

SSRC Anxieties of Democracy

WHEN THE PEOPLE RULE

Popular Sovereignty
in Theory and
Practice

EDITED BY

Ewa Atanassow

Thomas Bartscherer

David A. Bateman



When the People Rule

In recent decades, popular sovereignty has come under increasing pressure. The rise of populism, often illiberal or authoritarian, has undermined minority rights, individual autonomy, and rule of law. The expansion of international institutions and greater reliance on market and non-governmental organizations have gradually insulated large areas of policymaking from public control. In turn, these developments cast doubt on the viability and desirability of liberal democracy itself. *When the People Rule* argues that comprehending and responding to the political crises of our time requires a radical refocusing on popular sovereignty. Each chapter offers a fresh perspective and opens new avenues of inquiry into popular sovereignty, advancing debate over the very heart of this principle – what it means for the people to rule. Thorough and timely, this volume is also available as Open Access on Cambridge Core.

Ewa Atanassow is Professor of Politics at Bard College Berlin. She is the author of *Tocqueville's Dilemmas, and Ours: Sovereignty, Nationalism, Globalization* (Princeton University Press). She is the co-editor of *Liberal Moments: Reading Liberal Texts* (Bloomsbury Academic) and of *Tocqueville and the Frontiers of Democracy* (Cambridge University Press).

Thomas Bartscherer is the Peter Sourian Senior Lecturer in the Humanities at Bard College. He is co-editor of the critical edition of Hannah Arendt's *The Life of the Mind* (Wallstein Verlag), *Switching Codes: Thinking through Digital Technology in the Humanities and Arts* (University of Chicago Press), and *Erotikon: Essay on Eros, Ancient and Modern* (University of Chicago Press).

David A. Bateman is Associate Professor in Government and the Jeb E. Brooks School of Public Policy at Cornell University. He is the author of *Disenfranchising Democracy* (Cambridge University Press), awarded the J. David Greenstone Prize, and a co-author with Ira Katznelson and John Lapinski of *Southern Nation* (Princeton University Press), awarded the V. O. Key Prize and the D. B. Hardeman Prize.

SSRC Anxieties of Democracy

Editors

John A. Ferejohn, *New York University*

Ira Katznelson, *Columbia University*

Deborah J. Yashar, *Princeton University*

With liberal democracies afflicted by doubt and disquiet, this series probes sources of current apprehensions and explores how such regimes might thrive. What array of pressures most stresses democratic ideas and institutions? Which responses might strengthen these regimes and help them flourish?

Embedded in the Social Science Research Council's program on "Anxieties of Democracy," the series focuses on how representative institutions – including elections, legislatures, political parties, the press and mass media, interest groups, social movements, and policy organizations – orient participation, learning, and accountability.

The volumes in the series further ask how particular policy challenges shape the character of democratic institutions and collective actors, and affect their capacity to address large problems in the public interest. These challenges include, but are not limited to: (1) designing democratic institutions to perform successfully under conditions of social and political polarization; (2) managing and orienting contemporary capitalism and alleviating hierarchies of inequality; (3) addressing questions of membership, including population movements and differentiated citizenship; (4) choosing policies to balance national security and civil liberty; (5) exploring the effects of global climate on citizens and the human impact on the environment; (6) managing the development of media and information technologies to ensure they enhance, rather than degrade, robust pluralism and civil political engagement.

Other Books in the Series

Can America Govern Itself? Frances E. Lee and Nolan McCarty

Social Media and Democracy: The State of the Field, Prospects for Reform Nathaniel Persily and Joshua A. Tucker

The Disinformation Age: Politics, Technology, and Disruptive Communication in the United States W. Lance Bennett and Steven Livingston

Who Gets What? The New Politics of Insecurity Frances Rosenbluth and Margaret Weir

Contested Representation: Challenges, Shortcomings and Reforms Edited by Claudia Landwehr, Thomas Saalfeld and Armin Schäfer

Sponsored by the Social Science Research Council



The Social Science Research Council (SSRC) is an independent, international, nonprofit organization driven by its mission to mobilize social science for the public good. Founded in 1923, the SSRC fosters innovative research, nurtures new generations of social scientists, deepens how inquiry is practiced within and across disciplines, and amplifies necessary knowledge on important public issues.

The SSRC is guided by the belief that justice, prosperity, and democracy all require better understanding of complex social, cultural, economic, and political processes. We work with practitioners, policymakers, and academic researchers in the social sciences, related professions, and the humanities and natural sciences. We build interdisciplinary and international networks, working with partners around the world to link research to practice and policy, strengthen individual and institutional capacities for learning, and enhance public access to information.

When the People Rule

Popular Sovereignty in Theory and Practice

Edited by

EWA ATANASSOW

Bard College Berlin

THOMAS BARTSCHERER

Bard College, New York

DAVID A. BATEMAN

Cornell University, New York



Furthermore:
a program of the J. M. Kaplan Fund

Support for this publication has been provided by
Furthermore: a program of the J. M. Kaplan Fund.

 **CAMBRIDGE**
UNIVERSITY PRESS



CAMBRIDGE
UNIVERSITY PRESS

Shaftesbury Road, Cambridge CB2 8EA, United Kingdom

One Liberty Plaza, 20th Floor, New York, NY 10006, USA

477 Williamstown Road, Port Melbourne, VIC 3207, Australia

314-321, 3rd Floor, Plot 3, Splendor Forum, Jasola District Centre,
New Delhi – 110025, India

103 Penang Road, #05-06/07, Visioncrest Commercial, Singapore 238467

Cambridge University Press is part of Cambridge University Press & Assessment,
a department of the University of Cambridge.

We share the University's mission to contribute to society through the pursuit of
education, learning and research at the highest international levels of excellence.

www.cambridge.org

Information on this title: www.cambridge.org/9781009263788

DOI: [10.1017/9781009263757](https://doi.org/10.1017/9781009263757)

© Cambridge University Press & Assessment 2023

This work is in copyright. It is subject to statutory exceptions and to the provisions
of relevant licensing agreements; with the exception of the Creative Commons version
the link for which is provided below, no reproduction of any part of this work may take
place without the written permission of Cambridge University Press & Assessment.

An online version of this work is published at doi.org/10.1017/9781009263757 under a Creative
Commons Open Access license CC-BY-NC 4.0 which permits re-use, distribution and reproduction in
any medium for non-commercial purposes providing appropriate credit to the original work is given
and any changes made are indicated. To view a
copy of this license visit <https://creativecommons.org/licenses/by-nc/4.0>

All versions of this work may contain content reproduced under license from third parties.

Permission to reproduce this third-party content must be obtained from
these third-parties directly.

When citing this work, please include a reference to the DOI [10.1017/9781009263757](https://doi.org/10.1017/9781009263757)

First published 2023

A catalogue record for this publication is available from the British Library.

Library of Congress Cataloging-in-Publication Data

NAMES: Atanassow, Ewa, editor. | Bartscherer, Thomas, editor. | Bateman,
David A., editor.

TITLE: When the people rule : popular sovereignty in theory and practice / Ewa Atanassow,
Thomas Bartscherer, David A. Bateman.

DESCRIPTION: New York : Cambridge University Press, [2023] | Includes bibliographical
references and index.

IDENTIFIERS: LCCN 2022033780 | ISBN 9781009263788 (Hardback) | ISBN 9781009263757 (eBook)

SUBJECTS: LCSH: Sovereignty. | Political culture. | Representative government and representation.

CLASSIFICATION: LCC JC327 .W474 2023 | DDC 320.1/5-dc23/eng/20221202

LC record available at <https://lccn.loc.gov/2022033780>

ISBN 978-1-009-26378-8 Hardback

Cambridge University Press & Assessment has no responsibility for the persistence
or accuracy of URLs for external or third-party internet websites referred to in this
publication and does not guarantee that any content on such websites is, or will
remain, accurate or appropriate.

Contents

<i>List of Figures</i>	page ix
<i>Notes on Contributors</i>	xi
<i>Preface and Acknowledgments</i>	xv
<i>Table of Cases</i>	xix
Introduction	I
<i>Ewa Atanassow, Thomas Bartscherer, and David A. Bateman</i>	
PART I	2 I
1 Plato and the Problems of Modern Politics	23
<i>Thomas Bartscherer</i>	
2 The Sovereign and the Tyrant: Boundaries and Violation in <i>Oedipus</i>	40
<i>Elizabeth K. Markovits</i>	
3 The Fact of Fiction: Popular Sovereignty as Belief and Reality	57
<i>Ioannis D. Evrigenis</i>	
4 Thomas Hobbes and the Making of Popular Sovereignty	73
<i>Richard Boyd</i>	
5 Popular Sovereignty on Trial: Tocqueville versus Schmitt	91
<i>Ewa Atanassow</i>	
PART II	II I
6 “As God Rules the Universe”: Reflections on the People and the State in Early America	113
<i>Ira Katznelson</i>	
7 The Sovereign People and the Liberal Democratic State	139
<i>David A. Bateman</i>	
	vii

8	Three Vignettes: Popular Sovereignty in French History <i>Daniella Sarnoff</i>	158
9	The Founding of India and Popular Sovereignty <i>Ornit Shani</i>	173
10	The “Other” Boundary Problem: Fictions of Popular Sovereignty at the State’s Edge <i>Matthew Longo</i>	189
11	The #BlackLivesMatter Movement and Black Public Opinion: A New Populist Divide in the Black Community? <i>Alvin B. Tillery, Jr.</i>	204
12	Popular Sovereignty and Recognition <i>H. Abbie Erler</i>	218
13	Populism, Popular Sovereignty, and Periphery <i>Julia R. Azari and Alexis Nemecek</i>	234
	PART III	255
14	The Place of Constitutional Courts in Regimes Embracing Popular Sovereignty: Recent Problems in American Self-Governance <i>Carol Nackenoff</i>	257
15	Popular Sovereignty, Populism, and Stories of Peoplehood <i>Rogers M. Smith</i>	275
16	Popular Sovereignty in the Trump Era: A Case Study of Pedagogy and Practice <i>Nicole Mellow and Andrew J. Perrin</i>	292
17	The Voices of the People <i>Adam Davis</i>	304
	Epilogue – The Precipice of Hope: A Conversation with Hahrie Han	320
	<i>Select Bibliography</i>	335
	<i>Index</i>	373

Figures

3.1	Frontispiece for the <i>Leviathan</i>	page 64
6.1	“President’s Levee, or all creation going to the White House,” by Robert Cruikshank	129
11.1	Plot of OLS regression coefficients from Model 2 with 95% confidence intervals	214

Notes on Contributors

Ewa Atanassow is Professor of Politics at Bard College Berlin. She is the author of *Tocqueville's Dilemmas, and Ours: Sovereignty, Nationalism, Globalization* (Princeton University Press).

Julia R. Azari is Professor of Political Science at Marquette University. Her research interests include the American presidency, political parties, and American political development. She is the author of *Delivering the People's Message: The Changing Politics of the Presidential Mandate* (Cornell University Press).

Thomas Bartscherer is the Peter Sourian Senior Lecturer in the Humanities at Bard College. He is co-editor of the critical edition of Hannah Arendt's *The Life of the Mind* (Wallstein Verlag), *Switching Codes: Thinking through Digital Technology in the Humanities and Arts* (University of Chicago Press), and *Erotikon: Essay on Eros, Ancient and Modern* (University of Chicago Press).

David A. Bateman is Associate Professor of Government and in the Jeb E. Brooks School of Public Policy at Cornell University. He is the author of *Disenfranchising Democracy: Constructing the Electorate in the United States, United Kingdom, and France* (Cambridge University Press) and, with Ira Katznelson and John Lapinski, *Southern Nation: Congress and White Supremacy After Reconstruction* (Princeton University Press).

Richard Boyd is Associate Professor of Government and Director of the Tocqueville Forum for Political Understanding at Georgetown University. He is the author of *Uncivil Society: The Perils of Pluralism and the Making of Modern Liberalism* (Rowman & Littlefield) and has published broadly on topics in the intellectual history of liberalism.

Adam Davis is the Executive Director of Oregon Humanities. He has trained thousands of discussion leaders, facilitated hundreds of community and workplace discussions, and moderated onstage conversations with authors, officeholders, and community builders. He hosts *The Detour* podcast and is the editor of *Taking Action: Readings for Civic Reflection* (Great Books Foundation).

H. Abbie Erler is Associate Professor of Political Science at Kenyon College. Her research interests include juvenile justice and mental health and women's representation. She is the author of "A New Face of Poverty? Economic Crises and Poverty Discourses" in *Poverty & Public Policy*.

Ioannis D. Evrigenis is Professor of Political Science and Director of the International Relations Program at Tufts University. He is overseeing The Bodin Project and is the author of *Fear of Enemies and Collective Action* (Cambridge University Press), for which he received the Delba Winthrop Award for Excellence in Political Science.

Hahrie Han is the Inaugural Director of the SNF Agora Institute, the Stavros Niarchos Foundation Professor of Political Science, and Faculty Director of the P3 Research Lab at Johns Hopkins University. Her work specializes in the study of organizing movements, civic engagement, and democracy and her most recent book is *Prisms of the People: Power and Organizing in 21st Century America* (University of Chicago Press).

Ira Katznelson is Ruggles Professor of Political Science and History at Columbia University. His book *Fear Itself: The New Deal and the Origins of Our Time* (Liveright) was awarded the Bancroft Prize and the Woodrow Wilson Foundation Award. His most recent books are the co-authored *Southern Nation: Congress and White Supremacy After Reconstruction* (Princeton University Press) and *Time Counts: Quantitative Analysis for Historical Social Science* (Princeton University Press).

Matthew Longo is Assistant Professor of Political Science at Leiden University. He is the author of *The Politics of Borders: Sovereignty, Security, and the Citizen after 9/11* (Cambridge University Press), which received the 2019 Charles Taylor Book Award.

Elizabeth K. Markovits is Professor of Politics at Mount Holyoke College. She specializes in ancient and contemporary political thought, and her most recent book is *Future Freedoms: Intergenerational Justice, Democratic Theory, and Ancient Greek Tragedy & Comedy* (Routledge).

Nicole Mellow is Professor of Political Science at William College. Her research focuses on American politics, partisanship, and national identity and state-building. Her most recent book, with Jeffrey K. Tulis, is *Legacies of Losing in American Politics* (Princeton University Press).

Carol Nackenoff is Richter Professor Emerita of Political Science at Swarthmore College, where she taught American politics, constitutional law, environmental politics, and political theory. Her most recent book, with Julie Novkov, is *American by Birth: Wong Kim Ark and the Battle for Citizenship* (University Press of Kansas).

Alexis Nemecek is a graduate of Marquette University's Graduate and Law Schools, obtaining a master's degree in international affairs in 2018 and a Juris Doctor in 2021. She received her undergraduate degree from Ripon College. Alexis is currently an in-house attorney at Church Mutual Insurance Company, SI, where she also serves on the Company's Women's Leadership Initiative Networking Committee.

Andrew J. Perrin is SNF Agora Professor of Sociology in the SNF Agora Institute at Johns Hopkins University. His work focuses on issues of democracy, including civic engagement, effects of higher education, and public deliberation. He is the author of numerous articles and books, including *American Democracy: From Tocqueville to Town Halls to Twitter* (Polity).

Daniella Sarnoff is the Director, Social Impact Leadership, at Columbia World Projects. She has taught at Xavier University, Fordham University, and New York University. Her recent publications include "An Overview of Women and Gender in French Fascism" published in *The French Right Between the Wars*.

Ornit Shani is Associate Professor of Politics and Modern Indian History at the University of Haifa. She is the author of *How India Became Democratic: Citizenship and the Making of the Universal Franchise* (Cambridge University Press), which was awarded the Kamaladevi Chattopadhyay New India Foundation Prize.

Rogers M. Smith is Christopher H. Browne Distinguished Professor of Political Science at the University of Pennsylvania. His research focuses on constitutional law, American political thought, and modern legal and political theory, with special interests in questions of citizenship, race, ethnicity, and gender. He is the author of *That is Not Who We Are! Populism and Peoplehood* (Yale University Press).

Alvin B. Tillery, Jr.'s research interests are in the fields of American politics and political theory. His book *Between Homeland and Motherland: Africa, U.S. Foreign Policy and Black Leadership in America* (Cornell University Press) won the W. E. B. Du Bois Distinguished Book Award from the National Conference of Black Political Scientists.

Preface and Acknowledgments

In 2015, Ira Katznelson, the then President of the Social Science Research Council (SSRC), convened a group of scholars to discuss ways to promote innovative work in the social sciences. The group represented a wide range of disciplines and included faculty and administrators from universities, colleges, and foundations, with expertise in both research and pedagogy. Those expansive and lively discussions eventually came to focus on a thesis proposed by the political scientist Rick Valelly. In his 2014 article, “Two Political Sciences or One? Liberal Arts Political Science as a Disciplinary Partner,” Valelly argued that political science has “two cultures”: one most fully developed at major research universities, the other best embodied by top liberal arts colleges. The former tends to emphasize the importance of cutting-edge research, narrow specialization, and graduate instruction; the latter, focusing on undergraduate education, prizes interdisciplinary competence and cultivates the arts of writing and discussion. One is deep but narrow, while the other is broad and often less connected to methodological debates in the field. Neither is sufficient unto itself. Echoing C. P. Snow’s influential book, Valelly voiced caution as well as hope: If political science is diminished by the segregation of its cultures, their integration promises not only to enrich and revitalize the discipline but also to make its work more socially meaningful and civically engaged. And if this were true of political science in particular, might it not also be true of the social sciences as a whole?

Embracing this diagnosis, the SSRC-led group developed over a series of meetings a paradigm for multi-day retreats, each focused on a particular topic, that would bring together faculty from research universities and liberal arts colleges to address questions of shared concern through structured discussion and collaborative inquiry. The retreats were conceived to foster links between disciplinary expertise and liberal arts knowledge, to explore the relationship between the social sciences and the humanities, to promote innovative and effective pedagogy, and to address major questions of both immediate and

enduring significance. As the group was contemplating potential topics for the initial retreat, the 2016 presidential election in the United States provided a clarifying jolt and an unambiguous choice: popular sovereignty.

The first retreat, hosted at Swarthmore College in January 2017, convened a team of scholars and educators to discuss foundational texts and cutting-edge research and to develop a collaborative undergraduate course on the theme of popular sovereignty. Versions of this course were subsequently offered at several liberal arts colleges and universities (see www.ssrc.org/programs/china-environment-and-health-initiative-cehi/forum-on-health-environment-and-development/ for more information). One of those courses is described in the chapter by Nicole Mellow and Andrew Perrin in the present volume (Chapter 16). Subsequent retreats were designed to cultivate new research, with a view toward producing an integrated volume on popular sovereignty that would also promote the wider goals of the SSRC initiative. These retreats were dedicated to discussing key texts on the history, theory, and practice of popular sovereignty; to presenting new work; and to collectively conceiving the shape and substance of the book that would eventually become *When the People Rule*.

* * *

We, the editors, would like to express our gratitude to the SSRC for supporting the entire research program. We are especially grateful to Ira Katznelson and Daniella Sarnoff who presided over the conception and elaboration of the project. We also gratefully acknowledge the generous support of the Endeavor Foundation and of Julie J. Kidd and Ashley Kidd, without which this project would not have been possible. We thank SSRC staff members Eleanor Blair, Emily Carroll, Amanda Cook, and Isha Tendolkar who provided organizational and logistical support and participated in the meetings, and Sidney Sussex College at the University of Cambridge, United Kingdom, which hosted the editors for a working retreat.

We also gratefully acknowledge all the participants who have contributed to this project. We thank, in the first place, those who joined us for the initial planning sessions in 2015: Richard Arum, Edward Ayers, Andrew del Banco, Joseph Meisel, Susan Pedersen, Judith Shapiro, Eugene Tobin, and Rick Valelly; and for the course-development retreat in 2017: Richard Boyd, Ioannis Evrigenis, Nicole Mellow, Carol Nackenoff, Andrew Perrin, and Rick Valelly. The editors are especially grateful to all the workshop participants and volume contributors, who dedicated substantial time and ample good will in attending the retreats, and whose arguments, suggestions, and critiques shaped the idea for *When the People Rule* as well as its organization and central claims. The collegial exchanges, and incisive and close engagement with each other's arguments, embodied the best spirit of intellectual debate and collaboration. This is, we believe, one of the essential pillars of popular sovereignty. While most of the retreat attendees eventually wrote chapters for the volume, we owe a special debt to Rick Valelly and Nathan Tarcov, whose contributions enriched our discussions and whose ideas and arguments are present in this book.

The editors and staff at Cambridge University Press have been exceptionally supportive in the decisive stages of the volume's completion. We would like to thank Sara Doskow, who saw promise in this volume, and Rachel Blaifeder who helped make this promise a reality. Jadyne Fauconier-Herry, Robert Judkins, and Santosh Laxmi Kota have been very helpful and responsive to our many questions, and have guided us through the occasional snag. We are grateful to Alexandra Huff and Maggie Hough, students at Bard College in Berlin and Annandale, respectively, for their exemplary research assistance. We owe a considerable debt to the anonymous reviewers, whose critical feedback, including the specific recommendations to the editors and volume contributors, has greatly improved the volume and sharpened its intervention.

We gratefully acknowledge generous support from Furthermore: a program of the J. M. Kaplan Fund, for the production of this book, and we would especially like to thank Joan K. Davidson, who encouraged us to apply for support, and who has been a steadfast friend of the project. We would also like to thank Ira Katznelson, Deborah Yashar, and John Ferejohn for the opportunity to publish this volume as part of the *Anxieties of Democracy* series.

The editors have benefited considerably from conversations with colleagues as well as participants in workshops and conferences, where many of the ideas for the volume were generated and sharpened. Our thinking on these topics has been deeply enriched by feedback and discussion at the Global Challenges to Democracy conference held at Cornell in 2022 and organized by Kenneth Roberts, the Backsliding and Resilience in Liberal Democracies conference held in Oxford in 2022 and organized by Giovanni Capocchia and Petra Schleiter, and the American Democracy Collaborative's 2019 conference "Democratic Resilience: Can the United States Withstand Rising Polarization," organized by Suzanne Mettler, Kenneth Roberts, Rick Valelly, Rob Lieberman, and Tom Pepinsky. It was also informed by the 2019/20 lecture series on popular sovereignty organized by Ewa Atanassow and Anna Bettina Kaiser and hosted by Bard College Berlin and the Law and Society Institute at Berlin's Humboldt University; by the workshop on *Popular Sovereignty, Majority Rule, and Electoral Politics*, held in 2019 at the Institute for Human Sciences, Vienna, and organized by Craig Calhoun, Dilip Gaonkar, and Charles Taylor; by the 2018 workshop on "Constitutionalism, Dissent and Resistance," a joint project of the Humboldt University and Princeton University organized by Jan-Werner Müller, Anna-Bettina Kaiser, Silvia von Steinsdorff, and Ertug Tombus; and by the colloquium on *Illiberal Democracy: Reconciling Liberalism and Democracy Today* cohosted by Bard College Berlin and the Hertie School of Governance in 2018 and organized by Ewa Atanassow, Boris Vormann, and Michael Weinman with the support of Helmut Anheier.

Last but not least, we would like to thank the many students with whom we have studied and discussed these matters. From you we have learned a great deal about what it means for the people to rule.

Table of Cases

SUPREME COURT CASES

- Arizona State Legislature v. Arizona Redistricting Commission*, 576 U.S. 787 (2015).
- Baker v. Carr*, 369 U.S. 186 (1962).
- Bostock v. Clayton County*, 590 U.S. (2020).
- Brnovich v. Democratic National Committee*, 594 U.S. (2021). *Consolidated with Arizona Republican Party v. Democratic National Committee*.
- Buckley v. Valeo*, 424 U.S. 1 (1976).
- Bush v. Gore*, 531 U.S. 98 (2000).
- Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010).
- Crawford v. Marion County Election Board*, 553 U.S. 181 (2008).
- Davis v. Bandemer*, 478 U.S. 109 (1986).
- Fisher v. University of Texas*, 570 U.S. 297 (2013).
- Fisher v. University of Texas II*, 579 U.S. (2016).
- Gratz v. Bollinger*, 539 U.S. 244 (2003).
- Grutter v. Bollinger*, 539 U.S. 306 (2003).
- Gomillion v. Lightfoot*, 64 U.S. 339 (1960).
- Guinn v. United States*, 238 U.S. 347 (1915).
- Korematsu v. United States*, 118 U.S. 356 (1944).
- Lawrence v. Texas*, 539 U.S. 558 (2003).
- Lone Wolf v. Hitchcock*, 187 U.S. 553 (1903).
- Marbury v. Madison*, 5 U.S. 137 (1803).
- McGirt v. Oklahoma*, 591 U.S. (2020).
- Northwest Austin Municipal Utility District No. 1 v. Holder*, 557 U.S. 193 (2009).
- Obergefell v. Hodges*, 576 U.S. 644 (2015).
- Reynolds v. Sims*, 377 U.S. 533 (1964).
- Romer v. Evans*, 517 U.S. 620 (1996).

- Rucho v. Common Cause*, 588 U.S. (2019).
Schuette v. Coalition to Defend Affirmative Action, 572 U.S. 291 (2014).
Shaw v. Reno, 509 U.S. 630 (1993).
Shelby County v. Holder, 570 U.S. 529 (2013).
Smith v. Allwright, 321 U.S. 649 (1944).
United States v. Carolene Products, 304 U.S. 144 (1938).
United States v. Windsor, 570 U.S. 744 (2013).
Westberry v. Sanders, 376 U.S. 1 (1964).
Yick Wo v. Hopkins, 118 U.S. 356 (1886).

ARCHIVES

- National Archive of India. (NAI)
Nehru Memorial Museum and Library. (NMML)
Election Commission of India Record Room. (ECIR)
British Library. (BL)

Introduction

Ewa Atanassow, Thomas Bartscherer,
and David A. Bateman

Human beings, if only to maintain a semblance of self-respect, have to be persuaded. Their consent must be sustained by opinions. The few who govern take care to nourish these opinions. No easy task, for the opinions needed to make the many submit to the few are often at variance with observable fact. The success of government thus requires the acceptance of fictions Government requires make believe. Make believe that the king is divine, make believe that he can do no wrong or make believe that the voice of the people is the voice of God. Make believe that the people *have* a voice or make believe that the representatives of the people *are* the people. Make believe that the governors are the servants of the people. Make believe that all men are equal or make believe that they are not.

–Edmund Morgan, *Inventing the People*

WORLD ON THE THRESHOLD

“Here in America, the people would rule.” Speaking in the Capitol’s Statuary Hall on January 6, 2022, that is how the incumbent president of the United States, Joe Biden, characterized what he called the “experiment that would change the world,” undertaken by the nation’s founders, “imperfect as they were.” He was commemorating the first anniversary of the day on which an insurrectionary mob, incited by his predecessor, had stormed that very building. One widely circulated video from January 6, 2021, captures a confrontation at a temporary barrier, during which someone from the crowd addressed the Capitol police: “You guys gotta follow the constitution. You know we’re right.” Later, inside the building, the crowd chants, “Whose house? Our house!,” and a poster proclaims, “Save USA. Stop the steal. Stop the fraud.” The American flag, in its official form as well as in modified versions common on the far right, flew alongside the “Blood-Stained Banner” – the Stars and Bars – of the Confederacy. Other photos and videos show gallows erected on

the Capitol grounds and the crowd calling in unison for the execution of Mike Pence, then vice president of the United States, who at that very hour had been presiding over a joint session of Congress convened to certify the Electoral College vote.

The events of January 6, 2021, were a deliberate and coordinated effort to prevent a peaceful transfer of power, a fundamental principle of democratic government. And yet the “Stop the Steal” movement did not reject democracy or its underlying principle of popular rule. Rather, the insistent claim – supported by no evidence, disproven by investigative journalism, and repeatedly invalidated in courts of law – was and has been that the election of 2020 was stolen, the choice of the people subverted. The fundamental question laid bare by the events of January 6, 2021, is not whether the people should rule, as Biden implied, but rather, what this means and what it entails.

This question encompasses, among other things, the laws, rules, and norms that structure the formalized rituals of self-government – such as the election that was disputed on January 6th; the legal battles that have followed, which are part of an ongoing struggle over who has the right to vote and who holds the privilege of counting the votes; and a range of other governmental and civic functions through which the identity of a people is contested and reconstituted, and through which its self-governance is tested and reconceived. In the aftermath of January 6th, this last category has included congressional and criminal investigations; journalistic deep dives and competing narratives; ongoing disputes over local, state, and federal jurisdiction; grassroots organizing; heated confrontations over educational curricula at school board meetings; extensive academic analysis; and countless conversations, more and less contentious, among family, friends, colleagues, acquaintances, and even occasionally among strangers, about what precipitated the violent spectacle at the Capitol and what is to be done now. On display in these various institutional and deliberative activities is popular sovereignty at work, even as the whole scenario also constitutes, in the words of a previous president of the United States, a new test of whether that particular instantiation of a sovereign people can long endure.

No less important, and no less contested, than the deliberative spaces and rule-governed rituals of popular sovereignty is its iconography. The spectacle of an overwhelmingly white, predominantly male crowd carrying the “Blood-Stained Banner” of the Confederacy through the hallways of “the people’s house” on January 6th made vividly apparent that what was at issue that day was intimately connected to a different spectacle that had also transfixed public attention only a few months earlier. In the spring of 2020, throughout the United States, and indeed throughout the world, statues were falling. In Richmond, Virginia, in Birmingham, Alabama, and elsewhere in the southern states, monuments to the confederacy were being toppled in massive protests against racism and police brutality. In Philadelphia, Pennsylvania, a statue honoring former mayor Frank Rizzo – a champion of the city’s police department

who had urged Philadelphians to “vote white”¹ – was removed by the city, in response to the clear determination of protestors to do so themselves. Monuments to Christopher Columbus – once erected to mark the presence of Italian Americans in the nation’s story – were also taken down, in protest against the expropriation and decimation of indigenous peoples.² In Portland, Oregon, protestors struck at the core of American national mythology, as statues of George Washington and Thomas Jefferson came tumbling down.

The iconoclasm was not confined to the United States. In Antwerp, Belgium, a statue of King Leopold II was removed by the city after it had been set ablaze. In the United Kingdom, memorials to persons associated with colonialism or enslavement became targets. The statue of Edward Colston – a merchant, philanthropist, and slave-trading member of parliament – was dumped into Bristol Harbour. Monuments of Winston Churchill were by turns threatened and defended as competing factions asserted different versions of British history. Altogether, more than 150 statues, monuments, plaques, busts, and murals were either physically removed or slated for removal between May and June 2020 alone. The visual narratives of these nations’ histories and identities were being rewritten, extra legally in some cases and in response to extra-institutional popular actions in others.

Nor was this exclusively a matter of tearing down monuments. In the Indian state of Gujarat, the authoritarian Prime Minister Narendra Modi had recently unveiled the largest statue in the world, a towering likeness of Sardar Vallabhbhai Patel, who played a key role in integrating the princely states into an independent India. Opponents accused Modi and his ruling Indian People’s Party (BJP) of appropriating the legacy of Patel for their nationalist, anti-Muslim agenda. In Istanbul, the Justice and Development Party (AKP) celebrated the completion of the world’s largest mosque and then resacralized the Hagia Sofia, both acts designed to situate the new authoritarian regime within a longer imperial history and to efface the assertions of its twentieth-century authoritarian republican rival.³ In Hungary, the Memorial for Victims of the German Occupation established by Victor Orban’s government prompted repeated denunciations for its attempt to absolve the Hungarian state for any role in the Holocaust.⁴ And then, of course, there was “the Wall,” a perpetual promise in Donald Trump’s campaign speeches, which was gradually being erected along the southern border of the United States, even as its functional irrelevance became ever more apparent.⁵

¹ Heller, “He Once Told Philadelphia to ‘Vote White.’”

² Kubal, *Cultural Movements and Collective Memory*, Chapter 6; McKevitt. “Christopher Columbus as Civic Saint.”

³ Batuman, “Architectural Mimicry.” See also Koelle, “Recep Tayyip Erdogan’s Use of Symbols”; Jamaledine, “Hagia Sophia Past and Future.”

⁴ Euractiv.com, “Controversial Monument”; Željka, “Erect a Memorial – Erase the Past.”

⁵ On the reemergence of walls, see Brown, *Walled States, Waning Sovereignty*.

Widen the historical focus a bit further, to the end of the twentieth century, and we see another period of dramatic transformations in public iconography, as innumerable monuments were razed, and others erected, in the years that followed decolonization, the fall of the Soviet Union, the tearing down of the Berlin Wall, and the advance of liberal democracy.⁶ At first glance, what may seem most salient are the differences between that period and the present moment. It had seemed for many that the end of the Cold War and the democratization of former authoritarian regimes in Eastern Europe and Latin America pointed toward liberal constitutionalism as a culmination of modern history and the inevitable realization of democratic principles. Even if tanks rolled in Tiananmen Square, their very presence seemed to gesture as much to the fragility of the Chinese regime as to its dominion. In academic and policy-making circles, Western-type liberal democracy increasingly appeared as the only legitimate system of government.

Thirty years later, the story may seem very different: liberal democracy in crisis, threatened by forms of populist politics and authoritarian leaders who reject the institutional strictures of liberal constitutionalism as illegitimate constraints on the will of a purportedly unified “people.”⁷ On closer inspection, however, one finds deep continuities between the democratizing ruptures of 1989 and today’s crises of liberal democracy. What links these events, years, and even decades apart – the raising and felling of public monuments throughout the world, a violent attack on the Capitol by citizens hoping to stop the peaceful transition of power in the United States in 2021, or, for that matter the armed defense of a capital by the citizens of Ukraine in 2022 – are fundamental tensions *within* the idea of a sovereign and self-governing people.

At the heart of the present volume is the proposition that the concept of popular sovereignty provides a vital heuristic for understanding much of contemporary politics. Today’s debates over the rise of populism, the spread of authoritarianism, the future of liberalism, the legitimacy of regime change, the definition of international borders, and the regulation of the global economy are contingent manifestations of a deeper set of questions that connects the upheavals of the past few years with this much longer history, questions as pertinent now as they were in 1989, and at other turning points in modern history – 1945, 1918, 1789, 1640 – and perhaps even long before that.

These deeper questions, concerning the identity, composition, character, authority, and agency of the people, are central to the logic of popular sovereignty: Who is – who are – the people? How is the story of a people told and

⁶ See Whitling, “*Damnatio Memoriae*”; Marks, “Statue of King George III.”

⁷ Vormann and Weinman, *Emergence of Illiberalism*, 5; Graber, Levinson, and Tushnet, *Constitutional Democracy in Crisis*; Levitsky and Ziblatt, *How Democracies Die*; Ginsburg and Huq, *How to Save a Constitutional Democracy*; Weyland and Madrid, *When Democracy Trumps Populism*.

transformed and re-presented in public discourse and in civic iconography? What does it mean for a people to exercise sovereign self-rule? What *is* government “of the people, by the people, and for the people”? Taken as a whole, the present volume makes clear that many of the political crises of our time, and the anxieties to which they give rise, are the result of tensions inherent in any attempt to realize the ideal of democratic self-government.

POPULAR SOVEREIGNTY AND CONTEMPORARY CHALLENGES TO DEMOCRACY

Adopting popular sovereignty as an analytical framework brings into focus connections and interrelations between disparate political phenomena that may be obscured or overlooked when the different aspects are treated in isolation.⁸ To see this point, let us consider two vibrant fields of research: globalization and populism.

Seeing globalization within the framework of popular self-government, we are better able to identify and evaluate the ways in which it impinges on the sovereignty of the nation-state and threatens the integrity of democratic rule. As political and economic integration has advanced, decision-making authority has shifted away from national governments and into the realm of international bodies such as the European Union or Bretton Woods institutions.⁹ The result has been what is often referred to as a “democratic deficit” or “democratic erosion,” as citizens feel alienated from supranational policymakers and inadequately represented by their nationally elected governments.

⁸ The substantial literatures on democratic deficits, democratic backsliding, realignment, and political polarization; on the growing salience of “identity politics”; or, most expansively, on the rise of populism, have largely sidestepped any engagement with popular sovereignty, except insofar as it is treated as a rhetorical weapon wielded by populists in their assault on democracy’s institutions. Lieberman et al., *Democratic Resilience*; Lee and McCarty, *Can America Govern Itself*; Nicholson, *Identity Before Identity Politics*; Bermeo, “On Democratic Backsliding”; Daly, “Democratic Decay”; Weyland and Madrid, *When Democracy Trumps Populism*; Müller, *What Is Populism?*; Kaltwasser and Mudde, *Populism: A Very Short Introduction*; Kaltwasser et al., *The Oxford Handbook of Populism*; Corduener, “The Populist Conception of Democracy”; Gerbaudo and Screti, “Reclaiming Popular Sovereignty.”

⁹ The literature on globalization is extensive and diverse. Examples that suggest the range of approaches include: Norris, *Democratic Deficit*; Føllesdal and Hix, “Why There Is a Democratic Deficit”; Weiler, Haltern, and Mayer, “European Democracy”; Rodrik, “Past, Present, and Future of Economic Growth,” and for alternative perspectives on the European Union’s democratic deficit in particular, see Zweifel, “Who Is Without Sin,” Moravcsik, “Is There a Democratic Deficit” and “Reassessing Legitimacy”; Majone, “Europe’s Democratic Deficit”; Kelemen, “Europe’s Other Democratic Deficit.” Lupel, *Globalization and Popular Sovereignty*, is a noteworthy exception to the general rule that work on globalization and economic liberalization has largely disregarded questions of popular sovereignty.

A recent contribution in this vein, *The Emergence of Illiberalism*, advances the thesis that diverse forms of democratic erosion in various parts of the world have as their root cause the global ascendance of a particular form of liberalism – so-called neoliberalism – that stands for the ideology and practice of promoting economic globalization.¹⁰ The editors of that volume argue that, ignoring the social and ultimately political consequences of the rise of inequality, the champions of neoliberalism have neglected political democracy in the name of a form of economic freedom. It is a powerful argument that resonates with other analyses that have diagnosed the trade-offs produced by global economic liberalization.¹¹ It is noteworthy that it has often been the more illiberal regimes that have prompted and/or benefited from neoliberal policies.¹² It is noteworthy, also, as the contributors to *The Emergence of Illiberalism* maintain, that neoliberal globalization threatens not only to limit and alter the economic policy options available to nation-states, but to undermine the feeling of social obligation necessary to sustain a sense of collective identity or peoplehood. Rising inequality frays the social bonds, while the commodification of the public realm, as Karl Polanyi noted decades ago, invites a reaction that can easily be channelled in illiberal directions.¹³

The thesis of *The Emergence of Illiberalism*, while potent and accurate in its broad strokes, nevertheless reproduces a familiar contention that illiberalism is an aberration. It is seen as issuing from a misguided neglect of the political or of economic conditions most supportive of liberal democracy, such as a general level of economic equality or a sense of shared social community. Yet, the claim that the rise in inequality encouraged by neoliberal policies has prompted those on the losing end to embrace illiberalism sidesteps a more fundamental question: *Whose* inequality is at stake? Economic inequality has not risen in a uniform pattern. As defenders of globalization have been quick to point out, it has declined precipitously on the global scale when measured between countries, even as it has risen within most countries.¹⁴ The social patterning of economic inequality, and the opportunities available for persons of different backgrounds, have also changed in many countries, as explicit discrimination on the basis of race or other ascriptive characteristics have declined. Changes

¹⁰ Vormann and Weinman, *The Emergence of Illiberalism*.

¹¹ Rodrik, “Past, Present, and Future of Economic Growth”; Brown, *Undoing the Demos and In the Ruins of Neoliberalism*; Sassen, *Losing Control?*

¹² Authoritarian rulers such as Modi in India or Erdogan in Turkey have in many ways followed in the footsteps of late twentieth-century Latin American populists in their embrace of neoliberal reforms. Roberts, “Neoliberalism and the Transformation of Populism”; Weyland, “Neoliberal Populism.”

¹³ Polanyi, *The Great Transformation*; Brown, *In the Ruins of Neoliberalism*.

¹⁴ Disparities between countries, and between global regions, have been reduced and global poverty by most metrics has dropped to an unprecedented degree, even as most countries have seen an increase in domestic inequality. Piketty, *Capital and Ideology*, 26; Milanovic, *Global Inequality*.

in inequality look different depending on the scale, the unit of comparison, and its material or civic form, and they will be experienced differently depending on which imagined communities or objects of social identification are taken as the frame of reference. Reduced inequality at the global level – which defenders of globalization say often goes unacknowledged – might be experienced by some as national decline. Increased inequality within a state might be less visible or politically salient than the relative changes in social standing and opportunity between groups.

Once we begin to ask, “whose inequality?,” we push past the question of the economic requisites for liberal democracy into the more fundamental terrain of peoplehood. The defense of neoliberal globalization as an equalizing agent, for instance, can rest on a reconsideration of which subjects are most deserving of public sympathy and have the greatest claim to its solicitude in achieving social and economic equality. The gains of the global south and the reduction of humanity-wide poverty might be worth the relative losses experienced within any particular country. From this perspective, critiques of neoliberalism that prioritize the problem of rising inequality within the boundaries of the nation-state can be denounced as manifestations of illiberal populisms, if not outright chauvinistic nationalisms, that deliberately conceal how the limited equality that had constituted older constructions of particular “peoples” rested on global inequality. Then again, seen from the other side, the proponents of neoliberalism may be castigated as “globalists” who undermine the capacity of any state or people to create the economic and social conditions needed for local equality or to define any meaningful sense of local community. They might likewise be faulted for an inability to envision any broader solidarity, global or local, beyond market relations and the mutual interests of a global elite. That globalization not only reworks the capacity of the state to act in a global world, but also the self-understanding of “the people” and the foci of its aspirations and allegiances, is perhaps nowhere more evident than in the continued resonance of this framing of “globalists” versus “populists.”¹⁵

The challenges posed by neoliberalism and globalization, then, are much more than just the rise in inequality, the fraying of a domestic social compact, or the decline in the sovereign authority of the state. The deeper issues, in our view, inhere in the very idea of popular self-rule. Again, who are the people? What do they owe each other, and what do they owe other peoples? What does it mean for any particular people to govern itself in our globalized world? What forms of political organization are capable of reconciling peoplehood, with its seemingly intrinsic exclusiveness, and sustained popular agency, with its reliance on liberal institutions and procedures? These are fundamental questions of popular sovereignty, understood here not as an ideological conviction or a rhetorical device, but as a heuristic frame for analyzing political life.

¹⁵ Haidt, “When and Why Nationalism Beats Globalism.”

Seen in this way, it makes more sense why neoliberalism and globalization might foster an illiberalism aptly characterized as “populist,” which simultaneously proclaims the restoration of the people’s rule while redefining the boundaries of the people.¹⁶ This too is a field of study in which neglecting popular sovereignty as a foundational concept has come at an analytical cost. While the literature on populism is vast and varied, much of it focuses either on defining the phenomenon or on assessing its relationship to democracy.¹⁷ Some accounts portray populism as anti-democratic, others portray it as pro-democratic, but both tend to operate within a shared theoretical frame.¹⁸ Populism becomes an aberration, or, for its defenders, an aspiration, but in both cases, it is different from the normal workings of liberal democratic politics as this has evolved over the course of the last century and a half. As Rogers Brubaker argues in a recent survey of the literature, populism – in contrast to nationalism – has been “cast in a reactive rather than generative role, assigned a particular rather than a universal significance, analysed as episodic rather than enduring, located primarily at the periphery rather than the centre and seen as deviant or pathological rather than normal.” It is the “shadow” or “mirror” of democracy.¹⁹ Political theorists too often treat populism as a contingent feature, a threat to, or an opportunity for democratic politics, rather than, as we believe, a structural feature, integral to the history and development of popular sovereignty.²⁰

Consider how claims are asserted in the rhetoric of populism. As Brubaker shows, one may discern two distinct dimensions in populist discourse: one vertical, pitting an “ordinary” people against a powerful elite or a despised underclass; the other horizontal, marking out some bounded political community, often defined along a putatively ethnonational axis, against whatever portion of the local or global population is deemed to be outside of it. Precisely because of the polysemic character of “the people,” distinct populisms can easily and generatively blend these dimensions, even as they place greater stress on one

¹⁶ The “populist” reaction, along with the end of the unipolar moment and the resurgence of national belligerence, has increasingly led observers to ask whether globalization is again coming to an end. Posen, “The End of Globalization.”

¹⁷ For the former, see Mudde, “The Populist Zeitgeist.” For the latter, see Mouffe, “The Controversy over Left-Wing Populism,” *For a Left Populism*, and *The Democratic Paradox*; De Cleen and Stavrakakis, “Distinctions and Articulations”; Stavrakakis et al., “Extreme Right Wing Populism in Europe”; Riofrancos, “Populism Without the People” and “Reclaiming Populism”; Frank, “Populism and Praxis”; Critchlow, *In Defense of Populism*; Bugarcic, “Could Populism be Good.”

¹⁸ But for nuanced accounts, see Kaltwasser, “The Ambivalence of Populism” and Canovan, “Trust the People!”; Stankov, *Political Economy of Populism*.

¹⁹ Its occurrence has nonetheless come to be seen as “endemic ... in modern democratic settings.” Brubaker, “Populism and Nationalism,” 47–49; Canovan, “Trust the People!”; Panizza, *Populism and the Mirror of Democracy*. In a lecture at the Andrea Mitchell Center for the Study of Democracy, Mudde argues similarly that “populist politics is here to stay. It is no longer ‘episodic’ or ‘niche,’” a development which he argues is due to structural transformations in society rather than part of the intrinsic logic of popular sovereignty. Mudde, “Populism in the Twenty-First Century.”

²⁰ On this point, see Kelly, “Populism and the History of Popular Sovereignty.”

over the other. While some have sought to distinguish populist rhetoric as lying along the horizontal or the vertical dimension, with the accompanying political valences of left-populism or right-populism, Brubaker persuasively argues that much of populism's rhetorical strength lies in its tight interweaving of these dimensions, such that they can become mutually constitutive: Those on the top or bottom are easily shifted outside the boundaries of the "nation" altogether.²¹

What is important for our purposes is that the discursive constructions of populism are fundamentally about defining the boundaries of "the people." Even formulations that might appear to refer to inequalities among a given people – the elite, the wealthy, the poor, or dependent – become metrics of community difference and outsider status. Like other forms of so-called identity politics, populist claims-making "is located at the juncture of the politics of inequality and the politics of identity, where questions about who gets what are constitutively intertwined with questions about who is what."²²

Such claims, which we have suggested are also at stake in debates over globalization, lie at the heart of popular sovereignty. Again, we propose the concept as a heuristic lens through which to see more clearly how the political consequences of the rise and reordering of inequality emerge within a broader matrix in which the understanding of who "the people" are and why they are a people is always being contested and redefined. With this perspective, we see that the fundamental questions at play – who gets to vote, who gets elected, who is represented in the iconography and rituals of the state, who is the beneficiary of its public policies, and who has standing to define or contest these policies on the basis of claims to authority that precede the state – are regularly answered with reference to the shifting contours of the civic and cultural boundaries of "the people."

