pure and incontestable product of voting. Trust is far more complex. It is a sort of "invisible institution," to borrow a well-known formula from the economist Kenneth Arrow.[1] Its functions are at least three in number. First, it represents an expansion of legitimacy, in that it adds to a mere procedural attribute both a moral dimension (integrity in the broadest sense) and a substantive dimension (concern for the common good). Trust also plays a temporal role: it implies that the expansion of legitimacy *continues into the future*. Thus Simmel observed that

[1] See Kenneth J. Arrow, *The Limits of Organization* (New York: Norton, 1974), p. 26.

trust is essentially "an hypothesis about future behavior."[2] Finally, trust is an *institutional economizer*, in that it eliminates the need for various procedures of verification and proof. The gap between legitimacy and trust has been a central problem in the history of democracy. The existence of such a gap has been the rule, its elimination the exception. (One sometimes speaks of a "state of grace" to describe the brief period following an election, during which the two attributes merge into one, but this is an exception.) In reaction to this general situation, democracies have developed in two directions. First, a variety of measures have been proposed to strengthen the constraints of procedural legitimacy. For instance, the frequency of elections has been increased, and various schemes of direct democracy have been employed to limit the independence of elected representatives. What all these initiatives have in common is that they seek to improve the quality of "electoral democracy." At the same time, however, a complex assortment of practical measures, checks and balances, and informal as well as institutional social counter-powers has evolved in order to *compensate for the erosion of confidence, and to do so by organizing distrust*. It is impossible to theorize about democracy or recount its history without discussing these organized forms of mistrust.

[2] George Simmel, *Sociologie: Études sur les formes de la socialisation* (Paris: Presses Universitaires de France, 1999), pp. 355–356. He writes: "Certain enough to furnish the basis of practical action, trust is also an intermediate state between knowledge and ignorance of others. A person who knows everything has no need of trust. One who knows nothing cannot reasonably bestow his trust."

If we wish to comprehend the variety of *democratic experiences*, we must therefore consider two aspects of the phenomenon: the functions and dysfunctions of electoral-representative institutions on the one hand and the organization of distrust on the other. Until now, historians and political theorists have been primarily concerned with the first aspect. I myself have explored this dimension of the problem in a series of works on the institutions of citizenship, representation, and sovereignty.[3] Now it is time to explore the second dimension. To be sure, various expressions of democratic distrust have been treated in any number of monographs dealing with subjects such as the history of resistance to the extension of public power and the reactions such resistance provoked, or the sociology of forms of civic disaffection and rejection of the political system. Various specific forms of action and particular attitudes have thus come in for careful scrutiny, but these have never been combined in a more general framework, apart perhaps from some very broad and quite vague attempts to view these phenomena in the context of the struggle for a freer, more just world. In this work, by contrast, I propose to view the manifold manifestations of mistrust in a comprehensive framework in order to bring out in a systematic and coherent way the most profound characteristics of the phenomenon. In short, I wish to understand the manifestations of mistrust as *elements of a political system*. I further intend to use this as

[3] See my trilogy *Le Sacre du citoyen: Histoire du suffrage universel en France* (Paris: Gallimard, 1992); *Le Peuple introuvable: Histoire de la représentation démocratique en France* (Paris: Gallimard, 1998); *La Démocratie inachevée: Histoire de la souveraineté du peuple en France* (Paris: Gallimard, 2000).

the basis for a broader understanding of how democracies work and a deeper knowledge of the history and theory of democracy.

In order to place the problem in its proper context, I should first point out that the expression of distrust took two main forms: liberal and democratic. Liberal distrust of power has often been theorized and commented on. Montesquieu gave it its canonical expression,[4] and the Founding Fathers of the American regime gave it constitutional form. Throughout the period during which the American Constitution was debated, Madison was obsessed with the need to prevent the concentration of power. His goal was not to establish a good strong government based on the confidence of the people; it was rather to constitute a weak government in which suspicion would be institutionalized. It was not to crown the citizen but to protect the individual from the encroachments of public authority.

In France, men like Benjamin Constant and the economist Jean Sismondi, who was also one of the leading political theorists of the early nineteenth century, took similar positions. For Sismondi, the cornerstone of every liberal regime was "the constant disposition to resistance."[5] For these writers,

[4] Recall the formulation in *De l'esprit des lois*, book XI, chap. 4 (1758): "It is an eternal experience that any man who wields power is likely to abuse it; he will proceed until he encounters limits. Who would have guessed? Even virtue needs limits. If power is not to be abused, things must be arranged so that power checks power."

