

## Lecture V

### Challenges to American Democracy: Slavery and Minority Rights

The democratic spirit suffused the new country and only grew stronger with the passage of time. The French aristocrat Alexis de Tocqueville in his book *Democracy in America* cites this American trait of “I’m as good as you are” as clearly evident in the early 1830s when he traveled around the eastern United States. Of course this made the enslaved people and, eventually, women in general feel their own “inferiority” that much more. White-male equality was based on a certain common masculine culture and the shared right to vote. De Tocqueville realized that nothing similar existed in France in the 1830’s which might have explained why the country erupted in revolutions in 1830 and 1848. The democratization of America displeased and disillusioned many of the Founding Fathers who lived into the early 1800s. Jefferson and John Adams agreed on the disappointing vulgarity that they felt characterized the new country and feared that the decline and disappearance of the revolutionary “virtue” of the Founders boded ill for the new nation’s future.

Like La Fayette a few years earlier, de Tocqueville traveled widely throughout the country, seeking to understand the democratic spirit that seemed so uniquely American. To de Tocqueville, equality of condition as well as rights was the key characteristic of American democracy. There were rich and poor, but the great majority of the population enjoyed a comfortable, middle class existence, he found. This sense of equality undergirded the American belief in free institutions, in de Tocqueville’s opinion, and constituted the chief difference between democratic America and the old, quasi-feudal societies of Europe. There was no aristocracy and certainly no would-be kings, which to de Tocqueville gave America its special character. He did worry, however, about two things: (1) the seemingly insoluble problem of slavery; and (2) the possibility of a tyranny of the majority in which minority rights or even opinions were squelched by the power of majority public opinion.

A few quotations from *Democracy in America* give some idea of de Tocqueville’s impressions of the new country in about 1830:

*“The people reign in the American political world as the Deity does in the universe. They are the cause and the aim of all things; everything comes from them, and everything is absorbed in them.” (p. 60)*

*“Town meetings are to liberty what primary schools are to science; they bring it [liberty] within the people’s reach, they teach men how to use and how to enjoy it.” (63)*

De Tocqueville returns frequently to the danger of too much power in the hands of the numerical majority. As an aristocrat, he distrusted the popular mind and believed an educated elite needed to be in charge of national affairs.

*“The natural evil of democracy is that it gradually subordinates all authority to the slightest desires of the majority – the re-election of the President encourages this evil.” (141)*

He believed the highly democratic nature of American society drove the best sort of people to seek their fortune in private affairs and to renounce participation in civic life, at least openly.

*“As they [the rich] cannot occupy in public a position equivalent to what they hold in private life, they abandon the former and give themselves up to the latter.” (187)*

The rich, he writes, pretend to be great friends of the people, but

*“beneath this artificial enthusiasm and these obsequious attentions to the preponderating power, it is easy to perceive that the rich have a hearty dislike of the democratic institutions of their country.” (187)*

De Tocqueville had a low opinion of the governing class he encountered in the U.S.

*“On my arrival in the United States I was surprised to find so much distinguished talent among the citizens and so little among the heads of the government. It is a constant fact that, at the present day, the ablest men in the United States are rarely placed at the head of affairs.” (207)*

*“It often happens that mountebanks of all sorts are able to please the people, while their truest friends frequently fail to gain their confidence.” (208)*

This may well be, he thinks, because the people do not like to be led by men who they feel inferior to:

*“It cannot be denied that democratic institutions strongly tend to promote the feeling of envy in the human heart.” In fact, “Democratic institutions awaken and foster a passion for equality which they can never entirely satisfy.” “There is not superiority, however legitimate it may be, which is not irksome in their [the peoples’] sight.” (208)*

And further, *“While the natural instincts of democracy induce the people to reject distinguished citizens as their rulers, an instinct not less strong induces able men to retire from the political scene, in which it is so difficult to retain their independence or to advance without becoming servile.” (209)*