In our view, populist claims-making, like other forms of identity politics, should be seen as part of a family of peoplehood projects – composing a new people, "restoring" an old one, or redefining the people in terms of constitutive groups that are themselves the product of their own political projects.²³ As such, populism is not aberrational to democratic politics nor inherently opposed to it but a manifestation of a logic intrinsic to popular sovereignty. The very conditions for democratic politics are the establishment and ongoing construction of a "people," the ritualistic insistence that it is the repository of sovereignty, and the perpetual specter of some outside force usurping this authority.²⁴ Popular sovereignty means rule by the people, and any politics

²¹ Brubaker, "Populism and Nationalism."

²² Brubaker, "Populism and Nationalism," 56.

²³ Smith, *Stories of Peoplehood and Political Peoplehood*; Bateman, *Disenfranchising Democracy*.

²⁴ Mundane political statements that "the government has lost the support of the people, and must resign," or "the president's policies are opposed by the American people," not only reproduce the sovereign authority of the people but also imply that their targets, if they refuse to resign or persist with their agenda, may rightly be considered usurpers.

grounded on this claim, whether committed to formal democratic institutions or anti-institutionalist in emphasis, will inevitably invite contestation over the question, who is, or who are, the people? Whether occurring in the foreground or background, populist people-making is but a particular style of addressing popular sovereignty's foundational questions and responding to its constitutive imperative.

Studying issues such as globalization and populism through the frame we propose would facilitate the correlation of disparate explanatory strands, most notably economic and identity-based accounts of the appeal of illiberal populism, which are often pursued separately and with seeming disregard for one another. Such correlation permits us to see more clearly that the effect of neoliberal globalization is likely to be mediated through its impacts on political authority within particular communities, and on the conditions that sustain a belief in a particular people bound together in a meaningful way.

Despite their very different political projects, reactions on both the right and the left to globalized neoliberalism have in recent years increasingly invoked "the people" as a rhetorical trope and a legitimizing authority. "The people" is the basic unit of political authorization in the contemporary world, and its composition and self-understanding, as well as the scope of authority that inheres in its civic representation, are continually thrown into question by geopolitical transformations. Seen in this light, it is only natural that political entrepreneurs would seek to build their own projects by taking advantage of, and even intensifying, instability in the boundaries, character, and authority of the people. Popular sovereignty is a standing invitation to do so, however much contingent events and processes might make it more or less attractive to accept.

AIMS AND STRUCTURE OF THIS VOLUME

Taken as a whole, the present volume proposes that the resonance and endurance of popular sovereignty as a concept owes at least as much to the contestable and revisable character of any construction of peoplehood as to the role that such constructions often play in attempts to unify polities and stabilize regimes. The continuing vitality of popular sovereignty, then, does not derive from the simplicity of, or any unanimity about, its denotation.²⁵ We suggest rather that it is the ambivalence and tension within the concept, its contested

²⁵ Most important recent scholarship has sought to historicize popular sovereignty, or has instead turned to other, perhaps less ambivalent, concepts. For historical accounts, see Bourke and Skinner, *Popular Sovereignty in Historical Perspective*; Kalmo and Skinner, *Sovereignty in Fragments*. For discussions of popular sovereignty's ambivalences, whether inhering in the "popular" or "sovereignty" element, see Kalyvas, "Popular Sovereignty, Democracy, and Constituent Power"; Wallach, "Sovereignty"; Loughlin and Walker, *The Paradox of Constitutionalism*; Taylor, "Dynamics of Democratic Exclusion"; Yack, "Popular Sovereignty and Nationalism"; Whelen, "Democratic Theory and the Boundary Problem"; Espejo, "Paradoxes of Popular Sovereignty"; Gorup, "Strange Fruit of the Tree of Liberty." See also Badiou et al.,

status, and even its inherently fictive character – to adopt Edmund Morgan’s language – that best accounts for its continuing vitality. As Alan Keenan has argued, “democratic politics renders everything provisional and open to question,” including the foundational questions of “who are the people,” why are they this people and not another, and to what end do they hang together and govern.²⁶ The question of the constitution and identity of “the people” cannot be closed, not only because events will always raise it anew but because democratic politics is, at its core, a perpetual contestation over that very question.

Our aim in this volume has not been to defend or critique popular sovereignty as a doctrine, but rather to illustrate its potency and value as a conceptual framework. In another sense, however, our approach evinces a commitment to the view that elements of liberal democratic institutions are essential for realizing popular self-rule in the contemporary world, and conversely, that a nuanced understanding of self-governance and a robust and textured sense of how it is actualized is the only guarantor of liberal democratic ideals. We believe that to make liberal democracy more resilient, better able to withstand the forces pressing against it, it is necessary to cultivate practices that facilitate collective self-rule. These include encouraging forms of civic engagement that cross polarized divides, and that build mutual trust between individuals and between different communities, thus promoting a sense of belonging and participation in a shared conversation about who “the people” is and what it means for the people to rule. We intend for this volume, in its modest way, to exemplify and to foster the kind of collective inquiry, intellectual pluralism, and vibrant debate that is necessary for the success of any such project of popular self-governance.

Correspondingly, we believe it is a primary task of educational and research institutions – and of teachers and scholars – in liberal democracies to foster the habits of thought and conversation that sustain civic discourse. In that spirit, this book aims to cultivate, by example, the capacity to link large theoretical questions of the kind that students often encounter in introductory courses with the methodological rigor that comes with greater specialization. We also intend for the volume to display and nurture a sensibility that encompasses both the speculative and interpretative acumen traditionally honed by an education in the humanities with the more empirically and quantitatively oriented

What is a People? Examples of concepts that might recover some of the vitality and emancipatory promise of popular sovereignty include “constitutive power,” Judith Butler’s collective performative enactments, Sheldon Wolin’s “fugitive democracy,” Paulina Ochoa Espejo’s “the people as process,” Michael Hardt and Antonio Negri’s “multitude,” as well as Jason Frank’s attention to popular agency over popular identity or Patchen Markell’s reinterpretation of the practice of popular “rule” in Hannah Arendt. Kalyvas, “Constituent Power”; Frank, *Constituent Moments* and “Populism and Practice”; Butler, “We the People”; Wolin, “Fugitive Democracy” and *Democracy Incorporated*; Espejo, *The Time of Popular Sovereignty*; Hardt and Negri, *Multitude and Empire*; Markell, “The Rule of the People.”

²⁶ Keenan, *Democracy in Question*, 10.

approaches of the sciences. Finally, we have deliberately sought to include a diversity of philosophical and political orientations, underscoring the importance of fostering debate across ideological divides.

Ultimately, the theoretical underpinnings and the practical aspirations of our work are mutually implicated. Insofar as we aim to promote vigorous interrogation of and robust debate about political life, we are in effect promoting the work of popular self-rule as practiced in liberal democracies. In a healthy liberal democracy, such interrogation and debate are the essence of popular sovereignty in action.

The chapters that follow are divided into three parts. **Part I** explores the conceptual *foundations* of popular sovereignty, examining through close engagement with seminal texts certain key features and constitutive tensions within the concept of popular rule. The opening chapters share a methodological affinity and a common desire to illuminate inherent tensions within popular sovereignty that are manifest at various times and places.

The tensions introduced in a predominantly theoretical mode in **Part I** are explored from a variety of empirical lenses in **Part II**'s *practices and contestations*. Two questions in particular animate the chapters in this section. The first regards the extent to which popular regimes rely on a fiction of underlying unity, despite ineradicable plurality; and the kinds of practices, institutions, and ideologies that sustain commonality and difference. The second question pertains to the complex relationship between popular sovereignty and liberalism, and how the tension between unity and pluralism is manifest in this conjunction.

Given the findings of **Parts I** and **II** regarding the dilemmas inherent in popular sovereignty as a principle of legitimation, the third part synthesizes these insights and proposes a set of *responses*. Crucially, these responses – while adapted to contemporary circumstances and the specifics of how our authors interpret the multiple challenges facing us today – collectively aim to revitalize aspects of popular sovereignty that have in one way or another been neglected. Addressing the fundamental practical question: What is to be done?, these chapters describe institutions and practices that may help sustain a healthy liberal democracy.

The volume concludes with a conversation between the editors and the social movement scholar Hahrie Han that embodies the dialogical ethos that has informed the conception and creation of the book and that is at the heart of our theoretical and practical commitments. Han's work illuminates connections between grassroots organizing and fundamental questions of popular sovereignty. She asks how people can most effectively act in concert to improve their situations, and what capacities movements must cultivate to successfully negotiate differences and to exercise power and hold the powerful accountable. With this dialogical epilogue, we aim to model the kind of conversation that we hope our book will inspire among scholars, students, and citizens.

RECURRING THEMES, ENDURING QUESTIONS: A CONVERSATION ACROSS THE VOLUME

While the epilogue to *When the People Rule* records an actual conversation, the volume also stages throughout its chapters a set of implicit, interlocking conversations among the contributors that are focused on recurring themes and questions, several of which we highlight below. The overarching discussion that emerges is not limited to a particular disciplinary perspective, nor does it purport to present an exhaustive or comprehensive articulation of popular sovereignty as a concept. Rather, it aspires to exemplify the kind of multifaceted, open-ended, ongoing debate that, we maintain, is vital to popular self-rule in a plural society.

Legitimacy

Popular sovereignty is often taken to be the paradigmatically modern mode of political legitimation. It is, in the words of Charles Taylor, “the regnant legitimacy idea of our time.”²⁷ By contrast, in a seminal passage from *Democracy in America* that is taken up by several authors in this volume, Tocqueville writes that “the principle of the sovereignty of the people ... is more or less found at the base of nearly all human institutions” but that it “ordinarily remains there as if buried.” Not merely modern, popular sovereignty for Tocqueville is an inherent aspect of all political life. Whether or not this is true, it is certainly the case that while explicit statements of popular sovereignty were the exception in premodern times, virtually all states in the contemporary world profess to derive their legitimacy from the consent of the governed. Why and how this has come to be the case is an explicit focus in several of the following chapters, and an implicit concern in most of them.

One may make a distinction here between a descriptive and a normative conception of legitimacy. The former focuses on the explicit stories that nations and governments tell about themselves. Questions that emerge in this context include whether it is in fact true that a given regime derives its right to rule from the consent of the governed, and how the principle of popular self-rule is operationalized. In other words, what are the preconditions necessary for the practical realization of the sovereignty of the people in any given context? The chapters by Ioannis Evrigenis, Richard Boyd, and Ewa Atanassow, for example, are each concerned with popular sovereignty as a principle of legitimacy in this descriptive sense.

One may also speak of legitimacy in a *normative* sense, entailing the proposition that governments *should* derive the authority to rule from the consent of the governed, regardless of whether or not any particular regime actually does do so. Tocqueville alludes to such a normative claim when he dismisses those

²⁷ Taylor, “Identity and Democracy.”

who would maintain that from the “fact of obedience” comes “the right to command.” The legitimate right to command, in this normative sense, would have to be grounded in something other than the power to compel obedience or cater to popular demands. The question of whether, and if so how, a legitimate right to rule can be established on different grounds is paramount here. Elizabeth Markovitz maintains that Sophocles’ *Oedipus Tyrannus* illustrates precisely the “ambiguous boundaries” between “legitimate and illegitimate authority.” Thomas Bartscherer, meanwhile, argues that Plato’s *Republic* brings to light a paradox at the heart of the idea of popular sovereignty regarded as a legitimating principle. If it is not to be rooted in the doctrine that might makes right, the concept of popular sovereignty – the idea that authority rests with the many in aggregate and not, say, with an expert few – must itself be legitimized and persuasively defended by reasoned argument. And yet by what criteria, and by whom, is the argument in favor of the legitimacy of popular rule to be adjudicated?

Peoplehood

The concept of popular sovereignty implies an actually existing people. Yet, this simple, even tautological assertion, introduces a set of highly contested questions, among them: Is the existence of a distinct and delimited “people” a prerequisite for self-rule, or is it the activity of self-rule that constitutes a people in the first place? What is the principle of unity that defines a people? What degree and kind of similarity is necessary? What degree and kind of difference is tolerable? Is plurality, of some kind or degree, not only inescapable but also necessary for the possibility of popular self-rule? In English “the people” is tellingly both singular and plural. The phenomenon of peoplehood is similarly both plurality and unity. Discussing Hobbes’s *Leviathan*, Richard Boyd calls attention to this ambiguity. The people for Hobbes implies a double claim: that the multitude of citizens forms one coherent unity; and also that the people form *a* people, one among many human collectivities possessed of a specific personality. Both of these aspects – the unifying, equalizing force of *the* people as one, and the distinctiveness of *a* people in relation to the multitude of peoples – are foundational for Hobbes’s pioneering conception of popular sovereignty.

Yet, how does a people come to be? And does peoplehood exist outside of the institutions that claim to comprehend the people and be authorized by them? Ira Katznelson, Ornit Shani, and Daniela Sarnoff address these questions historically with reference to three emblematic modern polities: the early American republic, revolutionary France, and modern India. Underscoring the extraordinary sociological diversity of the early American republic, Katznelson argues that a combination of institutional pluralism and security threats helped to forge and sustain the American Union in its first decades. By contrast, increasingly assertive claims to popular sovereignty ended up straining the

political bond to a breaking point. In Shani's account, a pluralism even more extraordinary (ethnic-linguistic, religious, social, institutional) characterized the Indian polity at its founding moment. That a constitutional democracy took root in India, against the backdrop of such variegation, flies in the face of democratic theory and calls for a deeply contextual exploration, with evident contemporary relevance. Sarnoff revisits the birth pangs of French republican nationhood in order to analyze the recurrent need for symbolic reenactment of this original moment. By focusing on three strikingly analogous and yet diverse moments in modern French history, she shows how and why this need can be mobilized to very different ideological and political ends.

If a regime of popular sovereignty requires a people, in a liberal polity popular identity is continually contested and renegotiated, as H. Abbie Erler argues. Erler shows how citizenship and immigration laws on the one hand, and redistributive policies and political rhetoric on the other, project images of the people and often lead to its contestation and reshaping. The volume as a whole reflects on a diverse range of people-making processes: through legislation and policy making in the chapters by Erler, Carol Nackenoff, and Julia R. Azari and Alexis Nemecek; through education and civic initiatives in the chapters by Nicole Mellow and Andrew Perrin, and Adam Davis; and through rhetorical practices and theoretical interventions in the chapters by Alvin Tillery and Rogers Smith. All of these contribute to ongoing efforts to imagine, scrutinize, and continuously refashion the meaning of "We the People."

Fiction and Storytelling

In his influential study on the origins of popular sovereignty, quoted at the epigraph for this introduction, Edmund Morgan observes that the success of government requires "the acceptance of fictions."²⁸ Morgan is quick to note that the term "fiction" is not meant pejoratively. The fictions considered are not deficient alternatives to some putatively factual or true account. They are constitutive of democratic aspirations; and aspirations by definition stand at some distance from lived reality.

As discussed by Evrigenis in his chapter, examples of fictions in this sense include the myth of autochthony and natural hierarchy characterized by Plato's Socrates as a "noble lie," as well as the stories told by Hobbes, Locke, and Rousseau about the state of nature and the social contract. The concept of fiction invoked in this and other chapters is capacious, and as a rule, not deprecatory. Evrigenis, for his part, argues that the need for fiction is apparent regardless of the type of political regime, and that this in turn raises important issues for the study of popular sovereignty. Chief among them is the question of whether the very idea of "a people" ought to be understood as a fiction.

²⁸ Morgan, *Inventing the People*, 13.

Richard Boyd explores the ways in which both the idea that there is “a people” and that it is in some sense self-ruling may be usefully understood to be fictions: first, that a given community coheres as a polity that is distinct, in the relevant sense, from other communities; and second, that sovereignty is vested not in some subset of the community, but in the whole of it. Boyd’s chapter investigates how these fictions interact, and whether one may be regarded as a precondition for the other. While one set of questions, discussed across several contributions, pertains to the fictional character of the very concept of popular sovereignty, another set arises with regard to what we may consider ancillary fictions – the stories that polities tell about themselves and that sustain specific arrangements of popular self-rule. Modern liberal democracies, composed of enfranchised individual citizens largely liberated from traditional moral authorities, face the twin dangers of social atomization and civic irresponsibility on the level of the individual. As a result, these regimes, Evrigenis maintains, will require a kind of civic storytelling that promotes individual responsibility as well as social solidarity and cohesion.

Alongside these theoretical contributions, the chapters by Matthew Longo, Rogers Smith, and Adam Davis examine how the need for fiction is met (or not met) in practical terms. Probing the distance between center and periphery, and the disparities in democratic citizenship that result from geographic location, Longo’s empirical study shows that closer to the border democratic equality and popular sovereignty look increasingly like “mere fictions” that clash with the actual reality of surveillance and heteronomous, unaccountable authority that often operates “not in the name of peripheral citizens but against them.” Smith examines the elite-driven “stories of peoplehood” that are crafted by political parties and leaders to unite and mobilize the populace. Looking at the American context, he analyzes the possibility of inclusive and liberal accounts of American peoplehood that may be deployed to counter the authoritarian populist narratives that have gained traction in recent years. Davis, by contrast, takes a bottom-up perspective. Beginning with the premise that self-rule depends on self-understanding, he asks how a “scattered, mobile and manifold public may ... recognize itself” and thereby “define and express its interests.” He turns to concrete attempts to facilitate the sharing of stories within particular American communities as a means to establish the shared understanding, and self-understanding, necessary for self-government.

Populism

Several of the chapters in this volume wrestle with populism as a phenomenon and a concept, whose meaning, analytical value, and normative valence remain the subject of ongoing dispute. Problematizing the established definition of populism as “*a thin-centered ideology that posits a struggle between the will of the common people and a conspiring elite,*” the volume’s contributors examine the particular facets and functions of populism’s appeal,

and the sources of its power.²⁹ One central question is whether populism is a pathology or rather the norm of democratic life. For Julia R. Azari and Alexis Nemecek, populism is as elusive as it is ubiquitous. In a certain sense all democratic politics is necessarily populist that is, seeking popular support and mobilizing grievances and antagonisms to promote change. Against this general and generic understanding, what is usually labeled as populism is a political message or movement that engages in a particularly acrimonious or polarizing version of political combat, or promotes specific kinds of antagonisms.

Alvin Tillery's chapter reexamines the #BlackLivesMatter (BLM) movement in the context of the struggle for racial equality, and how this struggle shapes the organization, content, and conflicts of Black politics. By asking whether BLM is a populist movement, and how this movement positions itself vis-à-vis a highly diversified Black community, Tillery explores the vanguard of anti-racist activism in today's USA and its position in American society at large. Rogers Smith argues that populist movements gain popularity not only because of their polarizing features (pitting people against elites) or because they play on economic and cultural anxieties, but also thanks to a positive message: the story they tell about the identity and dignity of the people. Such stories are an indispensable element of democratic rule. Not simply rejecting such stories but telling better – truer, more complex, and more liberal ones – is, Smith contends, the way to combat the kind of illiberal populism that we see ascendant today.

The contributors broadly agree that to be democratic, politics must be popular: seeking a broad-based appeal but also communicating a vision of the people. To be liberal, on the other hand, politics must be suspicious of power and its corrupting effects. Both of these – a positive valuation of the people, and a suspicion or critique of the powers that be – are elements of populism, and can be harnessed for divisive and polemical ends. What crystallizes disruptive “populist moments” is a particular strand of politics that pitches itself against an already established understanding of popular identity and power in order to contest both the meaning of the people and who gets to define and interpret that meaning.³⁰

Practices and Institutions

The difference between the populism inherent in all democratic regimes and one that acts to subvert a democratic order is located less in populist appeals – often indistinguishable from standard democratic rhetoric – and more in their relationship to institutions. The subversive kind of populist politics is often

²⁹ Hawkins, Read, and Pauwels, “Populism and Its Causes,” 268; Mudde, “Populist Zeitgeist,” 544.

³⁰ Mouffe, *For a Left Populism*.

beholden to what Max Weber called charismatic leadership.³¹ Fixated on the leader, and promoting informal practices of personal rule, it directs itself not only against the political establishment – “the swamp” – but against the institutions themselves, and the routinization of political life they imply. Subversive populism does so in the name of reviving or restoring the rule of the people. It is not surprising, therefore, that historically as well as today, efforts to resist populist forays have doubled down on defending the institutions, and constitutionalism more broadly: the system of checks and balances, the value of due process, and the rule of law.³² Institutions, however, as Steven Levitsky and Daniel Ziblatt diagnose in *How Democracies Die*, are not self-sufficient.³³ To work, they require elite adherence to a specific set of critical norms of mutual toleration and forbearance. Others have argued more broadly that to function well democratic institutions must stand on a deeper moral foundation, what Tocqueville called the “habits of the heart,” that is, the widespread outlooks and customary understandings of the nature and purpose of political life, and of the community that is its locus. In this light, the social practices that shape these understandings emerge not only as another dimension but a key site for liberal democratic politics.

The importance of institutions and practices, from the governing elite all the way down to a highly personal level of citizens’ interactions, is discussed across several of the contributions, perhaps most explicitly in the volume’s concluding section. Next to Carol Nackenoff’s analysis of the courts and their uneasy yet essential place in democratic politics, the chapters by Nicole Mellow and Andrew Perrin and by Adam Davis examine the role of undergraduate education and civil society initiatives, respectively, in shaping civic ideas and generating vital experiences that can build connections and understanding across social and political divides. Rogers Smith, meanwhile, argues that populist success can be studied to devise strategies for liberal recovery. His contribution calls attention to the kind of discursive and rhetorical practices that may help shape or reconstitute “We the People” and which, alongside institutions, are centrally important for maintaining democratic freedom.

Liberalism Versus Democracy

The polemical invocation, in recent years, of illiberal democracy have raised urgent questions about the relationship between liberalism and democracy.³⁴ Several of the chapters explore this fraught relationship, a subject that is perhaps most explicitly the focus of contributions by Ira Katznelson, Ewa Atanassow,

³¹ Weber, *Theory of Social and Economic Organization*.

³² Zuckert, “Populism and Our Political Institutions.”

³³ Levitsky and Ziblatt, *How Democracies Die*.

³⁴ Plattner, “Illiberal Democracy”; Applebaum, “Illiberal Democracy Comes to Poland”; Isaac, “Is There Illiberal Democracy?”; Müller, “The Problem with ‘Illiberal Democracy.’”

David Bateman, and Carol Nackenoff. Each of these authors adopts a historical perspective, reminding us that the perceived frictions between these principles has been a recurring subject of political and intellectual inquiry for centuries. The tensions between liberalism and democracy, however, manifest in distinctive forms across each of the chapters. For Nackenoff, it appears in the form of the so-called counter-majoritarian difficulty, that is, the problematic status of judicial review within a democratic order. Nackenoff explores this difficulty, as well as some of the more prominent efforts to resolve it, through an analysis of judicial rulings in the United States, where she also draws our attention to what might be its inverse, namely, the inadequacy of electoral or representative-based political institutions to protect core democratic rights. For Atanassow, the tension is explored at a more conceptual level, through an analysis of how it was recognized and elaborated, to opposite effects, by two of liberal democracy's most insightful critics, Alexis de Tocqueville and Carl Schmitt. Bateman's chapter engages in a form of comparative history in order to better understand earlier efforts to reconcile liberalism and democracy by prioritizing and securing the values of one over the other. Katznelson argues that in the surprising triumph of popular sovereignty in the early American republic, a form of liberal institutionalism sustained the notion of a unified and actively sovereign people despite substantial pluralism, and also set boundaries on forms of democratic political action that might destabilize the balance required for this people to exist.

One advantage of situating the most recent upsurge of illiberal populisms within these longer histories is that it invites us to distinguish the separate logics of liberalism and democracy, and their inherent potential to diverge. Some historical moments – such as the late-Cold War, and the period immediately following its resolution – might encourage a synthesis between the principles.³⁵ Others might facilitate efforts – including those by some of today's authoritarian populists, but also by some of their critics – to juxtapose the two and frame them as inherently antagonistic foundations of political authority.³⁶ Particular circumstances might make the fit between liberalism and democracy appear more or less seamless. But to take such a congruence as the normal state of affairs ignores both the longer historical patterns as well as their distinctive logics.

In short, none of the contributors who touch upon this theme adopt the position that liberalism and democracy are immanent to each other, or that one encompasses the other. Their different contributions make clear, however, that while the tensions between liberalism and popular rule are real and cannot be resolved at the level of conceptual abstraction, the principles are not so easily disentangled or juxtaposed as some populists or their critics might suggest.

³⁵ Berman, *Democracy and Dictatorship in Europe*.

³⁶ Corduener, "Populist Conception of Democracy," 423; Grzymala-Busse, "Foreword," xix; Abts and Rummens, "Populism versus Democracy."

It is therefore important not only to retain the conceptual distinction between liberalism and democracy, but also to treat them as perhaps intrinsically tethered concepts. Any regime that does not adhere to at least some core liberal commitments will become, sooner or later, a burlesque of popular sovereignty. And yet any regime that is organized around the principle of popular sovereignty will inevitably find this principle in conflict with other principles, whether these are embedded in its constitutional order, or are valued as important by the governing elite or the majority of the people. The logic of either popular sovereignty or liberalism, pushed to their extremes, carries with it the potential to capsize both.

* * *

When the People Rule proposes that the central political question of our time concerns the meaning of popular sovereignty. Most other political questions will accordingly be better understood if we attempt to articulate, or at least think through, their relationship to the issues that this central concept raises. Doing so, as we have been arguing, requires that one give an account of both peoplehood and of self-governance. However, both terms denote concepts that are inherently contested, as is evident in the following chapters. It is in fact our contention that it is only in and through robust debate about the meaning of popular sovereignty, conducted by a diverse assembly of voices, that this key concept can attain any real meaning.

PART I

Plato and the Problems of Modern Politics

Thomas Bartscherer

I

At a key moment in his influential essay on popular sovereignty, Harold Laski writes:

The truth surely is that we should regard the idea of popular sovereignty as expressive of what is the most real problem in modern politics. In some sort it goes back to Plato; for the institutions of which we make use are an attempt to answer his uncompromising rejection of the democratic system. Plato, in substance, denied the value of any general public opinion; and it is at least clear that the philosophic justification of democratic government must begin by showing that his argument is unsound.¹

Laski was writing just after the conclusion of World War I, waged, according to Woodrow Wilson, in order to make the world “safe for democracy.” It would of course not be long before democracy would once again require not only philosophical but also military defense, a situation that persisted, in the form of the Cold War, through to the end of the 1980s.² As that period was coming to an end, a prevalent view among many Western democratic

I am grateful to the participants in the workshops sponsored by the Social Sciences Research Council, identified in the Introduction to this volume, who responded to an earlier draft of this chapter with great thoughtfulness and rigor. Thanks also to all who have given me feedback on this work both in writing and in discussion. In particular, I would like to thank Ewa Atanassow, David A. Bateman, Samantha Hill, Ira Katznelson, and Elizabeth Markovits. I am especially grateful to David McNeill for his comments on this work and for many illuminating conversations about Plato and modern politics.

¹ Laski, “Theory of Popular Sovereignty,” 212–13.

² For an accessible recent account of how democracy failed in Europe in the 1930s, and what lessons that failure may hold for contemporary defenders of democracy, see *How Democracies Die* by Steven Levitsky and Daniel Ziblatt. For a discussion of Carl Schmitt’s attempt to reconcile dictatorship and democracy, see [Chapter 5](#) by Atanassow in this volume.

theorists was that much of the world was indeed finally being made safe for democracy – liberal democracy in particular. So promising was the situation that it seemed reasonable to some to speculate about whether history had come to its end, with liberal democracy becoming “the final form of human government.”³ When the *Journal of Democracy* was founded in 1990, its editors announced that it would be dedicated to unifying “what is becoming a worldwide democratic movement” now that democracy had been “rescued and restored to its true countenance.”⁴

In actuality, the geopolitical history of the subsequent thirty years has been far more tumultuous than many had anticipated, and, as suggested in the introduction to this volume, Western-style liberal democracy now seems far less triumphant, and far more in need of justification, than many had foreseen. In the past three decades, much has also transpired in Plato scholarship, and this presents an opportunity. We may be at a good moment to revisit Laski’s intuition that thinking in fundamental terms about popular sovereignty in some sense goes back, or should go back, to Plato. In other words, if the contemporary crises of liberal democracies have necessitated a fundamental rethinking of democratic theory, we may be aided in that task by the renaissance that has occurred in recent decades in the study of Plato, one of the first and most influential writers on democracy.

That at least is my proposal in this chapter. I shall be focusing in particular on Plato’s *Republic* and the exploration of the relationship between knowledge and political rule in that dialogue. Laski’s view that in the *Republic* Plato articulates his “uncompromising rejection” of democratic rule is widespread. On this view, Plato is said to ground his rejection in the thesis that in a well-governed regime, knowledge and political power will coincide. In democracies, by contrast, power will be divorced from knowledge because “general public opinion,” which in principle holds sway in a democracy, will be deficient with regard to knowledge. If we grant, as Tocqueville once suggested, that democracy is the “practical realization” of popular sovereignty, Plato’s position on democracy would, according to this common reading, amount to

³ “What we may be witnessing is not just the end of the Cold War, or the passing of a particular period of postwar history, but the end of history as such: that is, the end point of mankind’s ideological evolution and the universalization of Western liberal democracy as the final form of human government”: Francis Fukuyama, “The End of History?”, 4. There were, of course, many who rejected Fukuyama’s thesis, from Jacques Derrida in *Specters of Marx* to Samuel Huntington in *The Clash of Civilizations and the Remaking of World Order*, to name just two of the most prominent critiques. But for many in the foreign policy establishment, the ideological victory of Western-style liberal democracy and some version of free-market capitalism was fairly secure, and the real debate was over whether, and if so how actively, the foreign policy of the acknowledged global hegemon should be directed toward accelerating the propagation of the liberal democratic order. For an account of these debates, see H. W. Brands, *What America Owes the World*.

⁴ Diamond and Plattner, “Why the ‘Journal of Democracy’?”, 4.

an unambiguous denial of the legitimacy of popular sovereignty.⁵ By contrast, I will be maintaining that it is neither interpretatively sound nor particularly illuminating to read the *Republic* as Plato's epistocratic manifesto, in which he delegitimizes popular rule in the course of advocating for the coronation of philosophers.⁶ As I hope to show, the *Republic* counsels humility with regard to the place of knowledge in politics, and offers ways to think about political legitimacy in the absence of justificatory knowledge or expertise. More generally, I maintain that the dialogue is best understood as providing a matrix for reflecting on fundamental political questions. What comes to light about democracy in the conversation recounted in the *Republic* is not the illegitimacy of popular sovereignty but rather the centrality of persuasion, the legitimizing power of consent, and the specific character of its myths and educational ideals. In the first part of this chapter, I lay out in more detail what Laski refers to as the "most real problem of modern politics." The central section offers a close reading of the most relevant aspects of the *Republic* and defends the approach I have adumbrated. I close with some remarks on how this reading of Plato may inform our thinking about the contemporary practice and eventual fate of popular self-rule.

Laski's "most real problem" is perhaps best understood as the problem of political legitimacy. We may begin by distinguishing between two conceptions of political legitimacy. In one sense, popular sovereignty encapsulates the belief that governments derive "their just powers from the consent of the governed." This is the sense in which, as Charles Taylor has put it, popular sovereignty is "the regnant legitimacy idea of our time."⁷ Virtually all contemporary political regimes in one way or another ground their legitimacy on the claim that they have a mandate from the people. Understood this way, insofar as the people consent, the regime may be considered to be legitimate. While it is true, as Laski points out, that there is a fictive character to popular rule in large modern states, since they invariably rely on some form of representation, still the whole panoply of democratic institutions – central to which, of course,

⁵ The remark from Tocqueville appears in his notes to *Democracy in America*: "Sovereignty of the people and democracy are two perfectly correlative words; the one represents the theoretical idea, the other its practical realization": *Democracy in America* [Nolla Edition], 1:91. There are of course substantial differences between how democracy was institutionalized in classical Athens and how it exists in modern states, perhaps the most significant being the ubiquity of representation in the modern context. This chapter focuses not on the practice of democracy in ancient Athens, but rather on the theoretical account in the *Republic* of the fundamental principles of democratic regimes. On the relationship between modern conceptions of sovereignty (and popular sovereignty in particular) and their ancient precedents, see [Chapter 2](#) by Markovits in this volume. See also Hoekstra, "Athenian Democracy and Popular Tyranny," and Lane, "Popular Sovereignty as Control of Office-Holders."

⁶ For the origin of the term "epistocracy" and its adjectival form, "epistocratic," see the citations later in this chapter.

⁷ Taylor, "Identity and Democracy," 17.

is the franchise – is, in theory at least, designed to ensure that governments are ultimately accountable to the people. To simplify, a government is legitimate, in this sense, to the extent that those institutions are working properly.

If the first sense of legitimacy pertains to the question of whether or not, in any given state, the people *do* rule, the second pertains to the question of whether or not the people *should* rule: “why are ‘the people’ the ultimate political authority?”⁸ A “philosophic justification of democratic government” would be, effectively, an answer to that question. It would entail giving a reasoned account of why the people should rule. Such a philosophic justification would, according to Laski, have to begin with a refutation of what he claims is Plato’s denial of the value of public opinion. As will become clear in what follows, I have reservations about what Laski imputes to Plato, but I do follow his suggestion that theoretical speculation on democratic legitimacy can be traced back to Plato, and, as I aim to show, I believe that the discussion of legitimacy in the *Republic* will be illuminating for our consideration of some of the “real problems” of modern politics. As I have already intimated, it is in particular the emphasis in the *Republic* on the status of knowledge – its presence and its absence – with regard to both the evaluation and the execution of political rule that I wish to bring to bear on the question of the legitimacy of popular sovereignty and on the prospects for its practical realization in modern democratic states.

Before turning to a closer consideration of Plato, it will be helpful to exhibit more clearly how the status of knowledge emerges as a problem when thinking about the legitimacy of popular sovereignty, and to point up the ongoing vitality of this problem in modern and contemporary political theory. As Laski presents it, “general public opinion” is implicitly contrasted with what we may call “expert knowledge.” Plato is said to deny value to the mere opinions of the general public, which in turn delegitimizes the people’s claim on power, and to assert as legitimate the power of the few who have, or the one who has, the relevant and valuable knowledge. Two aspects of this may be distinguished. The first pertains to the question of whether, and if so to what degree, it is possible within a democracy to set up institutions that bring relevant knowledge to bear on political decision-making while respecting the principle of popular self-rule. This question was at the heart of the early twentieth-century debate between Walter Lippman and John Dewey. Lippman denigrated as “mystical” the belief that “the compounding of individual ignorance in masses of people can produce a continuous directing force in public affairs,” while Dewey maintained that with appropriate education and channels of open communication, an informed public capable of reasoned self-governance could be achieved.⁹

The central issue debated by Lippman and Dewey nearly a century ago is identified by the authors of a recent Knight Foundation study as “one of the

⁸ Canovan, “The People,” 357. See also the longer treatment of this in Canovan, *The People*.

⁹ Lippman, *The Phantom Public*, 39; Dewey, *The Public and Its Problems*, and Dewey, “Democracy as a Moral Ideal.” See also the discussion of the Dewey–Lippman debate in Davis’s chapter (Chapter 17) in this volume.

oldest, hardest questions of political philosophy,” namely, “how to ensure that political decisions are grounded in sound knowledge and sound judgment.”¹⁰ The authors of that study present a set of ideals and practices that, they argue, help to ensure the cultivation of “democratic knowledge” and its adoption and deployment for achieving collective ends. Josiah Ober likewise confronts this question in his 2017 book *Demopolis*. Explicitly echoing Plato’s *Republic*, Ober endeavors to construct a city in speech that embodies all the features of what he calls “basic democracy” without incorporating principles typically associated with liberalism. As Ober sees it, an “epistemic democracy” would “bring domain-specific expertise into the process of decision making without ceding political authority to experts or autocrats.”¹¹ To this end, he proposes reliance on a procedure known as “relevant expertise aggregation.” These theorists, and many others, are grappling with the first aspect of the problem we have identified and suggesting actual and potential institutions and practices that would put relevant knowledge in the service of democratic governance.

There is, however, a more radical aspect to the problem. It pertains to the kind of knowledge that would be necessary to make reasoned judgments about foundational principles, including and particularly the principle of popular sovereignty – in other words, the knowledge that would be required to make an informed judgment about the question of whether the people *should* rule. We see this question arise, for example, in contemporary debates about epistocracy, or “the rule of the knowledgeable.”¹² Speaking generally, advocates of epistocracy question, or even outright deny, the legitimacy of the claim that the people should rule. They hold that power should be “formally distributed according to competence, skill, and the good faith to act on that skill,” and that those virtues are not distributed perfectly equally among all people, nor do they inhere in the people, taken collectively, in any relevant sense.¹³ On this view, the optimal political arrangement would distribute power among individuals in proportion to the (uneven) distribution of relevant knowledge. In these discussions, Plato is typically cited as a precedent and proponent of epistocracy.¹⁴

Defenders of democracy, particularly those concerned to rebut epistemic challenges, have often regarded Plato as an enemy of the cause. We have seen

¹⁰ Allen and Pottle, “Democratic Knowledge and the Problem of Faction,” unpaginated.

¹¹ Ober, *Demopolis*, 147.

¹² Brennan, *Against Democracy*, 14. The term “epistocracy” originates with David Estlund, who summarizes the argument as follows: “If some political outcomes count as better than others, then surely some citizens are better (if only less bad) than others with regard to their wisdom and good faith in promoting the better outcomes. If so, this looks like an important reason to leave the decisions up to them. ... [T]he form of government in which they rule might be called epistocracy, and the rulers called epistocrats...”: Estlund, “Why Not Epistocracy?,” 53. It should be noted that Estlund is here characterizing a position he opposes.

¹³ Brennan, *Against Democracy*, 14.

¹⁴ See Brennan, *Against Democracy*, 14; Ober, *Demopolis*, 179; Grayling, *Democracy and Its Critics*, 17, 124.

that Laski invokes Plato as the arch antidemocratic, whose “uncompromising rejection of the democratic system” must be refuted if there is to be a philosophical justification for democratic government. This view of Plato was widespread in the twentieth century, propounded most vehemently by Karl Popper. Popper portrays Plato as an enemy of the “open society” and argues that Plato’s “poisonous writing” turns his readers against democracy.¹⁵ For both Laski and Popper, and many others, Plato is an advocate of what Popper calls “sophocracy,” or “the rule of learnedness”: “the ruler of Plato’s state should be a possessor of knowledge, a ‘fully qualified philosopher.’”¹⁶ Plato is said to denigrate democracy because it entrusts political power to those who do not possess knowledge. The source of his mistake is said to be his tacit belief that “political power is ‘essentially’ unchecked,” which is to say, “sovereign.” Once that belief is in place, the only important question is “Who is to be the sovereign?,” and this leads virtually inevitably, as Popper sees it, to the conclusion that philosophers should be kings. In positing that “the fundamental problem of politics” is expressed in the question “Who shall rule the state?,” Plato “created a lasting confusion in political philosophy.”¹⁷

Popper’s focus on the question “Who shall rule the state?” obscures a prior and more fundamental question about the availability of knowledge, not only the practical knowledge of how to govern but also the theoretical knowledge that one would have to have in order to answer the question “Who shall rule?.” This prior question, I maintain, is the deeper concern in the *Republic*. To anticipate what is to come, I shall be arguing that the *Republic*, on its own terms, cannot be positing that philosophers should rule, and that the dialogue gives no assurance that the knowledge that would be necessary to conclude that philosophers should rule is available to humans. Even if it were to be, it is not clear as a practical matter how its attainment could be facilitated, and it remains *ex hypothesi* unascertainable whether or not any person who would have such knowledge, the genuine philosopher, would decide in favor of epistocracy. This argument emerges from a close reading of Plato’s text, informed by interpretative approaches that have been developed and refined in the years since Popper’s book appeared. It is to this that we now turn.

II

In the past three decades, scholars have increasingly acknowledged that Plato’s use of the dialogue form introduces ineluctable doubt regarding whether a statement of any given speaker, or even a point agreed upon by more than one

¹⁵ Popper, *The Open Society and Its Enemies*, 35.

¹⁶ Neither “sophocracy” nor “epistocracy” appears in the *Republic*; they are neologisms formed on the pattern Socrates uses to refer to each of the regime types he discusses. In his account, the hypothetical best regime is identified as an “aristocracy,” or rule of or by “the best.”

¹⁷ Popper, *The Open Society and Its Enemies*, 120–21.

speaker, can be ascribed to the text as a whole or to its author. Nevertheless, many commentators persist in ascribing to Plato beliefs and convictions that are espoused by one or another of his characters, and often enough, views that are not even claimed by any character, but are merely proposed for consideration or that occur within the formulation of a question. To discuss this matter in detail would take us far afield, so for present purposes I shall simply advert to a pivotal essay by Michael Frede that makes the essential point succinctly:

However committed the fictional questioner or respondent of the dialogue may be, nothing follows from this about the commitment of the author of the dialogue; Plato even in the least aporetic and most dogmatic dialogues remains at a radical distance from the views and arguments of the fictional characters of the dialogue.¹⁸

While I do not pursue here in any depth the ramifications of this hermeneutical principle, accepting it, as I think one should, already casts doubt on the view that the *Republic* should be read in any straightforward way as a defense on Plato's part of epistocracy.

The most frequently cited textual evidence for the claim that Plato believes that philosophers should rule comes in Book Five, where Socrates recounts his contention that:

unless ... the philosophers rule as kings or those now called kings and chiefs genuinely and adequately philosophize, and political power and philosophy coincide ... there is no rest from the ills for the cities, my dear Glaucon, nor I think for human kind, nor will the regime we have now described in speech ever come forth from nature.¹⁹

We may note first that the remark is attributed by Socrates to himself, in the context of recounting (to whom, we aren't told) a conversation he had had the day before. It is the fate of this claim within the conceit of the dialogue that concerns us. Socrates and his interlocutors have agreed to "make a city in speech" (369c), a city that is "perfectly good" (427e). It is in the context of considering how such a city "in speech" may come to be in deed – how the theory, as it were, could be put into practice – that Socrates moots the idea of a sophocracy or epistocracy. When Adeimantus subsequently challenges Socrates with the hypothetical objection that philosophers are either vicious or useless (487b–d), and so couldn't possibly be the rulers of the city that would be "perfectly good," Socrates explains that the objector in this case would have

¹⁸ Frede, "Plato's Arguments and the Dialogue Form," 214. Other commentators who share this basic outlook include Strauss, *City and Man*; Roachnik, *Tragedy of Reason*; Ausland, "On Reading Plato Mimetically"; Blondell, *Play of Characters in Plato's Dialogues*; Zuckert, *Plato's Philosophers*; McNeill, *An Image of the Soul in Speech*; and Ferrari, "Plato the Writer." For a range of approaches to the general issue of how to interpret the dialogues, see Griswold, *Platonic Writings/Platonic Readings*; Klagge and Smith, *Methods of Interpreting Plato*; and Press, *Who Speaks for Plato?*

¹⁹ (473d–e). See also 499b–c, 540d, 543a. All passages from the *Republic* are cited from the translation by Allan Bloom.

in mind pretenders to philosophy, not true philosophers. The philosophers to whom he is referring when he proposes that philosophers should rule are “lovers of the sight of truth” who have their “understanding truly turned toward the things that *are*” and have “no leisure to look down toward the affairs of human beings” (500b–c). Already we see here the intimation of a practical problem, for if the philosophers are not concerned with the affairs of human beings, it is hard to imagine how they could conceivably govern human beings. The problem becomes more explicit later in the dialogue, a point to which I shall return.

The first major difficulty, however, arises immediately after Socrates and Adeimantus have reaffirmed their agreement that the city they have founded in speech is best in theory and that, though exceedingly difficult, it is not impossible for it to come into being in deed, that is, to be realized in the spatiotemporal world. Socrates at that point says that they next must discuss, “in what way and as a result of what studies and practices the saviors will take their place within our regime” (502d). Several important things become clear in the ensuing discussion of the education of the philosopher-guardians that unfolds at the end of Book Six and into Book Seven. First, what ultimately legitimates the claim to political power on behalf of philosophers is the knowledge of what Socrates calls “the *idea* of the good.” Without knowledge of this highest object of study, all other knowledge claims are just opinions, the accuracy of which is uncertain. This of course would include any claims about the political good, common good, collective ends, and so on. As Socrates puts it, “if we don’t know it [the idea of the good] and should have ever so much knowledge of the rest without this, you know that it’s no profit to us ...” (505a) and “no one will adequately know the just and fair things themselves before this is known” (506a).

On Socrates’ own account, then, in order to qualify as true philosophers in the relevant sense, in the sense that would legitimate political authority, the persons in question would need to have access to this knowledge, and they would need to be able to grasp with their minds the idea of the good (see 505e–506a). Moreover, since the idea of the good is the grounding of all secure knowledge – it is “the cause of knowledge and truth” (508e) – only a true philosopher, only one who knows the idea of the good, would be capable of answering the question “should philosophers rule?” or, more generally the question, “who should rule?” Equally importantly, Socrates responds to his interlocutors’ entreaties by saying that his own opinions about the idea of the good are “out of the range of our present thrust” (506e). It is noteworthy that he refers to his “opinions about,” not his “knowledge of,” this idea, and that he had just prior to this said, “we don’t have sufficient knowledge” of the idea of the good (505a). Nowhere in the remaining books does Socrates reverse himself on this question. It seems abundantly clear, in other words, that neither Socrates nor anyone else claims that the founders of the city in speech – Socrates included – possess knowledge of the good; in fact, it is suggested

that at best, Socrates may have some “opinions” about it. We are compelled to conclude that, on the very terms agreed on by the interlocutors, they are in no position to know whether philosophers should rule.