[5] See Jean Charles Léonard Simonde de Sismondi, *Études sur les constitutions des peuples libres* (Brussels, 1836), p. 230: "All institutions must be placed under the guarantee of this disposition."

the memory of the *ancien régime* was decisive. They sought to block any possible return to despotism. Hence more democracy automatically meant greater suspicion of governmental power.[6] Similarly, Benjamin Constant went so far as to argue that liberty depends on the public's systematic opposition to the agents of government. He even spoke of the need for "surveillance in hatred."[7] His true originality lay elsewhere, however: he was the first to distinguish clearly between an "ancient" form of distrust deriving from a refusal to accept the imposition of arbitrary powers on society and a "modern" form stemming from the recognition that even new regimes based on the general will could go astray. Pointing to the "terrifying example" of Robespierre, he noted that France had been shattered in 1793 when "universal trust" in the political process "brought respected men into administrative positions," yet those same men "allowed murderous groups to organize."[8] He therefore argued that limits had to be placed on democratic confidence itself. In 1829, shortly before the charter of the parliamentary monarchy established a regime of the type he had always favored, he praised the proposed text by asserting bluntly that "every [good] constitution is an act of distrust."[9] Liberal distrust can be seen as a form of "preventive power," to borrow an expression of Bertrand de

[6] See Mark E. Warren's introduction to *Democracy and Trust* (Cambridge University Press, 1999).

[7] Benjamin Constant, *De la force du gouvernement actuel de la France et de la nécessité de s'y rallier* ([Paris], 1796), p. 66.

[8] *Ibid.*, p. 67.

[9] *Courrier français*, November 5, 1829, in Benjamin Constant, *Recueil d'articles, 1829–1830* (Paris: Champion, 1992), p. 53.

Jouvenel's.[10] It therefore belongs with an anxious and pessimistic view of democracy. Distrust here takes the form of suspicion of the power of the people, fear of its expression, and doubts about universal suffrage.

The second type of distrust can be called democratic. Its purpose is to make sure that elected officials keep their promises and to find ways of maintaining pressure on the government to serve the common good. In this book I shall be concerned with democratic distrust, which is the primary form of distrust in the post-totalitarian era. Democratic distrust can be expressed and organized in a variety of ways, of which I shall emphasize three main types: powers of oversight, forms of prevention, and testing of judgments. Operating within electoral-representative democracy, these three counter-powers describe the broad outlines of what I propose to call *counter-democracy*. By "counter-democracy" I mean not the opposite of democracy but rather a form of democracy that reinforces the usual electoral democracy as a kind of buttress, a democracy of indirect powers disseminated throughout society – in other words, a durable democracy of distrust, which complements the episodic democracy of the usual electoral-representative system. Thus counter-democracy is part of a larger system that also includes legal democratic institutions. It seeks to complement those institutions and extend their influence, to shore them up. Hence counter-democracy should be understood and analyzed as an authentic *political form*, which it is the purpose of this book to describe and evaluate.

[10] Bertrand de Jouvenel, "The Means of Contestation," *Government and Opposition* 1, no. 2 (Jan. 1966).

The democratic form of political distrust is especially important because of the erosion of trust in contemporary society. Three factors – scientific, economic, and sociological – account for the rise of the *society of distrust*. Ulrich Beck has shed much light on the scientific factor in his book on "the risk society."[11] He begins from the banal observation that people ceased to feel optimistic about the promise of technology in the 1960s. In the current age of catastrophe and uncertainty, modern industry and technology tend to be associated more with risk than with progress. The risk society is by its very nature wary of the future, yet its citizens are still obliged to place their trust in scientists because they cannot weigh the relevant issues without the aid of specialists. Thus the role of scientists is as problematic as it is indispensable, and this is a source of resentment. Citizens have no alternative but to oblige scientists to explain their thinking and justify their actions. The strategy is thus one of institutionalizing distrust in a positive way, so as to serve as a kind of protective barrier, a guarantee of the interests of society. Beck's critics have called attention to the paradoxical nature of this strategy: "The citizen who wishes to resolve problems that specialists were able neither to foresee nor to avoid finds himself once again at their mercy. His only option is to continue to delegate authority to specialists while at the same time searching for new ways to monitor and oversee their work."[12] Thus progress in science

[11] Ulrich Beck, *La Société du risque: Sur la voie d'une autre modernité* (Paris: Aubier, 2001).

[12] Michel Callon, Pierre Lascoumes, and Yannick Barthe, *Agir dans un monde incertain: Essai sur la démocratie technique* (Paris: Éditions du Seuil, 2001), p. 311.

and technology has given rise to specific forms of social distrust. The "precautionary principle" is often invoked in this connection, but the term only partially succeeds in capturing the complexity of the phenomenon (which bears some similarity to the liberal notion of checks and balances in the political domain).

Confidence in macroeconomic management has also waned. If macroeconomics is a science concerned with predicting future behavior, there is no denying that our ability to make economic forecasts has diminished. Medium- and long-term predictions can no longer be relied on, either because the responsible agencies no longer have the technical means to issue them or have been mistaken so often in the past that they have lost all credibility. In France the legislature used to vote on what rate of economic growth it wished to achieve over the next five years. The very idea of setting the growth rate by legislative fiat now seems hopelessly outdated, yet it was a common practice just thirty years ago, when economic planning was still a recognized prerogative of government, at least in France. Today's economy, both more open to the world and more complex than yesterday's, seems far less predictable. Attitudes toward economic forecasting therefore reflect growing distrust as well, and this distrust is amplified by a widespread belief that public policy cannot do much about the economy in any case.

In addition to scientific and economic reasons for distrust, social changes have also heightened suspicion of authority. In a "society of estrangement," to borrow an expression from Michael Walzer, the material bases of social confidence crumble. Individuals trust one another less because