Of course this was exactly the judgment of the defunct Federalist Party and conservative jurists like Chancellor Kent (who de Tocqueville cites) and who, like de Tocqueville, believed in the right to rule of a “natural aristocracy.” Kent could not stand Andrew Jackson, for instance, (nor could de Tocqueville) and wrote, “I look upon Jackson as a detestable, ignorant, reckless, vain & malignant tyrant.” (Quoted in Schlesinger, *The Age of Jackson*, p. 110)

De Tocqueville distinguished between the New England states and the South and Southwestern part of the country: *“In New England, where education and liberty are the daughters of morality and religion . . . the common people are accustomed to respect intellectual and moral superiority and to submit to it without complaint.”* But *“when we arrive at the new Southwestern states [Tennessee, Alabama, Mississippi, and Louisiana] . . . we are amazed at the persons who are invested with popular authority”* whom he characterizes as *“an agglomeration of adventurers and speculators.” (211)* He then contrasts the House of Representatives where *“one is struck by the vulgar demeanor of that great assembly”* with the Senate *“which contains within a small space a large proportion of the celebrated men of America.” (211)*

On the other hand, he was favorably impressed by government employees, in general: *“A public officer in the United States is uniformly simple in his manners, accessible to all the world, attentive to all requests, and obliging in his replies. I was pleased by these characteristics of a democratic government.” (215).* In general, one still finds that public employees in the U.S. are far more friendly and helpful than their European counterparts. Whether this is due to the greater amount of democracy in the U.S. is not clear.

In the 1830’s a public job did not enjoy the guaranteed tenure it does today and de Tocqueville thought this kept the officials more ready to curry public favor than they would if the position was a sinecure from which they could not be easily dislodged. However, the most resourceful individuals usually sought their

fortune in the private sector and de Tocqueville opined that *“it frequently happens that a man does not undertake to direct the fortunes of the state until he has shown himself incompetent to conduct his own.”* (216)

De Tocqueville concluded that a successful democracy could only occur among a people who had already mastered the ability to govern themselves and therefore was not likely to be found among a people less sophisticated than the Americans:

*“Although a democratic government is founded upon a very simple and natural principle, it always presupposes the existence of a high degree of culture and enlightenment in society. At first it might be supposed to belong to the earliest ages of the world, but mature observation will convince us that it could come only last in the succession of human history.”* (220) In other words, it is much harder than it looks and not many people are up to the task of conducting a democratic government. We will confront this question again in Lecture VI when we consider whether countries without any tradition of self-government (such as China) can develop democratic institutions, at least in the sense we have come to understand the meaning of democracy. De Tocqueville seems to be saying they cannot and that democracy can only come about after a long process of development, with Western Europe and the places where Europeans have settled elsewhere in the world the only examples of democratic states.

As for the United States, De Toqueville feared a slave uprising similar to that which had wracked Haiti in the 1790s would occur across the South and lead to a break-up of the Union. He was not the only one who foresaw such a calamity, of course, and as the abolition movement gained strength during the 1830s, the tension between slave-holding and non-slave states increased. As the number of new states admitted to the Union made it inevitable that the slave states would soon be outnumbered by the non-slave states, Southern leaders made desperate efforts to preserve their hold on national power and to prevent the growing populations of the northern states from crushing the traditional way of life of the South. Senator John C. Calhoun of South Carolina became from the 1830s until his death in 1850 the leading spokesman for the South’s claim that states had the right under the Constitution to “nullify” federal statutes that they found prejudicial to their interests. Although this claim first arose in connection with the Tariff of 1828, the so-called “Tariff of Abominations”, which the Southern states maintained worked an unfair hardship on their economies because they imported most of their manufactured goods, unlike the North, where manufacturers welcomed the tariff as a way of protecting their infant industries and helped them on cornering the consumer market. Calhoun wrote at the time:

“No government based on the naked principle that the majority ought to govern, however true the maxim in its proper sense, and under proper restrictions, can preserve its liberty for a single generation.” (Quoted in Hofstadter, *The American Political Tradition and the Men Who Made It*,” p. 93)

Calhoun’s contention that a minority should, under certain circumstances, have the power to veto a law passed by a majority in the national Congress, was firmly rejected by Andrew Jackson, who promised to hang Calhoun if he tried to stop the collection of the tariff at the port of Charleston or elsewhere in the South. This dispute, which came to a head in 1832, was settled with a compromise on the tariff issue, but it signaled the existence in the South of a belief that local interests could be so critically affected by a federal government action that the state could actually “opt out” and fail to enforce the law. Behind this controversy lay the issue of slavery, with Southern slaveholders ever conscious of the fact that northern abolitionists wanted to use the power of the federal government to end the enslavement of the black population, thereby destroying the basis of the cotton economy. “Minority rights” thus became the South’s response to “majority rule.”

But, as Hofstadter points out, Calhoun was “not in the slightest . . . concerned with minority rights as they are chiefly of interest to the modern liberal mind – the rights of dissenters to express unorthodox

opinions, of the individual against the State, least of all of ethnic minorities. At bottom he was not interested in any minority that was not a propertied minority.” And, “Finally, it was minority privileges rather than rights that he really proposed to protect.” (116-117)

Calhoun also saw a commonality of interests between northern capitalists and southern plantation owners. Even before Karl Marx, Calhoun foresaw a worsening impoverishment of the northern workers under capitalism and the likelihood of violent revolt. Happily, he said, “The condition of society in the South [i.e., slavery] exempts us from the disorders and dangers resulting from this conflict. . . .” (quoted in Hofstadter, 106-107)

Calhoun suggested in his speeches and writings in the 1840s that “the interests of the *gentlemen* of the North and of the South are identical,” as he put it in a conversation reported by the northern Whig politician Josiah Quincy. (quoted, Hofstadter, 108)

Without such an alliance, he feared the enslaved people would be emancipated eventually once the North had achieved an overwhelming majority in population and political power and (as Hofstadter put it) the freed Blacks “. . . Would be raised ‘to a political and social equality with their former owners, by giving them the right of voting and holding public offices under the Federal Government.’ They would become political associates of their Northern friends, acting with them uniformly, ‘holding the white race at the South in complete subjection.’” (104) Of course, it was this fear that led to the reaction against Reconstruction in the South after the Civil War and the institution of the Jim Crow laws (with northern acquiescence) that kept the black population “in its place” until the 1960s.

We should also mention the so-called “3/5<sup>th</sup> clause” of the 1787 Constitution which granted slave-holding states the right to count 3/5 of the enslaved population in the decennial census for purposes of allotting seats in the House of Representatives and thus for electoral votes for president. This “overrepresentation” of the southern slave states distorted the franchise nationally, making the slave-holding states more influential in national politics than their white populations would otherwise have allowed. Thus, ten of the first fifteen presidents as well as a majority of the Supreme Court during most this period were slaveholders.

In the event, the Civil War was fought, the South lost, and the North moved on, leaving the South largely to itself for almost one hundred years. Calhoun had explained that the existence of a large Black underclass, to which every white man could feel superior, would make southern democracy a race-based system in which the economic distinction between a small class of wealthy Whites and the great mass of the poor white population would be subsumed in a common sense of racial superiority. What had been true under slavery continued to be the case under Jim Crow. Only gradually, after the First and Second World Wars, would the Black population move north, where its increasing presence would eventually trigger the same racist reaction among northern Whites that had long characterized southern life.