Even if we set aside these qualifications, doubt persists about the availability to humans of the knowledge that is said to be required to legitimate epistocracy, and about the practicality of facilitating the education that would be necessary to acquire it. I shall briefly mention three reasons for doubt. First, when Socrates introduces the idea of the good, employing the analogy of the sun, he observes that “not only being known is present in the things known as a consequence of the good, but also “existence and being” are present as a consequence of it. The good, he emphasizes, “isn’t being, but is still beyond being” (509b). It is a deeply enigmatic passage, but one may at least acknowledge that it is not at all obvious what it would mean to “know” something that is “beyond being.” Second, Socrates makes clear that the obligation of the philosophers to serve as rulers pertains only to philosophers who have been reared in and educated by a “perfectly good” city. Those who come to be in other cities would be free to pursue philosophy undisturbed, with no obligation to rule, and the suggestion is that they would in fact chose to do so (520a–b). As a practical matter, then, for an epistocracy ever to come into being, it would, paradoxically, require the preexistence of an epistocracy. Socrates highlights this conundrum when he observes that, if somehow philosophers were to come to power in an imperfect city, and were to want to sustain their rule, they would have to resort to extreme measures: “all those in the city who happen to be older than ten they will send out to the country; and taking over their children, they will rear them ... in their own manners and law” (540a–41e). Finally, we may note that the image of the cave in Book Seven puts a sharp point on the doubts we have raised. When Glaucon says, “it’s a strange image ... and strange prisoners you’re telling of,” Socrates responds by saying, “they’re like us” (515a), indicating that he and his interlocutors dwell in the realm of shadowy opinion, without access to the knowledge that is represented metaphorically as the world outside the cave. They may well conclude – indeed they already have so concluded, earlier in the conversation – that the perfectly good city is the one ruled by philosophers, but their opinion on this is itself not grounded in secure knowledge. If we accept the terms of the image, there is no reason given to suppose that what Socrates and his interlocutors opine that a philosopher should do will necessarily correspond to what a true philosopher knows he should do. We noted earlier a curious moment in which Socrates observes that philosophers have “no leisure to look down toward the affairs of human beings” (500b–c). The difficulty hinted at there is made explicit later, when Socrates indicates that it will be the job of the founders of the perfectly good city to “compel” philosophers to take up the mantle of rulership, even if they would prefer to stay out of politics and to spend their time philosophizing. Socrates suggests that the founders will not thereby be committing an injustice against the philosophers, but given what we have just reviewed, it is

patently clear that in any dispute between the philosophers and the founders, the former would have to be in the right. There is, in other words, no way for the founders to know that the philosopher would turn out to be an epistocrat and would agree with them that he should rule.²⁰

It seems now sufficiently clear that there is little textual support for the view that the *Republic* is a sophocratic or epistocratic manifesto. Far from purporting to offer a conclusive argument for “the rule of learnedness,” the dialogue proposes that the knowledge that would be necessary to provide an authoritative answer to the question, “who should rule?,” is at best exceedingly difficult to attain, and perhaps simply inaccessible to human beings. It is Thrasymachus, after all, not Socrates (let alone Plato) who introduces the notion that there could be a precise science (*epistêmê*) of rule (340e). Socrates, for his part, draws a sharp distinction between the founders of the city in speech – himself, Glaucon, and Adeimantus – who have only uncertain opinions about the matters they discuss, and the would-be philosopher-kings, who would by definition have secure knowledge about such things. What is most significant for present concerns is to recognize that the difference in the status of knowledge in these two disparate worlds is reflected in the political organization of each. In the hypothetical city in speech epistocracy is legitimate because the hypothesis itself stipulates that a knowledge-based authoritative answer to the question about who should rule is available. Indeed, in such a city, epistocracy would be the only legitimate regime. For the founders, however, who lack this knowledge – at the very least, there is no suggestion that any of them possesses it – a genuine epistocracy would be impossible, and any claim to power made on epistocratic principles would be illegitimate. To speak precisely, it would be tyrannical. The founders – Socrates, Glaucon, and Adeimantus – form among themselves a discursive community, directed toward a shared goal, and operating on a principle of consent. If in the city in speech precise knowledge (*epistêmê*) underwrites legitimacy, in the community of the founders, by contrast, legitimacy derives from agreement. Recognizing the distinction between the community of interlocutors and the citizenry of the city in speech in turn serves as a reminder that the participants in this dialogue are citizens of a democracy – Athens – who have limited knowledge, differing capacities, individual proclivities, and at times divergent views, and who are engaged in a wide-ranging conversation about political things. They in other words, and not the hypothetical citizens of the city in speech, are most “like us.”

III

In the balance of this chapter, I shall consider, in a more speculative mode, some ways in which the *Republic*, understood along the lines I have suggested, may inform our thinking about the principle of popular sovereignty and the prospects for its actualization in contemporary democracies. Perhaps most

²⁰ Thanks to David McNeill for calling my attention to the last point.

interesting here is the question with which we began, Laski's concern about the justification or legitimacy of what Tocqueville refers to as the "dogma" of popular sovereignty.²¹ As discussed above, one may usefully distinguish between the questions "do the people rule?" and "should the people rule?" It is with regard to the latter question, I want to suggest, that the *Republic* provides a useful matrix for thought. Those who read the *Republic* as a defense of epistocracy conclude that the dialogue answers the second question unambiguously in the negative: not the people but those with knowledge should rule.²² The problem, as we have seen, is that no one in the dialogue – and this includes Socrates – is portrayed as having the requisite knowledge to reach that conclusion with certainty. What, then, does the dialogue have to offer us in our own considerations of political matters, generally, and popular sovereignty, in particular?

A text that may legitimately be considered "a possession for all time," as Thucydides described his aspiration for his own work, exists not outside of time, but within it. It belongs, so to speak, to the times, which are perpetually changing, even if in some important sense the text itself does not change. The vitality of interpretation emerges from the interaction between the fixed text and its ever-changing interpreters. Only through fidelity to the former can its meaning emerge, even if what it means at any given time, to any given community of readers, depends also on the way it is received.²³ In my view, the *Republic* does provide resources for a defense of the desirability of democracy, but this does not necessarily make Plato a defender of democracy. If we consider the *Republic* as a kind of thought experiment, Plato may best be regarded as a critical spectator, a deliberate provocateur, and a thoughtful interlocutor.²⁴

²¹ Tocqueville, *Democracy in America* (2010), 1:91.

²² "Plato, along with other ancient and modern critics, argued that democracy's commitment to liberty and equality necessarily leads citizens to pursue arbitrary desires rather than real interests, and to make choices based on false opinion rather than knowledge. The critics conclude that democracy is inherently anti-epistemic and that only a nondemocratic regime could make policy favorable to people's real interests." Ober, *Demopolis*, 14. See also Brennan, *Against Democracy*, 14.

²³ Decisive here, of course, is what "fidelity" means, and that is no simple matter. Its opposite would be "betrayal," a word that comes to English through French, from the Latin verb "tradere," meaning "hand over." (It is the same root from which comes the word "tradition.") All interpretation, in this sense, is a betrayal in the root sense, a handing over or conveyance of meaning. But the more current connotation of "disloyalty" is helpful to bear in mind. To be legitimate an interpretation must be loyal to the text. While I have endeavored to exhibit such loyalty in the reading of the *Republic* I have offered here, it is important to acknowledge that the difference between conveying the meaning and betraying the original is always a contested issue. Though beyond the scope of this chapter, it would be interesting to compare legitimacy as a political principle with legitimacy as a hermeneutical principle, particularly with reference to the doctrine of popular sovereignty.

²⁴ For a similar approach to the dialogues by a contributor to this volume, see Markovits, *The Politics of Sincerity*, 7: "Rather than hold Socrates up as a friend or foe of democracy, my primary goal is to examine Plato's dialogues as a resource for thinking about our own democracy (taking care to not overstate similarities between our situations)."

To be sure, philosopher-kingship is never portrayed in the *Republic* as impossible or undesirable. Socrates seems committed to holding open the possibility that true philosophers can come to be, even in imperfect regimes, and he insists that, however unlikely, it is not impossible for a true philosopher to attain power. Although we have seen that the interlocutors are not qualified to say whether such a regime would be best, that possibility is certainly not foreclosed. However, in the absence of genuine knowledge of the good, we are left with competing answers to the question, “who should rule?,” and with diverse and differing accounts of the political good. Under such conditions, a tolerant and plural democracy may well be regarded as the least bad option. Moreover, what Socrates identifies as the chief characteristics of democracy – *freedom* and *equality* – may in this light be regarded as virtues. If genuine knowledge is unattainable, or at least at present unattained, it may well be that the best option is a regime in which competing claims about the political good are, to the extent possible and certainly for the purposes of argument, treated *equally*, and adherents to each view are *free* to pursue the way of life dictated by their understanding of the good and to advocate in public debate for its desirability. As noted above, within the conceit of the *Republic*, these are the conditions that obtain not for the hypothetical citizens of the city in speech, but for the interlocutors. Recall that at the start of the dialogue Socrates recounts how Polemarchus (presumably playfully) insists that Socrates and Glaucon must “either prove stronger than these men or stay here,” to which Socrates responds, “‘Isn’t there still one other possibility ...,’ I said, ‘our persuading you that you must let us go?’” A brief debate ensues, which concludes with Socrates declaring, in the language of the Athenian assembly, “if it is so resolved, that is how we must act.”²⁵ This opening scene sets the tone: the interlocutors constitute a rudimentary democracy. Here debate and persuasion replace violence and physical compulsion, and authority is established through consent.

Democracy is, as Socrates says, “probably the fairest [or, “most beautiful”] of the regimes,” and while there is surely some irony in this remark, it is often the case in Plato’s dialogues that an ironic remark is not merely an assertion of the opposite of what is actually said, but rather a signal that the matter at hand calls for further reflection. Socrates also says at this point that in a democracy especially, “all sorts of human beings come to be” and that it is “a convenient place to look for a regime.” If there is beauty in democracy, it may in part consist in this diversity, and in the fact that it is welcoming to people like Socrates and his interlocutors – and perhaps, people “like us” – who wish to compare different options as they reflect on forms of government and consider how to realize their aspirations (557c–d).

²⁵ See the translator’s note: “At the end of this scene, which is a dramatic prefiguration of the whole political problem, Socrates uses this word as it was used in the political assembly to announce that the sovereign authority had passed a law or decree. It is the expression with which the laws begin, ‘It is resolved by [literally, ‘it seems to’] the Athenian people ...’”, 441n6.

If democracy is, in this sense at least, presented as desirable in the *Republic*, it is also shown to be unstable and precarious. Moreover, a sharp irony of Socrates' account is that precisely those characteristics – freedom and equality – that make democracy well suited to circumstances in which philosophical knowledge is absent or relatively inaccessible, are also liabilities, and make a democratic regime particularly vulnerable to the rise of tyranny. As Socrates tells it, the democratic populace becomes so enamored of freedom that any constraint implemented by responsible leaders is felt as oppression, and so favor falls on “rulers who are like the ruled” (562d). Eventually, acting on their devotion to freedom and equality, the citizens end up “paying no attention to the laws, written or unwritten, in order that they may avoid having any master at all” (563d). The core democratic virtues are destabilizing in another sense as well. Absent an authoritative account of the political good, competing *opinions* about the good enjoy, as it were, political equality – no one belief is officially favored over another – and citizens are free to believe what they wish. This plurality of values, Socrates suggests, makes the populace more susceptible to manipulation by a demagogue, who can exacerbate factionalism for his own ends. By appealing to the interests of individual classes or groups, these factions come into conflict with one another. Each faction's claim on equality and assertion of freedom comes at the expense of the city's collective commitment to those values – and so, as Socrates says, “the greatest and most savage slavery” proceeds from “the extreme of freedom” (564a).

Perhaps most significant for our concerns, the argument of the *Republic* helps us to discern and articulate a certain paradox in the principle of popular sovereignty. The underlying question here is whether the right to rule can be established on the basis of reason and knowledge rather than on the basis of coercive force. We see that, in a plural democracy with a diversity of views about the political good, there are competing claimants to the right to rule. As Socrates presents them, this includes the wisest, the most honorable, the most wealthy, and the people as a whole. If this fundamental political question – the very question of legitimacy – can in fact be adjudicated on the basis of reason and knowledge, then it would seem that the ultimate power, or sovereignty, would rightfully belong to the one who knows. In that case, it would be the wise, and not the people, who should rule. If, on the other hand, the would-be adjudicator is not in possession of such knowledge – as is true in the case of the founders in the *Republic* – it seems the power to resolve competing claims will lie with the people, but it must also be acknowledged that in such a scenario power is not legitimated on the basis of reason and knowledge.

On what basis, then, if any, is popular self-rule and the principle of consent legitimated? To cite Canovan again, “why are ‘the people’ the ultimate political authority?”²⁶ The discussion of the noble lie in the *Republic* may provide an approach to this question (414b–15d). While a detailed analysis cannot be

²⁶ Canovan, “The People,” 357.

conducted here, we may make a few observations. First, Socrates indicates that such lies – one might also call them myths – come into being “in case of need.” Socrates shows why his city-in-speech requires such a myth, but we may ask whether modern democracies are also in need of such myths, and if so, why.²⁷ Second, Socrates notes that his lie would “persuade, in the best case, even the rulers, but if not them, then the rest of the city.” In a regime of popular self-government, if legitimating myths are required, who would need to believe in them? And who, if anyone, could be exempt from such belief? Finally, Socrates concocts a myth that accounts for both the heterogeneity or stratification and the unity of the city in speech, and that unity, based on autochthony, asserts both familial bonds and geographical boundaries. Do the “stories of peoplehood” in modern democracies require similar features? These questions lay out a field of inquiry that can and should be approached in a variety of ways, employing theoretical and empirical methods drawn from a range of disciplines. Some examples may be found in subsequent chapters of this volume.²⁸

If, as suggested above, the *Republic* is best regarded in this connection as providing neither an attack on democracy nor a defense of it, but rather a matrix for thinking about the principle of popular rule (as well as other principles of political organization), it may be particularly valuable for the light it sheds on debates between democracy’s critics and its defenders. Consider again the epistocratic critique of democracy, as for example proposed by Jason Brennan. “I contend that the choice between democracy and epistocracy,” writes Brennan, “is instrumental. It ultimately comes down to which system would perform better in the real world.”²⁹ Brennan argues that although “we do not yet have sufficient evidence to definitely favor epistocracy over democracy, ... there are ... good grounds to presume that some feasible form of epistocracy would in fact outperform democracy” (16). He makes clear that he is not advocating for anything like a “philosopher king or guardian class,” (14) and rejects the idea that the case for the superiority of epistocracy rests on the claim that “when some citizens have greater knowledge or reliability, this justifies granting them political authority over those with lesser knowledge” (17). His more modest claim is that, “when some citizens are morally unreasonable, ignorant, or incompetent about politics, this justifies not permitting them to exercise political authority over others” (18). Yet, the question raised by the *Republic* is not so easily avoided, for the simple reason that, even accepting Brennan’s caveats, the “performance” of regimes and the morality, wisdom, and competence

²⁷ It is worth noting that in *Demopolis*, Josiah Ober emphasizes that the city-in-speech at the center of his own thought experiment “is certainly not to be premised on the *Republic*’s Noble Lies” because “the citizens-in-training must have rational reasons... to embrace the values that they are taught,” *Demopolis*, 71–72. But whether it is possible to dispense entirely with legitimating myths remains an open question. See Canovan, “The People” and Smith, *Stories of Peoplehood*, as well as the chapters in the present volume by Evrigenis, Boyd, and Smith.

²⁸ Again, see [Chapters 3, 4, and 15](#) by Evrigenis, Boyd, and Smith, respectively.

²⁹ Brennan, *Against Democracy*, 16.

of potential officeholders would still need to be evaluated, and the authority of the person or body of persons making those evaluations would still need to be legitimated. If that legitimacy is based on a claim to knowledge about the political good, then that claim in turn must be defended. As my discussion above has sought to show, the *Republic* makes clear what such a defense would entail, and it casts profound doubt on whether it could be successful. If, on the other hand, the instrumental defense of epistocracy does not rely on some knowledge claim to ground the legitimacy of judgments about the performance of the government or the fitness of its officeholders, then it is hard to see how anything other than the popular will could conceivably legitimate such judgments. Such an outcome would hardly constitute an argument “against democracy,” but rather a tacit endorsement of it, and in that case, one would again be confronted with the fundamental questions raised in the *Republic* about democracy in comparison with other types of regimes.

By way of counterexample, we may consider the contemporary defense of democracy put forward by Josiah Ober in *Demopolis*. Ober rejects the epistocratic claim that the legitimacy of political power is grounded in knowledge. “Epistocracy goes wrong,” he writes, “because it wrongly supposes that, because there are experts in domains relevant to politics, there are also general experts in politics” (145). No one, in Ober’s view, has or could have the knowledge that would be necessary to legitimize the right to rule. Ober is deliberately minimalist in his defense of democracy. To that end, he separates out democracy from liberalism, arguing that his aim is to defend the former, what he calls “basic democracy,” which in his view could be compatible with either liberalism or illiberalism: “My hope is to show that democracy in and of itself effectively promotes various desirable conditions of existence, and that it does so quite independently of liberalism or any other theory of moral value” (xiv). Yet, it remains unclear how conditions may be determined to be desirable, or undesirable, without some account to moral value. To ensure that citizens of the Demopolis – Ober’s name for the hypothetical city he envisions – will be committed to democracy, Ober proposes a regime of civic education that inculcates devotion to “democratic goods,” among them “the free exercise of constitutive human capacities, political freedom, political equality, and civic dignity” (74). The preeminence of these values, it must be noted, are not up for debate in *Demopolis*, nor is it up to the *demos* to determine what values belong on the list. Moreover, no argument is put forth in support of any individual or group of individuals having the requisite knowledge to adjudicate such questions, for, as noted, there are no “general experts in politics.” It seems, in other words, that the most difficult questions raised in the *Republic* about the relationship between knowledge and political authority are not addressed in this account. Here we may recall, and slightly repurpose, Laski’s contention that “the philosophic justification of democracy” must begin with, or at least at some point ought eventually to confront, the challenge articulated in Plato’s dialogue.

I close with some remarks on education in relation to popular self-rule. It is of course no accident that a foundational work of political philosophy would be so centrally concerned with education. Not only is a large portion of the conversation recounted in the *Republic* explicitly dedicated to the topic – a long stretch of Books Two and Three and all of Book Seven – but the drama of the dialogue itself turns on the enactment of education, with Socrates as teacher and Glaucon and Adeimantus as his pupils. Moreover, it is acknowledged that both subjects and rulers are prepared for their roles in the political life of the community through education, and this is true as much in regimes of popular self-rule, where subject and ruler are in principle one and the same, as it is in any other regime.

We have seen that one of the essential characteristics of democratic regimes as presented in the *Republic* is a diversity of beliefs about what constitutes the good, whether regarded as the “political good” or the “good life.” Indeed, what is recognized as constituting the common good in such regimes is precisely and only those features that sustain the genesis and coexistence of a plurality of differing conceptions of good politics or the good life. Democracy is also characterized as unstable, as perpetually in danger of sliding into tyranny. Throughout his account of the decline of regimes, Socrates emphasizes the role that is played by the failure on the part of the ruling elite to properly educate the younger generation. In a democratic regime, in particular, the lack of agreement on what ought to be valued – aside from equality and freedom – and hence, on what ought to be taught, is an acute challenge for education.³⁰

The *Republic* is not an educational handbook, but it is both a meditation on the topic and a dramatization of education in action. Perhaps its deepest teaching in this regard is humility. So much about the dialogue, about Plato’s writing in general, and about Plato’s Socrates, points toward the importance of intellectual humility, by which I mean the persistent effort to keep present to mind the limits of one’s knowledge.³¹ This cannot help but sound ironic, given

³⁰ The chapters in this volume by Perrin and Mellow and by Davis discuss education and civic discourse in a contemporary liberal democracy both within and outside of formal academic settings.

³¹ Over the past twenty years a growing body of academic literature has developed that is focused on intellectual humility, and while Plato is not absent from this discourse, a reinvigorated engagement with the dialogues would be beneficial. Noteworthy about the way humility is portrayed in Plato’s dialogues is the corresponding capacity, also exemplified by Socrates, to identify the deficiencies in deficient arguments (see, e.g., *Apology* 21b–23b). Socratic humility is informed by an orientation toward the political good, which is conceived as in principle knowable, even if unknown, and as not dependent on or reducible to individual or group preference. Within a liberal democracy, humility understood in this way would emphasize the importance of debate, deliberation, open-mindedness, and the search for the common good, and would de-emphasize value pluralism, individual autonomy, and the cultivation of competition between factions for power and influence. For a discussion of humility and democratic politics, see Neblo and Israelson, “A Humble Form of Government.” For an overview of the contemporary literature on intellectual humility, see *The Routledge Handbook of Philosophy of Humility*, edited by Alfano, Lynch, and Tanesini.

the sheer scope and quality of Plato's corpus, the magnitude of his influence, and the dialectical sophistication of his primary protagonist. Yet, as we have seen, at the heart of the *Republic* is the absence of knowledge about what matters most – without, it must be noted, any diminishment in the passionate desire to know. The turning points in so many Platonic dialogues are marked by the *elenchus* and the experience of *aporia* – meaning that they are moments at which what is not known (what one desires to know) becomes apparent both to the character and to the reader. Socrates, despite all his apparent mastery, is perpetually proclaiming his ignorance.

While the educational program that is envisioned by Socrates and his friends in the course of the *Republic* is designed to prepare auxiliaries and guardians for their roles in a kingdom ruled by philosophers, the education enacted in the drama of the dialogue occurs between citizens in a democracy, and as such, it may have some exemplary power for us. Certainly in contemporary liberal democracies, in which contestation over what constitutes good politics and a good life can be fierce, cultivating intellectual humility through education, ideally not only of children, might well be beneficial. The depiction of democracy in the *Republic* and the account given of the threat posed by incipient tyranny, together suggest that while the inherent momentum of the regime is toward ever-greater freedom and equality, the consequence is an ever-diminishing sense of a common good that would promote social cohesion and protect the people against demagogic manipulation and a slide into autocracy. The suggestion for educators of all kinds who find themselves living in democratic states may be that the search for a common good – however long and hard the road, to borrow a Platonic metaphor – ought to be a priority. To speculate in more detail on how that could be done is the task for another occasion, but I submit for consideration that reading the *Republic* together might not be a bad place to start.

The Sovereign and the Tyrant

Boundaries and Violation in Oedipus

Elizabeth K. Markovits

Do not wish to have control in everything!

Power to control did not accompany you through all your life.

–*Oedipus Tyrannos*, 1522–23¹

Sovereignty is a multifaceted concept, connecting the question of the *extent* of authority with the question of in whose name or under whose authorization that power is used. In *popular* sovereignty, legitimacy is rooted in the consent of the governed; that is, the people are the proper sources of political authority. This power to make a presence felt in the world, recreating the world according to a collective vision of the people, is especially appealing in our era of “inverted totalitarianism,”² “devitalized agency,”³ and continued outright authoritarianism and oppression – and continues to animate struggles for democracy across the world.

Yet, the question of the extent of that authority is another matter. While the people might be the legitimating force in popular sovereignty, what are they legitimating? In recent years, the idea of sovereignty – long a staple concept for politics – has come under greater scrutiny. Conceived of as ultimate and final authority, some see sovereignty itself as a dangerous aspiration, no matter in whose name it is exercised. For critics, the ideal of sovereign power monopolizes our ideas about agency to the point where we cannot imagine a version of political freedom that is not bound up with the ability to *control* action – and

¹ Much thanks to the organizers and participants of the Social Science Research Council (SSRC) meetings on popular sovereignty, particularly Matthew Longo and Thomas Bartscherer, as well as to Mount Holyoke College students Yiwen Bao and Molly Schiffer for research assistance.

² Wolin, *Democracy Incorporated*.

³ Aslam, *Ordinary Democracy*.

thereby denying pluralism and tending toward illiberal violence.⁴ Thus, a major concern of this volume is the tension between liberal institutions and popular sovereignty – that is, the boundaries of legitimacy. Currently, pathological forms of populism appear to threaten liberal constitutional protections in even the most established democracies. When is sovereignty a necessary and useful fiction – a noble lie as in Bartscherer’s chapter, [Chapter 1](#) – and when does it bleed into gross abuse of power? Or is it just not “sovereignty” when the claims violate particular boundaries, founded in either historical practice or abstract ideals? Even if we were to resolve the troubled problem of the *who* in *popular sovereignty* – as the contributions in Part IV examine – the danger of overreach remains. What determines “problematic?” Where is the line between a legitimate ultimate authority and an illegitimate one? Further, even if we acknowledge that these boundaries are highly contextual and subject to contestation – of the sort we see Martin Luther King, Jr. negotiate in *Letter from Birmingham Jail* – we should also understand the practical, universal boundaries that limit all attempts to hold ultimate authority. Such boundaries do not require arguments about conceptions of justice, but instead relate to basic features of reality.

In this chapter, I look to Sophocles’ *Oedipus Tyrannos*, in which the author reveals the ambiguous boundaries between legitimate and illegitimate political authority, even as the text tries to stabilize them. In doing this, Sophocles contributed to a developing discourse around the difference between illegitimate and legitimate forms of power in post-Peloponnesian War Athens and helped to shape the view of both tyranny and sovereignty that we have inherited. I begin by laying out why an exploration of tyranny is so relevant to the study of sovereignty. From there, I examine the discursive history of tyranny in ancient Greece, revealing the political work the term accomplished. From there, I go on to explore exactly what makes Oedipus a tyrant, while also focusing on the real bounds of his seemingly unbounded power – and how that seeming unboundedness in fact contributed to the tragic reversal that must mark all aspirations to ultimate authority.

FAMILY RESEMBLANCES: SOVEREIGNTY AND TYRANNY

In both academic and everyday usage, the sovereign is the *ultimate* authority. Whether the self, the demos, or the state, the sovereign is not accountable to others, as the sovereign legitimately occupies an authority over all others. For Hobbes, political sovereignty is bounded only by the original covenant

⁴ See especially Anker, *Orgies of Feeling*, and Cocks, *On Sovereignty and Other Political Delusions*. Jonathan Havercroft points out that critiques of sovereignty have arrived in waves over the last 130 years, most recently in their Arendtian (what Havercroft terms the *normative critique of sovereignty*) and Foucauldian forms (the *architectonic critique*). Havercroft, *Captives of Sovereignty*, p. 15.

regarding self-preservation and natural law; for Bodin, only the Christian god is above the sovereign. For these theorists, this human authority must be *final* in order to do the work of settling conflict and providing stability in the polity. Of course, this is a fiction – the potential for disagreement and conflict remains, no matter how divine-like the authority – but even as a fiction, the finality of sovereign power is seen as a necessary balm to the volatility of communal life. This modern conception was, as other contributors to this volume trace, worked out in the early modern era; the word does not exist in earlier sources. Yet, the idea of ultimate and unassailable authority stretches back much further. In fact, as Kinch Hoekstra has observed, the language used to build this conceptual framework by Bodin and others is strikingly similar to ancient descriptions of tyranny – with both ideals resting on the *unaccountability* of the ruler:

In particular, writers such as Bodin, Grotius, Hobbes and Pufendorf appeal to the essential unaccountability of sovereignty, which must be immune from review, veto or punishment. Some explicitly cast their theories of sovereignty in terms of the Greek notion of being *anupeuthunos*, unaccountable to any authority. Significantly, being *anupeuthunos* (or *aneuthunos*) was for ancient writers a characteristic feature of tyranny.⁵

While many ancient Greek specialists have noted the anachronism of referring to “sovereignty” in Athens, ancient tyranny nonetheless served as an inspiration for early modern conceptualizations of sovereignty. As both sovereignty and tyranny are essentially *unaccountable* forms of authority, what makes them different from one another? The simple answer is that tyranny is the *illegitimate* form of authority that, in its legitimate form, is called sovereignty. Yet, two complications arise.

First, tyranny itself was not a stable concept in Athens and gradually changed meaning over time. That is, it was not always considered an inherently *illegitimate* form of rule; it begins as a term that simply referred to how a ruler came to power. Even later, as it accrued associations with hubristic overreach and moral deviance, tyranny was still sometimes viewed as a laudable aspiration, a sense of freedom that anyone with good sense would crave.⁶ Indeed, Victoria Wohl discusses Athenians’ “intense erotic investment” in the tyrant, not merely as an object of hatred but also as an alluring vision of the self.⁷ Moreover, tyranny served as a model for Athenian democratic power, with the *demos* “appropriate[ing] the tyrant’s language and power.”⁸ Matt Landauer also links Greek tyranny and democracy through their *unaccountability*, showing the ways in which advisors, advice giving, and decision-making were more similar than not in the two forms of polity.⁹ Yet, by the close of the

⁵ Hoekstra, “Athenian Democracy,” 17.

⁶ Hoekstra. “Athenian Democracy,” 19.

⁷ Wohl, *Love among the Ruins*.

⁸ McGlew. *Tyranny and Political Culture*, 9.

⁹ Landauer, *Dangerous Counsel*.

classical period, tyranny's freedom comes to be associated with antidemocratic illegitimate boundary transgression, leading to tragic reversal for those who would try to wield such power and we are left with a more familiar, less ambiguous view of the tyrant as a figure of revulsion.

Second, while both sovereignty and tyranny can refer to ultimate and unaccountable authority, this is imprecise. Only the most *realpolitik* versions of sovereignty would maintain a total absence of outside standards or claim that the sovereign authority can do *anything* it deems appropriate. Yet, *popular sovereignty's* potential for descent into *majority tyranny* requires tempering institutions and mediating conceptual language. Absolute power is *sovereignty* when the commenter believes the power to be legitimate, and *tyranny* when it has overstepped some boundary. Some limit remains, although the practical enforceability is often questionable. In Bodin, for example, how exactly does god ensure absolutist rulers refrain from or repent for acts of murder? Who actually holds Hobbes's sovereign to account? We see this through to the twentieth century, as liberal institutions and populism come into conflict now. Do the people have the right to do anything they want? Or are they bound by liberal constitutional principles to protect minority rights and civil liberties? Although the sovereign is the final, ultimate authority, most theories in fact put some *other* ultimate authority over the sovereign. That is, there is something else that renders this enormous power acceptable and *legitimate* in a way that differentiates it from tyranny, even if it goes unspoken or remains a source of dispute and conflict. As other chapters in this volume show, constitutions, rights, and institutions provide the boundaries for popular sovereignty in the contemporary era. The tyrant is the only one who is truly free from other bounds and so when the people violate rights claims or ignore the rule of law, they act more as tyrants than sovereigns.

ANCIENT TYRANNY

In contemporary usage, tyranny signifies absolute, unbounded rule and carries a judgment about the (im)morality of this form of governance. A tyrant is a terrible and amoral thing, prone to cruelty and violence. Yet, these moral judgments were not part of the earliest Greek meaning. In this section, I read this development as a contest over the meanings of different forms of political life, with *tyrannos* serving as a useful and dynamic container for multiple meanings. We can see the literary record as a collective attempt to work out the practical political problem of the limits of legitimate but *unaccountable* power – authority endowed with the stability to maintain the polis, but which rejects the crude realism of unbounded power. Both sovereign power and tyranny have no higher authority; deferring to no one, they are not required to offer an account to any others. Yet, tyranny in Athens moves from a designation of a way of ascending to that sort of *unaccountable* power (which monarchs or the *demos* itself might wield) to a terrible state of enslavement, leading to tragic reversal.

Many commentators have pointed out that, for the ancient Greeks, tyranny was, at first, a relatively neutral term.¹⁰ The tyrant was one who came to power outside the conventional hereditary lines – as well as their heirs (thus, Peisistratos *and* his sons were considered tyrants). The term itself probably came from the Lydian word for king and the earliest usage appears in the work of the archaic poet Archilochus, who describes tyranny as something most men would want, with no negative inference. Tyranny there connotes the exceptional state of freedom and power of monarchs, but not necessarily depravity or cruelty. Although Archilochus is not Athenian, we see the same neutral-to-positive usage in Athens as well and a positive use of the term is “well-established by the fifth century.”¹¹ In other sources the meaning varies; Herodotus used it interchangeably with *basileus* (king) and *archon* (ruler), although he also uses it to refer to despotic rulers, particularly in reference to Eastern/Persian kings.¹² Regardless, the allure of tyranny never fully fades, even as anti-tyranny ideology took hold in Athens. Even Plato’s would-be tyrants speak of tyranny as so obviously useful and desired that Socrates’ critiques are clearly laughable. This makes sense given the origin of the word. The tyrant was an usurper, which meant he rejected – and so was released from – tradition and convention. This rejection was the source of his freedom, which would then expand to other realms. According to Arlene Saxonhouse, the tyrant was the ruler “without limits ... whether moral, physical, or historical ... [he was] the new ruler.”¹³ It did not necessarily mean he was despotic (*despotes* – the Greek here referring to mastership over slaves) or immoral, although a writer like Plato will link this unbounded freedom to a desire to enslave others.

The broader political context also shaped and was shaped by this discursive development. Tyranny “provide[ed] the analytical framework for understanding constitutional forms,” allowing Athenians to criticize or praise various forms of political life.¹⁴ That is, it was not necessarily opposed to a *particular* form of government and history shows that a tyrant like Peisistratos paved the way for the democracy, as he weakened oligarchic (conventional) power.¹⁵ As political norms shifted, so did the understanding of tyranny, its advantages, and the threats it posed. While Athenian literature often contrasts monarchy (and, later, democracy) with tyranny, the historical rise of tyranny was more of a “twist in an intra-aristocratic drama” than the usurpation of monarchical dynasties.¹⁶ That is, there were no monarchs displaced by tyrants, despite

¹⁰ For an overview of the use of the term throughout various ancient sources, see Morgan (ed.), *Popular Tyranny*.

¹¹ Parker, “Τύραννος,” 154.

¹² Dewald, “Form and Content,” 41, 47.

¹³ Saxonhouse, “The Tyranny of Reason,” 1261.

¹⁴ Mitchell, “Tyrannical,” 178.

¹⁵ For the link between democracy and tyranny across the ancient Greek world, see Fleck and Hanssen, “How Tyranny Paved the Way to Democracy.”

¹⁶ Morris, “Imaginary Kings,” 9.

the stories of Greek tragedy. Instead, tyrants provided transitional moments between the aristocracies that ruled archaic poleis, besting the oligarchs at “the very same games” they themselves played but without the lineage to claim legitimacy.¹⁷ Thus, alongside the positive connotations already noted, negative associations sprang up quickly – not because tyrants were immediately viewed as inherently *bad*, but because tyrants threatened established power structures. The earliest known anti-tyranny law appear to be from the Draconian era, thus predating the radical democracy of the late sixth century.¹⁸ Later, with the rise of democracy in Athens, tyrants remain the object of approbation, even as the tyranny of Peisistratos did much to give rise to democratic forces within the polis. By the time of the Cleisthenic reforms, anti-tyranny sentiment becomes part of the *bouleutic oath*.¹⁹ So rather than a stable meaning rooted in conceptual ideals, *tyrannos* and its cognates were first relatively value-free indicators of the mode of ascension for particular rulers, and then underwent a transformation whereby opponents layered further meanings onto the term in order to disarm the threat tyrants posed to entrenched authority, whatever form that took. The very development of the term is a story of political struggle.

The addition of immorality came about after the so-called age of tyrants (650–510 BCE). Confusing matters, it was often retroactively imputed to earlier tyrannies as a result of “anachronistic prejudices and assumptions.”²⁰ Thus, the cruelty of archaic tyrannies is historically questionable, although it does reveal much about these later discursive constructions. In order to ensure the lines between *legitimate* and *illegitimate* final authority (i.e., it is legitimate for the *demos* to wield this authority, but not for a single man to do so), the lone tyrant is made into a deviant, someone who violates the natural order. This was an easy move since the tyrant’s release from convention (of hereditary succession) could also be pushed to mean release from other human and divine norms. Tyranny moves from indicating a ruler who gained his title not through lineage to end up indicating a ruler who would violate even the most basic sexual taboos because of his refusal of any restraint. Parker notes the earliest negative uses appear with Solon in the first half of the sixth century, although the meaning is not an outright condemnation: he notes tyranny may appear desirable but actually will lead to ruin.²¹ It is only later with Thucydides that we get a consistent negative valence to the term and it becomes fully distinct from legitimate kings and other rulers. From this point, tyranny is seen as a threat to be contained, not merely unconventional but dangerous. In Book VIII of Plato’s *Republic*, the tyrant comes after democracy because the love of freedom without rule dominates to such an extent that the city becomes

¹⁷ Anderson, “Before Turannoi Were Tyrants,” 215.

¹⁸ Martin, “The Athenian Legislation.”

¹⁹ Martin, “The Athenian Legislation,” 109.

²⁰ Anderson, “Before Turannoi Were Tyrants,” 175.

²¹ Parker, “Τύραννος,” 155.

disordered, leading to the demagogic usurper taking power. He himself is lawless and unjust – preferring his own freedom to pursue his base appetites rather than submit to the rule of wisdom. This leads to hatred and instability, thus ironically causing his own loss of freedom in the end.

The anti-tyranny stance eventually becomes a crucial part of Athens' democratic ideology, even as oligarchs were also critical of tyrants since they threatened their power in the archaic polis. According to James McGlew, it was an "important and flexible conception for moments of political resistance," used to criticize those, like Alcibiades, who might be gathering too much power.²² Athens had laws against the promotion of tyranny, as well as mechanisms like ostracism to guard against any single man from becoming powerful enough to attempt to establish a tyranny. The story of Harmodius and Aristogeiton was largely myth but was promoted by the city as way to shape and reshape Athenian "constitutional history" and define the democracy as restoration of an earlier form of rule in the city and against tyranny.²³ The story also helped solidify the notion of tyrants as despotic criminals who lacked self-control and so veered into moral perversion, rather than simply new leaders who took power by unconventional/illegal means (and perhaps took it from the oligarchs who likewise threatened democratic norms). Moreover, the tyrant is linked to *despotes*, the slave-master, which means those living under tyranny were themselves slaves, which was a violation of the democratic equality (*isonomia*) and freedom (*eleutheria*) so important to Athenians' self-conception (and which helped justify their imperial tyranny).²⁴ Thus, the "defense of the democracy tended to be equated with resistance to tyrants."²⁵

While the dominant ideology in fifth century democratic Athens portrayed tyranny as an undesirable problem, its earlier roots and this link with democratic freedom suggest a deeper ambivalence. The fact that comedy and tragedy continued to ponder questions about tyranny and freedom – and not always negatively, or else double-negatively (ridiculing Cleon for stirring up fears of tyranny) – also attests to this ambivalence. The "tragic tyrant embodies the Athenian experience of tyranny, belong to the aetiological past, and is adapted to the needs of the polis in the present ... [and] projects anxiety about the autonomy of the individual citizens 'onto its most extreme embodiment, the horrible isolated autonomy of the tyrant.'"²⁶ That anxiety is rooted in the unavoidable tension between anti-tyranny ideology and democratic freedom. Tyranny is not simply a threat to democracy because it rejects equality, putting one person above all others; it is also the fullest bloom of the other animating force of democratic life – freedom. This sort of freedom ultimately requires one

²² McGlew, "The Comic Pericles," 164.

²³ Anderson, "Before Turannoi Were Tyrants," 214.

²⁴ Nyquist, *Arbitrary Rule*, 3.

²⁵ Ober, "Tyrant Killing," 216.

²⁶ Morgan, "Introduction," xvii.

person to control all others, to refuse the possibility of their freedom. Much of the Athenian ideology denied the link between freedom and tyranny, instead it focused on how the individual tyrant would enslave the *demos*. But these relations are more entangled than binary; predating democracy, tyranny also serves as a model for the *demos*' own authority. As James McGlew argues, "those who had political rights ... collectively [shared] in possession of the tyrant's unfettered personal power." Rather than opposition, this is appropriation – making the distinction between legitimate and illegitimate usage of that unfettered power even more crucial. Along similar lines, Hoekstra details the ways in which the Athenian *demos* viewed itself as holding tyrannical power, meaning it was unaccountable to a higher authority.²⁷ This was not necessarily illegitimate in the context of dealing with unequal others – it was only the threat of a tyrant holding power over fellow citizens that was a problem.

Yet, what if it is not the would-be tyrant out there in Persia or one ambitious man lurking among the *demos* but is in fact the Athenian *demos* – and its legitimate authority – that poses a danger to the polis itself? My gloss is that Sophocles' play *Oedipus* is not just a warning about tyrannical power and the individual tyrant, nor it is about the blindness of the *demos* in its dealings with other *poleis* – Athens seemed generally unbothered by that – but a comment on the dangers of claims of unaccountable authority more generally and the internal threats it could pose. A site of contestation itself, tyranny's meaning fluctuated, depending on the political context; it was not a stable, unitary anti-ideal, as we now think of it. Instead, it could refer to power that is used for any number of things, not necessarily bad, immoral, or cruel. The fact that it was considered to be *ultimate* power – just as sovereign power is considered to be – is what leads writers to draw tyranny to what they see as its inevitable outcome – tragic reversal – because no human power can escape some limits and because the aspiration to such power makes one particularly apt to rush headlong into those limits.

OEDIPUS AND THE BOUNDS OF POWER

In Sophocles' version of *Oedipus* (c. 429 BCE), we first encounter the leader of Thebes as he tries to comfort citizens lamenting the *miasma* (pollution) that has left the women unable to bear children and the crops to die. Years before, *Oedipus* had come to power by answering the riddle of the Sphinx and being made tyrant (i.e., nonhereditary monarch) by the grateful citizens, whose king had been murdered while traveling. Thus, the current problem seems to be one well within *Oedipus*'s power to solve. He discovers that the source of the pollution is the city's failure to bring the previous king's murderer to justice and so *Oedipus* embarks on the path that will ultimately reveal him

²⁷ Hoekstra, "Athenian Democracy," 24, 41.

to be his own father's murderer and to be the son of his wife, brother to his own children. At the close of the play, his mother/wife Jocasta has committed suicide, Oedipus has blinded himself with her cloak pins, and Jocasta's brother Creon assumes the throne.

Many readers of the play take it to be about the inescapability of fate and a classic Aristotelian tragic story of someone with high status meeting a horrible end. Oedipus's status as ruler seems more important than the particular character of that leadership *as a tyrant*, probably because he is not a tyrant in the recognizable sense of the word – he is not cruel and he offers explanations of his actions on repeated occasions – he is not obviously unaccountable (*aneuthunos*). Moreover, the *tyrannos* of the title was added later to distinguish it from *Oedipus at Colonus* post-Aristotle – and that title then gets transformed into Latin *Oedipus Rex*. Many translations stick with “king” throughout the text, perhaps to avoid imputing to Oedipus the wickedness we have come to associate with tyrants. Given the flexibility of the term, particularly at the moment Sophocles is writing, I do not think one should take the meaning of tyrant or the character of Oedipus's tyranny as self-evident. Nor should we assume it was mere carelessness or poetic license on Sophocles' part. As Bernard Knox had already clarified in 1954, the Greek terms – *tyrannos* and *basileus* – are not in fact interchangeable in this way – although they also were not distinct in the ways that led to the mistranslation (wicked tyrant vs. beneficent ruler). That is, *tyrannos* had not yet been fully *de-habilitated*, and still primarily indicated that – ironically – Oedipus did not (appear to) inherit his throne. Sophocles' use of the word was not casual, nor an oversight: “fifth century Athenians understood perfectly well the difference between a king and a tyrant,” as their most recent past was in fact an “age of tyrants” (and, before that, oligarchies), not the mythical monarchical past.²⁸ At the same time, we must also *not* assume that the difference between king and tyrant was the same for Athenian spectators as it is for later readers. Within this frame, it makes sense that when later translators and commentators wanted to capture the idea of Oedipus as a benevolent (yet, terribly unfortunate) ruler, they jettisoned tyrant because of the by-then pejorative implications of the term. But those did not exist in the same way for Sophocles' audience, at least not completely. I want to suggest here that it was Sophocles' portrayal that helps to cement the tyrant as morally perverse and politically deadly (although once expunged from the city, he serves as *pharmakos* for the future Athens at Colonus).²⁹ As the fifth-century democracy deepened its anti-tyrant ideology, this interpretation makes a lot of sense. Oedipus is technically a tyrant in the older sense of the term – having arrived new to a city and been made ruler. He also seems to possess godlike powers of intellect – having bested the Sphinx and released the city from her plague. These are both neutral-to-positive versions of tyranny

²⁸ Pope, “Addressing Oedipus,” 157.

²⁹ Vernant and DuBois, “Ambiguity and Reversal.”

and very well fit with Oedipus at the start of the play. There he is presented as an admirable and kind figure, steward of Thebes and beloved by the people. He is gifted the throne – “though I had not asked it” (384) – coming much closer to elected leader than the tyrant who takes power by force, deception, or wealth. But he also fulfills – although unwillingly – the other, negative characteristics of the tyrant that are growing in influence during this period – murder of kin and violation of sexual taboos. He also grows suspicious and paranoid over the course of the play, losing the democratic posture of the opening and threatening those he sees as adversaries. The figure of Oedipus is *not* actually a tyrant in the older sense but is *in fact* a tyrant in the new sense. Oedipus himself personifies this discursive development. Moreover, the play also highlights the difficulty of making clear distinctions between legitimate and illegitimate unaccountable (*aneuthunos*) authority. In the end, he does offer an account of himself and his actions; he sacrifices for the good of his city, exiling himself. That is, he *is* accountable. Yet, he can never shake the horror of his actions nor account for them, no matter how unintended. The blurry lines between good and bad forms of political authority sharpen and the dangers of claims to *ultimate* authority – no matter how benevolent – are cemented for the *demos* watching and judging the play.

By making Oedipus a generally sympathetic tyrant while also including the second stasimon that blames hubris, and the tyranny engendered by it, for the downfall (763–910), Sophocles pushes the *demos* to think about the boundaries between legitimate and illegitimate power and what exactly separates one type of ultimate authority from another. That is, the playwright not only uses language but also does something to it, changing the word and the political discourse, helping to move the understanding of tyranny away from a distinction between hereditary and nonhereditary rule and trying instead to carve out conceptual boundaries that have more to do with the quality of rule, providing bounds for even supposedly *unbounded* authority. Given the historical moment, it is *not* clear how different legitimate hereditary rule (whether monarchical as in the play or aristocratic, as in actual Athenian history) had been from tyrannical rule, especially in its most benevolent appearances – Oedipus (or perhaps one might think of Peisistratos – while a more complex case, not a tyrant who was thought to enslave the people). By embedding these moral crimes into the tyrant’s identity, regardless of his intent, Sophocles is making those lines more clear. At the same time, the particular details of Oedipus’s downfall reveal how even the tyrant – whether Oedipus or the *demos* – remains bounded by material conditions of human life – here, knowledge and time – and how the claims of absolute power engender tragic reversal because of the hubristic blindness to those constraints.

So what does *tyrant* mean in this play and how does it change? Both Knox and Arlene Saxonhouse note that the term is key to the play, as the drama revolves around Oedipus’s claim to the Theban throne – there is a world of difference between *basileus* (hereditary king) and *tyrannos* (ruler who comes to

power by other means). In the end, of course, he turns out to be the *basileus*, which is why the final reference to Oedipus as king uses that word (1202), after consistently referring to Oedipus with some form of *tyran-* (six times from 380 to 939). Interestingly, Oedipus is *not* introduced to the action with either *tyrannos* or *basileus*, but ones that reference his power – *kratunon* (14) and *kratiston* (41). The first use of *tyran-* in reference to Oedipus is only after the first encounter with Tiresias leaves him angry and suspicious of both the prophet and his brother-in-law Creon. Oedipus is first identified by his strength, although it is not a cruel use of power for self-gain. Instead, Oedipus refers to the city as his *tekna*, his own children, and wrestles with finding a solution to the blight currently afflicting Thebes – his power will be used to aid them, not to indulge his own appetites. As Knox notes, the interactions between Oedipus and the citizens are direct – not mediated by an armed retinue – and seem more like a democracy led by a first citizen than any of the sort of tyranny we see with Creon later in *Antigone* or Aegisthus in the *Oresteia*.³⁰ His power comes from his intellect, which was able to free the city from the curse of the Sphinx. Now he endeavors to do the same once again. As the action develops, though, and Oedipus comes to feel increasingly threatened (first by individuals he believes covet his power, then by historical fact), he is consistently referred to as *tyrannos*. This only changes again near the end of the play, when the Chorus refers to Oedipus as *basileus* (line 1202), after his true biography has been revealed.