If John C. Calhoun can be thought of as the spokesman for “minority rights” in the pre-Civil War period, Abraham Lincoln came to be the most eloquent proponent of the “proposition that all men are created equal” and majority rule. The creation of the Republican Party in 1856 through the merger of the Whigs, anti-slavery Democrats and the nativist Know-Nothings signaled the end of the so-called Second Party System of the Whigs and Democrats of the 1830s and 1840s. Lincoln’s oratory made him the leader of the anti-slavery cause and his election to the presidency in 1860 precipitated the secession of the Southern states. Lincoln abhorred slavery and had hoped that it would die a natural death, but the 1850s were a banner decade for the cotton growing South and slavery showed no signs of collapse. In fact, its possible expansion to places like Kansas or even New Mexico prompted the creation of the Republican Party.

Lincoln refused to compromise after his election in November 1860 with those who urged him to strike some sort of deal with the South that would leave open the question of the expansion of slavery so as to avoid the impending war. To do so, he said, would be to betray the 1.8 million men (all in the North) who had voted for him as the candidate who would say “no” to the expansion of slavery into the West. Without this concession on his part, the South would surely proceed with secession, but even with it, the process of establishing a slave republic had already gone too far to be stopped. Lincoln did not receive a popular vote majority (only around 40 per cent of the total vote, North and South), but he won 180 electoral votes to a combined total of 119 for his three opponents. So, while minority rights might have some importance, Lincoln believed the minority should not be able to veto the will of the majority. And this, of course, assumes that the minority in question is not a “privileged minority.”

Hofstadter points to “economic democracy” as a key element in Lincoln’s thinking: “For Lincoln the vital test of a democracy was economic – its ability to provide opportunities for social ascent to those born in its lower ranks. This belief in opportunity for the self-made man is the key to his entire career; it explains his public appeal, it is the core of his criticism of slavery.” (135)

At some point during the late 1850s, Lincoln wrote his definition of democracy:

“As I would not be a *slave*, so I would not be a *master*. That expresses my idea of democracy. Whatever differs from this, to the extent of the difference, is no democracy.” (Quoted in *Lincoln on Democracy*, Mario Cuomo and Harold Holzer, eds., p. 121)

But perhaps his famous formulation in the Gettysburg Address of 1863 serves as an even better definition of democracy: “government of the people, by the people, for the people” which he hopes the war will prevent from perishing from the earth. Citing the Declaration of Independence, Lincoln declared in his Address that the United States was “dedicated to the proposition that all men are created equal” and that the war was testing whether a country which believes in this proposition “can long endure.” He links equality and democratic government in his great oration, but in his equally famous Second Inaugural Address of 1865, he links both of these with an end to slavery, which he terms a great injustice by which the slaveholders had “[w]rung] their bread from the sweat of other men’s faces.”

Thus, the great wrong of slavery, in Lincoln’s view, was that it stole the Black person’s labor and prevented him from bettering his lot in life. He (or she) was deprived of freedom, but even more, the enslaved person could not hope to ever be anything other than a slave. By contrast, America, especially Virginia, had been settled by thousands of white indentured servants who were obligated to work for a “master” who had paid their way to the New World, usually for seven years. If the laborer survived the seven years of labor he or she would transition to freedom, perhaps receiving a piece of land to farm and raise a family. But no enslaved Black person could look forward to or work toward such a future. This was the great crime of slavery in Lincoln’s opinion.

But, then, as far as the South was concerned, democracy *had* flourished in the slaveholding states. Southerners like John C. Calhoun saw no contradiction between slavery and democratic government. They even cited ancient Greece and the Roman Republic as models of self-government that rested upon the backs of enslaved people, most of whom were prisoners of war. White men’s democracy actually required an enslaved population to do the work so that their masters would have time to devote to public affairs. On the other hand, de Tocqueville wrote that Southern “gentlemen” took more interest in horse racing and hunting than in public affairs and the poor white farmers, most of whom had no slaves, showed little interest or capacity for self-government, leaving such things to others, some of whom – as noted earlier -- de Tocqueville viewed as utterly unfit for public responsibilities.

Lincoln saw himself as the heir to Thomas Jefferson, not Andrew Jackson. Jefferson had penned the famous words “all men are created equal” and detested slavery as much as Lincoln. He was responsible for the provision in the Northwest Ordinance of 1787 that outlawed slavery in all of the undeveloped territory north of the Ohio and east of the Mississippi Rivers. Despite his well-known personal failings and a belief in the inferiority of Black people to White people, Jefferson recognized the injustice of slavery and was haunted in his last years by the danger it posed to the future of the country.

At the outset of his Administration, Lincoln somewhat disingenuously claimed that he would not seek to abolish slavery where it currently existed, but would insist that it should not be expanded into the territories taken from Mexico or elsewhere to the West. His line was that these areas should be kept clear of slavery so that “free white men” could seek their fortunes there. These new white settlers should not have to compete with slave labor, he declared. The Middle West of Lincoln’s youth and young manhood was known as “the valley of democracy.” The rich soil and moderate climate made the Middle West a perfect setting for small farmers determined to gain a foothold in the middle class. The notion that similar lands lay to the West, ready for the taking, clashed with the South’s notion of large, plantation-type agriculture worked by enslaved Blacks. Democracy in Lincoln’s view could not flourish in a society in which slave labor would compete with the labor of free white farmers. In his run for the presidency he talked less about the evil of slavery for the Black person than how it was bad for the white people. In fact, slavery did not seem likely to be extended into the areas further west, both due to poor conditions for plantation-style cotton cultivation, but also because the settlers likely to come to these areas would vote against allowing it in their new territories, as the people of California had already done in 1850.

Although commenced as a war to end Southern secession, the Civil War eventually became a war to end slavery in the South and to ensure equal rights for all Americans, regardless of their racial backgrounds. In other words, it became a war to preserve and extend democracy to the formerly enslaved. The victory of the Union forces in the bloody conflict and the fact that the South had withdrawn its representatives from Congress, meant that the Republican majority, with some support from a still large Democratic Party minority in the North, could move to end slavery (the 13<sup>th</sup> Amendment), define citizenship to include anyone born on American territory (the 14<sup>th</sup> Amendment), and to explicitly enfranchise the formerly enslaved in the 15<sup>th</sup> Amendment.

Free blacks in the North were not actually covered by the 15<sup>th</sup> Amendment, but they too gained the right to vote after the Amendment’s passage in 1868. This state of affairs lasted until the late 19<sup>th</sup> and early 20<sup>th</sup> century, with many Black elected officials taking office throughout the South and in Washington. But then the reaction set in, as majority White state legislatures gradually whittled away at Black rights, eventually all but eliminating the Black voter from the southern scene. Brutal intimidation by the Ku Klux Klan and other White supremacist groups achieved what legislation could not and by the early 1900s less than ten per cent of the Black population of the old Confederacy dared or was permitted to vote.

It wasn’t until the passage of the Voting Rights Act by Congress in 1965 that the process of rolling back the South’s system of “Jim Crow” laws which had essentially disenfranchised Black people in the former Confederate states really got started. Together with the 1964 Civil Rights Act, the 1965 law amounted to a Second Reconstruction which upended the Old South’s nearly one hundred year effort to suppress the Black population. What had long been the “Solid South” of a White Democratic Party rapidly transformed into a two-party system, with the Republican Party essentially replacing the Democrats as the party of White southerners and a newly revived Democratic Party, dominated by Black voters and office holders taking its place in the national political firmament. Gradually, with the movement of Blacks into the North and West, the racial divide between the two national political parties became quite stark: with the Republican Party becoming by 2000 essentially a party of White people, and the Democrats a party of

about 30 per cent of the White electorate and almost all of the Black and other non-White electorate. Today, Republican state governments are trying to reduce Black turnout through restrictive voting regulations and to enhance their state and federal legislative representation through artful gerrymandering of electoral districts, breaking up the Black vote among multiple oddly-shaped districts in some cases or concentrating all the Black (and sometimes Hispanic) voters in one congressional or state assembly district. With the Republican Party nationally polling several million fewer votes than the Democrats, the Constitutionally-mandated Electoral College has become crucial to continued Republican Party success in presidential elections. The Republican presidential candidate last received a popular vote majority in 2004 and actually achieved election in 2000 and 2016 with fewer popular votes than the Democratic candidate. If current trends continue, it is hard to see how a Republican candidate for president can win the popular vote, making the electoral college vote that much more important.