Yet, it would be too much to read *tyrannos* as consistently negative or only indicating an increasingly fearful king, even here in the play. In fact, the first appearance of the word is not in reference to Oedipus, but his (bio-) father – although in reference to his throne after his death at line 128. The usage is logical since the office would become a tyranny in the most-conventional-at-the-time sense – occupied by someone other than Laius' heir (as he was thought to have no heirs). The next reference to Laius is as *basileus* (257), which makes sense as he was the rightful heir to Labdacus, heir of Cadmus, the founder of Thebes. The final reference to Laius is again as *tyrannon* – in that case, Oedipus is beginning to recount the incident at the crossroads to Jocasta, when Laius struck Oedipus in response to his own attack on Laius' driver. This particular instance is more vexing than the others – the audience knows that Laius is the rightful king (his father's son) and, at that point, he still occupied the throne. Yet, this is one of those moments where I think Sophocles is being very deliberate – there is something about Laius' behavior that makes him *tyrannon*, rather than *basileus*. What I am trying to show is that I agree with Knox – the terms are used quite deliberately, but it is also the case that *tyrannos* does not *simply* refer to a ruler who came to power through unconventional means – if that were the case, it should never apply to Laius. Instead, there is something about the quality of the rule that Sophocles invokes in various places. At the

³⁰ Knox, 99.

same time, the usage is not always in reference to the quality of rule either – as the term is also used causally and non-pejoratively with Oedipus at various points in the middle of the play. Moreover, while Oedipus has a great downfall and at times appears paranoid and rash (like those we later understand to be tyrannical) and inadvertently violent and sexual without limits (also some of the connotations eventually firmly affixed to tyrants), he is never deliberately cruel.

Maurice Pope suggests that perhaps Sophocles was trying to “defuse the title of its ill association” by creating such a sympathetic and kind protagonist.³¹ Given Sophocles’ place in the discursive development of *tyrannos*, I think this is less likely than the possibility that Sophocles was pushing the term to its immoral valence, rather than retreating to the earlier, more neutral one. The connection with the patricide and relations with his mother are specific to later views of tyrannical excess; Sophocles chose Oedipus’s story and left none of that out for a reason. Yet, this is unlike the way in which Gyges moves from king’s victim/queen’s avenger in Herodotus to unjust tyrant in Plato. With Sophocles’ Oedipus, it was inadvertent and fiercely resisted (and then lamented). Oedipus is the tyrant who unintentionally violates the most sacred limits, forgetting there are bounds to his authority – if only because bounds are hidden from view. The only real culpability lies in his arrogance in not foreseeing such possibility. It is arrogance – *hubris* – that engenders tyranny, according to the second stasimon of the play (873–882) and leads the tyrant to cross boundaries that should not be crossed.

This opens the questions of exactly which boundaries Oedipus crosses. What propels political authority in this case from unaccountable (and therefore sovereign) to unjust? The most obvious explanation is natural law and religious order; he hubristically tries to escape his own decreed fate. But I want to take a *realist* view of the question here and focus on universal, material conditions that constrain claims to tyrannical power, ones that do not require discursive foundations like a shared understanding of religion or law. That is, I will not rely on “political moralism,” in Bernard Williams’s words, “legalism,” in Judith Shklar’s, or “politics-as-applied-ethics,” in Raymond Geuss’.³² Of course, the Thrasymachuses of the world may not find this realist view to apply to them either (until it does, and it always will) but the argument I am making does not depend on some shared cultural or religious background.

Anyone with the *hubris* that tends to undergird one’s faith in the legitimacy of unbounded power – autocratic or democratic – is bound to fail because power is *never* truly unbounded. A true belief in the possibility of ultimate authority leads to two tragic realist errors³³: (1) ignoring the limits of one’s own knowledge and foregoing a form of democratic knowledge and (2) ignoring inheritance (this is different from not believing in fate; I am referring to

³¹ Pope, “Addressing Oedipus,” 160.

³² Williams, *In the Beginning*; Shklar, *Legalism*; Geuss, *Philosophy and Real Politics*.

³³ This is distinct from provisionally acting as if it is true with full awareness that it is not.

trying to get around hard facts of history and the passage of time). Oedipus does these things, which lead him to miss boundary lines he should have seen, not because he explicitly desires tyrannical power, but because that is the result of a faith in the legitimacy and power of ultimate authority, whether sovereign or tyrannical. In these cases, freedom comes very close to an attempt to control, to act with final authority and remove vulnerability. Tyrants, with their freedom from convention, are perhaps most likely to ignore other boundaries as well, but these dangers afflict all those claiming ultimate authority. That this is not simply about the dangers facing would-be tyrants and instead extends to other forms of power is supported by the democratic framing of the play. The fact that Sophocles is speaking to a *demos* is evident in the ways that Oedipus interacts with the Chorus at first – strikingly democratic and not despotic. It is the experience of holding such ultimate power that leads the possessor to make particular errors, mistaking freedom in one realm for power and control in others. Hubris engenders the tyranny – but it is not simple overreaching arrogance. Instead, it may be born from a justifiable faith in one’s project – as Oedipus understandably has, given his victory over the Sphinx. This blind spot, born of his own faith in both his intellectual and temporal freedom, leads to the tragedy – as it can for any political actor, across space and time.

DEMOCRATIC KNOWLEDGE AS BOUNDARY

While classic readings of Oedipus focus on Sophocles’ religious thought (e.g., Nietzsche’s interpretation in *The Birth of Tragedy*), recent political theory tends to focus on the rationalism embedded in Sophocles’ play.³⁴ That is not to say that interpreters dismiss Oedipus’s downfall but they instead tend to put this not as a religion versus human wisdom problem, but as a commentary on the insufficiency of reason more generally. That is, the play shows the limits of human reason, not necessarily because religious law is inviolable, but because human reason, with or without religion out there in the universe, is itself always partial. It is the blind confidence in it that is the problem, not a rejection of the gods or religious authorities.

Arlene Saxonhouse’s seminal essay on Oedipus argued for the close relation between tyranny and reason; both are claims to transcend limits (*metra*) – history/convention and the physical world, respectively. “On the one hand the tyrant and the rational individual express our freedom to do and be anything; on the other, they reveal the dangers of such freedom.”³⁵ With Oedipus, we have both tyrant and rational individual; or, rather, the latter leads to the former. He is a new kind of Greek hero, one who achieves greatness through his intellectual achievements, rather than physical ones (indeed, his is physically

³⁴ See Euben, *The Tragedy of Political Theory*; Saxonhouse, “The Tyranny of Reason”; Ahrens Dorf, “The Limits of Political Rationalism.”

³⁵ Saxonhouse, “The Tyranny of Reason,” 262.

diminished because of his ankle piercings as an infant). As Peter Ahrensdorf points out, Oedipus ascended to the throne not by vanquishing the Sphinx through violent force like other Greek heroes (although the throne *was* empty because of his physical violence).³⁶ Instead, it was an intellectual defeat, solving her riddle. The play opens with his quest to figure out the source of the *miasma* in Thebes, couched in his concern for the well-being of his “children,” the people of Thebes; he is suspicious of oracles and soothsayers – understandable given his past and his seeming ability to overcome it – and only sends Creon to Delphi when there seems to be no other option – after “wanderings of reflection” and “careful thought” (67–68). Still, his intellectual superiority cannot cross all boundaries. As Saxonhouse continues:

Oedipus, as ruler, tragically portrays the limits of human knowledge as against our arrogant assumptions of a boundless capacity for insight ... The tragedy of Oedipus is not the fall of a helpless and faultless ruler or the weakness of man subjected to divine laws but the dashed hopes of the power of the mind to rise above the limits imposed by nature, by our biology, and by our past. It is a tale of boundaries overstepped not because of divine prophecies and a divine world hostile to mortal man but because of the freedom that characterizes the tyrant as the tragic hero.³⁷

Yet, it is still not quite clear *why* he cannot; true, *hubris* leads one to ignore the limits, but what is the precise mechanism? What exactly does he ignore? In this first case, I want to emphasize the problem with faith in *one's own* knowledge. It was not theoretically *impossible* to get the information – Oedipus was not *bound* to fail. But as individuals we are prone to partiality, bias, and are limited in our ability to know. Coupled with *hubris*, it leads Oedipus to not consider the possibility that *HE* does not have the information. Others do, and a more thorough investigation, earlier on, could have avoided setting down the path he did. He gets a particular piece of information from the drunk Corinthian (you are not your parents' child; 779–80), then another piece from the Delphi (you will kill your father and marry your mother; 787–93), but then never puzzles out the two seemingly related pieces of his history, nor does he look for further information – he solves the problem, as he sees it, and moves on confidently. As anyone who has taught Oedipus to a class of undergraduates will find familiar, why does he never ask Jocasta her age (or just make a guess)? Why didn't he investigate the death of the former king before the *miasma*? His belief in his own intellectual power leads to his dismissal of Teiresias and oracles when they seem to not fit with what he thinks he should be hearing. He cannot hear Jocasta's entreaties to stop the investigation when it has become apparent to her who Oedipus really is. He even mis-numbers the “killer” after the Chorus repeatedly refers to “killers” (124) – although in that case, Oedipus is unwittingly correct. Moreover, there can be facts

³⁶ Ahrensdorf, “The Limits of Political Rationalism,” 776.

³⁷ Saxonhouse, “The Tyranny of Reason,” 1263.

and perspectives one cannot help but ignore, even in the least blameworthy way, because they simply cannot be made apparent until other things change to reveal them. Political entities must act, but they must also leave open the possibility of new unknown unknowns.

Oedipus's hubristic faith in his own reason might not be universal for all humans, but the unpredictability of actions and the difficulty of knowing all historical facts without relying on others *is* universal. And the dangers for popular sovereignty might be even more acute, as any constitution of *the people* always remains partial, as many of the chapters in this volume show. For example, when semi- and noncitizens are excluded from information networks and decision-making processes, crucial pieces of knowledge might not find their way into the calculus. Moreover, the belief in the legitimacy of *popular* sovereignty might be analogous to Oedipus's faith in his powers of rational calculation, blinding *the people*, however constituted, to the fact that its knowledge is indeed (and must always be) limited. That is, the people do not even realize what they do not know. The boundary Oedipus oversteps here is not some simply hubristic faith in reason – but *one's own* – versus a more expansive, collaborative – and ultimately humble and democratic – conception of politically relevant knowledge.

TIME AS BINDING

The other way in which Oedipus oversteps bounds is temporal. Saxonhouse does a great deal to elucidate this from the action in the play, with a focus on his relations with his parents and children/siblings. I want to add some crucial details and make the connection to questions of sovereignty. One thing that falls out of most contemporary readings of Sophocles' version is the larger framing of Oedipus's story.³⁸ Admittedly, the best sources for these longer myths are Pausanias (9.5.1–11) and Apollodorus (3.3.1–3.5.7), much later writers. But fragments related to Oedipus appear in Homer as well and, even more importantly, the story below is supported by lines mentioning Laius' command from Apollo to remain childless in Aeschylus' *Seven Against Thebes* (690–92; 742–57; 801–802; 832–43), indicating these aspects of the myth predate Sophocles and would have been familiar to Athenian audiences. Great grandson of Cadmus and son of Labdacus, the young child Laius is exiled after his father's death and grows of age with King Pelops in Elis. Overcome with lust, he kidnaps and rapes the king's son Chrysippus, leading to the boy's suicide and Pelops' curse on Laius' house – his line will not continue. After Laius returns to Thebes and takes his rightful throne, he grows careless in his relations with Jocasta, conceiving a child, although he had been warned not to do so. His hubris literally engenders a tyrant! He then sends the infant off to die of exposure. It is into this context that Oedipus tries to live a free life,

³⁸ For more, see Vernant and DuBois, "From Oedipus to Periander."

avoiding the inheritance his unjust forefathers firmly bound to him. In the end, his effort is apparent in the contrast – never intending to do harm to the next generation, he gives it life, literally begetting children *and* solving the mystery of the *miasma* – and thereby destroys it because he too readily destroyed the generation that preceded him (Laius). Moreover, he treated everyone as his own children – the city (including the elders; *tekna* – children, as in offspring – is the first line of the play; later on, the language shifts to *paides*, children, without the genetic implication), losing the boundaries that separate one moment in time from the next, collapsing it all into a single moment. He ignores the temporal flow that *fixes* some facts into place, rendering them later unchangeable by even the most ambitious tyrant. Political actors – even those aspiring to (provisionally) unbounded power must face the reality of the passage of time, which locks human life and the physical world into finitude, even when that timeline crosses multiple generations.

It is not simply that Oedipus is trying to avoid his fate – which is too often read as an unfortunate whim of callous Greek gods. Instead, Oedipus has a family history and inherits the crimes of his fathers, yet does not know it (at least in part because of the belief in the sufficiency of his own knowledge). He is born into the world and tries to avoid this generational inheritance that binds his life to one of relative unfreedom. This sort of inheritance is a deeply undemocratic notion to most of us. Oedipus rightfully aims to reject his past and foretold future, fleeing his childhood (but not ancestral) home. He tries to begin anew, armed with his powerful intellect and nothing more. Once we extend the view of inheritance beyond familial lines and across political communities, the political import becomes even more clear. Tyranny – both in *Oedipus* and the actual historical record of Athens – begins as a release from convention, a rejection of past modes of governance, in favor of creating a new world. Note the similarity to Sheldon Wolin’s description of democracy:

Revolution might be defined for our purpose as the wholesale transgression of inherited forms. It is the extreme antithesis to a settled constitution ... democracy was born in transgressive acts, for the demos could not participate in power without shattering the class, status, and value systems by which it was excluded.³⁹

Both democratic forms of sovereignty and tyranny require an untethering from the past, “a freedom to transcend the limits inherited from the past.”⁴⁰ This emphasis on temporal freedom is not just the tyrant’s wish; it is evident in Thomas Jefferson’s claims to generational sovereignty: “we seem not to have perceived that, by the law of nature, one generation is to another as one independent nation to another.”⁴¹ Each generation may enter into agreements – such as taking on debt from France – but such obligations would only

³⁹ Wolin, “Fugitive Democracy,” 17.

⁴⁰ Saxonhouse, “The Tyranny of Reason,” 1261.

⁴¹ Jefferson, *Political Writings*, 596.

last nineteen years, ensuring that “succeeding generations are not responsible for the preceding.”⁴² In this view, democracy requires that each generation has the freedom to make its own decisions and not be bound by the contracts or legal arrangements of its forebears. Yet, as contemporary debates around reparations and climate change make clear, political life has clear intergenerational dimensions, which cannot be escaped simply because of a faith in the power of freedom, whether conceived of as the tyrant’s unitary authority or the *demos*’ collective authority.

The fact that Sophocles wrote *Oedipus* for a democratic audience in Athens is also worth dwelling upon. Why should they care about the tragic realism of the tyrant? My point is that Sophocles was not simply warning good Athenian democrats to be on the lookout for would-be tyrants lurking in the shadows, somewhere out there in the city. Instead, Sophocles was – or he was also – revealing the practical limits of all claims to ultimate human authority, whether the *good* kind, or the *bad* kind – *and however those norms and evaluations may be set and transform over time*. These are the realist constraints on this sort of political power – the real, practical boundaries, without moral or idealist law (not that those are powerless or problematic, but this is a link across any human context – and which applies to popular sovereignty as well as ancient tyranny). The history of claims to legitimate authority reveals a wide range of boundaries and justifications – heredity, religion, ancestral law, natural law, popular consent, institutions, constitutions. Many of these bases and boundaries rely on abstract ideals and norms to both justify and limit the sovereign’s authority – democracy, versions of morality, a belief in nobility or birthright. Yet, conflict over those justifications continues on and depends critically on context and political persuasion. That is, there is no abstract ideal that has proven able to consistently limit and expand claims to sovereignty in a settled way. The case of *Oedipus* illuminates some of the universal boundaries on all forms of authority, whether popular or unitary, tyrannical or sovereign. These are neither grounded in claims about moral truth or human nature, nor do they depend on healthy institutions or respect for democratic norms – but instead are the practical and material limits to all claims to authority. I leave it to others in this volume to explore contemporary, historically conditioned normative boundaries applicable to particular cases, which can also provide boundaries for popular sovereign power. Sophocles’ contribution – in which tyranny is not characterized by the innate perversion of the tyrant, but will *lead* to the most terrible crimes nonetheless – centers on the epistemological and temporal limits of authority. No matter how well intentioned, claims to ultimate authority must practice some level of humility in the face of these inescapable bounds. Sophocles’ work does the work of revealing the fiction of ultimate power, providing an affective civic education about the dangers of forgetting the real boundaries on all power.

⁴² Jefferson, *Political Writings*, 596.

The Fact of Fiction

Popular Sovereignty as Belief and Reality

Ioannis D. Evrigenis

The notion of popular sovereignty is fraught with difficulty. It involves two concepts, each of which depends on assumptions that are hard to substantiate. The first is that there is *a* people, and the second is that that people is sovereign, that is, it has no superior. These difficulties are evident in the language one encounters in reflections on popular sovereignty, where terms such as “story,” “myth,” “creed,” “fiction,” and “make-believe” are not uncommon. Thus, Hume considered it a “wonder” how easily the many submit to the rule of the few, before declaring, “’Tis therefore on opinion only that government is founded; and this maxim extends to the most despotic and most military governments, as well as to the most free and most popular.”¹ Hume’s observation was, of course, not confined to his own time, but was meant to be universal. In the middle of the twentieth century, Hans Kohn called nationalism “a state of mind.”² In the late 1980s, Edmund S. Morgan, who began his study of the rise of popular sovereignty by quoting Hume, argued that “[t]he success of government [...] requires the acceptance of fictions, requires the willing suspension of disbelief, requires us to believe that the emperor is clothed even though we can see that he is not.”³ Historian David Kennedy opened the 2017 film *American Creed* by stating that

The American story is all about individual aspiration and achievement. This is the land of absolutely unlimited opportunity. We can become whoever we want to be, we can go wherever we want to go. It’s part of our national myth. Indeed, no society can cohere over time if it doesn’t possess some myths that people believe in common.⁴

¹ Hume, “Of the First Principles,” quoted in Morgan, *Inventing the People*, 13.

² Kohn, *Nationalism*, 9.

³ Morgan, *Inventing the People*, 13.

⁴ *American Creed*.

In the same film, Condoleezza Rice added, “That’s what holds us together: this great American creed, that it doesn’t matter where you came from; it matters where you’re going.”⁵ Even more recently, philosopher Kwame Anthony Appiah entitled his latest musings on identity *The Lies that Bind*.⁶ These terms are unmistakable: life in common relies on belief.

Tocqueville captured this fact in a rich and oft-discussed passage, in *Democracy in America*, in which he argued,

The principle of the sovereignty of the people, which is always more or less at the foundation of almost all human institutions, ordinarily dwells there almost buried. One obeys it without recognizing it, or if sometimes it happens to be brought out in broad daylight for a moment, one soon hastens to plunge it back into the darkness of the sanctuary.

National will is one of the terms that intriguers in all times and despots in all ages have most largely abused. Some have seen its expression in the bought suffrage of a few agents of power; others in the votes of an interested or fearful minority; there are even some who have discovered it fully expressed in the silence of peoples, and who have thought that from the fact of obedience arises the right to command.⁷

There is a lot one could say about this passage, but I wish to single out a couple of issues of particular significance. First among them is Tocqueville’s assertion that the principle of the sovereignty of the people underlies virtually all human institutions. On a basic level this assertion is simply true. Where political constitutions are concerned, and as the second paragraph makes clear, all constitutions – monarchies included – require the acquiescence of the people they rule over in order to function. Where nonpolitical institutions are concerned, one might understand as “the people” the constituents of the group. Thus, for instance, the members of a family have to acquiesce to the rule of the mother if she is to be able to run the show. Tocqueville’s distinction between the *fact* of obedience and *right* to command is also important. Not all apparent obedience gives rise to a right to command. Indeed, most things that appear like tacit consent are in fact not. I am thus using the term “acquiescence” on purpose, to cover a category broader than tacit consent alone, since the absence of opposition can be due to a number of other reasons, such as inability to overcome the barriers to collective action, itself the result either of successful suppression or of an incapacity to organize.

But why should this principle be “ordinarily [...] almost buried?” In part, I think it is because of our frequent inability to determine whether a certain multitude is actually consenting to a particular rule (right) or simply putting up with it for whatever reason (fact). More importantly, if all forms of rule do have their foundations in the principle of the sovereignty of the people, not all forms of rule want their constituents to remember that fact.

⁵ *American Creed*.

⁶ Appiah, *The Lies that Bind*.

⁷ Tocqueville, *Democracy in America* [Mansfield and Winthrop edition], I.i.4.

During one of the most crucial moments in the evolution of popular sovereignty, in the early modern period, monarchs and their supporters had to deal with the question of the origin of political power and the role of the people in that process. Was it the people who conferred power upon kings and, if so, did that mean that kings were accountable to the people? In dealing with these questions, opponents of popular sovereignty sought to keep it buried, as much as possible. Even its friends, however, will be wary of the dangers inherent in activating it too often. Before it was rehabilitated in the last century and a half, roughly, the idea of the people was not a comforting one. Rather than signifying those immediately affected by the government and, thus, those who should rightfully determine its form and policies, the people usually evoked images of instability, disorder, and irrationality. It was more readily associated with the *vulgus* than the *populus*. Thus, even those interested in the well-being of the people have been wary of the inconstancy of the masses and the volatility that might result from truly popular sovereignty. Most famously, these concerns pervade the *Federalist Papers*. Reactions to recent referenda, such as those in Greece, on the Eurozone (2015), and, in particular, in the United Kingdom, on membership in the European Union (2016), reveal that contemporary democracies are far from immune to these concerns. Even under the best of circumstances, however, the need to get things done will require frequent suspensions of the sovereignty of the people in all but name. If “the people” refers to the vast majority of those living within a certain geographical space⁸ and under common laws, then the progression from deliberation to action will involve smaller and smaller numbers of agents, so that if the entire people made a sovereign decision, its manifestation in a specific policy would be the result of ever smaller numbers of individuals charged with designing, implementing, and executing it. Thus, in his *Social Contract*, Rousseau distinguished between a body politic that is active, which he called “*Sovereign*,” and one that is passive, which he called “*State*.”⁹ Using these terms, we could say that a frequently active people, that is, one exercising its sovereignty, would hamstring the state. At some point, deliberation has to end. There is, of course, immense value in reserving the right to return to and reexamine any decision, but that is the reason why in all constitutions, even the most popular, the principle of the sovereignty of the people spends some time buried.

Tocqueville’s passage raises a further set of issues: Of all the places to bury and rebury the principle of popular sovereignty, why the shadowy part of the sanctuary? This image is especially felicitous, for it captures simultaneously the theological dimension of sovereignty in general and of popular sovereignty in particular, as well as the fact that both components of the concept are shrouded in mystery, not simply in the sense that they are hard to understand or explain, but also insofar as they *defy* human understanding. Popular sovereignty is thus

⁸ On the territorial dimensions of popular sovereignty, see Longo’s [Chapter 10](#) in this volume.

⁹ Rousseau, “Of the Social Contract,” I.6.

not only akin to the mysteries of faith, but also – frequently – directly tied to the divine.¹⁰ For instance, King James VI of Scotland and I of England and Sir Robert Filmer, to invoke but two prominent theorists of Divine Right, argued that kings received their authority directly from God. Thus, the sovereign did not only rule by Divine Right, but as God’s lieutenant on Earth he also ruled over his subjects as God rules over human beings.¹¹ Some of his powers were discussed openly, but the imagination was free to range over how far those extended and what God might do to those who opposed His lieutenant. This connection was by no means limited to Divine Right theories. Jean Bodin, whose *Les six livres de la république* (1576) James VI owned and had read, had argued for absolute and perpetual power in accordance with the precepts of natural and divine law,¹² a position shared by Thomas Hobbes, who as we shall see paved the way for popular sovereignty by positing a social contract to which each individual was a party.¹³ Indeed, fully cognizant of the significance and implications of this term, both theological and otherwise, Hobbes described that contract as a “covenant.”¹⁴ Building on developments that can be traced back to Hobbes’s covenant, the Declaration of Independence asserted equality among human beings on account of their having been “endowed by their Creator with certain unalienable Rights.”¹⁵ At the other end of the chronological spectrum, the theological dimensions of sovereignty are apparent in every major creation epic or story, from Gilgamesh and the Book of Genesis, to Hesiod’s *Theogony*. Hesiod told of how the titans and gods emerged, how human beings were made, of how power traveled from one stratum to the next until government arose among human beings.¹⁶ Like the God of Bodin and James I, Hesiod and Homer’s gods never let go of their mortals; they remained directly involved in their affairs. Whereas Bodin’s God crafted man in His image, however, Hesiod’s gods were anthropomorphic to such an extent as to notoriously cause Socrates to ban poems about them from his city-in-speech, for lying about the divine.

¹⁰ It is important to note here that in raising this point I am not paving the ground for an engagement with Schmitt’s *Political Theology*. In fact, one of the implications of the following sketch is that there is nothing new in Schmitt’s account of the theological aspects of sovereignty. Indeed, Schmitt’s own comment on his invocation of Bodin was “[t]hese are by no means new theses.” Schmitt, *Political Theology*, 8.

¹¹ King James VI, “The Trve Lawe,” 76, 84.

¹² In the famous Chapter 8 of Book I, Bodin declares, that the sovereign prince “who must give an account only to God,” and later adds that “such power is absolute and sovereign: because it has no other condition than, nor is it commanded by anything other than the law of God and of nature.” Bodin, *Les six livres*, 127, 130.

¹³ Bodin, *Les six livres*, I.8. Bodin returns to this theme throughout, but see esp. VI.6; cf. Hobbes, *Leviathan* [1651], esp. Ch. 31. All subsequent references to *Leviathan* in this chapter will be by chapter and page numbers of the 1651 edition.

¹⁴ Hobbes, *Leviathan*, 17: 87.

¹⁵ “Declaration of Independence.”

¹⁶ See Evrigenis, “Sovereignty, Rebellion, and Golden Age.”

In what follows, I wish to focus on three critical moments in the evolution of the concepts of the people and of sovereignty: Plato's "Noble Lie," Hobbes's body politic, and Rousseau's sovereign people. I argue that the first identified the problem and offered a top-down solution, the second complemented that with a bottom-up approach, and the third used the other two to reverse the position of rulers and the people, thereby giving us a distinctly modern conception of popular sovereignty. A truly noble lie is one that skirts the literal truth for the sake of achieving a truly good end. In Plato's case, its purpose was to get the parts to work for a whole that is ultimately good for them, but which they cannot see. That noble lie, however, was predicated on the imposition and enforcement of a story from above. Sensing the need to satisfy the growing demand for agency among the people, Hobbes enlisted them and bound them in the social contract. On that foundation, Rousseau proclaimed the people sovereign and set the stage for a complete reversal, in which those in government are considered "servants" of the people. This type of comparison is especially useful in highlighting major shifts and differences and, thus, outlining the emergence and evolution of the concepts in question. At the same time, it reveals the degree to which the essential problems recur again and again, and that understanding their history is not an antiquarian exercise but an essential step to dealing with them in the present and future.

A NOBLE LIE

Socrates develops his city-in-speech in Plato's *Republic*. That work consists of Socrates' recollection of a long discussion whose aim was to discover the meaning of justice. Early on in that process the conversation diverges to consider "a far bigger thing," namely, Thrasymachus' assertion that the unjust man lives a "mightier and freer" life than the just. Socrates gains the upper hand over Thrasymachus, but rather than celebrating his apparent victory, he declares the inquiry a failure because the interlocutors debated the relative merits of justice and injustice without having defined them. To begin anew, Socrates proposes an analogy: If justice is a single thing with different manifestations, then perhaps it might be easier to look for it in something bigger than an individual, a city. They could then take what they learned about justice there and return to the individual, in order to pronounce on whether justice is preferable to injustice. Aided primarily by Plato's brother, Glaucon, Socrates thus builds a city-in-speech based on the principle that individuals are not self-sufficient and that each individual should devote all of his energies to the task he is suited to by nature, sharing the surplus with his fellow citizens, because no one can do everything (369e–70c). The division of labor that shapes the city quickly leads to the need for more individuals devoted to different tasks. This expansion, in turn, leads to the need for more land and, thus, the need for an army to seize and defend it (373d). Socrates calls this army the guardians, and notes that their education will be crucial, since it must strike a

balance between aggression (to defend the city) and moderation (to allow the guardians to distinguish their fellow citizens from their enemies, 375–76; cf. 410). To achieve this balance, the founders of this city must supervise its doctrines. They must discourage tales of weakness in the face of death, stories that malign the gods, and lies. The only exception to the last category is to lies told by the rulers “for the benefit of the city” (389b).

A division of the guardians into one group that should rule and another that should enforce the commands of the rulers and defend the city yields three classes: the guardians, the auxiliaries, and the craftsmen. Anticipating challenges to the city’s cohesion and its emerging hierarchy, Socrates proposes that they contrive a tale of the kind that he had made an exception for (414b7–8); Socrates’ term for this tale is *ψευδῶν* [...] *γενναῖόν τι*, which is usually translated as “noble lie.” While that translation is correct, it is worth adding, that the root of *γενναῖον* also points to generation or birth. As we will see, Socrates’ tale not only involves birth, but it is also generative of the city: that is, the city needs it in order to become established and to sustain itself. Socrates’ noble lie goes as follows:

I’ll attempt to persuade first the rulers and the soldiers, then the rest of the city, that the rearing and education we gave them were like dreams; they only thought they were undergoing all that was happening to them, while, in truth, at that time they were under the earth within, being fashioned and reared themselves, and their arms and other tools being crafted. When the job had been completely finished, then the earth, which is their mother, sent them up. And now, as though the land they were in were a mother and nurse, they must plan for and defend it, if anyone attacks, and they must think of the other citizens as brothers and born of the earth.

Upon hearing this, Glaucon interjects, “It wasn’t [...] for nothing that you were for so long ashamed to tell the lie.” Undeterred, Socrates continues,

“All of you in the city are certainly brothers,” we shall say to them in telling the tale, “but the God, in fashioning those of you who are competent to rule, mixed gold in at their birth; this is why they are most honored; in auxiliaries, silver; and iron and bronze in the farmers and other craftsmen [...]” (414d–15a).

The first part of the noble lie, then, binds these individuals together as brothers and to the land as their motherland, which they must defend if attacked. The second part explains the divine origin of the hierarchy in terms that preclude debate as to its validity; it has been ordained by the God and based on objective, if invisible, criteria. Together, they make up the story of how the city came to be, why it is special, why individuals in it are bound together and must sacrifice to preserve it, and why its hierarchy is as it should be.

Just before launching into his lie, Socrates told Glaucon that this sort of thing has “happened in many places before, [...] but one that has not happened in our time – and I don’t know if it could” (414c). As he knew full well, however, even if the literal story sounded preposterous to his contemporaries, its essence was one that they would have been perfectly comfortable with. Indeed, it is hard to

think of a nation whose founding myth does not conform to the basic contours of this story. Of course, fifth-century Athens – the setting for Plato’s *Republic* – has a special significance for popular sovereignty. As Socrates’ contemporary, Pericles, noted in his Funeral Oration, Athens’ laws were unique and, because they favored the many rather than the few, it was called a democracy, signifying rule by the δῆμος, or, the body of the people, through the ἐκκλησία, its main assembly.¹⁷ That meant that the people – namely, the citizens – were sovereign, making all important decisions in common and manning the city’s institutions, from minor assemblies to juries. The laws were indifferent to socioeconomic status and reputation, but looked to merit. While not using images as fanciful as those used by Socrates in his “noble lie,” Pericles nevertheless emphasized the active roles that Athens’ citizens played in its defense, in the rule of law, and in exhorting their fellows to act decently. As commentators have noted across the centuries, unlike his next speech, which was gloomier and given in the singular, the Funeral Oration is dominated by the plural, to reflect that at its best Athens was what Cicero and St. Augustine would later call “an affair of the people” (*res publica*), or, what later political thinkers would describe as a “commonwealth.”

A BODY POLITIC

The frontispiece of Thomas Hobbes’s *Leviathan* features the colossal figure of a sovereign presiding – with sword in one hand and crozier in the other – over a landscape meant to convey the peace and prosperity that result from his government (Figure 3.1). A superscript taken from the Vulgate version of Job 41.24 declares, “There is no power on Earth that compares to him.” Hobbes’s Introduction to that work quickly confirms the first impression that the figure on the frontispiece is a body politic. That idea was not exactly new. Plato had brushed up against it with his analogy between the city and the soul. In his actual city, “[w]hen an Athenian democrat said ‘*demos*’ he meant the whole body of citizens, irrespective of the fact that only a minority were able to turn up to meetings.”¹⁸ Christians adopted the term the Athenians had used for their main assembly (ἐκκλησία) and used it to refer to their church, whose body consisted of the believers gathered together in Jesus’ name, so that by the twelfth century John of Salisbury could liken the parts of a republic to the parts of the body.¹⁹ King James VI of Scotland could thus argue on well-established

¹⁷ Thucydides, *Historiae*, II.37.

¹⁸ Hansen, *The Athenian Democracy*, 125. Hansen adds that this was in the eye of the beholder: “critics of the democracy, on the other hand, especially philosophers, tended to regard the *demos* as the ‘ordinary people’ in contrast to the propertied class, and in their eyes the Assembly was a political organ in which the city poor, the artisans, traders, day labourers and idlers could by their majority outvote the minority of countrymen and major property owners.”

¹⁹ John of Salisbury, *Policraticus*, V–VI. On the history of the idea in the Middle Ages, see Kantorowitz, *The King’s Two Bodies*, esp. 193–232. On John’s sources, see Liebeschütz, “John of Salisbury and Pseudo-Plutarch.”

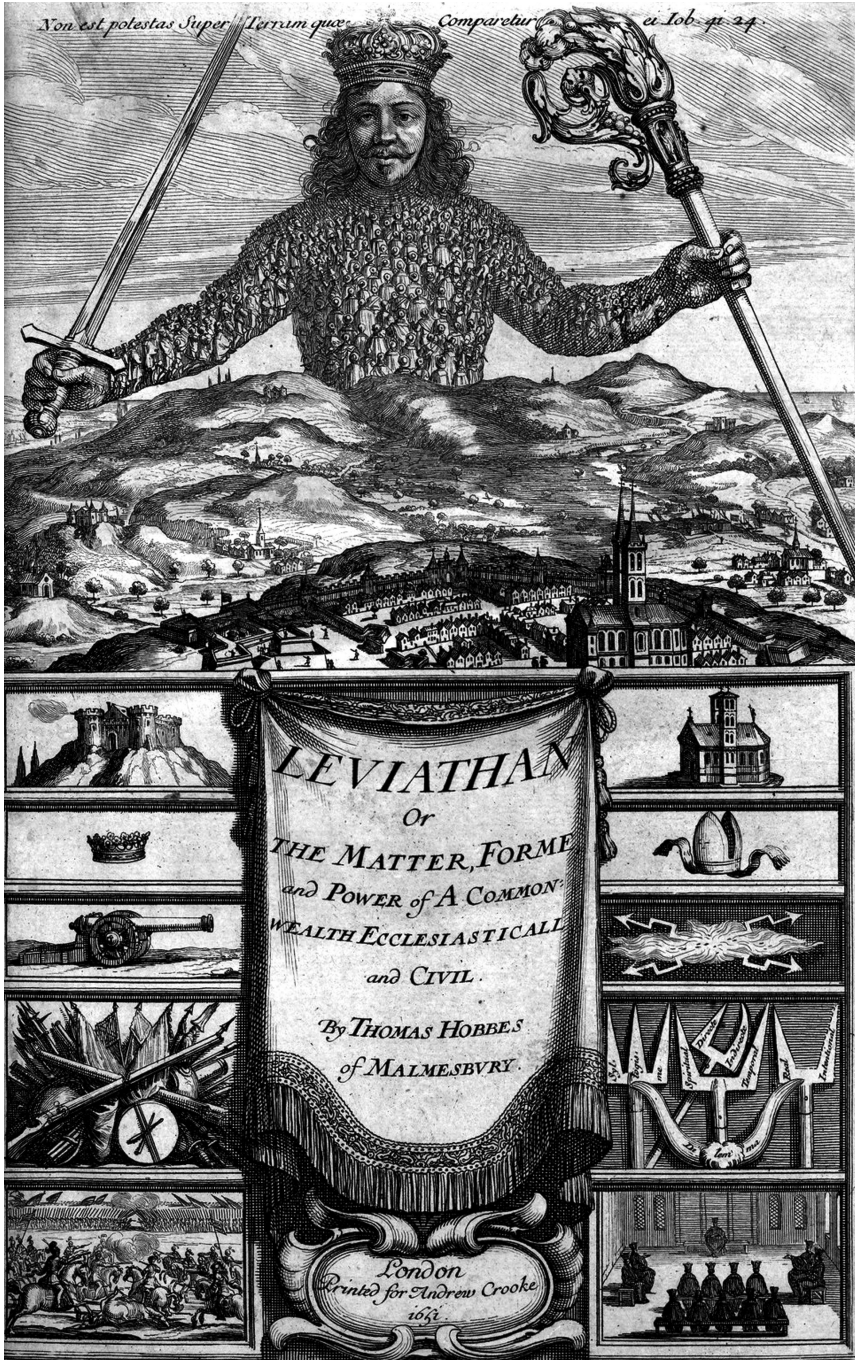


FIGURE 3.1 Frontispiece for the Leviathan

precedent that “[t]he King towards his people is rightly compared to a father of children, and to a head of a body composed of diuers members.”²⁰

For Hobbes, the commonwealth or state,

is but an Artificiall Man; though of greater stature and strength than the Naturall, for whose protection and defence it was intended; and in which, Sovereignty is an Artificiall Soul, as giving life and motion to the whole body; The Magistrates, and other Officers of Judicature and Execution, artificiall Joynts; Reward and Punishment (by which fastned to the seate of the Sovereignty, every joynt and member is moved to performe his duty) are the Nerves, that do the same in the Body Naturall; The Wealth and Riches of all the particular members, are the Strength; Salus Populi (the peoples safety) its Businesse; Counsellors, by whom all things needfull for it to know, are suggested unto it, are the Memory; Equity and Lawes, an artificiall Reason and Will; Concord, Health; Sedition, Sicknesse; and Civil war, Death. Lastly, the Pacts and Covenants, by which the parts of this Body Politique were at first made, set together, and united, resemble that Fiat, or the Let us make man, pronounced by God in the Creation.²¹

This description leaves out something that the attentive reader would have noticed on the frontispiece, namely, that the torso and arms of the body politic are made up of individuals, all of whom are facing the head.

Hobbes gave the reason in Chapter 21, where he explained,

But as men, for the atteyning of peace, and conservation of themselves thereby, have made an Artificiall Man, which we call a Common-wealth; so also have they made Artificiall Chains, called Civill Lawes, which they themselves, by mutuall covenants, have fastned at one end, to the lips of that Man, or Assembly, to whom they have given the Sovereigne Power; and at the other end to their own Ears. These Bonds in their own nature but weak, may neverthelesse be made to hold, by the danger, though not by the difficulty of breaking them.²²

The suggestion that the commonwealth is the result of covenants, however, raises a series of important problems. One might be excused, for example, for doubting that such covenants ever took place. Even if they had, at some point, how could they be seen as binding individuals who had not participated in them? Assuming that such covenants had existed and were binding, did they also extend to the sovereign? If so, was he a party and, thus, obliged and accountable to the other parties? To answer these questions, Hobbes conjured a series of images to depict a lawless condition he called the state of nature, in which there was no authority that could generate rules and enforce them.²³ Surely such a condition was one that any reasonable person would wish to avoid. Reason would thus lead individuals to realize that it would be preferable to establish a sovereign and obey

²⁰ King James VI, *The Trve Lawe*, 76.

²¹ Hobbes, *Leviathan*, Introduction, 1.

²² Hobbes, *Leviathan*, 21: 108–109.

²³ I discuss these in detail, in Evrigenis, *Images of Anarchy*.

him, on the condition that everyone else would do the same. Doing so would generate the body politic, a single entity with a single will.

How could this happen? Hobbes argues, “by Covenant of every man with every man, in such manner, as if every man should say to every man, *I Authorise and give up my Right of Governing my selfe, to this Man, or to this Assembly of men, on this condition, that thou give up thy Right to him, and Authorise all his Actions in like manner.*”²⁴ This passage set in motion the modern revolution of popular sovereignty, by pointing out that every individual should act *as though* he had made a promise to every other individual, to confer upon a third party the right of governing his person. As the passage I quoted above shows, it is the specter of the alternative that would induce individuals to behave in accordance with these hypothetical covenants, but because “Covenants, without the Sword, are but Words, and of no strength to secure a man at all,” the surrender of individuals’ rights to rule themselves endows the sovereign with the power to be able to enforce the laws at home and defend the commonwealth abroad.²⁵ This idea contains two important points. First, that individuals *have* the *right* to govern themselves.²⁶ Their conferral of that right to the sovereign is thus, as Hobbes puts it, an authorization. The sovereign’s rule, therefore, is by right. Second, the sovereign’s ability to protect and defend is made possible only through the submission of the individuals who make up the body politic. To put it simply, the giant sword of the frontispiece is composed of the tiny individual swords that the sovereign unites and directs.

It would have been easier to justify submission to a sovereign through force, what Hobbes called a commonwealth “by acquisition,” so one has to wonder why a theorist who favored monarchy would have chosen this elaborate and dangerous route that passed through the continuous authorization of sovereignty by the individual citizens of a commonwealth. The danger, of course, lay in the fact that Hobbes located the origin of sovereignty in the individuals who engaged in mutual covenants with one another. If they were the ones who had given it, could they not take it back? Hobbes addressed this problem by making the surrender of the right to govern oneself irrevocable, with the exception of cases in which one’s life was clearly and indisputably in danger. Perhaps more importantly, his covenants were between individual citizens only. The sovereign who resulted from them was not a party to the contracts and, hence, not accountable to the contracting parties, but only to God.²⁷

Hobbes chose the path that he did because he saw that more and more people would begin to ask the question that Hume would pose a few years later. A number of developments would make that inevitable, but foremost among them were the Reformation and the Scientific Revolution, which shared one

²⁴ Hobbes, *Leviathan*, 17: 87; my underlining.

²⁵ Hobbes, *Leviathan*, 17: 85.

²⁶ In this regard, see Richard Boyd’s discussion of “generic” or “abstract” individuals in [Chapter 4](#) of this volume.

²⁷ See, e.g., Hobbes, *Leviathan*, 31: 193.

basic characteristic: They enfranchised previously excluded, irrelevant, individuals by inviting them to think for themselves and bypass authorities. If one could commune with God and understand the mysteries of nature on one's own, how long would it be before that person wondered why he could not also govern himself? By persuading his readers that *they* had authorized the sovereign who ruled over them, Hobbes hoped to enlist them in the cause of peace.

Sir Robert Filmer captured the consequences of this move when he congratulated Hobbes for having treated the rights of sovereignty more “amply and judiciously” than anyone else, but rejected his premises, namely, his reliance on natural right.²⁸ Filmer, for whom the idea of popular sovereignty was anathema, saw that Hobbes had created a dangerous opening. Hobbes's many critics saw the opportunity in Hobbes's fictitious state of nature and social contract, and seized it, making these concepts mandatory points of reference for modern political thought. The theorists we have come to associate with the origins of modern democracy and popular sovereignty, such as John Locke and Jean-Jacques Rousseau, attacked Hobbes not for having offered these fictions, but for having gotten them wrong. In successive modifications of the state of nature and the social contract, Locke and Rousseau returned to natural right and cast it even more forcefully as the solid foundation for civil rights that could be used by citizens to hold sovereigns accountable.

A CIVIL RELIGION AND ITS PROPHET

Rousseau opened his *Social Contract* with a provocative observation:

Man is born free, and everywhere he is in chains. One believes himself the others' master, and yet is more a slave than they. How did this change come about? I do not know. What can make it legitimate? I believe I can solve this question.²⁹

Much in this statement centers on belief, so it is interesting that we are asked to believe a lie. Rousseau had in fact devoted a lengthy treatise to the origins of inequality before turning to the *Social Contract*. Even more interesting, however, is the fact that he saw it as his task not to break the chains, but to render them legitimate. Following in the footsteps of Hobbes, despite having criticized him, Rousseau posited a social compact that could be captured by the following terms: “*Each of us puts his person and his full power in common under the supreme direction of the general will; and in a body we receive each member as an indivisible part of the whole.*”³⁰ The first step toward this contract is the unanimous acceptance, by the participants, of majority rule. Once in place, and to prevent the social compact from becoming

an empty formula, [...] whoever refuses to obey the general will shall be constrained to do so by the entire body: which means nothing other than that he shall be forced to be

²⁸ Filmer, *Observations*, 184–85.

²⁹ Rousseau, “Of the Social Contract,” I.1.

³⁰ Rousseau, “Of the Social Contract,” I.6.

free; for this is the condition which, by giving each Citizen to the Fatherland, guarantees him against all personal dependence; the condition which is the device and makes for the operation of the political machine, and alone renders legitimate civil engagements which would otherwise be absurd, tyrannical, and liable to the most enormous abuses.³¹

The difficulty in bringing this transformation about cannot be exaggerated. Rousseau writes of a multitude that is “blind,” of people who want what is good for them but cannot always see it, and of a judgment that seeks to know the general will but is not always “upright.”³² To achieve public enlightenment in the face of these obstacles, it is necessary to have a lawgiver.