Although Lincoln and Calhoun sometimes wrote and spoke as though they supported the workingmen of America in their struggles with the new industrial barons, neither of the two major political parties that developed in the 1850s and after made much of a play for the workingman's vote. If anything, the post-Civil War Democratic Party had more of a following among the working class than Lincoln's Republicans. Thus, a series of third parties such as the Green Backers, the Populists and then the Socialists (non-Marxian) emerged to represent the grievances of wage earners and poor farmers. From its beginning, American democracy, unlike its European counterpart, generally steered clear of appeals for economic equity – much less any mention of class conflict – and hewed closely to traditional political themes. Elections were largely fought out almost as sports contests which pitted those who identified with one of the two major teams – Republicans and Democrats – less concerned with actual issues than with putting their men in office and perhaps enjoying some patronage jobs or other favorable consideration. Especially in the growing cities, the electorate looked to its local, state, and national representatives as a source of favors and pride, while ideology played little role.

It wasn't until the 1896 election pitting the young firebrand William Jennings Bryan against the staid friend of business William McKinley that the country saw a sharp ideological division between the two major parties. Interestingly, when American democracy did turn more ideological in the early 1900s with the Progressive Era, both the Republicans and the Democrats had progressive and conservative wings, with the more radical voters turning to the American Socialist Party, which had its best showing in the 1912 presidential election when it won six per cent of the popular vote, but no electoral votes for its candidate Eugene V. Debs. The Progressive reform of the secret ballot and the use of the single ballot for all candidates rather than ballots issued by each party – which clearly indicated how one was voting – had greatly reduced the influence of party activists on election results. There were still charges of ballot box stuffing and votes by long-deceased persons in some of the major metropolitan areas, but, in general, by the 1920s, outside the South, American elections were free of fraud or intimidation.

Ironically, the women suffrage movement gained strength during this same period, both in the U.S. and in Europe. Thus, as black men lost the ability to vote, white women were enfranchised in various states and then, finally, throughout the country with the passage of the 19<sup>th</sup> amendment in 1920 prohibiting states from denying anyone the right to vote on account of their sex. The UK enfranchised all men and women 21 years of age and over in 1928 and France and Italy finally enfranchised women right after World War II.

Direct democracy became more important in the U.S. after the early 1900s when the Progressive Movement succeeded in getting state legislatures to enact the primary election system for nominating candidates and the referendum and recall in various states. People have recently begun to have doubts about the wisdom of placing the nominating process in the hands of the party electorate instead of the “professionals” who dominated party politics from the beginning of the party system in the early 1800s. By opening the nominating process to the general electorate, the primary system has greatly increased the

cost of elections in the U.S., with candidates often having to actually run twice to gain or retain their seats. It has also enabled candidates with little experience in politics but ample funding to launch successful campaigns which weakens the party system and tends to open the door to demagogues whose electoral appeal is reduced to wild promises and negative advertisements about their opponents. When candidates had to run as representatives of a party, with a core of supporters who represented a well-known set of proposals for government – a platform – the electoral contests had at least some issues substance. But this system does not seem likely to change in the foreseeable future so we will just have to live with it.

The growth of “scientific polling” has also transformed democratic politics, both in the U.S. and abroad. Issues and personalities have become the basis for innumerable polls, not just at election-time, but continuously. News organizations, universities, foundations, and market research companies seek constantly to gauge the public temper on almost every matter of policy and on the various candidates for election. “Public opinion” had long been a major factor in democratic politics, but politicians were never sure just what the public wanted. They also discovered that “the American people” are a diverse lot whose views differ greatly and among whom there is often no discernable majority opinion.