This lawgiver is not the member of a legislative body. He is a founder, a lawgiver in the sense of Lycurgus, Solon, or the members of the Constitutional Convention. He is a rare individual of exceptional intelligence, who can stand outside the state and determine what the best rules for it will be. He is one who “could work in one century and enjoy the reward in another,” notes Rousseau, before adding, “[i]t would require gods to give men laws.”³³ The task before the lawgiver is akin to changing human nature, because he must transform solitary, antisocial beings into social ones. Yet, the lawgiver must do this without having any power to compel individuals to submit to the whole. As there is no state, there are no offices and organized means of coercion. Thus, Rousseau argues, “one finds at one and the same time two apparently incompatible things in the work of legislation: an undertaking beyond human force, and to execute it an authority that is nil.”³⁴ To make matters worse, “there are a thousand kinds of ideas which it is impossible to translate into the language of the people.”³⁵

These obstacles, Rousseau claims, forced the founders of nations to resort to the heavens, to “honor the Gods with their own wisdom,” so that the people would “obey the yoke of public felicity, and bear it with docility.”³⁶ Rousseau’s guide here is Machiavelli, who in his *Discourses on Livy* had praised Numa who, wishing to reduce a “ferocious” people to civil obedience, turned to religion.³⁷ In footnotes to his chapter on the lawgiver, Rousseau attributes to Machiavelli the view that “there has never been in any country a lawgiver who has not invoked the deity; for otherwise his laws would not have been accepted,” and argues that those who see Calvin as a theologian “fail to appreciate the range of his genius.”³⁸ Using religion to achieve the superhuman feat of constitution is not an easy task, and one can only judge success by the later evidence of enduring institutions.

³¹ Rousseau, “Of the Social Contract,” I.7.

³² Rousseau, “Of the Social Contract,” II.6.

³³ Rousseau, “Of the Social Contract,” II.7.

³⁴ Rousseau, “Of the Social Contract,” II.7.

³⁵ Rousseau, “Of the Social Contract,” II.7.

³⁶ Rousseau, “Of the Social Contract,” II.7.

³⁷ Machiavelli, *Discourses on Livy*, I.II.

³⁸ Rousseau, “Of the Social Contract,” II.7, footnotes 2 and 3.

If the task of ancient lawgivers was superhuman, it was still made easier by the fact that their religions were national. Rousseau credits Hobbes with having been the only thinker to have seen that the advent of Christianity introduced a new difficulty by claiming allegiances across national boundaries and imposing two sets of often conflicting standards on its believers. Love of neighbor and love of fatherland do not go together, but “it certainly matters to the State that each Citizen have a Religion which makes him love his duties.”³⁹ Such a civil religion has to be separate from any dogma that pertains to the afterlife or salvation. It should be focused on sociability, and its articles

ought to be simple, few in number, stated with precision, without explanations or commentary. The existence of the powerful, intelligent, beneficent, prescient, and provident Divinity, the life to come, the happiness of the just, the punishment of the wicked, the sanctity of the social Contract and the Laws; these are the positive dogmas. As for the negative dogmas, I restrict them to a single one; namely, intolerance: It is a feature of the cult we have rejected.⁴⁰

In the absence of a national religion, argues Rousseau, and as long as one is not interested in a theocratic government, religious intolerance must be unacceptable as destructive of civil peace.

A MIXTURE OF FACT AND FICTION

If the first requirement of popular sovereignty is the existence of a people, noble lies work to establish it and preserve it. This is not an easy task, because, as Kant observed, human beings are marked by unsocial sociability, namely, “their tendency to enter into society, combined, however, with a thoroughgoing resistance that constantly threatens to sunder this society.”⁴¹ Effective noble lies must recognize that centripetal tendencies are not enough for lasting societies, and that centrifugal tendencies cannot be eliminated and will need to be counteracted consistently and constantly. For all their differences, the figures discussed above approached the questions surrounding the founding and preservation of societies as both immediate political problems calling for specific solutions and as theoretical questions requiring reflection on enduring and ineradicable elements of politics. Without spelling out every detail, they realized that human beings are self-interested, they are constitutionally incapable of always seeing what is in fact in their interest, they do not like to be told what to do, they desire recognition, and they seek to make sense of things. Although often centrifugal, these characteristics can also be used to buttress sociability, by enlightening self-interest and creating and strengthening bonds and obligations.

³⁹ Rousseau, “Of the Social Contract,” IV.8.

⁴⁰ Rousseau, “Of the Social Contract,” IV.8, my underlining.

⁴¹ Kant, “Idea for a Universal History,” 31–32.

Founding myths and national creeds must do this work, yet as Hobbes observed they will not suffice if they do not take seriously the human desire for recognition and autonomy. One of Hobbes's great innovations was to harness these desires by enlisting individuals into the project of modern government. Realizing that people want more credit than they deserve and want to feel that they are in charge, he recruited them to the cause of order by telling them that they had authorized the sovereign. Another of Hobbes's great innovations was to use these (negative) human traits as building blocks for a new account of equality that did not depend directly on the divine. As Filmer warned, this kind of foundation was one that a proponent of monarchy could not trust, and it was but a short time before proponents of the people seized on it and made it the foundation of the modern popular state.

On the one hand, these developments furthered the political emancipation and enfranchisement of ever-increasing numbers of people. On the other hand, they generated large and active bodies politic of a new kind. These developments were already evident in Rousseau's thought. Having proclaimed the people sovereign, the general will infallible, and the need to set dissenters straight by forcing them to be free, and having railed against the "supposed cosmopolites," who "love the Tartars so as to be spared having to love [their] neighbors," it is unsurprising that Rousseau was not just credited with democracy, but also blamed for nationalism and totalitarianism.⁴² When the Abbé de Saint-Pierre published his proposal for perpetual peace, Rousseau mocked him for having "judged like a child."⁴³ One could argue that Rousseau himself was naïve, or even irresponsible for proposing measures that required conditions quickly disappearing along with the city-states that had once made them possible. With technological advancement, trade, and innovations in bureaucratic efficiency, states began to grow and the raw material of the body politic changed dramatically. In these conditions, it became necessary to revisit and repackage noble lies, especially in relation to public education systems that began emerging at the time. These developments sped up the march toward universal enfranchisement that was long underway and impossible to halt.

It is perhaps apt that even though Rousseau died before the French Revolution, its principal agents (many of whom he had fallen out with) exhumed and transported his remains to the Pantheon, thereby elevating him to democratic sainthood and rendering his *Social Contract* a sacred text of modern democracy. This status is also ironic, however, because Rousseau envisioned a democracy very much unlike the ones that claimed him. In the *Social Contract*, he had notoriously held up Corsica as the nation that would astound all of Europe with its success, because it had all the right ingredients: It was a small island with a homogeneous population, isolated from the immediate effects of bad neighbors and commerce, and based primarily on an agricultural

⁴² Rousseau, "Geneva Manuscript," I.ii; Rousseau, *Emile*, 39.

⁴³ Rousseau, "Abstract and Judgment," 94.

economy that could not lead to excessive economic inequality.⁴⁴ Its small size was crucial to its potential success because Rousseau's ideal state was one in which citizens would participate in legislation directly. Modeled after the small city-states of antiquity that Rousseau so admired, as well as his native Geneva, the polity that would make his social compact a reality would thus be one in which citizens would themselves participate directly in the proceedings that would declare the general will. As Rousseau warned, "[s]overeignty cannot be represented for the same reason that it cannot be alienated; it consists essentially of the general will, and the will does not admit of being represented."⁴⁵

The thread that leads from Socrates' noble lie to the modern belief in the sovereignty of the people centers on the fact that government – whether monarchical, oligarchic, or popular – depends on the minds of the governed. Morgan noted that in thinking about the nascent United States of America, Madison did not foresee the ways in which parties and politicians would dominate its politics, which was ironic given his own role.⁴⁶ In its basic form, however, that problem had already plagued the model and inspiration of modern democracy, Athens. As Plato's Socrates had warned repeatedly, aided by self-congratulation and a chorus of ignoble lies, that great city had fallen into a slumber. The dependence of its politics on rhetoric and its susceptibility to manipulation weakened its body politic and paved the way for its downfall.

Madison and his colleagues were fully aware of the extent to which success depended on the establishment of realistic institutions that would serve as checks on human nature, which, as Rousseau had observed, cannot be changed. In Federalist 51, he noted that the issue which had occupied Rousseau and Hume was but a part of the problem:

If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.⁴⁷

If this observation is correct, which I think it is, then we have to ask ourselves what it implies about a political system in which the people believe that they are sovereign. As a body they are in fact checked by governmental institutions and laws when these work well. As individuals, however, democratic citizens have been enfranchised and, increasingly, abandoned to figure out for themselves what they ought to do. The forces that used to offer direction, for better or worse, have waned, and new technologies have made it possible for more people than ever to catch glimpses of the rest of the world. Coupled with economic forces that have entangled parts of the globe with others

⁴⁴ Rousseau, "Of the Social Contract," II.10.

⁴⁵ Rousseau, "Of the Social Contract," III.15.

⁴⁶ Morgan, *Inventing the People*, 305.

⁴⁷ Madison, "No. 51: The Structure of the Government," 319.

previously unknown, individual citizens of democratic societies are facing the challenges that previous generations faced in the twentieth century, as well as ever more powerful ones imposed by globalization and cosmopolitanism. Calls for allegiance to humanity abound, and in a world that witnessed the horrors of the twentieth century they are necessary checks to parochialism and chauvinism, but they are rarely concerned with the practical implications of the concept. For better or worse, individual citizens have to face those or cede responsibility to others. Rousseau, who did so much to bring popular sovereignty to this point, had warned that “[a]s soon as public service ceases to be the Citizens’ principal business, and they prefer to serve with their purse rather than with their person, the State is already close to ruin.”⁴⁸ Instrumental rationality will confirm that it is better for an individual to serve with the purse, rather than her person, so reason alone will not be able to convey that true sovereigns have duties and ought to act. With precious few exceptions, in the grand scheme of things, popular sovereignty outside the darkness of the sanctuary and perpetually in daylight is a relatively new story. It is thus understandable that its emphasis has been on seizing power away from individuals and small numbers of people who wish to rule at the expense of the many. As it matures, however – and because the size of modern bodies politic makes them especially susceptible to free riders – it needs to develop a better story of the individual responsibility to know and act, as well as a convincing narrative in favor of solidarity, if it is to remain vibrant and beneficial.⁴⁹

⁴⁸ Rousseau, “Of the Social Contract,” III.15.

⁴⁹ See [Chapters 5](#) and [15](#) by Ewa Atanassow and Rogers M. Smith, respectively, in this volume.

Thomas Hobbes and the Making of Popular Sovereignty

Richard Boyd

INTRODUCTION

Scholars often portray the modern idea of popular sovereignty as having superseded premodern conceptions that invested supremacy in the divine right of kings, the medieval “lore of the Right of Communities,” exclusive privileges of class or caste, or even in the faculty of reason itself.¹ In this familiar narrative, the concept of *popular* sovereignty – that is to say, sovereignty of the *people* – is juxtaposed with other modes of sovereignty that are *non-popular*: for example, rule by gods, priests, kings, judges, transcendent reason, parliaments, aristocrats, medieval corporations, and so on. Without denying the novelty of investing rule in a *whole* people, rather than some elite subset thereof, the prevalent emphasis on the democratic aspects of sovereignty has tended to eclipse another connotation of the term. This is the sense in which popular sovereignty entails the rule of a particular *people*. Or put differently, popular sovereignty implies not just rule by *the* people but also and maybe more importantly by *a* people, some particular group entrusted with ruling itself which is, or should be insofar as possible, unique.

Popular sovereignty understood along both of these dimensions – democratic or *popular* rule by a distinctive *people* or populace – represent “fictions,” in the words of Edmund Morgan. By this he means they are stories inhabiting the realm of “make-believe,” but which nevertheless possess enormous power to shape, organize, and legitimate political life.² Neither of these two stories about political legitimacy – that sovereignty is vested in the whole community,

¹ See, e.g., Gierke, *Political Theories*, 37–39; Laski, *Studies*; Morgan, *Inventing the People*; Bourke and Skinner (eds.), *Popular Sovereignty*.

² Morgan, *Inventing the People*, 14. Morgan’s appreciation of the power of these fictions is reminiscent of Georges Sorel’s category of political “myth,” *Reflections on Violence*.

and that this community should be differentiated from other communities – is self-evident. In fact, both propositions have been subjects of vehement moral, political, and scholarly controversies.³ Yet, the underlying relationship between these two fictions – sovereignty and nationhood – is poorly understood. Which is the proverbial chicken, and which the egg? Is the existence of a culturally (or ethnically) distinctive people a necessary precondition for the legitimation of popular sovereignty? Sovereignty is derivative of peoplehood. Or, alternatively, must the fiction of such a homogenous people be invented in order to advance the claim that it is the whole people – rather than some exclusive unit within it – that ought to reign supreme? Do homogenous peoples precede popularity, or is popularity required to render peoples homogenous?

One thinker who has not been given enough credit for his contribution to these lines of inquiry is Thomas Hobbes. To be sure, Hobbes's affinities for certain core conceptions of liberalism such as individuality, natural rights, and the popular authorization of sovereign power have been duly noted by critics and admirers alike.⁴ Nonetheless, the proto-liberal aspects of his political theory tend to be overshadowed by his more obvious endorsement of absolute monarchy. The puzzling tension between Hobbes's liberal egalitarian assumptions and the absolutist political conclusions he derives from them has sparked generations of disagreement about how best to characterize his place in the history of ideas. Is Hobbes the first liberal? A forerunner of modern totalitarianism? Defenders of the first position cite Hobbes's appeal to pre-political individuals invested with natural rights, while critics of Hobbes's authoritarian tendencies lament his defense of virtually unlimited and unaccountable sovereign power. While building on familiar scholarly debates, in this chapter I want to cast light on three less explored aspects of Hobbes's arguments that speak directly to the question of how the dual fictions of sovereignty and peoplehood intersect with one another.

The first is Hobbes's distinction between "persons" and "men" – that is, between actual human beings endowed with distinguishable identities, or *personae*, on the one hand, and the generic individuals who populate Hobbes's state of nature, on the other. The ascendancy of the abstract individual at the expense of concrete *personae* gives rise to a second building block of modern conceptions of popular sovereignty: namely, the reign of quantity and the

³ On whether the doctrine of popular sovereignty was either descriptively accurate or normatively sufficient, see especially Mosca, *The Ruling Class*, and Laski, *Authority in the Modern State*. For debates over the socially imagined character of nations and the role such stories play in justifying collective self-rule, see especially Anderson, *Imagined Communities*; Smith, *The Ethnic Origins of Nations*; Hobsbawm, *Nations and Nationalism*; Smith, *Stories of Peoplehood*.

⁴ On Hobbes as the founder of modern liberalism, individuality, toleration, and moral equality, see among others, Strauss, *The Political Philosophy of Hobbes*; Macpherson, *Possessive Individualism*; Oakeshott, *Hobbes on Civil Association*; Flathman, *Thomas Hobbes*; Malcolm, *Aspects of Hobbes*. For criticisms of Hobbes as defender of absolutism see Tarlton, "The Despotical Doctrine of Hobbes"; Wolin, "Culture of Despotism." For a succinct overview of these debates and the criteria for Hobbes's liberality or illiberality, see Malcolm, "Thomas Hobbes."

depreciation of quality. Assuming an underlying identity among individuals, popular sovereignty is predicated on our ability to measure their respective wills quantitatively. As Hobbes describes in *Leviathan's* brief democratic interludes of popular sovereignty, the individual who affirms his political will does so by means of a mathematical exercise in which particular wills are aggregated quantitatively and qualitative distinctions are elided. Finally, the model of solidarity toward which the Hobbesian theory of sovereignty intends is characterized by the pursuit of "uniformity," a form of social cohesion based on homogeneity and the wholesale conformity of individual wills. By way of contrast, what Hobbes castigates as "asperity" on the part of subjects must be resisted not only because the existence of a "multitude" of discrepant wills poses a challenge to political unity, but also because such unequal persons represent "diversity" and "irregularity" rather than commensurability (Ch. 15, p. 95).⁵ They defy the mathematical equivalency upon which the logic of popular sovereignty depends.

By teasing out these three aspects of Hobbes's political theory we can better appreciate some of the essential characteristics of modern doctrines of popular sovereignty that have caught the attention, for better or worse, of latter-day critics and defenders. My argument will proceed in the following way. The first section examines how Hobbes's hypothesized state of nature abstracts from the distinctive (and unequal) features that differentiate real persons in civil society. His rationale for transforming so-called "persons" into "men," I contend, is to generate both the moral equivalency requisite to majority rule (second section) and the cultural homogeneity and uniformity by which whole peoples can be differentiated from one another (third section). The last section further amplifies the dialectical relationship between national homogeneity and international heterogeneity to which Hobbes's account of sovereignty gives rise.

MEN AND PERSONS

Like the concept of popular sovereignty, Hobbes's moral and political philosophy rests on a fiction of its own: namely, the novel image of a state of nature. The state of nature is fictional in two respects. First, as critics have noted, the historico-anthropological reality of a "state of nature" is dubious, and evidence cited for it of varying degrees of plausibility.⁶ Even allowing for the existence of such a pre-political condition sometime or somewhere, however, why would it be comprised of the kind of abstract, unencumbered "men" Hobbes portrays? Unlike civil society's *personae* endowed with particular identities, statuses, and personalities, the "men" of Hobbes's state of nature are generic, defined by a common physical vulnerability and a "similitude of the thoughts

⁵ Hobbes, *Leviathan* [1994], Ch. 15, 95. All subsequent references are to chapter and page in the 1994 Curley edition.

⁶ For an account of Hobbes's various visions and justifications of the state of nature, see especially Evrigenis, *Images of Anarchy*.

and passions” (Intro: 5; 13: 74). Even if these pre-political men enjoyed distinctive statuses before they entered into a political community – a fact which Hobbes takes great pains to deny – each presumably surrenders his individual will and judgment upon entering into a “real unity of them all” (17: 109).

Before we get to the transformative quality of Hobbes’s social contract, we are confronted by the ambiguities of personhood – and related notions of personality and personation. “A person,” Hobbes notes, “is he whose words or actions are considered either as his own or as representing the words or actions of another man, or of any other thing to whom they are attributed, whether truly or by fiction” (16: 101). Persons in the former incarnation are owners of their own “words or actions.” More significant for our purposes, however, is the latter meaning of “person” as someone who stands in for another. To “personate” someone is to represent them by virtue of playing their role, bearing a mask or disguise as on a stage, acting as them or speaking on their behalf. Individuals who “impersonate” others must not be conflated with the identities they assume on stage, however. Presumably, the intention of the actor charged with personating another is to represent the latter’s words or actions as faithfully as possible, even if it means wearing masks or hoods which “disguiseth” themselves (16: 101). The very act of donning a mask, or more generally playing a role, assumes that as social beings we each have unique qualities. *Personae* are endowed not just with particular wills and voices but also with identifying features. The metaphor of masks is revealing insofar as they obscure the identities of actors not by rendering them generic or anonymous, but typically by superimposing upon them the recognizable features of particular persons they are supposed to represent.

This kind of personation or representation often takes place among so-called “natural persons,” in a variety of spheres ranging from theater to the law (16: 101). People impersonate other living, breathing human beings for reasons of entertainment, convenience, or legal representation. Besides arrangements between natural persons, however, *Leviathan* is centrally concerned with how the wills of natural persons get transposed onto an “artificial person” mutually authorized to act on their behalf (16: 101). As Hobbes explains, albeit enigmatically:

A multitude of men are made one person, when they are by one man, or one person, represented so that it be done with the consent of every one of that multitude in particular. For it is the unity of the representer, not the unity of the represented, that maketh the person one. And it is the representer that beareth the person, and but one person, and unity cannot otherwise be understood in multitude. (16: 104)

Clearly there is no unity found among a mere “multitude,” or aggregation of particular men. Without a formal agreement between each and every member to be represented by “one man, or one person” (“and,” we should note the qualification, “*but* one person”), multitudes are essentially heterogeneous. Political union under the guise of an “artificial person” is the only way to

transcend differences and disagreements. Moreover, even if this political unity is strictly a function of the man or person doing the representing, rather than any antecedent “unity of the represented,” it seems reasonable to infer that this personation serves to eradicate, or at least obscure, the multitude’s original differences. Whatever the causes or motivations of the union, its most important effect is that the people are “made one person.”

Another paradox of Hobbes’s account of representation is whether the “words or actions” being “represented” by one for another are supposed to be expressed literally or figuratively, “whether truly or by fiction” (16: 101). When someone gets called upon to represent the will of another are they supposed to do so mimetically – like an actor who seeks to replicate as faithfully as possible the true personality and words of a character – or are they given creative license to engage in a kind of fiction (16: 102)? Presumably where the actor behaves as author of his own actions, he and he alone is responsible for the moral consequences. Yet, in other cases where the actor is expressly bound by some antecedent covenant, he bears no responsibility for actions done by authority of another (16: 102).⁷ Inanimate objects, as well as “children, fools, and madmen,” are in the position of always requiring personation precisely because they cannot serve as authors of their own actions (16: 102–103).

In the case of the theater, when an actor (presumably here a “natural person”) attempts to represent the will of a single character, there is at least the possibility of doing so in a way that is true or literal. We often judge the success of an actor on just this criterion – the faithfulness of their representation. Does, say, Meryl Streep give an accurate rendition of Margaret Thatcher? Yet, when one person (natural or artificial) is called upon to represent the will of a multitude, it seems both technically and conceptually impossible for this multitude of particular wills to be expressed in anything other than fictionalized terms. The representative must either superimpose an underlying unity – one single *persona* – on the whole discrepant multitude, on the one hand, or represent these wills in a manner that is not completely true to their underlying disunity, on the other. Whichever way, the result is to some degree fictionalized: Either the people itself or the unified representation of their will is necessarily being invented.

Thus far we have seen that civil society (for we should note that this is what Hobbes is discussing in Chapter 16 and thereafter) nominally consists of distinct *personae*. In contrast to the *personae* of civil society, however, Hobbes’s state of nature is composed of abstract “men.” Above and beyond the term’s gendered aspects, which are themselves complicated by Hobbes’s anti-patriarchal rendition of the state of nature in Chapter 20 (“Of Dominion Paternal and Despotical”), what is most striking in Chapters 13 through 15 is the linguistic consistency with which Hobbes deploys the generic term “man”

⁷ The scenario Hobbes contemplates mirrors Augustine’s discussion of just war, in particular the latter’s justification of how it is that one who acts at the behest of another (e.g., Abraham by authority of God) is absolved of any sin committed. See Augustine, “Against Faustus,” 220–22.

to describe human beings in the pre-political state of nature. The choice of words is so constant – indeed almost monotonous – that it can hardly be coincidental. The laws of nature pertain to “every man,” “all men,” “no man,” “a man,” “other men,” “most men,” and so on. By way of contrast, the individuating word “person” occurs only three times in Chapter 15, by my count, twice qualified as “*individual* person” and in all three cases referring to the specific victim of an injustice (15: 94, 97).

Hobbes’s generic language works to bolster his analytical egalitarianism. For in these same chapters of *Leviathan* we find his most famous assertion of human equality. Hobbes contends that “nature hath made men so equal in the faculties of body and mind as that, though there be found one man sometimes manifestly stronger in body or of quicker mind than another, yet when all is reckoned together the difference between man and man is not so considerable as that one man can thereupon claim to himself any benefit to which another may not pretend as well as he” (13: 74).

Hobbes’s derivation of the postulate of equality may be controversial, if not altogether fallacious. But it bespeaks significant effort on his part to establish a substantive moral equality among all human beings. At the most basic level, our equality is established by universal physical vulnerability, as “the weakest has strength enough to kill the strongest, either by secret machination, or by confederacy with others that are in the same danger with himself” (13: 74). Likewise, with respect to intellectual differences, there is an even greater equality than bodily strength insofar as “prudence is but experience, which equal time equally bestows on all men in those things they equally apply themselves unto” (13: 75). These manifest examples of “equality of ability” lead to a not entirely desirable “equality of hope in attaining of our ends,” an equality of expectations that transforms the state of nature into a state of war via the tripartite psychological pathways of competition, diffidence, and glory (13: 75–76).

EQUALITY AS UNIFORMITY

We have seen how Hobbes distinguishes between the generic and putatively equal “men” of his hypothesized state of nature; the heterogeneous and unequal “persons” who compose the unreformed “multitude” of civil society; and the potential “unity” that can be achieved only when *personae* come to be represented by a single natural or artificial person. What remains to be shown are the ramifications of this view of equality for his theory of popular sovereignty. I want to argue that Hobbes’s appeal to equality is directly related to his justification of popular sovereignty in two key respects: Men not only have to be *equal* but also *alike* in order for sovereignty to be popular and for peoples to be distinctive.

Speaking abstractly, there are (at least) two different ways of conceptualizing equality. The first is the notion that some shared characteristic or common denominator among members of a category is sufficient to establish their

equivalency. The observation that all mammals are warm blooded, for example, is a proposition that establishes an equality among all creatures of the class *Mammalia* without denying that there may be salient differences between, say, bisons and bears. To say that one thing is equal to another is not to imply that they are in all ways the same, only that they share something in common. With respect to some decisive quality, they are equivalent – literally of equal value or worth. A second and more radical conception of equality goes further still. It refers to equality not in the sense of sharing some defining feature but by insisting on sameness. Equality is no mere equivalence with respect to one or more generic qualities, but rather a demand for likeness if not total homogeneity.

At first glance Hobbes's definition of equality would seem to be of the first class of argument (men are equal in one and only one relevant respect: the vulnerability of their lives), and yet upon closer examination his intention is more along the lines of the second. For his identification of a single common characteristic – namely, mortality – gives way to an account whereby human beings are – contrary to our intuitive observation – rendered virtually interchangeable with one another – their natures determined by the average or common denominator. Putative differences of intelligence or physical strength become either matters of erroneous (that is to say, vainglorious) misreckoning, or they remain extant while being overshadowed by other qualities such as mortality and pride whose constancy across subjects becomes constitutive of our humanity (I3: 74–75).

Even Hobbes's grudging acknowledgment of natural inequalities gets transformed by a peculiar logic into a kind of rough parity. The capacities of individual men in the state of nature may indeed vary somewhat, he concedes, but by the same aggregative mathematical logic deployed in the case of representation that we will discuss below, these differences end up canceling each other out. Some are smart; others are strong – but when “all is reckoned together” they are just men after all, each about the same, one as entitled as any other (I3: 74). In a logic all too familiar to the contemporary social sciences, especially economics, the acknowledgment of empirical variations poses no barrier to generalization or quantification. Instead it is precisely by dint of such variance among individual persons that one establishes a prevailing uniformity across the whole group.

Hobbes hardly denies the naturalness of pre-political inequalities, as we have seen, but he does try to diminish their practical and moral significance. Strong arms do not simply counterbalance dull wits, or vice versa. Rather, the claim is that regardless of any physical or intellectual advantages, these natural differences are more than outweighed by common vulnerability, so that even the “weakest has strength enough to kill the strongest, either by secret machination, or by confederacy with others that are in the same danger as himself” (I3: 74). Likewise, with respect to intelligence Hobbes finds “yet a greater equality amongst men than that of strength.” Only an exaggerated sense of pride prevents people from acknowledging that intellect boils down to mere prudence, “which equal time equally bestows on all men” (I3: 74–75).

As soon as men begin to conceive of themselves as equal in one respect it seems ineluctably to follow that they will consider themselves equal in all others. “From this equality of ability,” Hobbes notes, “ariseth equality of hope in the attaining of our ends” (13: 75).

From a political vantage it makes no difference if natural differences exist or not, and Hobbes is suitably equivocal about whether “nature therefore have made men equal ... or if nature have made men unequal” (15: 97). All that really matters is that they “think themselves equal,” and of this much he seems certain. Given their conceit – right or wrong – they demand to be treated as equals, “on like terms,” or they will refuse to cooperate, even when unequal cooperation might be mutually advantageous (15: 97; cf. 17: 109).⁸ Whether deontological or merely prudential in their foundations, Hobbes’s so-called “laws of nature” revolve around the central political axiom that once people come to think of themselves as equals they need to be treated as such wherever possible, publicly and privately, especially in matters of equity, lest even minor instances of differential treatment give rise to civil disorder (15: 96–99).

Hobbes is not just concerned with the affirmative claims of natural equality. He is also determined to debunk justifications of natural inequality, whether aristocratic or Aristotelian in provenance:

The question “who is the better man?” has no place in the condition of mere nature, where (as has been shewn before) all men are equal. The inequality that now is, has been introduced by the laws civil. I know that *Aristotle* (in the first book of his *Politics*, for a foundation of his doctrine) maketh men by nature, some more worthy to command (meaning the wiser sort, such as he thought himself to be for his philosophy), others to serve (meaning those that had strong bodies, but were not philosophers as he), as if master and servant were not introduced by consent of men, but by difference of wit; which is not only against reason, but also against experience. For there are very few so foolish that had not rather govern themselves than be governed by others; nor when the wise in their own conceit contend by force with them who distrust their own wisdom, do they always, or often, or almost at any time, get the victory. (15: 96–97)

Regardless of whether this is an accurate rendition of Aristotle’s position, Hobbes’s refutation merits careful scrutiny. First, we should note his insistence that inequality (or at least political inequality) is not natural but instead the result of convention or “laws civil.” In this point and others Hobbes is fully in accord with his egalitarian legatee Jean-Jacques Rousseau. That said, there is considerable slippage between this assertion and the argument for natural equality in [Chapter 13](#). What Hobbes has “shewn before” has nothing to do with moral worth or political status, per se. Rather the claim is, strictly speaking, that whatever risible physical or intellectual differences might exist among men in the state of nature are overshadowed by common vulnerability to death.

⁸ For Hobbes’s acknowledgment of the politically vexing fixation on relative over absolute gains from cooperation, see Boyd, “Behavioral Economics.”

Unless “better man” refers to one’s ability to kill another, then Hobbes’s moral inference here makes little sense. Second, there is the matter (as critic Clarendon deftly pointed out) of Hobbes’s fallacious slippage between a subjective and an objective account of human equality. As Clarendon notes, just because those of lesser wit refuse to accede without violence to the greater reason of their betters does nothing to disprove the latter’s inherent superiority.⁹ The mere fact that “men think themselves equal,” and are thus likely to become uncooperative or intransigent if others refuse to grant their presumption, is hardly sufficient to justify on anything other than pragmatic grounds Hobbes’s “law of nature” that “every man acknowledge every other for his equal by nature” (15: 97).

Beyond the physical, intellectual, and moral equality Hobbes ascribes to human beings in a pre-political state of nature, there is also a sense of sameness or uniformity arising from the genesis of the political community itself. Much like his disciple Rousseau, Hobbes concurs that conventional inequalities of status, honor, wealth, or even gender come to distinguish human beings only after the institution of political society. Yet, rather than the “identity of our natures” being undone by civilization and the “clever usurpation” of government, as per Rousseau’s lapsarian spin in the *Second Discourse*, whereby the wholeness and equality of pre-political man give way to lamentable differences, for Hobbes the generation of the political community seems coterminous with the invention of an altogether novel kind of sameness and unity.¹⁰

There is, for example, the notion that differences within civil society are eclipsed by the magnitude of inequality between sovereign and subjects. Differences of status and honor that may subsist within civil society are solely the result of the sovereign’s actions, and thus no man can claim to deserve these dignities by nature (18: 115; 30: 222). Moreover, whenever unequal subjects are in the presence of the sovereign any trivial distinctions get overshadowed by the eminence of the latter, just as differences between subjects and their earthly sovereign are diminished “in the presence of the King of kings” (30: 226).

The theological underpinnings of Hobbes’s argument provide further support for the notion of equality-as-similitude. There is, first, the Biblical conception of an equality established among mortals by dint of the manifest sovereignty of God over his creation.¹¹ Whatever risible differences are manifest among human beings, these are insignificant against the backdrop of divine omnipotence – not coincidentally, the gist of the Job story from which the work *Leviathan* takes its name. Whether from a secular or sacred vantage, equality is often established against a horizon of profound inequality, if not domination. Besides this notion of equality through subjection to a common superior, there is a theological basis for uniformity as well. For it is a feature of Christian theology that God’s subjects are not only of equal status and dignity

⁹ Hyde, “A Brief View.”

¹⁰ Rousseau, *Origins of Inequality*, 132, 158–63; Rousseau, *Emile*, IV, 221.

¹¹ See, for example, Mitchell, “Hobbes and the Equality of All under the One.”

but also similar in kind: all one human species, created in God's image, uniformly endowed with a faculty of reason, and commanded to love one another universally.

Above and beyond the theological dimensions, appeals to a civil religion constitute yet another grounds for fostering similitude within a political community. The covenant instituted among subjects represents "more than consent, or concord" necessary to sublimate rivalries and cement natural advantages. It is a "real unity of them all, in one and the same person" (17: 109). This unity is presumably religious as well as political. As we see in *Leviathan's* frontispiece, the individual faces of subjects vanish as they merge together into one seamless unity of the body politic. The law is no mere contrivance of physical constraint but "the public conscience," which supersedes over a "diversity" of private consciences by which the "commonwealth must needs be distracted" (30: 212). In order to minimize private religious disputes and to cement the unity of the political community, it "ought to exhibit to God but one worship," whose very nature is to be "uniform" (31: 242).

Conversely, maybe the best evidence of homogeneity's importance are the difficulties Hobbes associates with heterogeneity. The task of instituting a commonwealth requires one first to deal with the irregularities of human beings as "matter," their proclivities toward "jostling and hewing one another." The wise architect must make them "desire with all their hearts to conform themselves into one firm and lasting edifice," which entails not only "fit laws to square their actions by," but also and maybe more importantly a remaking of their character. The "rude and cumbersome points of their present greatness" must be polished away so that they fit together neatly. Any irregularity or "asperity" must be cast aside as unfit material. Without a certain degree of modularity on the part of the subjects, any commonwealth will, like a poorly engineered building, if not collapse immediately then "assuredly fall upon the heads of their posterity" (29: 210). "Contrariety of men's opinions and manners" are at minimum a limiting condition on political life that must be reckoned with, if not eliminated altogether (Review and Conclusion [R&C]: 489). The "education and discipline" to which Hobbes appeals as remedies seem to have something to do with fostering a greater "similitude of the thoughts and passions of one man to the thoughts and passions of another" (R&C: 489; Intro: 4).

QUANTITY AND QUALITY: POPULAR SOVEREIGNTY AS MAJORITARIANISM

Hobbes's embrace of equality-as-similitude is most striking for its prudential dimensions. Equality precludes conflicts among subjects otherwise beget by their pride and vanity. Even if people aren't really equal, we are obliged to treat them as such lest they take offense, Hobbes cautions. Likewise, similitude discourages subjects from falling prey to disagreements, disorder, and the breakdown of commonwealth. These similarities (and the underlying fiction

of equality on which they rest) are at the heart of Hobbes's project of creating a unified *people*, one of the prerequisites for popular sovereignty. At a deeper level, however, Hobbes's postulate of moral equality lies at the very foundation of theories of popular sovereignty: namely, the equal value of the will of every single member of a people. For purposes of sovereignty, representation, and so on, no subject's will shall be deemed *ex ante* any more valuable than another's, not just morally or symbolically, but quantitatively. This mathematical reckoning of human equality, Hobbes makes clear, is at the heart of modern notions of representation.

Given *Leviathan's* focus on a single unified sovereign who personifies the will of a whole political community, and therefore acts unilaterally on its behalf, we are not accustomed to thinking about its majoritarian dimensions. Except for the fact that the sovereign ultimately derives authority from the will of otherwise discrete individuals, Hobbes's account of sovereignty looks anything but "popular." Yet, in his discussions of how a multitude becomes constituted as a person Hobbes says a number of suggestive things about the democratic underpinnings of popular sovereignty. Hobbes's concern is not only with personation – that is to say, how one artificial person comes to stand in for the wills of various subjects who authorize him – but also, albeit less obviously, with generic matters of democratic deliberation whenever a representative body of any sort has to come to a decision.

Assuming the existence of a representative body, on what terms should its deliberations be concluded? Must a representative body be fully unified in order to act? Does it require a simple majority or perhaps a supermajority? Why not unanimity? And what is the status of people who end up on the losing end of any particular deliberation? Is there any way in which the process of deliberation can winnow out worse from better opinions, such that the superior wisdom of a numerical minority might carry the day?

One aspect of Hobbes's description is his strong sense of the majoritarian nature of deliberation. Every person who enters into the congregation or assembly has a distinct will that must be aggregated through the process of deliberation into a single unified "voice." Hobbes stipulates "if the representative consists of many men, the voice of the greater number must be considered as the voice of them all." We emphasize the "greater *number*." This is to say that Hobbes's way of justifying the practical and normative significance of majoritarianism is strictly quantitative, a kind of political math problem susceptible to precise solution: "For if the lesser number pronounce (for example) in the affirmative, and the greater in the negative, there will be negatives more than enough to destroy the affirmatives; and thereby the excess of negatives, standing uncontradicted, are the only voice the representative hath" (16: 104–105).

This mathematical justification of the principle of majority rule, we should note, does not rest on any epistemic confidence in the wisdom of the many. There is no claim that the "voices" that happen to be in the numerical majority are necessarily more intelligent than the minority whose opposing views

they cancel out. Nothing is said about the tendency of better views to preponderate – that is, any suggestion that their numerical supremacy owes to their moral or epistemic superiority. Setting aside qualitative judgments about the superior wisdom of the majority, neither does our deference to the voice of the majority derive from the intrinsic value of the democratic process. Majorities are dispositive because they represent more wills, and not because there is anything empirically true or morally right about deferring to the views of the greater part of the community.

One crucial premise of Hobbes's mathematical metaphor is the assumption that all voices are of equal valence or weight. The notion of affirmatives and negatives canceling each other out requires the mathematical equivalency of all voices. Unless every single voice carries the same absolute value – whether positive or negative – their contrary expression will not result in a precise cancelation, leaving behind a conclusive remainder. Uniformity is a necessary condition for reducing all voices to a single metric of quantification. And yet the quantifiability of democratic deliberation comes at the expense of any qualitative recognition of the voices in question, whether of the individuality of the speaker or the intrinsic merits of ideas being voiced.

The peculiarity of this argument may be seen by contrasting Hobbes's stylized characterization with real-life deliberations in which voices are not all valued equally. As we know, some speakers enter the conversation invested with greater authority than others. When certain people speak, others listen more attentively. Likewise, regardless of issues of personal status, some voices convey ideas or arguments of greater wisdom or merit, and their qualitative superiority marks them out for distinction. It is telling that Hobbes's metaphor seems to imply a purely acclamatory process, with the preponderance of voices carrying the day, whereas in actual deliberations, substantive arguments presumably matter.

In one sense the appeal to “voices” reinforces the depersonalization of the deliberative process, as in the case of a parliamentary “voice vote” where individual preferences are not recorded. Even so, there is another respect in which the concept of “voice” draws attention to the problems with approaching democratic deliberation through a purely quantitative lens. For we know that individual voices are in fact highly distinguishable – maybe even the quintessential identifying characteristics of real persons. Voices differ essentially. Whereas some are pleasingly rhetorical, others are shrill and grating. Still others exercise disproportionate sway solely by virtue of being louder or more strident than their peers. In an actual parliamentary assembly one would never be content with a mere voice vote of “ayes” or “nays” in any but the most clear-cut and uncontroversial matters, and thus the need for deliberation, a formal vote, and numerical tally. At the end of the day, however, when all voices are counted, the view advanced by Hobbes represents the triumph of quantity over quality. Regardless of the status, wisdom, forcefulness, or rhetorical seductiveness of a voice, when time comes to vote every will must be reckoned the same as

any other. Without denying the possibility of substantive differences between them, with respect to political representation every political will gets treated as of equal value. Moreover, once the decision has been concluded on majoritarian grounds the losing side must conform its will to that which prevailed quantitatively. What began as a multitude distinguished by many separate voices gets transformed into a unity that acts with a single concerted will and speaks in one and only one voice. The results of Hobbes's theories of representation and deliberation are identical: the conversion of discrepancy into unity.

There is one major qualification to Hobbes's principle of mathematical equivalency, however, which takes us back to our earlier point about how popular sovereignty relies not only upon popularity, as determined by the majority, but also on antecedent notions of peoplehood. The flip side of Hobbes's postulate that the wills of all members of a people should count equally is the notion that the wills of nonmembers may be deemed unequal. Quantity reigns supreme only among a given people. Indeed, the wills of nonmembers ought not to figure at all in the political calculation, the canceling out of positive and negative valences. Peoplehood is predicated not only on the reduction of its members' wills to a purely quantitative dimension, but also on a qualitative distinction between members and nonmembers. It is not as if the wills of nonmembers of a people count for more or less than those of members, whether positively or negatively. There is no ratio or common denominator by which these external wills can be converted into a commensurable quantity. They are qualitatively distinct. Beyond the horizon of peoplehood extraneous wills simply do not weigh into the calculus of popular deliberation.

One might wonder why this is the case given the terms of Hobbes's argument? As we have seen, Hobbes's state of nature is populated by "men," that is to say, human beings who conspicuously lack antecedent personal or collective identities. His anthropological rendition of this condition is at least nominally cosmopolitan: All "men" are defined by their biological mortality and governed by universal "laws of nature." Moreover, unlike his legatees Locke and Rousseau, who both allow for antecedent ties that bind a "community," "society," or "people" into an identifiable pre-political collectivity, Hobbes is adamant that there is no intermediary social stage between the condition of atomized individuals and the formation of a commonwealth.¹² How peculiar, then, that his theory simultaneously affirms an equality among subjects, on the one hand, and distinctions separating political communities, on the other.

One possible explanation is that it is precisely because Hobbes cannot rely – like Locke or especially Rousseau – upon the existence of any such pre-political aggregations that he needs to affirm so strongly the sense of similitude on the part of subjects. Uniformity or collective identity is not something that Hobbes

¹² Locke, *Second Treatise* [MacMillan 1952 edition], VIII, *95–96, *106; XIX, *211; Rousseau, "The Social Contract" [*Major Political Writings*], esp. II, 8, 194–95.

can take for granted before the political genesis of a commonwealth; it is something that needs to be impressed upon subjects who would otherwise remain a mere multitude or aggregation. If I am right, this explains much about the relationship between popular sovereignty and peoplehood. Rather than peoplehood giving rise to and justifying popular sovereignty, it is popular sovereignty that must be tasked with forging a distinctive people.

POPULAR SOVEREIGNTY AND NATIONAL HOMOGENEITY

Thus far I have emphasized the role of equality qua uniformity in Hobbes as constitutive of popular sovereignty. Popular sovereignty as we generally conceive of it today is predicated on the rule of coequals who are regarded as morally comparable, if not sociologically homogenous, for purposes of collective self-governance. And yet there is a more fundamental way in which this uniformity relates to popular sovereignty – that is, the invention of distinct peoples who purport to rule in the name of the majority. The birth of popular sovereignty as a mode of governance is intimately connected with the formation of peoples who aspire to be sovereign over themselves. Paradoxically, their intranational uniformity represents the flip side of international differentiation.

In the age before the rise of modern democratic publics one could imagine sovereignty as a legal power invested in a specific person, family, or office charged with the task of ruling over a given territory. To be sure, pre-popular conceptions of sovereignty might derive legitimacy – at least in part – from the notion that this or that sovereign was the ruler of a distinctive nation, say, the French or the Poles, but the composition of that populace need be neither equal nor homogeneous. Populations over whom a sovereign ruled might consist of disparate ranks, hierarchies, orders, and ethnic groups, as they often did in early modern European kingdoms or in nineteenth- and early twentieth-century empires.¹³ While the subjects of sovereignty often shared a common language, religion, or ethnic kinship (real or imagined), this was not an absolute requirement of pre-popular conceptions. Sovereigns could – and often did – rule over highly variegated and internally heterogeneous communities.

Hobbes's account of sovereignty, as we have seen, is preoccupied with removing differences that allegedly dispose a political community to conflict. Differences of religion, opinion, faction, or ethnicity are limiting conditions on social order. Pluralism or diversity is to be minimized if not eliminated altogether in the name of avoiding social conflict.¹⁴ Conversely, homogeneity and "unity" are desirable means to peace and civil order. One key aspect of

¹³ One thinks of the language of the Mayflower Compact whereby James I and VI is hailed by the Puritans as "our dread Sovereigne Lord, King James, by the grace of God, of Great Britaine, France and Ireland king, defender of the faith, etc." See Bradford, *Of Plymouth Plantation*.

¹⁴ For a different but complementary account of Hobbes's anti-pluralism, see Boyd, "Perils of Pluralism."

the growth of the modern liberal state, as Jacob Levy has recently suggested, is its connection to a powerful rationalizing and homogenizing imperative.¹⁵ It is perhaps no accident that the age of popular sovereignty was also the age of nation building and the deliberate invention of homogenous peoples in the face of otherwise disparate populations. As Carl Schmitt notes in his *Crisis of Parliamentary Democracy*, “Every actual democracy rests on the principle that not only are equals equal but unequals will not be treated equally. Democracy requires, therefore, first homogeneity and second – if the need arises – elimination or eradication of heterogeneity.”¹⁶

One logical corollary to the Schmittian view that subjects must be uniform, regular, and homogenous is the notion that nation-states should be distinctive. Paradoxically, it is precisely because the individuals who compose a political community are allowed to have no *personae* of their own that political communities can be unique and differentiated from one another. We find this point expressed by subsequent thinkers such as Rousseau, for whom similitude among Poles, say, is what allows them to distinguish themselves so readily from Russians.¹⁷ Conversely, as critics allege, it is by dint of mounting internal diversity in the contemporary world that nations become indistinguishable in the face of globalization.

Popular sovereignty may be predicated on the notion that the will of a nation is something that already exists. Peoples are organic wholes with their own unique mores, historical circumstances, and cultural accomplishments. Rousseau for one seems to be of this view. Their antecedent unity reveals itself once all the discrepancies, the “pluses and minuses,” or “differences” plaguing a community are summed up and thereby canceled out.¹⁸ Every people has a general will; the political problem consists in ordering political communities in such a way that this will may come to be expressed. Yet, as Rousseau divined, this generality with respect to a given political community is at least in part a reflection of its partiality with respect to other nations. The Genevan’s *Discourse on Political Economy* boldly declares something only hinted at in *Leviathan*. Namely, in a world of sovereign nation-states the will of one state will be inimical to that of another. “The will of the state,” Rousseau observes, “although general in relation to its members, is no longer so in relation to other states and their members.”¹⁹ For both, it seems, war is the ineluctable if lamentable result of conflicting wills. One of Hobbes’s most persuasive arguments for the empirical existence of a state of nature, we should recall, is that this condition obtains between sovereign states in the sphere of international relations, over whom there exists no sovereign to chasten their jealousies and animosities (13: 78).

¹⁵ Levy, *Rationalism, Pluralism and Freedom*.

¹⁶ Schmitt, *Parliamentary Democracy*, 9.

¹⁷ Rousseau, *Government of Poland*, 10–12.

¹⁸ Rousseau, “The Social Contract” [*Major Political Writings*], 182.

¹⁹ Rousseau, “Political Economy,” 212.

The collective self-determination of communities in a world of sovereign nations demands the minimization – if not elimination – of discrepant elements in the name of political cohesion. Yet, as Schmitt hinted in the above-cited passage, it is only a small step beyond the negative logic of removing contingent differences to the stronger claim that political communities must be rendered internally homogenous and externally distinctive irrespective of deep and fundamental differences of culture or character. It is perhaps no accident that classic efforts to remake political communities from the ground up – say, Eugen Weber’s story of “peasants into Frenchmen,” Benedict Anderson’s “imagined communities,” or Ernest Gellner’s superimposition of high over low culture – have been undertaken in the name of “inventing” forms of homogeneity that did not previously exist.²⁰ Solidarity is no longer conceived of as polishing away asperity, irregularity, contrariety, and differences within an otherwise cohesive political community, as originally expressed by Hobbes (15: 95; R&C: 489). Rather it is a matter of actively cultivating national distinctiveness in a way that generates commonality among members of a nation-state precisely by setting them apart from other nations.

By this logic, then, nations only become distinctive vis-à-vis other nations when individual citizens surrender their distinctiveness vis-à-vis other citizens. Ironically, for all of his gestures in the direction of international conflict and the sublimated war that obtains between nations in an international system, this corollary of Hobbes’s theory was left for the likes of Carl Schmitt and others to apprehend in the first decades of the twentieth century. Intranational unity reinforces international antipathy, if not outright war. “The political entity presupposes the real existence of an enemy and therefore coexistence with another political entity,” Schmitt elaborates: “As long as a state exists, there will thus always be in the world more than just one state.”²¹

CONCLUSION

Thus far we have considered Hobbes’s contributions to our understanding of sovereignty as well as his role in the emergence of modern ideas of popular sovereignty. Three of the main ingredients in the modern conception of popular sovereignty come to fruition in Hobbes: the idea of subjects as equal and interchangeable building blocks of the political community; whose wills are of equal worth in adjudicating the direction of the political community, even if only initially; and whose similitude within the body politic is what allows the political community to distinguish itself from other nations.

²⁰ Weber, *Peasants into Frenchmen*; Anderson, *Imagined Communities*; Gellner, *Nations and Nationalism*; Hobsbawm and Rangers, *The Invention of Tradition*.

²¹ Schmitt, *Concept of the Political*, 53.

Hobbes's insights into the nature of popular sovereignty have proven elusive, however, in that his views have more often been appreciated by critics of popular sovereignty than by its defenders. The latter tend to disavow the "totalitarian" Hobbes's role in the development of popular sovereignty, whereas the former – most notably, Carl Schmitt – take Hobbes's presentation as the aboriginal instance of the more general concept. Hobbesian sovereignty, for Schmitt, appears simultaneously demonic and benevolent, organic and mechanical, mythical and rationalistic, the culmination of legalism in a domestic context and the distillation of the extra-constitutional essence of a state of nature in the sphere of international politics. Its dialectical quality is best seen in the tension between its internal and external forms. "The more complete the internal organization of a state is, the less feasible it is for it to engage in mutual relations on an equal basis," Schmitt observes of the Hobbesian logic.²²

Schmitt's appreciation of the mythical or theological dimensions of Hobbes's theory casts light on one final question, namely, the precise nature of the putative homogeneity upon which Hobbes's theory of popular sovereignty rests. If my reading is correct, and Hobbes is indeed obliged to turn to popular sovereignty as a way of forging uniformity and cohesion within an erstwhile "people," there remains the question of what form that cohesion is most likely to assume. What sort(s) of uniformity does Hobbes intend? To put this in contemporary terms, is the Hobbesian political community likely to be "civic," "cultural," or "ethnic" in nature?

Unlike more paradigmatic nationalist thinkers such as Rousseau, Herder, or Fichte, the ethnic conception of the nation seems fundamentally incompatible with Hobbes's framework. Appeals to a given *ethnie* or "people" have little place in Hobbes's argument, and for reasons that should be intuitive by now. Unlike his contractarian brethren Locke and Rousseau, Hobbes allows no intermediary stage of society or peoplehood to mediate his stark dichotomy between civil association and the atomized individuals of the state of nature. As we have seen, Hobbesian individuals appear as generic "men," individuated "*personae*," or discordant "multitudes," not as bearers of pre-political communal identities or members of discernible ethnic groups. Although it is incumbent on the abstract men of Hobbes's state of nature to assemble themselves into some kind of political community, there is no logic – other than expediency, and scarcely mentioned accidents of history or conquest – for them to affiliate under any particular national configuration. Ethnic modalities of the nation, then, seem fundamentally incompatible with Hobbes's individualistic and materialist ontology.

Conversely, and for many of the aforementioned reasons, the model of a civic nation looks more congenial to Hobbes's orientation, at least at first glance. The civic model does not assume underlying ethnic or racial ties among

²² Schmitt, *State Theory of Thomas Hobbes*, 49.

subjects that would link them to any particular group of people. Instead it reduces political membership to an abstract, rational expression of political allegiance. The potential difficulties with this conception of peoplehood, however, stem from its lack of a sufficiently sturdy grounding for political allegiance. One might doubt whether rational calculation in and of itself provides a reliable source of political obligation and unity. Hobbes is well aware that, absent a powerful dose of fear, people are unlikely to keep their promises when it is no longer in their interest to do so, and his lengthy deductive proof of political obligation acknowledges an implicit tendency to disobey whenever it is advantageous for subjects. Something more robust than a covenant, instrumental reason, or “constitutional patriotism” is necessary to supply the degree of unity and social cohesion demanded by the Hobbesian political community.

The most likely candidate, then, is a nation where thick cultural symbols, deeply shared moral values and commitments, or what we today would call a “civil religion” stamp a group as one distinctive people. To be sure, Hobbes’s political community seems willing to accommodate – when absolutely necessary – a certain latitude of religious or cultural pluralism. But it is impossible to read *Leviathan* without a sense that these differences are to be minimized, wherever possible, and that the sovereign ought to do everything in its power to foster moral and cultural uniformity. Not just an empty formal equality, but also substantive likeness and cultural homogeneity lie at the very heart of Hobbes’s political project.

For this reason, as we have seen, Hobbes’s political theory ably illustrates the complex and dialectical relationship between peoplehood and popular sovereignty – with the former developing alongside the latter, both conceptually and historically. Hobbes’s version of popular sovereignty proves instructive insofar as it allows us to appreciate better the relationship between political democracy and cultural homogeneity, between populism and nationalism, and between the internal composition of political communities and their distinctiveness vis-à-vis other nations. These insights further reveal that popular sovereignty rests not on a single “fiction,” as Edmund Morgan suggested, but instead on multiple intersecting fictions: equality, homogeneity, majority rule, and the existence of distinct and identifiable peoples.

Popular Sovereignty on Trial

Tocqueville versus Schmitt

Ewa Atanassow

INTRODUCTION

The greatest challenge to liberal democracy today comes from political movements that in the name of democratic equality and popular sovereignty erode institutional checks on the exercise of power. Staying within formal electoral rules, parties and charismatic leaders seek to consolidate authority not only by contesting particular policies but also by attacking the very foundations of the constitutional order. Behind them stand publics that condone the assault on liberal norms, and welcome the possibility of a democratic regime that is non-liberal or expressly anti-liberal.¹

While newly urgent, the rise of illiberal populist movements is not in itself new. Although triggered by specific conditions and catalyzed by the failures of the liberal order itself, the current assault on liberal democracy draws on century-old ideas. It reflects tensions and dilemmas that are constitutive of modern society. Comparing two influential accounts of these tensions – by Alexis de Tocqueville and Carl Schmitt – this chapter interrogates the meaning and ramifications of popular sovereignty in order to shed light on liberal democracy’s vulnerabilities and strengths, past and present.

Tocqueville is a canonical proponent of liberal constitutionalism, whose work has enjoyed a broad appeal across partisan and geopolitical divides.² Schmitt’s reputation as liberalism’s “most brilliant critic” has made him the

Special thanks to David Dyzenhaus, Bryan Garsten, Dieter Grimm, Chantal Mouffe, Vatsal Naresh, Heather Pangle Wilford, Steve Smith, Yingqi Tang, Kuangyu Zhao, and the participants of the Yale Political Theory Workshop for their help in honing this chapter’s argument.

¹ Vormann and Weinman, *Emergence of Illiberalism*; Plattner, “Illiberal Democracy.”

² Craiutu, “Tocqueville’s Paradoxical Moderation”; Epstein, *Alexis de Tocqueville*; Liao, “Tocqueville in China”; Schmitter and Karl. “What Democracy Is ... and Is Not.” Also, Editors’ Introduction, “Democracy in the World: Tocqueville Reconsidered.”

patron saint of radical critiques from the Left and the Right, in the East and the West.³ Behind this sharp contrast, however, hide instructive similarities. Trained as jurists with philosophical bent and political ambitions, Tocqueville and Schmitt viewed popular sovereignty as the vital core of modern politics. Both accepted democracy as “irresistible” and “providential” in Tocqueville’s words, or in Schmitt’s as the “unavoidable destiny” of the modern world, and sought to discern its implications. Both wrote in circumstances of existential crisis: Schmitt in the context of interwar Germany and its “deeply contested” Weimar constitution; Tocqueville from the perspective of a France in the grip of ongoing revolution, and as a witness to the looming crisis of the American Union which, he surmised, was headed to a breaking point. Both looked back on 1789 and its aftershocks as modernity’s crucible in which each of their political visions were forged.

Alongside these affinities there was also a direct influence: Schmitt was an admiring reader of Tocqueville whose analysis deeply informed his own. Schmitt’s damning rebukes of liberalism – of individualism and the danger of depoliticization, of “pantheism” (or “immanentism”), and of the unprecedented dehumanization that modern society may give rise to – were powerfully anticipated by Tocqueville. Schmitt’s political-theological approach, too, has Tocquevillean resonances.⁴

Most pertinently, Tocqueville and Schmitt both distinguished democracy from liberalism in order to shed light on the nature of what Schmitt termed “the political,” and on the stakes of modern politics. And herein, I argue, lies their fundamental disagreement. Distinguishing democracy from liberalism is a cornerstone of Schmitt’s constitutional theory that allows Schmitt to advocate dictatorship as a legitimate democratic form: an advocacy that culminated in his pledging allegiance to the National Socialist regime. Central to Tocqueville’s “conceptual system,” the tension between equality and freedom underpins his account of American democracy, and of the main challenges facing modern society.⁵ While Schmitt insisted on differentiating liberalism from democracy in order to attack liberal norms and institutions, Tocqueville deployed the distinction to advance liberal self-understanding and guard against modern threats to freedom. If Schmitt is often invoked as the intellectual precursor

³ McCormick, *Carl Schmitt’s Critique of Liberalism*; Müller, *A Dangerous Mind*; Dyzenhaus, “Carl Schmitt in America” and “Schmitt in the USA”; Kurylo, “Russia and Carl Schmitt”; Che, “The Nazi Inspiring China’s Communists.”

⁴ As Müller observes, “Schmitt wanted to be seen as the Tocqueville of the twentieth century who had to witness Tocqueville’s nineteenth century predictions come true,” *A Dangerous Mind*, 56. Balakrishnan, “The Age of Carl Schmitt,” 23. Schmitt, “Historiographia in nuce,” 25–31; Tommissen, *Schmittiana*, Band VII, S. 105 and Band VI, S. 148–49. See also, Selby, “Towards a Political Theology of Republicanism”; Camus and Storme, “Schmitt and Tocqueville,” and “Carl Schmitt, Lecteur de Tocqueville.”

⁵ Furet, *In the Workshop of History*, Chapter 10; Manent, *Tocqueville and the Nature of Democracy*, Ch. 2.

of today's detractors of liberal democracy, Tocqueville offers much needed resources to its defenders. Proceeding dialogically, this chapter argues that even when taken at face value, Schmitt's critique of liberal-democratic politics fails on its own terms: It undermines the political rather than promoting it. In reconstructing a Tocquevillean response to Schmitt's harsh critique, my aim is to turn this critique to liberal democracy's advantage.

LIBERALISM AND DEMOCRACY IN TOCQUEVILLE

In *Democracy in America* Tocqueville proclaims democracy's global rise. The principle of equality, he argues, has no viable alternative in the modern world. In the aftermath of the Atlantic revolutions and the defeat of aristocracy as a social system, the urgent question is no longer whether to have democracy but of what kind. Tocqueville called for, and pioneered, a "new political science" to guide this democratic quest.⁶

Although democracy is "irresistible," its outcome is not predetermined. Democracy's social base and the passion for equality which, Tocqueville claimed, define the modern age are compatible with two very different political scenarios: one that postulates equal rights and freedoms, and another predicated on an omnipotent state that pursues equality by demanding the equal powerlessness of all. Freedom, in other words, is not a necessary outcome of democratization. With the demise of traditional social orders and regime types, and the ascendance of popular sovereignty as the modern legitimating principle, the fundamental political choice is between democratic self-rule and egalitarian despotism. These different possibilities represent two alternative global models, which Tocqueville famously identified with the United States and Russia.⁷

Highlighting the tension between equality and freedom, Tocqueville traces this tension to two distinct dimensions of modern democracy – social equality and popular sovereignty – and to the illiberal potential each of them carries. Modern democracy for Tocqueville is premised on the moral equality of human beings. Not primarily a political concept, democracy is a "social state": a condition of society where status is not fixed by birth but must be acquired. While social distinctions and hierarchies still exist, these are fluid and changeable. Democracy, in other words, connotes social mobility: the possibility of rising – and falling – on the social ladder. This in turn entails a way of seeing the human world that insists on fundamental similarity, and a peculiar mindset characterized by the "ardent, insatiable, eternal, invincible" love of

⁶ Tocqueville, *Democracy in America* [Nolla edition], 6. The four-volume bilingual edition edited by Eduardo Nolla departs from the book's traditional division into two volumes. To facilitate referencing, I refer [in square brackets] to the conventional divisions into volume, part, chapter, and/or page. Mansfield and Winthrop, "Tocqueville's New Political Science."

⁷ Tocqueville, *Democracy in America* [Nolla edition], 6, 10, 14, 28, 89–90, 510–13, 665–66, 878, 1193.

equality itself. Rather than a static arrangement, democracy is a “perpetual work in progress.” The motor of this progressive dynamic is the individuals’ desire to shape their own life.⁸

In Tocqueville’s analysis, the drive to individual independence is both a central feature of democratic freedom and its foremost danger. A salutary check on pathological forms of collectivism, it also creates the conditions for atomization that undermine the social fabric. By encouraging a fixation on private interests and goals, individualism hides from view each person’s dependence upon and duty toward fellow citizens and society at large. It gives rise to solidarity deficits that, by weakening the shared trust in the institutional order, erode the moral preconditions of freedom. In times of hardship, the isolated individual would quickly discover the limits of his independence. Having lost ties to fellow citizens or the taste for seeking their support, begrudging the status of those who fare better, he would turn to the only agent that has retained uncontested agency: the state. As Tocqueville warns, egalitarian societies are vulnerable to the rise of a specifically democratic form of despotism: an all-powerful, ever-expanding centralized government.⁹

The first to be subjected to this fearful alternative, the Anglo-Americans have been fortunate enough to escape absolute power. Circumstances, origin, enlightenment, and above all, mores have allowed them to establish and to maintain the sovereignty of the people.

Prefacing the short chapter “On the Principle of the Sovereignty of the People in America,” Tocqueville’s statement points to popular sovereignty as a pivotal aspect of American freedom, and to mores as crucial for sustaining it.¹⁰ If equality is democracy’s social creed, its political principle is popular sovereignty. In its broadest meaning, popular sovereignty postulates that political institutions must be authorized by the people over whom they rule. While the moral equality of individuals grounds the idea of universal rights, the claim that the people is sovereign undergirds the liberal norm of rule by consent, and of government’s accountability to the governed. However, though integral to democratic liberty, popular sovereignty is not simply its guarantor. Like the passion for equality, it too can give rise to illiberal arrangements. Although legitimate rule requires popular consent, not all popular regimes are legitimate. After all, serving the people is what “schemers of all times and despots of all ages” have purported to do. Tocqueville warns that, as an abstract principle

⁸ Tocqueville, *Democracy in America* [Nolla edition], [1.2.5], 316; [2.2.1], 878; [2.3.5], 1013–14. Smith, *Modernity and Its Discontents*, 200; Zuckert, “On Social State.”

⁹ Tocqueville, *Democracy in America* [Nolla edition], [1.1.5], 142–66; [2.2.1–5] and [2.4.6]. Tocqueville, *The Old Regime and the Revolution*, analyzes the rise of state centralization in France, and its role in shaping the character of the French Revolution.

¹⁰ Tocqueville, *Democracy in America* [Nolla edition], [1.1.3], 90; emphasis added. See also Ioannis Evrigenis’ [Chapter 3](#) in this volume.

or ideological slogan, popular sovereignty lends itself to populist manipulation and to abusing rather than effecting the people's will.¹¹

In short, though a crucial element of a free democracy, popular sovereignty is not in itself liberal. Its liberal character depends on how this principle is institutionalized, and how popular support indispensable for the functioning of democratic institutions is generated and expressed. What distinguishes the United States – Tocqueville's foremost example of a free democracy – is the comprehensive way popular sovereignty informs both the institutional arrangements and the citizens' self-understanding.

Today in the United States the principle of the sovereignty of the people has attained all the practical developments that imagination can conceive. It has been *freed from all the fictions* that have been carefully placed around it elsewhere; it is seen successively clothed in all forms *according to the necessity of the case*. ... Sometimes the people as a body make the laws as at Athens; sometimes the deputies created by universal suffrage represent the people and act in their name under their almost immediate supervision. (DA [I.I.4] 96, italics added)

Tocqueville depicts American institutions – from the direct democracy in the township, through the state governments, to the grand design of the Federal Union – as applications of the same popular principle “according to the necessity of the case.” He views the variety of institutional forms, direct and representative, spontaneous and established, as diverse embodiments of popular sovereignty. For all their differences, these institutions draw on the same legitimating source, the people, and answer to a single court: public opinion. They enable and channel popular participation. This is why, as one chapter heading has it, “It Can Be Strictly Said that in the United States It Is the People Who Govern.”¹²

Tocqueville credits the intensely participatory character of American society with the “real advantages” of its democratic government: economic dynamism, public spirit, commitment to rights, and respect for law. Meddling in politics and the habits of engagement resulting from it enlighten political understanding. The people's widespread perception of being in charge generates popular allegiance to democratic practices and constitutional norms. Without this broad-based allegiance, the balanced government mandated by the Constitution would remain a mere theory, and the Constitution itself “a dead letter.”¹³

¹¹ Tocqueville, *Democracy in America* [Nolla edition], [I.1.4], 91; [I.2.10], 630–31. The distinction between popularity and legitimacy lies at the heart of the concept of “majority tyranny” that Tocqueville finds in *The Federalist* and elaborates into a full-blown critique of democracy, *Federalist* No. 10; Tocqueville, *Democracy in America* [Nolla edition], [I.2.7], 402–26.

¹² Tocqueville, *Democracy in America* [Nolla edition], [I.2.1], 278; [I.1.4], 92; [I.1.2], 49–50; [I.1.5], 104; [I.1.8], 245; [I.2.9], 467–72; [I.2.10], 633–34. In his analysis, popular legitimation underpins the judiciary and the Supreme Court as well. See also his rumination “Of the different ways that you can imagine the republic.” Tocqueville, *Democracy in America* [Nolla edition], 628–29, note 2; Manent, *Tocqueville and the Nature of Democracy*, Ch. 1.

¹³ Tocqueville, *Democracy in America* [Nolla edition], [I.1.8], 245; [I.2.6], 375 ff.

For Tocqueville, then, what makes the American polity liberal is its being robustly republican. The novelty of American democracy is the astonishing degree to which the popular principle has been “freed from all the fictions,” and the variety of ways in which citizens actually partake in public life. Beyond a legitimating myth or political slogan, Tocqueville stresses the reality of popular rule in the United States, and extrapolates from it a general prescription for liberal democracy.

To be free, a democratic people must find institutional ways to determine its own will rather than acquiesce in elite fabrications of that will. More than a constitutional Bill of Rights, the active exercise of those rights is the criterion that above all differentiates a free from an illiberal democracy. Freedom, in short, implies sovereignty, and the meaning of sovereignty is participation in ruling: a government, as Lincoln put it, *of* the people, *for* the people, and in crucial respects *by* the people as well.¹⁴

And yet, as Tocqueville knew from the violent upheavals of the French Revolution, actualizing such a free democracy meets with great challenges.¹⁵ Popular participation and the mobilization of civic passions that propel it are as much a danger to a free society as they may be its prerequisite. Holding up the new republic as empirical evidence for a robustly popular liberal-democratic regime, *Democracy in America* ruminates on the conditions of its possibility. Sifting through the factors that enable popular sovereignty in America, Tocqueville foregrounds the importance of mores which he defines as “the whole moral and intellectual state of a people.”¹⁶

In the chapter “The Three Races that Inhabit the Territory of the United States,” the longest in the book, Tocqueville ponders the durability of republican institutions and the future of the Union. As he argues, what sustains the democratic republic in America is the degree to which popular sovereignty has permeated all levels of social organization as well as ideas and practices and even religious beliefs. Not an empty abstraction, popular sovereignty recapitulates the daily workings of society.¹⁷ And yet, while regarding the future of American republicanism with unshaken confidence, Tocqueville expresses prescient doubts about the longevity of the Federal Union. Calling attention to racial diversity and the challenges to integration, he highlights the intra-white

¹⁴ www.abrahamlincolnonline.org/lincoln/speeches/gettysburg.htm, accessed May 26, 2020. For Tocqueville’s anticipation of this formula see *Democracy in America* [Nolla edition], [1.2.5], 364.

¹⁵ These challenges, and “the history of the evils” they gave rise to, prompted Constant and the nineteenth-century liberal mainstream to redefine modern freedom advocating limited suffrage and representative institutions that would effectively prevent broad-based participation. Constant, “The Liberty of the Ancients,” 317; Kahan, *Liberalism in Nineteenth-Century Europe*. Also Kalyvas and Katznelson, *Liberal Beginnings*, 146–75.

¹⁶ Tocqueville, *Democracy in America* [Nolla edition], [1.1.3], 90; [1.2.9], 466–67; see also note F, 666; Maletz, “Tocqueville on Mores.”

¹⁷ Tocqueville, *Democracy in America* [Nolla edition], [1.2.10], 627–36.

differences as the most momentous threat to the Union's existence. Long before Lincoln's fateful speech, Tocqueville points to the divided house – half-free and half-slave – of the American Union as unlikely to long endure, notwithstanding the shared political culture and ethno-religious identity between the North and the South.¹⁸ Differences in mores and way of life more than diverging material interests endangered the integrity and future of the federation. If the principle of popular sovereignty was the “the law of laws” of American democracy, who could belong to “We the People” was an open question on which hung the destiny and future of the United States.¹⁹

In sum, Tocqueville praised the United States for the institutional imagination that allowed it to combine extended size with popular participation, social and institutional diversity with political unity. At the same time, he recognized the fragility of the Federal Union. Probing the contested character of American peoplehood, Tocqueville's work highlights the dangers of popular rule, first signaled in the quasi-theological conclusion of the popular sovereignty chapter:

The people rule the American political world as God rules the universe. It is the cause and the end of all things; everything arises from it and everything is absorbed by it.²⁰

The people, Tocqueville suggests, is to democracy what God is to religion: its alpha and omega, its source and rationale. If faith in the people is indispensable for democratic government, how the people and its sovereignty are construed is critical for the possibility of free democracy. One set of dangers implied in this analogy issues from viewing the people as omnipotent: ruling godlike and in God's place. As Tocqueville's discussion of majority tyranny intimates, such a vision confuses the political good with the moral good, or the “sovereignty of the people” with “the sovereignty of the human race.” Canvassed in *Democracy in America's* longest chapter, this dangerous confusion was most poignantly exemplified by the racial policies of the new republic that denied parts of its population not only social and political equality but their very humanity.²¹

Yet, if one threat to democratic freedom consists in deifying the people and mobilizing difference to justify tyrannical exclusion, the other, explored in *Democracy in America's* final chapters, stems from losing sight of meaningful

¹⁸ Tocqueville, *Democracy in America* [Nolla edition], [1.2.10], 583. Abraham Lincoln, House Divided Speech of June 16, 1858, www.abrahamlincolnonline.org/lincoln/speeches/house.htm.

¹⁹ Compare Tocqueville, *Democracy in America* [Nolla edition], [1.2.10], 583, 627–28, 633–36. Neem, “Taking Modernity's Wager.”

²⁰ Tocqueville, *Democracy in America* [Nolla edition], [1.1.4], 97 translation amended. For an extended discussion see Selby, *Tocqueville, Jansenism, and the Necessity of the Political in the Democratic Age*, Ch. 7 and Ira Katznelson's chapter in this volume.

²¹ Tocqueville, *Democracy in America* [Nolla edition], [1.2.7], 410, 414, note 4; [1.2.10], 515–81. See also Wilford, “Like a God on Earth.”

differences, and of political agency and freedom. No longer bound by collective categories and civic membership, the citizens are reduced to an indiscriminate “crowd of similar and equal men,” each a stranger to the destiny of others, and to the idea of directing one’s own life. As political identities lose their meaning and legitimacy, so do existential alternatives. Self-rule gives way to a top-down governance that labors for the happiness of all by relieving each from “the trouble of thinking and the care of being.”²²

Thinking through modernity’s dialectic of equality and difference and its evolution down the egalitarian road, Tocqueville worried that, were the former to prevail, it would succeed not in achieving actual universality but in effectively suppressing the contestation of universality and the quest for new ways to be human. More than the tyranny of particular formations or local outbreaks of illiberalism, the great threat Tocqueville’s work points to is a global discrediting of the sovereignty of peoples and of democratic politics as such.

DEMOCRACY VERSUS LIBERALISM IN CARL SCHMITT

If for Tocqueville democracy is first and foremost a social state, for Carl Schmitt, democracy “as correctly defined” is a state form that requires the identity of rulers and ruled.²³ For the government to be a true expression of the governed – hence for the people’s sovereignty to be practically possible – government and people must share an existential orientation and far-reaching identity in values and ways of life. This in turn substantiates the “fundamental concept” of equality: not equality as an abstract principle but the “precise and substantial concept of equality” that serves to identify the members of the people and differentiates them from others.²⁴

Schmitt construes democratic equality as similarity: “in particular similarity among the people.”²⁵ His crucial point is that political equality entails inequality. For the concept of equality to define the “we” of a particular community it necessarily implies the “they” of those who do not belong. Equality so understood is a principle of exclusion as much as inclusion: It marks the border between *us* and *them*. What delineates the people is not only what “we” share but also what “we” stand against, or what separates “us” from others. The former cannot be fully grasped without the latter. Not only is political identity formed through contrast and juxtaposition with outsiders. This negative moment – the idea of an existential *other* – more than any positive content

²² Tocqueville, *Democracy in America* [Nolla edition], [2.4.6], 1249, 1251.

²³ Schmitt, *Crisis of Parliamentary Democracy*, 14. Following David Dyzenhaus, *Legality and Legitimacy*, Ch. 3, I treat Schmitt’s Weimar works as elaborating broadly the same analytical position if with changing rhetorical emphases.

²⁴ Schmitt, *Crisis of Parliamentary Democracy*, 14, 25; Schmitt, *Constitutional Theory*, 264.

²⁵ Schmitt, *Constitutional Theory*, 264. Just how far Schmitt’s reasoning on this point has become a commonplace can be judged by the complete discrediting, in the course of the last century, of empires and the idea that one people could legitimately rule over another.

serves as a unifying force that holds the political order together.²⁶ Pointing to the democratic imperative to foster a people “individualized through a politically distinctive consciousness,” Schmitt leaves open the question of how this should be done. What constitutes a legitimate criterion of inclusion or exclusion is context specific. It is a political and historical not a moral let alone a scientific question.²⁷

Schmitt famously defines the political through the distinction between friend and enemy. The enemy in his sense need not be evil: “it is enough that he is, in a specially intense way, existentially something different and alien, so that in the extreme case conflicts with him are possible.”²⁸ While Schmitt intends his understanding of the political to apply to various groupings including parties and associations, he singles out the state as the authoritative entity that comprehends and subordinates all others. The political understood as the most intense existential distinction crystallizes in international relations and in the antagonism between peoples.

Democratic equality, then, consists in a broadly shared view of what defines the body politic and differentiates its way of life from that of other polities. Just as equality presupposes inequality, so too a political community – a people – is premised on the plurality of peoples and on the presence of differences that help constitute one society’s vision of equality.

Whereas democracy for Schmitt rests on equality *politically* understood, liberalism by contrast is an “individualistic-humanitarian ... Weltanschauung.” Championing “general human equality” and universal rights, liberalism aspires, or seems to aspire, to a “democracy of mankind.” In extending its principles to all of humanity, liberalism undermines the political by robbing equality of its constitutive distinctions, thus of its particular meaning and value.²⁹

Schmitt critiques the notion of general human equality as a vague universalist ethic devoid of political substance. Based on a formal or minimalist understanding of humanity, it is a critical tool rather than a juridical concept. The idea of universal humanity was deployed by the philosophers of the seventeenth and eighteenth centuries to dislodge the moral and legal assumptions

²⁶ In Mouffe’s words, democracy involves “a moment of closure required by the process of constituting a people.” Mouffe, “Carl Schmitt and the Paradox of Liberal Democracy,” 164.

²⁷ Schmitt, *Constitutional Theory*, 262. “It is obvious,” Heinrich Meier observes, “that Schmitt leaves nearly every concrete question unanswered and keeps almost every political option open with his conception of democracy, which he opposes polemically to the bourgeois legal state.” Meier, *The Lesson of Carl Schmitt*, 142 ff.

²⁸ Schmitt, *Concept of the Political*, 27–30. As a male noun *Feind* in German takes a gendered pronoun. This does not mean that the enemy is necessarily a single person or a male. Evrigenis, *Fear of Enemies and Collective Action*, Chapter 7.

²⁹ Schmitt, *Crisis of Parliamentary Democracy*, 13, 11. Schmitt critiques “[l]iberals like L.T. Hobhouse who define democracy as the application of ethical principles to politics. In fact, this is simply liberal.” Schmitt, *Constitutional Theory*, 257 As Meier argues, Schmitt himself was animated by a moral purpose steeped in theological convictions, *The Lesson of Carl Schmitt*, Ch. 1.

underlying the corporate order of feudal society. While useful for attacking social distinctions and “institutions that no longer have validity in themselves,” human equality, in Schmitt’s view, is not a constructive concept. Admitting its efficacy as an instrument of social critique, Schmitt denies that it has positive content that could inform constitutional law.³⁰

In other words, while democracy as a political form necessarily differentiates between citizen and alien, due to its individualistic and humanitarian commitments, liberalism is ideologically unable to articulate such a distinction. Liberalism, Schmitt charges, cannot sustain a political community because it cannot define its boundaries. The liberal state thus depends on prerequisites it cannot itself guarantee. What is more, by calling into question political identities and borders, it actively undermines its own legitimacy.

This, however, does not mean that liberalism is apolitical or unaware of its politics. In fact, behind the pretended universalism of liberal norms hide political and economic interests that strive for global domination. Debunking “the concept of humanity” as an “ideological instrument of imperialist expansion and ... vehicle of economic imperialism,” Schmitt indicts liberalism with hypocrisy. Glossing over the fact that constitutional principles and liberal rights are only viable within a political framework adopted by a particular people, liberalism’s universalist pretensions militate against both national particularity and the pluralism they pretend to espouse. In this way liberalism’s fake universality facilitates imperialist overreach. Paradoxically, it also promotes dehumanization. By seeking to “confiscate” and “monopolize” what it means to be human, the liberal claim to represent all of humanity ends up denying the humanity of those who beg to differ.³¹

Liberalism thus leads to what Schmitt diagnoses as the triple crisis of modernity: “first of all to a crisis of democracy itself, because the problem of substantial equality and homogeneity, which is necessary for democracy, cannot be resolved by the general equality of mankind”; next, the crisis of the modern state that rests on democratic legitimation; and, finally, the crisis of parliamentary institutions.³²

In 1926 Schmitt claims that the rise of Bolshevism and Fascism is but a symptom of this triple crisis, whose root cause is the “confused combination” of liberalism and democracy (Crisis of Parliamentary Democracy, 13). His strategy for addressing these crises is to argue for the historical necessity of divorcing democracy from liberalism. To this end, Schmitt engages in a

³⁰ Schmitt, *Concept of the Political*, 55; *Constitutional Theory*, 257; also *Crisis of Parliamentary Democracy*, 11. For a discussion, see Grimm, “The Various Faces of Fundamental Rights.”

³¹ Schmitt, *Concept of the Political*, 54 and the footnote which recalls how North American Indians were exterminated in the name of humanity and civilization, a point Tocqueville makes in *Democracy in America* [Nolla edition], [1.2.10], 547. For related critiques of the contemporary human rights regime and its legal politics see Moyn, *Not Enough*; Posner, *Twilight of Human Rights Law*; Rhodes, *Debasement of Human Rights*.

³² Schmitt, *Crisis of Parliamentary Democracy*, 15; *Concept of the Political*, 61.

two-prong deconstruction. One line of attack is to lay bare liberalism's historically specific, Anglo-American character. Liberal institutions, in Schmitt's view, belong to a particular cultural tradition with its own metaphysical and ethical assumptions – foremost among them liberal individualism.

It has long been known that the idea of liberal rights of man stemmed from the North American States. Though Georg Jellinek recently demonstrated the North American origin of these freedoms, the thesis would hardly have surprised [Donoso Cortés] the Catholic philosopher of the state (nor, incidentally, would it have surprised Karl Marx, the author of the essay on the Jewish Question).³³

Exposing liberalism's Anglo-American origins as a point of consensus between the liberal, the Catholic, and the left-radical perspectives, Schmitt suggests that, though claiming universal validity, liberal humanitarianism is in fact a historically situated (and therefore contestable) vision.³⁴

Along with historicizing liberal norms, Schmitt's second line of attack is to insist on the class-based character of what he calls the Bourgeois Rechtsstaat. Following Marx, Schmitt portrays liberalism as the ideology of the bourgeoisie and its self-understanding as a meritocracy of wealth and education. While the bourgeoisie's historic ascent was propelled by its alliance with democratic forces that lent popular legitimacy to its struggle against monarchical absolutism, "since about 1848" liberalism has found itself in an intensifying opposition to democracy.³⁵

Schmitt maintains that the culture of robust deliberation that characterized liberal parliamentarism at its nineteenth-century zenith was achieved by excluding certain classes and opinions from political representation. Probing parliamentarism's intellectual justifications, first among them its capacity to effect political education and rational policymaking, Schmitt judges "the arguments of Burke, Bentham, Guizot and John Stuart Mill [as] antiquated today." Whatever their intrinsic merits, the rise of modern mass democracy has eroded the preconditions for, and the viability of, institutions "constructed on the English model." As a result, "the distinction between liberal parliamentary ideas and mass democratic ideas cannot remain unnoticed any longer." Torn

³³ Schmitt, *Political Theology*, 62. Tracing the Anglo-American origins of modern constitutionalism and its deep roots in Puritan theology, Tocqueville's account could likewise be read in this vein. Tocqueville, *Democracy in America* [Nolla edition], [1.1.2], 45–70. As Dotti argues, differences notwithstanding, Marx and Schmitt share commitments to illiberalism and "metaphysical anti-Semitism," Dotti, "From Karl to Carl," 109, 117, n. 47.

³⁴ Schmitt's historicization and his call for a "sociology of concepts" (PT 45) must be squared with his claim that his own understanding of democracy, though new in its application to the modern state, is in itself "ancient, one can even say classical." Schmitt, *Crisis of Parliamentary Democracy*, 14, cf. *Concept of the Political*, 31, note 23.

³⁵ Schmitt, *Crisis of Parliamentary Democracy*, 2, 27, 51; see also *Constitutional Theory*, §12, 169 ff, which presents the rule of law and basic rights as "bourgeois." For a related analysis of the class character of American and French constitutionalism, see Marx, "On the Jewish Question."

between a liberal individualism, “burdened by moral pathos, and a democratic sentiment governed essentially by political ideals,” liberal democracy, Schmitt insists, must decide between its elements. Embracing democracy’s “unavoidable destiny,” leaves no choice but to jettison liberalism.³⁶

For Schmitt, then, liberalism and democracy have come into an irreconcilable contradiction. By driving a conceptual wedge between them, Schmitt clears the way for the institutional setting Tocqueville most dreaded: dictatorship. He does so ostensibly in order to salvage a political understanding of democracy – and with it, a pluralistic global order – from the imperialist ramifications of Anglo-American liberalism: an aspiration the Orbans, Putins, and Xi Jinpings (and, ironically, also the Trumps) of our time have made their own.

POPULAR SOVEREIGNTY AND THE POLITICAL: SCHMITT VERSUS TOCQUEVILLE

As we have seen, Schmitt equates liberalism with humanitarian universalism which he contrasts with democracy’s people-specific character. Highlighting the contradictions between universalist liberalism and particularist democracy as the root cause of modernity’s crisis, he insists on resolving these contradictions by separating universal from particular, and (humanitarian) ethics from politics.

Contrasting with Schmitt’s attempt to draw a clear line between liberalism and democracy, for Tocqueville the distinction is both all-embracing and ambiguous. In his view, modern democracy rests on two principles: on universal equality that pushes against social distinctions; and on popular sovereignty, that is, the ideal of political self-rule which requires a particular community – a people – and a notion of rule or sovereignty. Democracy cannot be liberal if either of those principles is missing but their combination generates recurring tensions and policy dilemmas. Liberalism, then, is both particularistic and universalist. While espousing universal moral aims, it is premised on a respectful regard for the historical experience of particular peoples, and on the moral bonds that underpin and enable community’s existence.³⁷

Viewing democracy and liberalism differently, Tocqueville and Schmitt agree that they are conceptually distinct, and that clarifying this distinction is necessary to guard against the inherent ills that threaten modern polities. They also partly concur on the source of those ills: the erosion of political identities and of the civic dimension of social life. Tocqueville and Schmitt both recoil from the prospect of a world without politics and agency – a world in which

³⁶ Schmitt, *Crisis of Parliamentary Democracy*, 2–3, 5, 7, 15, 17, 23, 30. Compare with *Political Theology*, 53. Ellen Kennedy, “Introduction: *Parlamentarismus* in Its Historical Context,” xxxii. For a critical appraisal of Schmitt’s commitment to democracy, see Meier, *The Lesson*, Ch. 4. See also Conti, *Parliament the Mirror of the Nation*.

³⁷ For a sustained analysis see Atanassow, *Tocqueville’s Dilemmas and Ours*, Conclusion.

humanity is reduced to a “herd of industrious animals,” and where the application of rules and the administration of things have replaced the government of persons.³⁸ Both maintain that to prevent this dystopic world, sustaining diverse visions of democratic peoplehood is a *sine qua non*.

Where they fundamentally disagree is how to achieve this, and whether liberal institutions help or hinder. While for Tocqueville liberal constitutionalism grounded in individual rights and supportive of active participation in sovereignty is integral to the solution, for Schmitt it is the problem itself. The issue between them partly concerns the status of liberal norms: whether these norms are based on correct conclusions of a “new political science” or, rather, on value-laden and historically specific assumptions that should not be imitated if pluralism and diversity – hence political sovereignty – are to be preserved. Schmitt views either option as problematic. If value neutral, liberal institutions are “practical-technical means” of soulless political technology that cannot foster the authentic life of a community or reflect its specific circumstances. If, on the other hand, liberal principles rest on a particular metaphysical foundation, adopting them would be synonymous with “an act of self-subjection to an alien people” that is antithetical to popular sovereignty.³⁹

In *Political Theology* Schmitt canvases the historic rise of modern democracy as the transition from monarchical sovereignty grounded in a vision of transcendent Creator to popular sovereignty that “centers on ideas of immanence.”⁴⁰ Citing Tocqueville’s claim that the people, ruling godlike over the political world, are “the cause and the end of all things” Schmitt illustrates the nineteenth-century moment in this development when the people were assumed to speak with God’s voice if not yet to replace it. Presenting popular sovereignty as a secularized theological concept, Schmitt surveys its sociological determinants. He argues that dictatorship is not merely compatible with democratic legitimation but may well be the only way to restore a notion of transcendence – hence of sovereignty and the political – in a democratic age.⁴¹

In Schmitt’s Tocqueville-informed account, “the dominant concept of legitimacy today is in fact democratic.” As a result, all legitimate claims to authority rest on popular consent. If there still are monarchies, there is hardly a monarch who would dare disregard public opinion. With the emergence of popular sovereignty as the only legitimating principle, differences between modern regimes

³⁸ Tocqueville, *Democracy in America* [Nolla edition], [2.4.6], 1252 Cited in Schmitt, *Crisis of Parliamentary Democracy*, 23; also *Political Theology*, 33–35. Cf. Engels, *Anti-Dühring*, part III, Ch. 1.

³⁹ Schmitt, *Crisis of Parliamentary Democracy*, 8; *Political Theology*, xxxi. Dyzenhaus, *Legality and Legitimacy*, 51; McCormick, *Carl Schmitt’s Critique of Liberalism*, 173. For a discussion of this dilemma in a post-colonial context, see Mantena, “Popular Sovereignty and Anti-Colonialism.”

⁴⁰ *Political Theology*, 50; *Constitutional Theory*, 266.

⁴¹ Schmitt, *Political Theology*, 49; Tocqueville, *Democracy in America* [Nolla edition], 97; Strong, “Forward,” xxv; Frank, “Political Idolatry.” Also Greiman, *Democracy’s Spectacle*, Introduction.

concern “the creation and shaping of popular will”: that is, how to generate and sustain an authoritative identification of a particular group as the people.⁴²

Sovereignty, then, depends on how the people’s identity is construed, and on the capacity to achieve such an identity. Schmitt famously defines the sovereign as “he who decides on the state of exception.”⁴³ In his account, the moment of crisis, which demands decisive action outside legal norms and procedures, effectively reveals the organ of sovereignty. It also makes plain that the law is not self-sufficient but requires decision and a social context or “homogenous medium” to uphold it. The decision brings this medium to light not least by drawing a bright line between friend and enemy. By substantiating the content of democratic equality, it unifies the people.⁴⁴

As Lars Vinx has pointed out, Schmitt’s rhetoric notwithstanding, it would be wrong to view the sovereign decision simply as a top-down imposition of authority. For it to be successful and viewed as legitimate, “the decision must express some widely shared substantive identity which is prior to the law and to the state as a legal expression of community.” This identity becomes political when – and only when – a critical mass of the people agrees to “fight and die” in its defense. Sovereign, in final account, is not “he who decides” but they who embrace that decision.⁴⁵

If sovereignty connotes political unity and a broadly shared “we,” Schmitt denies that such unified identity can be attained through parliamentary politics or practices of self-rule, due to the fragmentation these entail.⁴⁶ Reeling from the political impasse of the Weimar Republic, he points to factionalism as democracy’s main problem, which parliamentary institutions both express and aggravate. By pluralizing and constraining the exercise of political power, parliamentarism occludes the locus and true meaning of sovereignty.

For Schmitt, in other words, the functioning of parliamentary democracy presupposes an underlying consensus it is unable to produce. If in the nineteenth century, an era of limited suffrage, this consensus could be sustained by restricting political rights to the few and excluding the many from direct representation, under the conditions of mass democracy this “liberal” solution is no longer feasible. By proclaiming the universality of political rights,

⁴² Schmitt, *Crisis of Parliamentary Democracy*, 30–31. Compare with Tocqueville, *Democracy in America* [Nolla edition], [1.1.4] and [1.1.8], 204–209.

⁴³ Schmitt, *Political Theology*, 5.

⁴⁴ Schmitt adduces Cromwell’s speech to Parliament that mobilizes “enmity towards papist Spain” as a way to define and unite the English. “The Spaniard,” Cromwell thunders, is “your great Enemy” whose “enmity is put into him by God.” He is “the natural enemy, the providential enemy.” *Concept of the Political*, 67, 68.

⁴⁵ Schmitt, *Political Theology*, 5, *Concept of the Political*, 25–27; Vinx, “Carl Schmitt’s Defense of Sovereignty,” 110.

⁴⁶ “Self-government in the sense of local, provincial, cantonal self-government is often equated with democratic administration ... Such a way of thinking is in fact liberal and not democratic. Democracy is a political concept and as such leads to the decisive political unity and sovereignty.” Schmitt, *Constitutional Theory*, 298.

the Bourgeois Rechtsstaat, as Marx put it, “stifles its own prerequisites.”⁴⁷ Henceforth, the way to popular legitimation and democratic sovereignty must be sought not in parliamentary deliberations but in culture wars that divide friend from foe and prepare (as Schmitt’s works have done) the acceptance of dictatorial unity. In Dyzenhaus’ words, “the struggle for sovereignty, the struggle to be the one who decides, is won not in the reasoned debates of parliamentary politics but in the battles of the politics of identity,” and on the battlefield of public opinion.⁴⁸

To repeat, Schmitt predicates a robust political identity on the presence and potential antagonism of existential others. While political antagonisms can be internal, the state “encompasses and relativizes all these antitheses.” So “the political” par excellence is embodied in national unity, and revealed in the relations between diverse peoples. Ironically, sustaining pluralism and the political on an interstate level requires their suppression within the nation state. Heterogeneity abroad is premised on homogeneity at home.⁴⁹ Separating liberalism from democracy thus allows Schmitt to advocate fostering homogeneous democratic peoplehood through “the elimination [Vernichtung] and eradication of heterogeneity” that stands in manifest opposition to liberal norms and practices. Rooted in a pessimistic vision of modernity, Schmitt’s anti-liberal polemics paved the way for the depredations of the National Socialist regime.⁵⁰

Tocqueville dedicates his life’s work to repudiating the kind of dark conclusions Schmitt embraced, viewing them as a threat intrinsic to modern democracy:

According to some among us, the republic is not the rule of the majority, as we have believed until now; it is the rule of those who answer for the majority. It is not the people who lead these sorts of governments, but those who know the greatest good of the people: happy distinction, that allows acting in the name of nations without consulting them, and claiming their gratitude while trampling them underfoot... Until our time it had been thought that despotism was odious, whatever its forms. But it has been discovered in our day that there are legitimate tyrannies and holy injustices ..., provided that they are exercised in the name of the people.⁵¹

Democracy in America reads as an extended refutation of what Schmitt dubs the “Jacobin argument”: that popular will could be legitimately expressed by a select body or single organ which authoritatively defines society’s identity and

⁴⁷ Marx, “On the Jewish Question,” 36. For a nuanced history of nineteenth-century liberalism and its relationship to democracy, see David A. Bateman’s [Chapter 7](#) in this volume.

⁴⁸ Schmitt, *Constitutional Theory*, 275; Dyzenhaus, *Legality and Legitimacy*, 45. See also Dyzenhaus, “Austin, Hobbes and Dicey,” 416.

⁴⁹ Schmitt, *Concept of the Political*, 30. For a discussion of the Hobbesian provenance of this paradox, see Richard Boyd’s [Chapter 4](#) in this volume.

⁵⁰ Schmitt, *Crisis of Parliamentary Democracy*, 9; *Constitutional Theory*, 262–63. Camus and Storme, “Schmitt and Tocqueville,” 29–31; McCormick, “The Dilemmas of Dictatorship.” For Schmitt’s critique of modern Promethean optimism see, Meier, *The Lesson*, Ch. 3.

⁵¹ Tocqueville, *Democracy in America* [Nolla edition], [I.2.10], 630–31.

interests.⁵² To rebut this argument, Tocqueville describes Jacksonian America, an actually existing popular state where mass democracy, which Schmitt saw arising in twentieth-century Europe, was to an unprecedented extent already a reality. Tocqueville holds up the United States as an example of a free democracy that reveals both the promise and hazards of popular sovereignty in the modern world. As “the most democratic country on earth,” American society, Tocqueville claimed, teaches lessons that are universally instructive. If Schmitt’s constitutionalism foreswears imitation and importing foreign wisdom, Tocqueville wagers that, if judiciously adapted, liberal norms and Anglo-American practices would protect rather than efface national specificity and human diversity.⁵³

Tocqueville regards the individualistic erosion of the political as an inherently modern danger. By breaking the hierarchical bonds that held traditional societies together, democracy encourages withdrawal from politics, and makes the forced imposition of social unity both a real possibility and a standing temptation. Not only is individualism democratic rather than liberal as Schmitt averred. In Tocqueville’s account, a Schmitt-like dictatorial solution is bound to deepen the problem of individual self-isolation, not resolve it. Far from sustaining “the political,” dictatorship undermines it by radically shrinking the citizens’ understanding and political know-how. Inimical to minorities, it is no less debilitating for the majority in whose name it is exercised. By denying the greater part of the citizenry meaningful participation in public life, dictatorship robs both leaders and people of practical experience as well as the intellectual and moral virtues necessary for politics.⁵⁴

While Schmitt postulates the need for a homogenous national identity crafted and, if need be, violently imposed by the state, for Tocqueville top-down, tyrannical cohesion is as problematic as the recurring identity crisis to which modern polities are prone. And so, where Schmitt foregrounds one problem, that of fragmentation, Tocqueville characteristically sees two. In his account, a coercive unity is as conducive to political decline as radical individualism. Indeed, the two are locked in a dialectic embrace. For Tocqueville, the only effective way to combat depoliticization is not by conjuring up a mighty

⁵² Schmitt, *Crisis of Parliamentary Democracy*, 30–31; Tocqueville, *Democracy in America* [Nolla edition], [1.2.10], 630. The Society of the Friends of the Constitution, renamed after 1792 as the Society of the Jacobins, Friends of Freedom and Equality was the most influential political club during the French Revolution whose political ascendance culminated in the Reign of Terror. Furet, “Jacobinism.”

⁵³ Tocqueville, *Democracy in America* [Nolla edition], 28, [1.1.4], 91–92; [2.2.5], 897 and 1373–74; contrast with [1.2.9], 513–14 where Tocqueville cautions against the dangers of imitation. For a contemporary analysis of imitation and its discontents, see Krastev and Holmes, *The Light That Failed*.

⁵⁴ Tocqueville, *Democracy in America* [Nolla edition], [2.2.2–3], 881–87; [2.2.6], 1255. Tocqueville analyzes how autocratic government undermines political judgment in part 3 of *Old Regime and the Revolution*, a work Schmitt cites in *Concept of the Political*, 68.

sovereign and foisting a collective identity on a dazzled people, but by finding ways to involve individuals and groups in shared deliberation and the search for self-definition that will hone their political judgment. The political can only be defended and democratic sovereignty sustained by institutions and practices that actively engage the citizens at large in shaping popular will.

This, Tocqueville well understood, is not without challenges. As argued above, for Tocqueville popular sovereignty in its strongest and most precise sense means broad-based participation in ruling. It requires a diversity of institutions that make this participation possible. Extrapolating from the American experience, Tocqueville argues for the crucial importance of civic associations for democracy. He praises American civic practices as schools of politics – “always open” – that help transform isolated individuals into dedicated citizens. Associations offer a direct experience and ongoing reminder of the political nature of institutions and norms, and teach the “art” needed to maintain them.⁵⁵

However, even while advocating a pluralistic public sphere based on vigorous civil society and competitive political process, Tocqueville (like Schmitt) points to the need for underlying unity. In a polity where the only source of public authority is popular will represented by a national majority, eliciting such a majority and acquiescence in its decrees are crucial for democratic stability, and for society’s very existence. Without the recognition of and voluntary compliance with the majority view, there can be no self-governing community but rather a part dominating the whole. In order for the greater number not to oppress and the smaller not to be oppressed (or vice versa), they must share a sense of belonging to and benefiting from the constitutional order. For democratic contestation not to spiral into deepening polarization or civil war, contestation must be checked and balanced by a shared allegiance to “We the People.”

An egalitarian political system, in short, rests on a foundation of similitude or what Tocqueville calls “homogeneity of civilization.”⁵⁶ It was the lack of such a homogeneity, and the pressure of profound differences between the American North and South that prompted Tocqueville to question the longevity of the antebellum Union. If institutional and moral pluralism is desirable, it is so up to the point where it compromises the possibility of unity. To be viable and free, democracy needs to form, as the American motto has it, unity out of plurality and, conversely, foster plurality in unity. Where Schmitt posits an either/or, Tocqueville argues that too much of either undermines the political.

In Tocqueville’s view, moreover, defining political membership and the identity of the people is a work in progress. The inherent tensions between

⁵⁵ Tocqueville, *Democracy in America* [Nolla edition], [2.2.5], 902; [2.2.4–9], 887–929. For a critical rethinking of these arguments, see Edwards, Folley, and Diani, *Beyond Tocqueville*.

⁵⁶ Tocqueville, *Democracy in America* [Nolla edition], [2.3.1], 993; [1.1.8], 271–72. See Whittington, “Revisiting Tocqueville’s America,” 21–22. Camus and Storme, “Carl Schmitt, Lecteur de Tocqueville,” 10–12.

individual rights and majority rule, between national particularity and universal humankind ensure that popular identity remains a zone of democratic contestation. Democratic peoplehood and the sovereignty based on it cannot be decided once and for all. Far from limited to a single constitutive event, securing popular commitment to “We the People” and to the institutional frame is a recurring need. For Tocqueville, then, defending popular sovereignty and the political is an ongoing task and a two-front struggle: against individualistic erosion of civic allegiance and against the inherent perils of authoritarian populism.

IMPLICATIONS

Many people today across the political spectrum are drawn to Schmitt as a reaction against a perceived democratic decline and loss of political agency. Schmitt persuades them that “liberalism” is the root cause of that decline, and opens them (as he once opened his countrymen) to dangerous ideas about dictatorship and about redrawing geopolitical borders. As this chapter argued, Tocqueville offers a different way of understanding current discontents and points us toward a different set of remedies. If today’s opponents of liberal democracy draw liberally on Schmitt, its defenders have much to gain from Tocqueville’s ideas.

Seen through the lens of Tocqueville, our current crisis is propelled by the clash between democracy’s two dimensions: equality and self-rule. While the passion for equality evokes a sentiment of universal similitude, popular sovereignty bespeaks a particular solidarity based on shared history and a distinctive political experience. The gap between universalist principle and particularist practice appears as an affront to democratic sensibilities. Heightened to the point of impasse by current debates about immigration and by the ravages of economic globalization, this gap is a source of profound psychological and moral tensions: tensions that, as Tocqueville predicted, would grow more unbearable the more equal we become.⁵⁷ If Tocqueville’s diagnosis is correct, our illiberal moment is an instance of a dynamic that is inscribed in democratic life. How modern democracies navigate this inherent dynamic is critical for the future of democratic freedom. This, in turn, crucially depends on how the people and its sovereignty are being defined and institutionalized.

To be liberal, a popular regime must nurture broad participation in the quest for self-definition. Participation requires the existence of diverse institutional settings, formal and informal, that elicit civic contributions of different kinds. For their part, participatory practices help produce social trust and broad-based identification both with the institutional arrangement, and with the norms that underpin political life. However, the allegiance forged by the variety of local and interest-based communities, or even by nation-wide

⁵⁷ Tocqueville, *Democracy in America* [Nolla edition], [2.2.13], 946.

associations such as political parties may not easily translate to the polity as a whole. Indeed, the stronger those local and partisan ties, the more polarizing they can become. As Tocqueville witnessed in antebellum United States, and Sheri Berman has shown in the example of Weimar Germany, under certain conditions vigorous civil society can deepen solidarity deficits, and compromise democratic stability. These analyses suggest that, alongside grassroots initiatives and popular movements there is a need for comprehensive narratives that weave the plurality of civic experiences into the larger, multicolor whole that is a democratic people.⁵⁸

As Rogers Smith argues in this volume, populist success can be studied to devise strategies for liberal recovery. What populists have to offer is not only an outlet for frustration or policy proposals, but also compelling stories of popular identity and rule. These are democratic stories affirming the dignity of the people against conniving elites or impersonal forces, and explaining how sovereignty can be restored and the political system revamped to serve those it is supposed to be serving. Not simply rejecting such stories but telling better – more complex and liberal ones – is, Smith contends, a way to combat illiberal populism.

In a like spirit, Harvard historian Jill Lepore has issued a clarion call to fellow historians to make the nation central to their craft again. She points out that, while academic historians may have graduated from telling national stories to painting global tableaus, democratic publics have not. These publics see and feel the world in terms of nations, and look for narratives that reflect and instruct their experience: “They can get it from scholars or they can get it from demagogues, but get it they will.”⁵⁹ If democratic freedom hinges on how the people is understood, much depends on whether those most qualified to inform this understanding take up the task.

In sum, the confidence in liberal democracy has to be built and rebuilt both from below and from above. It relies on the citizens’ practice and experience, and on the elite’s willingness to interpret this experience in a meaningful light and to provide narratives that bridge the distance between individuals and institutions, majority and minorities, people and elites. To be free, then, democracy requires both public participation and astute political and moral leadership – a leadership for which, I suggest, Tocqueville’s work serves as a resource and example.

⁵⁸ Berman, “Civil Society.” For a related analysis, see Levitzky and Ziblatt, *How Democracies Die*.

⁵⁹ Lepore, *This America*, 20.

PART II

“As God Rules the Universe”

Reflections on the People and the State in Early America

Ira Katznelson¹

This essay considers popular sovereignty as a philosophical and practical governing creed within the instructive irregularity of early America. On the understanding that “attention to the most burning and urgent of contemporary problems cannot be dissociated from the meticulous reconstruction of their origins,” I should like, to “tell the old story for modern times,” as the first stanza of *The Odyssey* proposes, by pursuing Homer’s advice, “Find the beginning.”²

To celebrate the bicentennial, the American Philosophical Society gathered eminent scholars to reflect on the country’s long-standing political order. The address by the historian Edmund Morgan, “The Problem of Popular Sovereignty,” considered inherent challenges when rule by the people becomes the dominant source of political authority.³

Morgan’s focus was not on the formation of “We the People.” Instead, looking inside out, he underscored endemic problems of political participation, including public rationality, electoral volatility, and the instability of opinion. Logically and historically, these significant concerns are preceded by the first theme of this essay regarding how a commanding American “people” was designed and established despite a remarkably diverse population.

¹ This essay originated in the Pitt Professor Inaugural Lecture I delivered on January 25, 2018, at the University of Cambridge. For their thoughtful suggestions based primarily on that text, I owe keen thanks to the three editors of this volume and to the participants in the SSRC Swarthmore College project conferences in which my views were rigorously tested. Particular appreciation, in that group, goes to Richard Boyd, my formal interlocutor, whose challenging comments led to much reconsideration. I also am in debt for reading and commenting to Bentley Allan, Hannah Dawson, François Furstenberg, Eric Foner, Gary Gerstle, Nicholas Guyatt, Robert Lieberman, David Runciman, Adam Sheingate, and Vesla Weaver.

² Rosanvallon, “Inaugural Lecture,” 39; Homer, *The Odyssey*, 105.

³ Morgan, “Problem of Popular Sovereignty.”

Popular sovereignty achieved a significant degree of steadiness in the United States based on a constellation of ideas, institutions, sectional agreements, and borderland arrangements. During the country's first half-century, inherent sources of moral and practical tension were managed with dexterity by compromises, practical and ethical, grounded in a significant lineage of political thought and institutional arrangements. The achievement did not last. Understanding when and how, from the late 1820s, the existing equilibrium dissolved and a new basis for balance proved to be out of reach comprises this essay's second theme, a subject that will return us to the range of questions posed by Morgan.

These considerations are motivated by the provocative claim Alexis de Tocqueville announced in the fourth chapter of *Democracy in America's* initial volume, published in France at a key point of inflection, in 1835: "*Le peuple règne sur le monde politique américain comme Dieu sur l'univers.*"

Unlike "countries in which a power in some sense external to the social body acts on it and forces it to march in a certain direction," he explained in a reference to monarchy and divine right, and unlike "other countries in which force is divided, being placed at once inside society and outside it," a reference to parliamentary sovereignty, "nothing of the kind exists in the United States." There, he wrote,⁴

society acts by itself and on itself. No power exists but within its bosom. Virtually no one is to be found who dares to conceive, much less to express, the idea of seeking power from another source ... It is fair to say that the people govern themselves. The people reign over the American political world as God rules over the universe. They are the cause and end of all things; everything proceeds from them, and to them, everything returns.

Tocqueville's recognition of popular sovereignty as America's "law of laws"⁵ had already become a rhetorical truism by the time the country marked its Jubilee on July 4, 1826, signifying a people sovereign over itself either directly, as with white men, or indirectly, as with white women, who were said to be represented in political life by their fathers and husbands. Of the many commemorative speeches marking the occasion, one of the most memorable was delivered by George Bancroft in Northampton, Massachusetts. Then just twenty-five years old, Bancroft had graduated Harvard College at age seventeen, and swiftly earned a doctorate in history from the University of Göttingen three years later. Not shy, he managed soon afterward to discuss politics and philosophy with Hegel and Schleiermacher, Humboldt, and Goethe, Manzoni and Constant. Bancroft later emerged, as it were, as America's Tocqueville:

⁴ Tocqueville, *Democracy in America* [Goldhammer edition], 64, 65.

⁵ Tocqueville, *Democracy in America* [Goldhammer edition], 63.

the author of a ten-volume epic *History of the United States*,⁶ the leader of diplomatic missions in London and Berlin, and the founder of the US Naval Academy at Annapolis during his service as President James Polk’s Secretary of the Navy.

At Northampton, Bancroft characterized the nation’s “festival of freedom” as “essentially radical.” About the circumstances of slaves and the indigenous population he said not a word. Rather, combining an analysis of the American regime with a vivid summary of the founding mythos of “We the People,” he identified a diverse (white) political family that had bonded within a Union framed by “self-evident truths” about human equality and rights, and he contrasted this American experience with how “the doctrine of the divine right has been revived” across the Atlantic. Noting that he could not be sure that “popular sovereignty will finally prevail in Europe,” Bancroft celebrated the United States for having “established a government on entirely liberal principles such as the world had never beheld in practice,” a system for which “the sovereignty of the people is the basis of the system. With the people,” he emphasized, “the power resides, both theoretically and practically,” adding that in America “we believe the sovereign power should reside equally among the people.” In terms that presaged Tocqueville, he averred that only “the people governs and solely; it does not divide its power with a hierarchy, a nobility, or a king,” and that “the popular voice is all powerful with us; this is our oracle; this, we acknowledge, is the voice of God.”⁷

Popular sovereignty as the core principle of constitutionalism was early America’s boundary condition; a term I use the way it was defined by the political scientist J. David Greenstone as “a set of relatively permanent features of a particular context that affect causal relationships within it.”⁸ “The United States,” the legal scholar Larry Kramer has written, “was then the only country in the world with a government founded explicitly on the consent of its people, given in a distinct and identifiable act, and the people who gave that consent were intensely, profoundly conscious of the fact. And proud.”⁹ There was nothing like it anywhere else, certainly not a population active politically at each of three distinct levels: as proper-named natural individuals with distinct identities, groupings, preferences, and mores, seeking influence or access; as citizens, the subset who qualify to participate as equals within the institutions of representative democracy; and as a majestic people – abstract and bodiless – authorized as the commanding source of political creativity and legitimacy.

⁶ Bancroft’s wide-ranging and influential *History of the United States, From the Discovery of the American Continent* was published across four decades, from the 1830s to 1870s.

⁷ Bancroft, *Oration Delivered on the Fourth of July 1826 at Northampton*, 9, 11, 22, 18–20.

⁸ Greenstone, *The Lincoln Persuasion*, 42.

⁹ Kramer, *The People Themselves*, 5, 54.

Characterizing the American Revolution in 1788 at Virginia's convention called to ratify the constitution, James Madison proclaimed about his country's popular sovereignty that "It is in a manner unprecedented. We cannot find one express example in the experience of the world."¹⁰ Fifteen years later, in an Appendix to *Blackstone's Commentaries*, St. George Tucker, a Virginia lawyer, judge, and academic scholar, celebrated "the new epoch in world history" fashioned in America by "an original compact formed by the free and deliberate voices of the individuals disposed to unite in the same social bonds." Rulers face limits that "cannot be transgressed without offending against the greater power from whom all authority among us, is derived; to wit, the PEOPLE."¹¹ No wonder Jonathan Israel's history of the Enlightenment considers America, from the eve of the Revolution to 1848, to have been "astonishingly" radical, as distinct from Bancroft's more accurate "essentially."¹²

Astonishing in another way as well, at the new country's frequently violent internal human and physical borderlands. This American feature is given extended treatment, often wry and dystopian, in the chapter that concluded *Democracy's* first volume, "Some Considerations on the Present State and Probable Future of the Three Races That Inhabit the Territory of the United States." Witnessing how "in one blow oppression has deprived the descendants of the Africans almost all the privileges of humanity," Tocqueville projected an ever-stronger North–South regional division, noting that slavery had nearly been brought to an end outside the South. With African slaves "held in a state near that of the brute, indigenous Americans," and with "the Europeans, having scattered the Indian tribes far into the wilderness, condemned them to a wandering vagabond life full of inexpressible afflictions," the "two unlucky races," slave and "savage," were deemed not qualified to enter the ken of popular sovereignty."¹³

Both Virginians thus might have underlined the acute encounters in early America between popular freedom and mass dispossession, both of persons and land. The excluded persons experienced popular sovereignty as nearly unlimited despotism. The justification for these barriers was understood by white Americans not just anthropologically as based on civilizational judgments, though more so for the indigenous population thought by some citizens to be potential rational Christians, but also biologically as racial. The era's blunt exclusions were much more impermeable than other extant divisions based on faith or status hierarchies. In or out, all or nothing. As Tocqueville

¹⁰ Madison, "General Defense."

¹¹ Cited in Kramer, *The People Themselves*, 6–7.

¹² Israel, *Expanding Blaze*, 15, 17, 21, 24, 76, 77. This regime model manifestly affected and motivated revolutionaries in France, Haiti, and across the Americas, where European settlers separated their colonies from Spain and Portugal. For a discussion, see Fernandez-Armesto, *The Americas*, 94–95; and the classic volume by Palmer, *The Age of the Democratic Revolution*.

¹³ Tocqueville, *Democracy in America* [Goldhammer edition], 316–18, 339.

observed, “Between the extreme inequality created by slavery and the complete equality to which independence naturally leads, there is no durable intermediate state.”¹⁴

“We the People” developed as an instrument of the common good inside these tightly policed boundaries, hardwired from the beginning. Not just Union nationalists talked of a godlike people. The country’s leading antebellum proslavery intellectual and political leader, John C. Calhoun, a person who found “not a word of truth in the whole proposition” that “all men are created equal,” similarly maintained how “The whole system ... has for its fundamental principle, the great cardinal maxim, that the people are the source of all power.”¹⁵ Among the free white population, such language became pervasive and uncontested. But, of course, not everyone intuited precisely the same meaning, certainly not strong opponents or proponents of slavery.¹⁶

Just the values advanced in the 1820s by Bancroft and summarized in the 1830s by Tocqueville were articulated by President Abraham Lincoln on November 19, 1863, nearly eleven months following the emancipation of the confederacy’s slaves and some four months following the Union success at Gettysburg on July 4. His three-minute speech at an uncertain moment for the contours and limits of popular sovereignty famously enunciated the expectation, indeed the faith “that government of the people by the people for the people, shall not perish from the earth.”

Unlike Bancroft, who celebrated popular sovereignty in a peaceful town at a moment of high prosperity, Lincoln consecrated the Gettysburg burial ground four and a half months after the Union’s pivotal Independence Day battlefield victory. Fully two-thirds of the recorded 3,155 dead from General George Gordon Meade’s Union Army of the Potomac and the 3,903 Confederate dead from General Robert E. Lee’s Army of Northern Virginia remained unburied on that blood-soaked Pennsylvania field. When General Lee surrendered at Appomattox in western Virginia some seventeen months later, in April 1865, the internecine war had cost no fewer than 650,000 lives, perhaps as many as

¹⁴ Tocqueville, *Democracy in America* [Goldhammer edition], 418. Similarly, Louis Hartz argued that in liberal societies the issue of race has a decisive character. As the inclusion of the racial other would “require full equality, during the era of slavery he is totally excluded by theories of either property or race,” which makes what he designated as “liberal slavery” especially harsh. Yet, “once humanity is conceded, the liberal ethic ... demands completely equal treatment.” Hartz, “Development of the New Societies,” 17.

¹⁵ Calhoun, *Works of John C. Calhoun*, 112, 508. Calhoun was still working on final revisions of “Discourse” when he died on March 31, 1850. Referring to “the people,” Calhoun continued “the governments of the several States and of the United States were created by them, and for them,” adding how the powers that were conferred by the people to these governments “are not surrendered but delegated; and, as such, are held in trust, and not absolutely,” 112.

¹⁶ For a powerful overview of the role of slavery in shaping tension within America’s civil traditions, see Furstenberg, “Freedom and Slavery.” For an important treatment of how disputes about popular sovereignty were, from the beginning, entwined with slavery and westward expansion, see Childers, *Failure of Popular Sovereignty*.

850,000, and had left more than 1,000,000 injured in a population recorded by the census of 1860 as some 31 million; a devastating record wrought in considerable measure by disputes about popular sovereignty.¹⁷

The haunting contrast between Northampton on July 4, 1826, and Gettysburg on July 4, 1863, and the disparity between Bancroft's silence about race and membership and Tocqueville's naming this field of tension for popular sovereignty orients my reflections about the construction of a people in the globe's first political regime to have transcended then more familiar bases for political and governing authority.

Popular sovereignty as we know it originated in the seventeenth century.¹⁸ To be sure, there is an older lineage that includes the Roman law tradition and aspects of medieval law.¹⁹ Moving beyond the confines of city-states to which it had been bound among the ancients and in some small medieval republics, its modern beginning is often associated with the ideas and demands in the 1640s of the Levellers, who organized their movement "around the idea of popular sovereignty."²⁰ But it was in North America, from the first English and Dutch settlements to the Revolution and beyond that popular sovereignty "acquired a concreteness and importance that was wholly new and wholly different," with "the people" authorized and capable to create and superintend, act and enforce, what Kramer calls popular constitutionalism.²¹

A quarter century before the Levellers, forty-one religious dissenters composed and signed the Mayflower Compact on November 11, 1620. These men had arrived in Massachusetts a year after the *White Lion*, an English warship, had docked in Jamestown, Virginia, carrying "twenty and odd" African captives removed by force from a Portuguese slave ship. By the 1630s, Virginian documents record the "customary practice to hold some Negroes in a form of life service."²² Almost immediately, a contest between the newcomers and the indigenous population for control of land and water erupted.²³ Free and slave, settler and native, America was launched with its fundamental conundrums of popular sovereignty.

¹⁷ No other American war has cost so many military fatalities. www.statista.com/statistics/1009819/total-us-military-fatalities-in-american-wars-1775-present/ see also www.historynet.com/battle-of-gettysburg, www.historynet.com/civil-war-casualties. Hacker, "Human Cost of War," and "Census-Based Count."

¹⁸ For discussions of popular sovereignty's origins and lineage, see Morgan, *Inventing the People*; Bourke and Skinner, *Popular Sovereignty in Historical Perspective*; and Canovan, *The People*.

¹⁹ For a broad treatment that includes these aspects as well as a variety of early modern European sources, see Lee, *Popular Sovereignty in Early Constitutional Thought*.

²⁰ Loughlin, *Political Jurisprudence*, 47.

²¹ Kramer, *The People Themselves*, 24, 30, 45, 55.

²² Billings, *The Old Dominion in the Seventeenth Century*, 147.

²³ An important treatment of New England and New York in the seventeenth century is Lipman, *The Saltwater Frontier*.

The Mayflower Compact was executed well before Thomas Hobbes and John Locke identified the founding of a body politic with social contracts. Having arrived after two months at sea with nineteen women, thirty-three children, and nine other men, the signatories self-organized as a unified constituent power to establish a government within which they would be active and to which they pledged compliance, declaring how they “solemnly and mutually, in the presence of God, and one another, covenant and combine ourselves together into a civil body politic.”²⁴

This tiny community of Separatist Puritans was rigidly homogeneous. When America’s founders sought to apply the Compact’s principles of self-government and those of the settlements both Puritans and non-Puritans had founded in the following century and a half, they faced daunting odds, not only from matters of physical security, including slave insurrections and assaults by resisting indigenous populations, but also from divisions within the new country’s remarkably heterogeneous free white population.

“By the time of the Revolution,” Richard Hofstadter remarked in *America at 1750*, “white immigration was probably as large or larger than the entire colonial population of 1700, and the English homogeneity of the colonies had been decisively broken.”²⁵ Even as early as 1700, the colonies exhibited a striking degree of human variety. New York state’s Hudson Valley alone was composed of poorly integrated and often mutually hostile white newcomers – English, Scot, Irish, Welsh, Swiss, Dutch, French (Catholic but mostly Huguenot), Walloon, Palatine. There were Anglicans and Catholics (far more concentrated in Maryland and Pennsylvania), Puritans, Sabbatarians, anti-Sabbatarians, singing Quakers and ranting Quakers, Anabaptists, including Mennonites and Amish, and a smattering of Jews. There also were black slaves, about 15 percent of the population even in this northern location, and a diverse native population – Algonquin, Lenape, Mohican, Iroquois, Wappinger, and other Native Americans. These indigenous groups soon were locked into a terrible game with the newcomers, the one side experiencing expropriation, sometimes violent, and recurring deceit; the other experiencing physical insecurity and bewilderment at rejection. These were the stress lines in just one place in one colony.²⁶

In *Federalist 2*, John Jay famously took “notice that Providence has been pleased to give this one connected country to one united people – a people descended from the same ancestors, speaking the same language, professing the same religion,”²⁷ but this assertion was rather more a wish than reality.

²⁴ https://pilgrimhall.org/mayflower_compact_text.htm.

²⁵ Hofstadter, *America at 1750*, 31.

²⁶ Bailyn, *Peopling of British North America*; Jacobs and Roper, *Worlds of the Seventeenth-Century Hudson Valley*; Groth, *Slavery and Freedom in the Mid-Hudson Valley*; Lavin, *Dutch and Indigenous Communities in Seventeenth-Century Northeast America*.

²⁷ https://avalon.law.yale.edu/18th_century/fed02.asp.

The English colonies were not uniformly English, let alone uniformly Anglican. Proportions varied. Nearly nine in ten residents of Connecticut were English (yet still diverse given the geographical and religious sources from which they were drawn), but only one in four in Pennsylvania, by contrast to four in ten who were German. In all, as much as half the population did not have English roots; as measured by the census of 1790, some 9 percent were German and 16 percent Irish. “The sense of variety,” Aristide Zolberg commented, “was heightened by the uneven distribution of the various groups among the colonies and their differing relationships, reflecting different modes of social organization.”²⁸

Moreover, the colonies were rife with xenophobic and nativist tendencies. The harsh treatment of Palatines in 1709 drove them out of New York to Pennsylvania. Concurrently, Huguenots were put under pressure in South Carolina and Rhode Island, and Moravians were the objects of punitive 1713 legislation in Connecticut.²⁹ Writing in his 1751 essay, “Observations Concerning the Increase of Mankind,” Benjamin Franklin expressed doubt about the desirability not only of importing black slaves but the presence of Europeans with “what we call a swarthy complexion,” a list of non-Anglo-Saxon undesirables that, for Franklin, included most Germans, Italians, Russians, Spaniards, and, quite remarkably, Swedes. By the eve of independence, noted Zolberg, “the American colonies constituted an assemblage of diverse communities that, if brought together into a single state, would constitute a uniquely heterogeneous mosaic.”³⁰

Moreover, this complex human patterning overlay northern, southern, and western sectional units, “three major groupings of population, differentiated by physiographical conditions, economic interests and political ideals.” These divisions, Arthur Meier Schlesinger wrote, represented divergences in “modes of living and attitudes of mind much more fundamental than those indicated by arbitrary political boundaries” that separated the thirteen states.³¹ There were class divisions as well among the white settlers, who ranged from owners of plantations and commercial elites to indentured servants, persons cultivating isolated small farm holdings, and unpropertied urban majorities.³²

The challenge of such diversity in an extended polity was profound; one might have thought insurmountable. Constituting an American people, even if exclusively white and in the majority English and Christian, was no simple matter, not least because two significant bases for peoplehood claims – shared religious identity and a claim to be an autochthonous population – were absent.

²⁸ Zolberg, *A Nation by Design*, 52, 53.

²⁹ Beiler, “Dissenting Religious Communication Networks and European Migration.” For compelling overviews, see Pestana, *Protestant Empire*; Farrelly, *Anti-Catholicism in America*.

³⁰ <https://founders.archives.gov/documents/Franklin/01-04-02-0080>; Zolberg, *Nation by Design*, 51.

³¹ Schlesinger, “American Revolution Reconsidered,” 65, 67.

³² Nash, *Unknown American Revolution*; Tycko, “Captured Consent.”

To be sure, there were important integrating currents. The colonial historian Jack Greene emphasized how white Americans had become more alike by 1776 as a result of sharing a common grievance, a deep feeling of being second-class Britons. Tocqueville stressed the hegemony of shared English rule and the experience of English mores. Both concurred that the colonists’ robust patterns of self-government, features intensified by a great distance from the mother country and the absence of a native population eligible for mobilization as subjects of the crown, facilitated the people’s emergence as the core political actor.³³

Though noteworthy, these factors were not sufficient to create a common people. At least equally necessary was the availability of rigorous and compelling political thought about the role of the people in politics, together with designs for institutions that could galvanize, in the language of John Rawls, an overlapping political consensus amidst exceptional human diversity.³⁴

The global pioneer that Bancroft celebrated and Tocqueville viewed as a fore-runner rested on a palimpsest of ideas, composed by distinct and diverse layers that shaped the contours and established the mechanisms that first supported and later destabilized popular sovereignty in America.

Making a godlike civic and patriotic people would not have been possible without the existence of political leaders who knew quite a lot about the sometimes complementary but often competing ideas of Bodin and Grotius, Pufendorf and Rousseau, Montesquieu and Blackstone, and especially Hobbes and Locke.

As critics of parliamentary sovereignty, the founders had come to believe that the subjection of the king to parliament had gone wrong, and that, as Hobbes had articulated, the choice of a regime belongs to the people.³⁵ Notwithstanding his preference for monarchy, Hobbes had emphasized how, when exiting the state of nature, the emergent people was free to choose any form of government, not just monarchy, but also aristocracy or democracy. “The differences between commonwealths,” he wrote in *De Cive*, “are derived from the difference in the persons to whom *sovereign power* is committed.”³⁶

From this then-novel vantage, all regimes are inherently popular: “The People rules in all Governments, for even in Monarchies the People Commands; for the People wills by the will of one man; but the Multitude are Citizens,

³³ Greene, *Peripheries and Center*, 165–74.

³⁴ Rawls, *Political Liberalism*, xlv, 15, 25, 141–50.

³⁵ I am not knowledgeable enough to confidently evaluate Eric Nelson’s revisionist claim that places a Royalist theory of representation at the center of the Revolution, which he describes, privileging the presidency, as an effort to render compatible “the rule of one with the sovereignty of the people.” Nelson, *The Royalist Revolution*, 8.

³⁶ Hobbes, *On the Citizen* [Tuck and Silverthorne edition], 91.

that is to say, Subjects. In a Democracy, and Aristocracy, the Citizens are the Multitude, but the Court is the People. And in a Monarchy, the Subjects are the Multitude, and (however it seemed a Paradox) the King is the People.”³⁷

Americans embraced this theory of authorization.³⁸ “When *right* and *exercise* are separated,” Hobbes argued, “the government of the commonwealth is like the ordinary government of the world, in which God the first mover of all things, produces natural effects through the order of secondary causes.”³⁹ Not God but the people as God – sovereign, united, and acting within an unusually capacious designation of natural law – could authorize and fashion governments to escape fear-creating states of nature.

In this sense, America’s founding was Hobbesian. Richard Tuck has recorded many instances in which the people exerted direct popular control over the adoption of state constitutions and the federal constitution. In the early republic, such constituent power was based on a nearly universal white male franchise. “Between 1778 and the beginning of the Civil War, almost all American states moved to a plebiscitary basis for their constitutions, with a particular rush occurring (unsurprisingly) in the heyday of Jacksonian democracy. At the start of 1861 only five states out of a Union of thirty-four did not use the plebiscite.”⁴⁰ We can see this density of participation prior to the First Continental Congress in the popular conventions called for ratification. There, “the people from the back-country were, for the first time, admitted to the full measure of representation which had long been denied them by the unjust system of representation in the colonial assemblies.”⁴¹

For Hobbes, this is where the people’s role must decisively terminate.⁴² American popular sovereignty, however, did not stop here. After exercising their constituent power, the people must not sleep. With this conceptual and practical move, the founding became Lockean. To be sure, the rebel leaders read Locke with an emphasis, arguably a distorting emphasis that glossed over his support for the parliamentary sovereignty they wished to reject. What did draw them to Locke was his endorsement of how the people should persistently be a

³⁷ Hobbes, *On the Citizen* [Tuck and Silverthorne edition], 137.

³⁸ Having “repositioned fundamental sovereignty in the people themselves as an entity separate from Parliament,” as the legal scholar Andrew Kilberg has put the point, the founders designated “We the People” as more than persons and citizens, but also as an abstract people with constituent powers “out of and above the government itself.” Kilberg, “We the People,” 1072.

³⁹ Hobbes, *On the Citizen* [Tuck and Silverthorne edition], 142–43.

⁴⁰ Tuck, *Sleeping Sovereign*, 197. The first constitutional referendum of free men took place in Massachusetts in May 1778, when the nays dominated.

⁴¹ Schlesinger, “American Revolution,” 74. He notes how “in closely divided provinces like Pennsylvania and South Carolina their voice [favoring the radicals] was undoubtedly the decisive factor,” 74.

⁴² “When he who has the right to reign wishes to participate himself in all judgments, consultations and public actions, it is a way of running things comparable to God’s attending directly to every thing himself,” a situation of human hubris and overreach that he thought to be “contrary to the order of nature.” Hobbes, *On the Citizen* [Tuck and Silverthorne edition], 143.

hands-on sovereign. They were to play an active and continuing role within the politics of representation, with “one rule for Rich and Poor, for the Favourite at Court and the Country Man at Plough,” based on the rule of law, individual and collective rights, political representation, the separation of powers, a free press, and free civil society, each a key feature of America’s expansive popular sovereignty.⁴³ With this Lockean tilt, as Alexander Hamilton insisted, “no laws have any validity or binding force without the consent and approbation of the *people*, given in the persons of *their* representatives, periodically elected by *themselves*.”⁴⁴

Madison and his constitution-making colleagues propelled selections from this empowering body of thought to craft an institutional liberalism that gave expression to popular sovereignty in wholly novel and thickly inscribed ways under modern conditions, circumstances that included the enlargement of scale, the rise of commercial capitalist societies, and the increasing plurality of groups, interests, and geographies.⁴⁵

To canalize popular action, they were not willing to rely exclusively on internal restraints or social norms. As institutionalists, they devised hardwired barriers to straightforward popular rule: separated powers, an indirectly elected Senate, the Electoral College, constraints on simple majorities, the globe’s first constitutional court, and a robust federalism that did not wholly erase state-level sovereignty. Sovereignty of the people, yes, but with a key caveat, as Robert Dahl wrote in his *Preface to Democratic Theory*: “The Madisonian argument asserts, as an ethical inference from its basic assumptions, that accordance with the preferences of the greater number of citizens ought to be a necessary condition but not a sufficient condition for government policy.”⁴⁶ Organized this way, the constitution sought to curb both minority and majority forms of tyranny.

The story does not stop here. Hobbes, Locke, and Madison each underwrote three further elements without which the difficult task of forming an American people on a shared civic basis likely would have failed.

Hobbes’s state of nature, a state of perpetual threat, impelled humans to create governments and civil societies; actions they would not take “in the absence of fear,” which he defined as the “anticipation of future evil.” Unlike Locke’s comparatively more irenic, though not entirely peaceful, state of nature, that of Hobbes was dramatically of “War; and not simply war, but

⁴³ Locke, *Two Treatises of Government* [Cambridge 1990], 354, 363, 382. With Jefferson’s Declaration of 1776 having been written in terms that drew directly on Locke’s *Second Treatise*, we should not be surprised to learn that Locke was “cited more than any other thinker in American newspapers of the revolutionary era.” Brewer, “Slavery, Sovereignty, and ‘Inheritable Blood,’” 1039.

⁴⁴ Hamilton, *Political Writings of Alexander Hamilton*, 48.

⁴⁵ For a discussion of the making of institutional liberalism with republican raw materials, see Kalyvas and Katznelson, *Liberal Beginnings*, 88–114.

⁴⁶ Dahl, *Preface to Democratic Theory*, 45.

a war of every man against every man.” This circumstance, he insisted, was not merely speculative, as “the present century presents an example of this in the Americans,” referring to North American native Indians, whose lives he described as so fraught that even “the victors themselves are so constantly threatened by danger that it must be regarded as a miracle if even the strongest survives to die of years and old age.”⁴⁷

This is precisely how that population was denoted in the Declaration of Independence, “merciless Indian Savages whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions.” Alexander Hamilton reprised this source of danger in *Federalist* 24. Enumerating threats to the new republic, he included “the savage tribes on our western frontier.” These insecurities together with worries about dangerous overseas foes with possessions in the New World confronted Americans with Hobbesian concerns about physical danger. A source of constitutional creativity in Philadelphia, these anxieties helped generate a common American identity.⁴⁸

Crucial, as well, was Locke’s formula for religious coexistence. “Above all things,” his *Letter Concerning Toleration* counselled, it is “necessary to distinguish exactly the business of Civil Government from that of Religion.” This institutional recommendation had been motivated by how post-Reformation religious diversity had “produced all the Bustles and Wars, that have been in the Christian World, upon account of Religion.”⁴⁹ Over and again, key founders adopted this position. Virginia’s January 1786 *Statute for Religious Freedom*, written by Thomas Jefferson and guided to passage by Madison, averred that “to suffer the civil magistrate to intrude his powers into the field of opinion and to restrain the profession or propagation of principles on supposition of their ill tendency is a dangerous fallacy, which at once destroys all religious liberty.”⁵⁰

The importance of the First Amendment stipulation that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof” must not be underestimated. Certainly, Tocqueville took notice. Unlike France, he argued, the separation of church and state in America had made it possible for religion and freedom to coexist.⁵¹ Equally important was the absence of religious tests for office, thus permitting the admission to public life of Catholics and Jews many decades before such entry in Britain. Moreover, the 1790 “Bill to Establish an uniform Rule of Naturalization” limited to “any alien, other than an alien enemy, being a free white person,”⁵²

⁴⁷ Hobbes, *On the Citizen* [Tuck and Silverthorne edition], 24, 25, 29, 30.

⁴⁸ “Declaration of Independence”; Hamilton, Jay, and Madison, *The Federalist*, 149; Jóhannesson, “Securing the State”; Edling, “Peace Pact and Nation.”

⁴⁹ Locke, *A Letter Concerning Toleration*, 26, 55.

⁵⁰ <https://law.lis.virginia.gov/vacode/57-1/>.

⁵¹ This aspect of Tocqueville’s thought has been notably stressed by Kahan, *Tocqueville, Religion, and Democracy*. For a significant summary, see Hutson, *Church and State in America*.

⁵² www.loc.gov/resource/rbpe.21301100/?sp=

did not impose any tests of language or religion for potential white citizens, an openness and announced a form of confident toleration not yet found on that scale anywhere else.

Further, like Hobbes, for Locke “in the beginning of the World was America,” an emblematic site for the pre-civil society state of nature.⁵³ As Barbara Arneil shows convincingly, Locke’s liberal imagination in his *Second Treatise*, especially his consideration of property as justified and secured by labor, validated taking land from Indian nations despite their prior possession of the given territory, a set of actions that advanced white solidarity.⁵⁴

A third condition, primarily arranged by Madison, underpinned the constellation of thoughts and institutional suggestions on which the founders relied, without which the South never would have entered the Union.⁵⁵ Effectively, the constitution functioned as a federal treaty whose supra-state institutions did not require individual states to relinquish key rights, including the right to sanction chattel slavery. Without protections for the South’s human and economic racial system – the fugitive slave clause, the international slave trade clause, the organization of the Senate, which, down to 1850, granted no less than parity for the slave states, a “comity clause” that effectively guaranteed that non-slave states would respect southern judgments about the institution, and especially the 3/5 rule guaranteeing numerical advantages in the House of Representatives and the Electoral College – a single (white) American people based on a union between slave and non-slave states would have been impossible.⁵⁶

⁵³ Locke, *Two Treatises of Government* [Cambridge 1990], Treatise II, para. 49.

⁵⁴ Arneil, *John Locke and America*. See especially ch. 5, which chronicles Locke’s close attention to the minute details of colonial life in Carolina between 1668 and 1675, when he served as secretary to the Lords Proprietor.

⁵⁵ For Judith Shklar, the antinomy of black chattel slavery and white freedom was a fundamental driver generating common bonds of identity among white Americans, notwithstanding their various dimensions of diversity. I broadly share this view, but also argue that the constellation of ideas I have identified principally with Hobbes, Locke, and Madison, shaped the character and content of popular sovereignty in the United States in basic ways.

⁵⁶ Madison explained in *Federalist 54* why, for purposes of political representation, a slave would count as 3/5 of a person: “In being compelled to labor, not for himself, but for a master; in being vendible by one master to another master; and in being subject at all times to be restrained in his liberty and chastised in his body, by the capricious will of another, the slave may appear to be degraded from the human rank, and classed with those irrational animals which fall under the legal denomination of property. In being protected, on the other hand, in his life and in his limbs, against the violence of all others, even the master of his labor and his liberty; and in being punishable himself for all violence committed against others, the slave is no less evidently regarded by the law as a member of the society, not as a part of the irrational creation; as a moral person, not as a mere article of property. The federal Constitution, therefore, decides with great propriety on the case of our slaves, when it views them in the mixed character of persons and of property. This is in fact their true character.” Continuing, Madison noted that slaves had been transformed into property by law, so that “if the laws were to restore the rights which have been taken away, the negroes could no longer be refused an equal share of representation with the other inhabitants.” Madison, *The Federalist*, 349–50.

With some 700,000 enslaved Africans, the vast majority in the South (constituting just over 60 percent of the population in South Carolina and fully one-fifth of the country's total population), the institution of chattel slavery was placed out of reach in the Philadelphia document, a view that all but the most radical abolitionists came to share.⁵⁷ Certainly this was Abraham Lincoln's understanding. As he wrote to Albert G. Hodges, the proprietor of Kentucky's *Frankfort Commonwealth*, on April 4, 1864,⁵⁸

I am naturally anti-slavery. If slavery is not wrong, nothing is wrong. I can not remember when I did not so think, and feel. And yet I have never understood that the Presidency conferred upon me an unrestricted right to act officially upon this judgment and feeling. It was in the oath I took that I would, to the best of my ability, preserve, protect, and defend the Constitution of the United States ... I understood, too, that in ordinary civil administration this oath even forbade me to practically indulge my primary abstract judgment on the moral question of slavery.

Of the many motions tabled at the Constitutional Convention, not one concerned abolition. "Great as the evil is," said Madison, "dismemberment of the Union would be worse."⁵⁹

The appeal of Hobbesian constituent power and Lockean rights-based active political participation; the Madisonian rules to check the excesses of popular sovereignty; the fear of insecurity; the religious toleration that offered each faith a stake in the republic; and the arrangements that reassured the South that freedom and slavery could coexist helped bring about Bancroft's and Tocqueville's godlike people.

At the time, the promise of future westward expansion facilitated this agreement by advancing white borders of belonging.⁶⁰ The thirteen states at the founding occupied some 430,000 square miles, many inhabited by the country's indigenous population of approximately 600,000 (a population reduced to just under 340,000 by 1860). During the last decade of the eighteenth century and the first decade of the nineteenth, treaties transferred some 170,000 square miles – three and a half times the size of England – from native nations

⁵⁷ Conlin, *Constitutional Origins of the American Civil War*, xxiii, xix.

⁵⁸ www.abrahamlincolnonline.org/lincoln/speeches/hodges.htm.

⁵⁹ *Debates of the Convention of Virginia*, 322. As a wilfully ambiguous document that stopped short of formally endorsing slavery yet facilitated its existence while securing a system of liberties that could be claimed by persons excluded, the Constitution permitted slavery to thrive. When ratified, slavery still had a nontrivial northern presence, nearly 15 percent of the population in New York and 10 percent in Rhode Island. Starting in Pennsylvania with a gradual abolition Act in 1780, abolition bills nearly eliminated slavery north of the Mason–Dixon Line by 1840, decisively by 1850.

⁶⁰ "Borders of belonging" is the phrase designated by Welke, *Law and the Borders of Belonging*. For a prior treatment, see Muller, "Bonds of Belonging," 29–58.

to the United States.⁶¹ Following the Louisiana Purchase from France in 1803, the United States claimed a huge tract of new territory, 814,000 square miles.⁶² Even earlier, but certainly accelerated by this massive expansion, the country experienced a mighty westward surge driven by dramatic population growth and economic opportunities, not least for plantation-based chattel slavery.

Most of these lands possessed only pockets of settler presence in an environment largely controlled by native nations. From the start, the goal was indigenous land cessions and settler migration. As in the example of the Northwest Ordinance of 1787, at no time did plans to incorporate new territories "outline a place for native peoples in the American nation."⁶³ The dominant ambition was clear. Whether by negotiation or force, land should be cleared for European American farmers and settler sovereignty.⁶⁴ President George Washington's robust policies of dispossession earned him the Native Seneca name "Destroyer of Villages" during the War for Independence when "he ordered General John Sullivan ... to undertake a scorched earth policy against the people and lands (today west-central New York state) of the Six Nations, as well as authorizing an independent secondary strike on Seneca villages in northwestern Pennsylvania."⁶⁵ Commenting on Washington's avowal that "It is for us a matter of honor to treat them with kindness and even generosity," Tocqueville dryly noted, "This virtuous and noble policy has not been adhered to."⁶⁶ The overarching objective was native exit and white entry, with occasional, and quite exceptional, efforts to "civilize" the tribes to make them eligible for inclusion in the young republic. By way of formal treaties and federal laws, the United States found ways to extinguish "in an orderly way the Indian title to the land so that expanding settlements might find unencumbered room" as the classic treatment of American Indian policy between 1790 and 1834 by Francis Paul Prucha records.⁶⁷

But across this period, Indian policies were not uniform. During and just after the Revolution, half of the land claimed by US sovereignty was located in the Gulf Coast and the trans-Appalachian West up to the Mississippi Valley,

⁶¹ The figures are cited in Edling, "Peace Pact," 300.

⁶² After adjustments with Spain in 1819, the claim was reduced to 883,046 square miles, constituting 565,149,377 acres. Lee, "Accounting for Conquest," 932, 936.

⁶³ Edling, "Peace Pact and Nation," 296; Edling, "United States Expansion and Incorporation," 445. The Northwest Ordinance banned slavery, but southerners believed that once states would be crafted out of these lands popular sovereignty would determine whether enslaved persons could be present (as indeed they came to be in Indiana and Illinois).

⁶⁴ For discussions, see Bergmann, *American National State and the Early West*; DuVal, *Independence Lost*.

⁶⁵ Anderson, *George Washington Remembers*, 31; also see Calloway, *The Indian World of George Washington*; Mann, *George Washington's War on Native America*; Schmidt, *Native Americans in the American Revolution*.

⁶⁶ Tocqueville, *Democracy in America* [Goldhammer edition], 386.

⁶⁷ Prucha, *American Indian Policy in the Formative Years*, 2.

each a site of intense imperial conflicts and chronic violence. When placed under American control, these western borderlands were broadly governed in concert with the existing law of nations. Declaring “good faith” and announcing friendship as the goal, the Ordinance that specified how areas carved out of the Northwest Territory could become US states guaranteed that the lands of the present nations could only be alienated by their consent or by conquest “in just and lawful wars authorized by Congress.”⁶⁸

Before independence and well into the country’s first half-century, tribal relations continued to be understood to be aspects of international relations recognizing the tribes as sovereign nations who possessed territorial rights, distinguishing them from deracinated rights-less slaves. Concurrently, however, the native tribes, labeled as “savage,” were not placed on a par with “civilized” European nations. Inside this inherently unsettled situation, there were many “middle grounds,” borderland balances backed by law and geared to manage points of contact with a degree, if only a modest degree, of attention to Indian interests.⁶⁹ As an example, legislation in the very first American Congress established penalties for trading on the frontier without a license, and invalidated the purchase of Indian lands unless made by a public treaty with the United States. This law was strengthened at Washington’s request in 1793, with the goal, as the president put things, to “render tranquillity with the savages permanent by creating ties of interest.”⁷⁰ A series of comparable laws followed well into the 1820s.

Unlike God, popular sovereignty in America proved vulnerable. Its balance of ideas and institutions, policies and practices, was undermined with the introduction of two not quite new but increasingly insistent persuasions, starkly delimited to the white subset of the population, that were promoted by President Andrew Jackson and Vice President John C. Calhoun. Each extended popular sovereignty in the name of democracy. Each attempted to deepen and extend eligible citizen freedom in tandem with evermore absolute distinctions between persons thought to be suitable for American citizenship and others, African and native, who by virtue of race and civilization were designated as unqualified. Together, these interventions sharpened and accelerated already existing conflicts between North and South and between proslavery supporters and abolitionists, generating debates about the future of the West that turned, above all, on disputes about white liberty that put the era’s sharp advances for democracy in tension with existing patterns of popular sovereignty. Membership questions that had been present in British North America and the early United States took new, indeed incendiary, form.

⁶⁸ Section 14, Article 3.

⁶⁹ White, *The Middle Ground*, 1991.

⁷⁰ Washington, “Fifth Annual Address.”

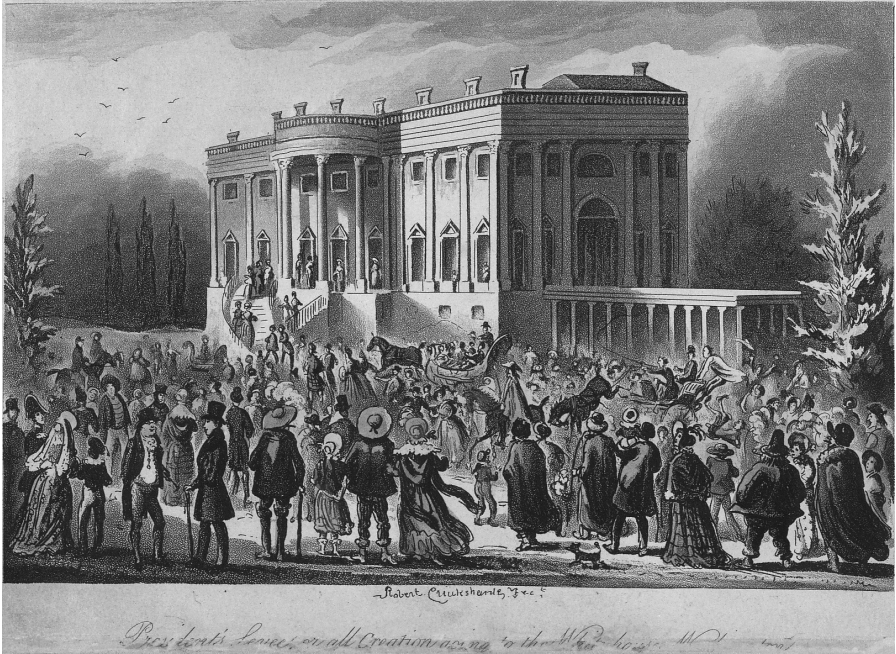


FIGURE 6.1 “President’s Levee, or all creation going to the White House,” by Robert Cruikshank

No doubt, the positions taken by Jackson and Calhoun were popular with much of the electorate. No doubt, too, both believed their perspectives about westward expansion, Indian removal, and the expansion of slavery were consistent with the constitutional arrangements on which popular rule rested. Yet, in retrospect, we can see that the judgments and assertive actions of Jackson and Calhoun made it impossible to maintain the fragile equilibrium that, at the time of their election, was continuing to sustain a collective sovereign people. With these initiatives, ever-sharper and ultimately irreconcilable divisions among white male citizens were put into play.

The Democratic victory in 1828 signaled an alliance between yeoman farmers, northern workers, southern planters, and other supporters of the region’s slave system (Figure 6.1). Jackson, a plain-spoken backwoodsman and popular military hero from Tennessee, unified this electoral coalition. He was joined for a second term as vice president (having been elected in 1824, serving during the presidency of John Quincy Adams) by his fellow Democrat, Calhoun of South Carolina. In this unusual combination of two southerners holding the country’s top offices, they allied with Martin Van Buren, governor of New York, the political virtuoso who followed Jackson into the White House in 1837. In conjunction with the virtual elimination of property requirements for

voting, restrictions that had existed in ten of the thirteen states in 1790,⁷¹ these Democrats forged a new kind of mass party, “responsible to a broad white male electorate and a party rank and file of ordinary voters, led by professional politicians.” This was the innovative type of party that Max Weber, nearly a century later, placed at the heart of his essay on “politics as a vocation.” A half-century later, the political scientist Samuel Huntington saluted such parties as the “distinctive organization of modern politics.” Managing participation and aggregating interests, the institution resolutely links the people to the state.⁷²

America soon discovered that such parties – the institutional heart and soul of competitive democratic politics – are good at organizing peaceful competitions for leadership positions and crafting provisional policy arrangements for matters that are divisible, subject to compromise. But when constitutional values and fundamental moral issues become the stuff of dispute, a whirlwind threatens. In such situations, political parties can mobilize popular sovereignty to support illiberal orientations that undermine ethical political standards.

Jackson was especially interested in opportunities on the frontier’s vast incorporated territories. He sought to secure white dominion as quickly as possible. Before assuming the presidency, Jackson had “speculated in Indian lands while pursuing commercial ventures throughout American, Spanish, and Native jurisdictions.” With a fierce Hobbesian concern for security after the Middle Tennessee Indian Wars of the 1790s, Jackson began to develop a perspective on popular sovereignty at the edge, where persons styled as civilized collided with “a cruel state of nature.”⁷³ This situation, he believed, required “a new ‘protection covenant,’ whereby the people themselves ... retained full sovereignty to deploy violence,” with sovereignty defined “as the power to use force without asking anyone.”⁷⁴ When, in 1818, he led a complement of 3,000 that captured Florida from Spain and subdued the Seminole, serving three years later as the territory’s military governor, Jackson made Indian removal and the capture of fugitive slaves top priorities, announcing that his efforts had protected the United States not only from the Spanish and British Empires, but also from “Negroes and Indians,” persons he termed “savage foes.”⁷⁵

On this account, the federal government never should impede the movement of free white people into western territory, constrain battles by settlers to displace native peoples, or, for that matter, resist decisions to purchase and

⁷¹ See Keyssar, *The Right to Vote*.

⁷² Wilentz, *Chants Democratic*, 173–74; Weber, *Essays in Sociology*, 77–128; Huntington, *Political Order in Changing Societies*, 91.

⁷³ Opal, “General Jackson’s Passports,” 69, 71.

⁷⁴ Opal, “General Jackson’s Passports,” 77. In 1811, Jackson personally had experienced and deeply resented the demand that he show a passport to enter Choctaw territory in Mississippi to collect a group of slaves a business partner had failed to sell on the Gulf Coast.

⁷⁵ Hammond, “The High Road to a Slave Empire,” 357.

utilize black slaves. Specifically, Jackson rejected the idea that the movement of white people on the continent should be delimited. Free-born Americans, he insisted, should be able to go anywhere on the continent, whether for business or settlement, unimpeded by public authority.

Before the Jackson presidency, white movement had been regulated. Some aggressive trans-legal forays into Indian territory by frontiersmen were restrained, not entirely without efforts to protect Indian life. Authorities sometimes resisted what they called white intrusion, a term utilized to refer to unofficial attempts at expansion and settlement in areas allocated, often by treaty, as Indian. In 1816, Secretary of War William H. Crawford declared that "Intrusions upon the lands of the friendly Indian tribes, is not only a violation of the laws, but in direct opposition to the policy of the government towards its savage neighbors." Should such intrusions be reported, he continued, "the President requires that [the settlers] be removed, and their houses and improvements destroyed by military force; and that every attempt to return, shall be repressed in the same manner."⁷⁶

"When Meriwether Lewis and William Clark were spinning yarns of a continent crossed," between 1803 and 1806, Samuel Truett has written, "the United States was an archipelago of settler islands, strung on a weak web of roads and the aqueous spaces of the Ohio River, the Mississippi River, the Gulf of Mexico, and the Atlantic and Pacific Oceans." These borderlands, he stressed, were multifaceted, with ultimate outcomes impossible to predict.⁷⁷ At the start of the Jackson presidency, much American territory still was distinguished by such geographically constrained settlements surrounded by more powerful indigenous nations, producing much insecurity.

President Jackson detested such unpredictability, both as a personal and policy matter. As a high priority, in tune with much popular opinion and pent-up demand by prospective colonizers, he sought to liberate white settlement from restraints by inaugurating a more aggressive framework for expulsion and continental expansion, soon to be accelerated by the conquest of more than half of Mexico in the 1840s. The once-dominant treaty process was superseded both by accelerated violations and evermore insistent policies of Indian removal based on large land swaps that moved native people westward into Indian territory. Initially established in 1822, this zone was radically expanded in 1834 to include the immense area that would become Kansas and Nebraska, as well as Oklahoma, Colorado, North Dakota, South Dakota, Montana, and Wyoming.⁷⁸ As these policies were developing and taking hold, Tocqueville was projecting "that the Indian race in the United States is doomed."⁷⁹ A decade later, Jackson

⁷⁶ Secretary of War William H. Crawford to Major General Alexander Macomb, Detroit, January 27, 1816, in Carter, *Territorial Papers of the United States*, 619.

⁷⁷ Truett, "Settler Colonialism," 438.

⁷⁸ Edling, "United States Expansion," 446–51.

⁷⁹ Tocqueville, *Democracy in America* [Goldhammer edition], 376.

boasted to Moses Dawson of Alabama that “We have labored for many years to free the States of our Union of the Indian population within our limits, and may be said to have just succeeded in the accomplishment of this human policy.”⁸⁰

During and after Jackson’s two-term presidency, free settler movement was accompanied by policies of removal that shifted the Potawatomi, the Sauk, the Fox, the Creek, the Cherokee, the Chickasaw, and the Choctaw, some 80,000, to the west of the Mississippi under the auspices of the Indian Removal Act of 1830, a law upheld as rational and humane, but that certainly proved otherwise.⁸¹ At the time of its passage, even after prior dispossessions “Native Americans still controlled millions of acres east of the Mississippi, particularly in the South. In the 1820s, Creek Indians owned a fifth of present-day Alabama; Choctaw and Chickasaw, half of Mississippi,” living on richly-fertile, valuable land.⁸²

These original inhabitants no longer were defined as sovereign and independent, but as “domestic dependent nations” in the terminology of the Supreme Court’s 1831 *Cherokee Nation v. Georgia*. The national state now backed the mobility decisions of individual white settlers by ordering land surveys, reorganizing former Indian lands, extending postal routes, and erecting military forts at key transportation locations, thus accelerating dramatic demographic changes.⁸³ This rush to the West soon brought a dramatic quickening to the period’s growing crisis about the expansion of slavery.

An anxious Calhoun was concerned, one might say obsessed, with this issue and, with it, the security of the slave system. Slavery, for Calhoun, was a public good, not a necessary evil. The future production of cotton, rice, tobacco, and sugar by enslaved people within this felicitous system, he believed, depended on territorial expansion. Indian removal, he understood, thus also enhanced the security of the South’s social order. Just as white population growth in the North was fast outrunning that of the South, threatening to upend the region’s long-existing political veto capacities, the West, if opened to slavery, might keep alive the national balance of sectional power.

Slavery, in fact, moved from strength to strength during the three decades before the Civil War. From Georgia to Texas, an enlarged arena for plantation slavery was displacing the Caribbean as the main source of North American commodity production, and the enslaved population grew to some 4 million. With national state power applied “to protect slavery, to bolster slaveholders’ claims of mastery, to strengthen claims of sovereignty in borderlands, and to conquer new territory to protect slavery, ... the United States became the

⁸⁰ “General Jackson’s Letter to Mr. Dawson of Alabama,” in *Southern State Rights, Anti-Tariff & Anti-Abolition*, 29 (<https://lccn.loc.gov/11025822>). On Indian resistance, see Dinwoodie, “Evading Indian Removal,” 17–41.

⁸¹ A first-rate study is Saunt, *Unworthy Republic*.

⁸² Caitlin Fitz, “People Who Profited Off the Trail of Tears.”

⁸³ A classic study is Foreman, *Indian Removal*.

preeminent North American and Atlantic world empire for slavery.”⁸⁴ With these developments, Lincoln, in a letter to William H. Seward one month before his inauguration, designated the United States as “a slave empire,” when explaining why he would refuse any efforts to further expand slavery under federal protection. Using local popular sovereignty to do just that, he argued, was an immoral “trick.” There must not be, he argued, any further compromises.⁸⁵

This sensibility, together with growing and often effective abolitionist mobilizations, assertive efforts by free blacks to claim the full rights of citizenship, the demographic tilt favoring northern representation in Washington, and the central role slavery came to play in the era’s borderland disputes, all animated growing anxieties among southern leaders, not least Calhoun.⁸⁶ His late life treatise, *A Discourse on the Constitution and Government of the United States*, insisted that because the United States was not more than a federation of states, popular sovereignty had never signified a single national people – a “theory of the nationality of the government,” he wrote, “of recent origin” that was “founded on fiction,” thus opening the door to future secession as a constitutional right.⁸⁷ To defend slavery, he famously outlined constitutional instruments to infirm potential antislavery majorities as he watched abolitionist and anti-expansionist ideas enter the political mainstream. These included requirements for concurrent cross-region majorities based on the nullification of objectionable federal statutes, a veto by individual states, each considered sovereign and independent, as well as the more fanciful idea of a dual presidency, with each acting to forestall the inherent right to secede by promoting cross-sectional compromises.

Jackson did not agree. Though proslavery, he was a nationalist who had no interest in diluting the federal government’s powers or the capacities of the president. Trying to strengthen federal authority by resting it on popular sentiments and populist causes, he utterly rejected nullification when South Carolina declared the Tariff Acts of 1828 and 1832, passed by Congress and signed by Adams and Jackson, respectively, to be unconstitutional.

Nullification unraveled the constitution’s deliberate ambiguity about the location of popular sovereignty and the qualities of the American people. The United States, as Max Edling has observed, was founded as “a *union* of semi-sovereign state-republics” coupled with “a sovereign *nation* ... The national government,”

⁸⁴ Hammond, “The High Road to a Slave Empire,” 349. On the role of national state power, see Fehrenbacher, *The Slaveholding Republic*. An important contemporaneous overview of southern slavery in the 1850s is Olmsted, *A Journey in the Seaboard Slave States*.

⁸⁵ Abraham Lincoln to William H. Seward, February 1, 1861: <https://quod.lib.umich.edu//lincoln/lincoln4/1:290.1?rgn=div2;view=fulltext>.

⁸⁶ The literature on abolitionism is immense. Particularly compelling, and focusing on black voices, is Sinha, *The Slave’s Cause*. On demands by free black Americans for citizen rights, see Jones, *Birthright Citizens*.

⁸⁷ Calhoun, *A Disquisition on Government and A Discourse on the Constitution and Government of the United States*, 140. *Discourse* was in handwritten form, on loose sheets, when Calhoun died in 1850, and is likely to have been written principally in 1849, between congressional sessions, when he was serving as a member of the Senate from South Carolina.

quite uniquely, thus “was simultaneously a *forum* for the negotiation and settlement of member-state interests and conflicts in Congress and a *central government* ... that existed independently from the member-states,” and which governed through congressional legislation directed to the citizenry as a whole.⁸⁸ In this regime, states on one side of the Mason–Dixon line had abolished slavery; on the other, slavery had expanded within state-organized legal codes. Not surprisingly, the hardest questions arose in territories not yet states, still under national control, concerning future terms of transition.

Jackson’s version of popular sovereignty helped propel already demanding pressures at the frontier. Notwithstanding their differences, Calhoun contributed mightily to emplacing popular sovereignty at the very heart of the territorial slavery dispute, hoping to engineer the nation’s racial composition by popular white design.⁸⁹ Further, the entwined perspectives of Jackson and Calhoun, which dominated American dispositions and policies until the election of Lincoln, transformed the articulated meaning of the American Revolution. Well into the 1820s, independence movements in Latin America were enthusiastically welcomed in the United States as liberal and democratic progeny, consistent with a godlike American people. With the Jackson–Calhoun turn, however, and with slavery retreating in all the South American republics but monarchical Brazil, the hemisphere’s regimes became foils, places where dark-skinned radicals were perceived as confining slavery and crossing racial boundaries, and characterized as distinct from the more mature and exceptional white republic in the United States, a country, like most of the colonial Caribbean, not hostile to the expansion of slavery.⁹⁰

The Missouri Compromise of 1820 had demarcated the line between free and slave territory acquired by Jefferson in the Louisiana Purchase. The question, having been reopened by the vast new lands acquired in the Mexican War by the 1848 Treaty of Guadalupe Hidalgo – fully 60 percent of the land that previously had composed Mexico – now seemed settled by the Compromise of 1850 (Lincoln believed it had been settled “forever”). That set of five statutes, drafted by Henry Clay of Kentucky, a Whig, and Stephen Douglas of Illinois, a Democrat, specified which lands would be open to slavery and which would not, together with a draconian Fugitive Slave Act that required escaped slaves to be returned to their masters even after entering states that banned slavery.⁹¹ In the interest of keeping the Union intact, Lincoln had accepted the

⁸⁸ Edling, “A More Perfect Union,” 400.

⁸⁹ There is a very considerable literature. See, as instances, Childers, *Failure of Popular Sovereignty*; Woods, *Bleeding Kansas*.

⁹⁰ For this important understanding, see Fitz, *Our Sister Republics*.

⁹¹ Summaries of the legislation and the historiography of its implications can be found in Russel, “What Was the Compromise of 1850?” and Woods, “Compromise of 1850.”

Compromise of 1850, notwithstanding, as he wrote to his proslavery Kentucky friend Joshua Speed on August 24, 1855, "I hate to see the poor creatures hunted down," but "I also acknowledge *your* rights and *my* obligations, under the constitution, in regard to your slaves."⁹²

The 1850 agreements did not survive. Stability was upended four years later by the Kansas–Nebraska Act, also authored by Senator Douglas. Substituting popular sovereignty for the prior demarcation of slavery's remit, the law created a vast new ground, carved from Indian territory, north of the line that had been closed to slavery under the Missouri Compromise. "Let the people decide," Douglas famously announced, as the bill authorized decisions by settlers about the existence of slavery under the rubric of popular sovereignty. The subsequent controversy gave rise to the Republican Party's birth, and to Lincoln's shift of political allegiance. And it was the issue of popular sovereignty – more specifically Lincoln's opposition to it regarding the extension of slavery – that launched his spectacular ascent to the presidency.⁹³

Douglas argued that it was for white men to judge whether to approve the existence of slavery in a free vote. Lincoln answered with an ethical retort. Popular rule, he argued, is not unlimited. Moral codes must not be made or unmade by majorities. The people is not a God.

Such "a moral, social, and political evil," language he used in Bloomington, Illinois, in September 1854, and a "monstrous injustice," the term he applied in Peoria, Illinois, the next month, must not be decided by the people. Unlike issues appropriately settled by voting, the outcome here would not be provisional; the evil would persist even if majorities were to change. And who was "the people"? The humanity of black Americans would be denied by authorizing settlers to bring their human property to the new territory. "When the white man governs himself that is self-government, but when he governs himself, and also governs *another* man," Lincoln stated at Peoria, "that is *more* than self-government – that is despotism."⁹⁴

There was a vote, boycotted by free-state voters. The result elected delegates who wrote the Lecompton Constitution, which in 1857, became the basis for the request by Kansas for admission to the Union as a slave state. President James Buchanan backed the proposal, and submitted it to Congress. By then, however, the Jackson–Calhoun version of popular sovereignty had been confirmed. In March of that year, the Supreme Court, in *Dred Scott v. Sandford*, banned any limits on the westward expansion of slavery and denied American citizenship to any black person.⁹⁵

⁹² "I bite my lip and keep quiet," Lincoln added. Bassier, *Collected Works of Abraham Lincoln*, 320.

⁹³ For the legislative history, see Russel, "Issues in the Congressional Struggle Over the Kansas–Nebraska Bill"; Dean, "Stephen A. Douglas and Popular Sovereignty."

⁹⁴ *Collected Works of Abraham Lincoln*, 239, 255, 266.

⁹⁵ The classic consideration remains Fehrenbacher, *The Dred Scott Case*; also see Graber, *Dred Scott and the Problem of Constitutional Evil*.

During this decade, the popular sovereignty that had attracted Bancroft and keenly interested Tocqueville lost its unifying constitutive standing. The concerns Edmund Morgan raised at the bicentennial became incendiary. “How,” he asked, “to discover the will of the people? How to get them to express it? How to know whether there was any will to express? How to make government responsive to it when it was expressed? And what to do when the apparent will of the people ran counter to what their representatives thought good and right for them?”⁹⁶ With disputes about slave-bearing westward movement, these questions collided with considerations of race, civilization, and rules for belonging. In that context, America’s white peoplehood, a formation that overcame great diversity by combining Hobbesian, Lockean, and Madisonian ideas and institutions, could not be sustained.

During the Kansas–Nebraska conflict, the combined standpoints and achievements of Jackson and Calhoun exposed long-latent but previously managed tensions. With an acceleration of popular participation, a more agonistic democracy, hurried westward motion, and an evermore vibrant defense of an expanding slave system, popular sovereignty’s cohesion became increasingly provisional and instrumental. Two months after *Dred Scott*, the proslavery Democrat Francis W. Pickens, soon to lead South Carolina’s secession as governor, wrote this to Benjamin Perry, another future governor and then a pro-Union nationalist member of the state’s House of Representatives: “As long as the Government is on our side, I am for sustaining it and using its power for our benefit.” But if “our opponents reverse the present state of things *then* I am for *war*.”⁹⁷

“If there is any country in the world,” Tocqueville had asserted, “where one may hope to assess the true value of the dogma of popular sovereignty to study its application to the affairs of society and judge its benefits and dangers, that country is surely America.” Godlike popular capacity, he understood, did not necessarily portend a happy outcome. In France, he lamented, “rather than gradually taking control of society so as to rule in peace,” democracy “marches on through the chaos and tumult of battle.”⁹⁸ The United States did not prove exempt.

As Tocqueville urgently understood, popular sovereignty is protean. The animating idea that a ruling people makes binding lawful judgments in the first and last instance has become omnipresent irrespective of a given regime’s form or the degree to which the political order is premised on openness, pluralism, and liberty. An abstract people can sanction the full spectrum.⁹⁹ Popular

⁹⁶ Morgan, “Popular Sovereignty,” 112–13.

⁹⁷ Woods, “What Twenty-First-Century Historians Have Said about the Causes of Disunion,” 429.

⁹⁸ Tocqueville, *Democracy in America* [Goldhammer edition], 11, 62.

⁹⁹ For a useful discussion of the framing through popular sovereignty of limited powers in constitutional states, see Pasquino, “Popular Sovereignty,” 144–58.

sovereignty, moreover, extends from the noble to the terrible not only in illiberal regimes. There are no guarantees that citizens in democratic civil society will direct egalitarian and warmly welcoming, or even tolerant, preferences to their representatives, or that their leaders will opt to promote human pluralism.

Persisting questions – Morgan’s questions – about the character, formation, stability, distribution, content, and influence of the will of the people, its connection to the central institutions of liberal democracies, and the ways popular sovereignty directs and constrains the actions of rulers and in turn is shaped by them, oriented the classic analytical study by the political scientist V.O. Key, Jr., *Public Opinion and American Democracy*, and offers a guide to how we might continue to engage with questions of popular sovereignty. Seeking to place “knowledge about public opinion in a political context,” Key was motivated to understand how “the preferences, aspirations, and prejudices of the public ... [are] connected with the workings of the governmental system” in determinate historical situations. Like Morgan, Key wished to discern “what critical circumstances, beliefs, outlooks, faiths, and conditions are conducive to the maintenance of regimes under which public opinion is controlling, at least in principle, and is, in fact, highly influential.”¹⁰⁰

Key concluded with the designation of a problem, and a forceful contention, each germane to the story of American beginnings. The problem concerns the formation of a people with “a sense of the collectivity” in circumstances where the population, by choice and by imposition, is divided into “segments, each with its own sense of separateness.” The contention concerns the qualities and duties of individuals who lead and govern, the values and sense of responsibility they possess, the frames of choice they offer, and the discretion they exercise. On the understanding that the will of the people is never entirely free-standing but correspondingly directed, Key closed with this claim¹⁰¹:

The masses do not corrupt themselves; if they are corrupt, they have been corrupted. If this hypothesis has a substantial strain of validity, the critical element for the health of a democratic order consists in the beliefs, standards, and competence of those who constitute the influentials, the opinion-leaders, the political activists If a democracy tends toward indecision, decay, and disaster, the responsibility rests here, not in the mass of the people.

The early American story of popular sovereignty not only signifies the importance of this perspective, but also suggests that it is too simple. To be stable or even possible, governments must be popular. What if the preferences of the greater number are in tension with humanity and justice? How should leaders govern that multitude?

Key was more confident than I about ascertaining the proper balance between responsiveness and leadership, but his strong assertion about leadership has

¹⁰⁰ Key, *Public Opinion and American Democracy*, vii, 535, 536.

¹⁰¹ Key, *Public Opinion and American Democracy*, 548, 549, 558.

shaped the way I have pursued answers to my questions concerning how a coherent political people managed to emerge despite demographic and sectional diversity, and why this ethically complicated revolutionary achievement collapsed despite a supportive matrix of ideas, institutions, and policy compromises. With an emphasis similar to Key's, I have tasked Jackson and Calhoun for the content of their exaggerations of popular sovereignty. As they facilitated a proslavery drive to settle the West, in part a response to mass pressures for land, opportunity, and racial hierarchy, their political guidance proved fateful by "unleashing popular prejudice in a new and politically potent direction."¹⁰²

There is no gainsaying the short-term successes of Jackson and Calhoun. They enlarged white participation and won popular mandates. They altered the rhetoric of popular sovereignty to fit mass deportations and chattel slavery, and achieved policymaking by Congress and the Supreme Court that furthered the continental expansion they desired. For some decades, as a result, they helped secure slavery against the institution's growing adversaries and thus kept the South in the Union. These very achievements, however, produced a great collision between the endemic issues of participation and representation identified by Morgan and an ever fiercer contest inside the trenches that long had guarded membership in the country's godlike people.

Comparable challenges currently persist. As in antebellum America, popular sovereignty continues to provoke dilemmas that demand moral judgment, institutional imagination, and necessary restraint. "Perhaps," as Morgan wrote, "the questions are unanswerable." Yet, as he also added, "we dare not" give up "the quest for better answers."¹⁰³

¹⁰² Saunt, *Unworthy Republic*, 10.

¹⁰³ Morgan, "Problem of Popular Sovereignty," 113.

The Sovereign People and the Liberal Democratic State

David A. Bateman

POPULAR PRINCIPLES AND LIBERAL PRINCIPLES

During a debate over an 1847 bill to extend the right to vote in English elections, a liberal member of parliament (MP) rose to contest Benjamin Disraeli's claim that expanding the electorate would enfranchise voters with opinions opposed to the liberalism that then held sway in parliament. William Clay scoffed at Disraeli's distinction between "popular principles and liberal principles." Instead, he confidently asserted that "no principle, in his opinion, could be popular without being liberal, and every liberal principle would sooner or later be popular."¹ Clay saw little to fear in democratization, and fully expected that expanding the influence of "the people" in political affairs would be wholly compatible with his other substantive commitments.

With hindsight, Clay's confidence might seem misplaced. Throughout the nineteenth and early twentieth centuries, democracy – an institutional configuration in which "the people" is recognized as the legitimate source of political authority – and liberalism – an account of political and social life that treats these as derivative of the individual and its possessive claims, with implied limits on the ends and exercise of political authority – were regularly pitched as incongruous alternatives, whether in the form of "illiberal" democracies or explicitly non- and anti-democratic liberalisms.² The post-World War II era, by contrast, had seen a synthesis of the two, worked out at a theoretical level in social scientific understandings of the freedoms needed for a democratic system to function, and embodied in ideal-type institutional arrangements that were promoted through international and national charters. The result of this

¹ *Hansard*, July 14, 1847, 3rd Series, vol. 94, c. 316.

² "I can certainly call myself an anti-democrat," explained Gaetano Mosca, "but I am not an anti-liberal; indeed I am opposed to pure democracy precisely because I am a liberal." Finocchiaro, *Beyond Right and Left*, 146.

synthesis was that for much of the twentieth and early twenty-first centuries, liberalism and democracy seemed to enjoy the deeper congruence that Clay anticipated.

The recent crystallization of “populism” as a contemporary form of illiberal politics has made this comforting fiction harder to sustain.³ Today’s illiberals regularly invoke “popular principles,” popular authorization, and populist democracy in their assault on liberal institutions. Critics in the academy and in public commentary often reinforce such a framing, locating the threat to liberal institutions and commitments in practices of democratic authorization and inviting not just their analytical separation but their juxtaposition.

This can be jarring, but it is not surprising. Whenever the legitimation of governing authority draws on two or more distinct sets of principles – for example, liberalism *and* popular sovereignty – there will inevitably be circumstances in which these diverge, demanding trade-offs and choices about which should be accorded priority. Navigating such conflicts and reestablishing some harmony or logical ordering between them is usually the self-assigned task of jurists, lawmakers, and intellectuals attached to or supportive of the regime. When one of the legitimating principles is popular sovereignty, as is true of nearly every actually existing democracy, the task is especially complicated. If a regime even roughly embodies this principle, it will in some way assign a power to make authoritative decisions to “the people.” This body, however composed or assembled, will inevitably differ from the much smaller group of persons who can be said to constitute the regime and its social base, those officeholders or individuals and classes most directly invested in its continued rule, and most attracted to participating in its rituals and in upholding its public philosophy.⁴ “The people” may or may not be interested in working out a reconciliation between competing principles, or in validating the syntheses worked out by others. The course of political events might even present the issue both to “the people” and to the governing classes as a stark choice between contending principles.

The history of democracy provides a chronicle of such moments, when the potential voice of “the people” was deemed by the persons in control of the state to be too egalitarian, too socialistic, too liberal, too conservative, too religious, too intolerant, too atheistic, too illiberal, too capitalistic, to be trusted with a determining authority. This was most bluntly stated by those who opposed popular sovereignty, such as the conservatives of Disraeli’s party and many of the Whigs and Liberals he was taunting. But it can also be traced in the discourse

³ Weyland and Madrid, *When Democracy Trumps Populism*; Müller, *What Is Populism?*; Mudde, “The Populist Zeitgeist.”

⁴ By public philosophy, I mean the “legal and moral basis, or principle, on which the power of the political class rests,” and not any particular system, such as that called for by Lippmann. Mosca, *The Ruling Class*, 70; Lippmann, *Essays on the Public Philosophy*, 101; Lowi, “The Public Philosophy,” 5.

of those who saw themselves as its champions. “The Jacobin dictatorship,” writes Christopher Hill, “and the Bolshevik dictatorship of the proletariat, justified themselves as covering the period in which the sovereign people were being educated up to their new responsibilities.”⁵ French republicans came to doubt whether “the people” could be fully trusted with sovereignty after the popular vote validated the coup of Louis–Napoleon, while the drafters of the US Constitution believed republicanism required protection of popular sovereignty from its supposed excesses and vices.⁶ “Something remains untranslatable about popular sovereignty,” writes Judith Butler. “As much as popular sovereignty legitimates parliamentary forms of power, it also retains the power to delegitimize those same forms. If parliamentary forms of power require popular sovereignty, they also surely fear it, for there is something about popular sovereignty that runs counter to, and exceeds, every parliamentary form that it institutes.”⁷ It is not that popular sovereignty is unique in being uneasily combined with other principles. But even on its own terms, it promises no ultimate resolution or stable utopia. It is defined by a seemingly inalienable capacity to overthrow any settled notion or governing arrangement, even to the paradoxical extreme, an autogolpe of a sovereign people rejecting the practices of popular sovereignty itself. Any seeming congruence between it and other principles is likely to be fleeting.

That this disruptive power might be aimed against liberal principles should be worrying. Some such principles have been essential in bringing the ideal of democracy closer to its realization, of imposing an empowering constraint on popular sovereignty that rendered it more equal, deliberate, and regular.⁸ Actually existing democracy has made liberalism more bearable. The smoothing of some of liberalism’s hard edges – the partial prying open of its fist – count among the great achievements of the twentieth century. We should not gloss over the extraordinary flaws of liberal democracies, nor forgive their crimes. But so long as democratic principles modulated liberal ones, and vice versa, the result was a more humane and decent liberalism and a more inclusive and deliberate democracy. The rise of illiberal populism threatens to dissolve the ideological and institutional ties that had achieved this, with little promise of improving democracy in the process.

The animating concern of this chapter is how to respond. The practices and rhetoric of illiberal populism, as well as the recommendations of some of

⁵ Hill, *God’s Englishman*, 207.

⁶ Biagini, *Liberty, Retrenchment, and Reform*; Bateman, *Disenfranchising Democracy*.

⁷ Butler, “We the People,” 50–51.

⁸ Liberal constraints that allow collectives and individuals to determine their own priorities and objects in life and to build extensive and/or intensive relationships in order to achieve these, that require individuals be treated as equal, that require “the people” to think twice before pursuing certain actions, have each stabilized popular sovereignty by broadening its appeal and making its actions more deliberate. This provides the force to arguments that “democracies” that do not abide by certain liberal principles have no claim to the title. Müller, *What Is Populism?*; Grzymala-Busse, “Foreword.”

its critics, seem to invite a choice between the two, or at least to think of our responses as involving a zero-sum recalibration in favor of one or the other: to respect the “voice of the people,” however harassed, or to empower and insulate liberal elites and liberal policies, however haughty or wrong, against the injudicious involvement of this people.

Are these really the only options? Politically viable syntheses have been crafted before. Were they simply recalibrating the balance between the two – a bit more liberalism here, a bit less democracy there? Or, were they more genuinely creative, generating new possibilities for enriching both? This chapter offers a comparative history of two instances when liberalism and democracy were pitched as alternatives: Victorian-era Britain and the pre-Civil War United States. By the time mass democratization appeared on the British horizon, liberalism was already firmly entrenched as the public philosophy of the state and regime. British liberals, of all parties, accordingly sought to limit the authority of “the people” that would be gaining power through the vote, by slowing the pace of democratization, by pursuing targeted incorporations paired with new exclusions, by constructing an insulated state that could overpower any democratizing movement, and eventually by endorsing disciplinary solutions to remake public preferences in line with liberalism. In the antebellum United States, liberalism was less doctrinaire, even if more broadly diffused.⁹ It was also less clearly stamped in the public philosophy of the state and its governing classes: It was popular sovereignty that emerged out of the revolution as the authorizing principle of the regime. This would pose a problem for what was perhaps the most active and organized movement of liberals in the United States, the multi-racial and multi-gendered writers and orators, often in dialogue with liberals across the Atlantic, who provided much of the justification for the abolition of slavery. These liberals were, with famous exceptions, devoted to the US regime, though many believed it had been subverted from its original aims. They all recognized that the regime’s foundation on popular sovereignty gave it broad and deep public support. Rather than insulate liberalism from democracy, a growing body of abolitionists sought instead to advance liberal principles by expanding and redefining “the people.”

The comparison that follows will magnify certain tendencies over others and exaggerate contrasts at the expense of deeper similarities. My goal is not to provide a causal account of the countries’ respective democratizations. As Gregory Conti has described it, “historical inquiry often provides, from the perspective of the present, a sense of mismatch” that “can be productive of fresh thinking about the nature of our political structures.”¹⁰ My hope is that this stylized comparison might unsettle our notions about how liberalism and democracy have been synthesized in the past, and in doing so spark more creative thinking about how the most important values of each can be recombined today and established, however temporarily, on a more popular basis.

⁹ Hartz, *Liberal Tradition*; Smith, *Civic Ideals*.

¹⁰ Conti, *Parliament the Mirror of the Nation*, 7.

THE EXCLUSIONS OF LIBERALISM AND DEMOCRACY

While both liberal and democratic principles contain within them a logic of inclusion, they also justify respective and characteristic exclusions.¹¹ One of the most important ways liberalism has been invoked to exclude categories of persons from equal treatment and standing has been through ascribing deficiency to this group, whether in the varyingly thick set of anthropological or sociological criteria held to be required of the liberal subject or in some supposed hostility of the to-be-excluded group to liberal principles.¹² Distinctions that did not rest on some “real” foundation in the distribution of talents or capacities or principles, however, were generally considered to be “odious.”¹³

Democratic principles lend themselves less well to baroque subdivisions of fitness. Democracy’s characteristic exclusions instead tend to rest on how a group is conceived relative to the particular “people” invested with sovereign authority: Those who are not members of “the people,” regardless of their fitness or ability to perceive and commit themselves to a set of principles, are illegitimate participants in public affairs.¹⁴

Neither the United States nor the United Kingdom was a liberal democracy by the mid-nineteenth century. But the principal exclusions of each, and their philosophical justification, followed these basic lines. In the Victorian-era United Kingdom, the franchise was restricted on explicitly “liberal” grounds of fitness.¹⁵ The justification for one of the United States’ most prominent

¹¹ See Erler, [Chapter 12](#), this volume.

¹² Influential British liberals regularly argued that the Irish were not yet fit for liberal principles, and John Stuart Mill justified the rule of his paymaster, the East India Company, in similar terms: “Despotism,” he wrote, “is a legitimate mode of government in dealing with barbarians, provided the end be their improvement, and the means justified by actually effecting that end.” Mill, *On Liberty and Other Writings*, 13–14. Mehta, “Liberal Strategies”; King, *In the Name of Liberalism*.

¹³ Liberals were comfortable with distinctions that rested on fantasies of accomplishment, talent, and meritorious contribution. “Odious” distinctions, by contrast, allocated rights or social privileges on the basis of artificial and arbitrary criteria, which because they were arbitrary, were expected to produce resentment and disdain, respectively, on the part of those disadvantaged and favored by the laws. Distinctions of religion and race were regularly listed as among the most odious, though the supposedly scientific elaboration of racial hierarchy would recast this as a natural and thus acceptably liberal distinction. One British author succinctly captured this constructed difference between a natural and an odious distinction: “all the domestic intercourse of the whites with the blacks [in America] is one continued series of what we in Europe would reckon insults, every one grosser than another. It is in vain ... to palliate these odious distinctions, by comparing them to those which separate the higher from the lower classes in Europe. In every community, the foundation for distinctions is laid in those inequalities of wealth, rank, or talent, which every where prevail. These distinctions are inevitable; they necessarily arise out of the very nature of human society No heart-burnings are produced by these distinctions, because no positive or peremptory line is drawn between the different classes.” Edinburgh Magazine, “A View of Society and Manners.” See Bateman, “Transatlantic Anxieties.”

¹⁴ Bateman, *Disenfranchising Democracy*.

¹⁵ Kahan, *Liberalism in Nineteenth-Century Europe*.

forms of exclusion – persons of African descent, whether enslaved or free – was characteristically “democratic.”¹⁶ Persons of color were defined as outside the pale of the “people,” a definition that was often retrospectively claimed to have been implicit in the country’s acceptance and protection of slavery, and which was made explicit in a series of federal statutes and state constitutions from 1790 through to the 1850s. But unlike the United Kingdom, where doctrinaire liberals were empowered, the minority of politically enfranchised or active Americans who opposed illiberal distinctions of race were confronted not by an ascendant liberalism but by an ascendant democracy, one in which the legitimate community that authorized the state was increasingly understood as “we, the white people.”¹⁷ This illiberal construction of “the people” was embedded and entrenched in American institutions and public opinion. These differences would shape the choices and syntheses they pursued.

“AN APPRENTICESHIP TO LIBERTY”

Between 1828 and 1832 the constitution of the United Kingdom was radically refashioned, with laws passed repealing the exclusion of non-Anglicans from public offices, granting Catholics the right to most public offices, including sitting in parliament, and modernizing aspects of the electoral system to enfranchise the country’s growing middle classes while disenfranchising “ancient right” voters from the working classes. These reforms began the process of dismantling what contemporaries had called the *Protestant Constitution*, a narrative about the historical development of England that attributed the “peculiar excellence” of the English political system to anti-Catholicism and the nation-defining struggle against “Popery.”¹⁸

English liberalism defined itself in large part through its opposition to this particularistic vision of British political community. Reform of the country’s electoral system and civil rights was envisioned partly as a means for pushing this vision of liberalism forward and partly as necessary for sustaining it in the future. Starting in 1828, a broadly liberal reform coalition passed legislation that abolished most disabilities on Catholics and nonconformists, enfranchised tens of thousands of men in the burgeoning (and largely nonconforming) middle classes, and disenfranchised a large number of voters whose bribery and intimidation had sustained the sectarian Protestant Constitution and the landed gentry and aristocrats who were its social base. The “reform electorate” that took shape over the following decades undergirded a new era

¹⁶ The exclusion of women was justified on the basis of their supposed qualities and capacities and on a supposedly natural distinction that rendered women not properly participants in the “public sphere.” Such justifications could be compatible with both liberalism – so long as they arose from god and nature – and popular sovereignty – so long as the “people” was understood as that fraction of the population whose proper sphere encompassed the public and political affairs.

¹⁷ Bateman, *Disenfranchising Democracy*, 118.

¹⁸ Best, “The Protestant Constitution,” 109; Bateman, *Disenfranchising Democracy*.

in which the public philosophy of the British regime was, if never perfectly, clearly identified with liberal principles.

Governments backed by this electorate undertook a remarkable liberalization of British institutions, empowering local property owners in municipal government against the former self-appointed and sectarian cartels; altering the principles of public relief along the lines desired by liberal economics (i.e., punitive regulation of those who could not maintain the foundational fiction of self-sufficiency); repealing or lowering taxes on the free circulation of ideas and debate;¹⁹ and restricting the tithing authority of the churches of England and Ireland. Perhaps the crowning achievement was the gradual abolition of slavery throughout the British Empire. Liberals would further use their authority to demand that colonial legislation be amended to remove all explicit distinctions of race and religion, a cause pursued with more energy in parliament than in the colonies or colonial offices.

When a liberal leader in 1847 requested the Commons remove the most important civil disabilities imposed on Jewish subjects, he denied the legitimacy of using race or religion to allocate political rights, concluding that “there is no part of the human race, however divided from us by feeling or by colour, which does not yet belong to the family of man, and who ought not to be received into one universal brotherhood.”²⁰ Most liberals continued to associate Protestantism with civilization and liberty, but they argued that the Christian ideal was best manifested in liberal ideals. “Perfect Christianity,” declared one MP, “is perfect liberality.”²¹ Christianity was expressed not through “the enforcement of opinions,” but through, “knocking off the fetters of the slave; it has been in respecting the rights of poverty and industry; it has been in measures which, by stimulating free and fair intercourse between different nations, bind them together in the bonds of peace. It has been not by exclusiveness, but by expansion.”²² The exclusion of Jewish subjects from equal rights and privileges was “a partial law, and I think, therefore, an infringement of Christ’s law.”²³ Bills repealing all or some of the restrictions against Jewish subjects were passed repeatedly by liberal House of Commons, only to be defeated by the House of Lords, where the ironically more “popular” than “liberal” position – stressing political community over liberal principles – that doing so would enfranchise “an alien and a stranger” dominated.²⁴ Still, by 1858, the most important disabilities had been abolished, a capstone to thirty years of liberalizing reforms.

¹⁹ Parry, *Rise and Fall of Liberal Government*, 4. *Hansard*, March 4, 1850, 3rd Series, vol. 109, c. 337; February 9, 1852, 3rd Series, vol. 119, c. 261.

²⁰ Chung, “From a Protectionist Party to a Church Party,” 274. *Hansard*, December 16, 1847, 3rd Series, vol. 95, cc. 1248–49.

²¹ *Hansard*, February 11, 1848, 3rd Series, vol. 96, c. 493.

²² *Hansard*, December 16, 1847, 3rd Series, vol. 95, c. 1272.

²³ *Hansard*, May 1, 1848, 3rd Series, vol. 98, cc. 621–22, c. 646.

²⁴ *Hansard*, July 17, 1851, 3rd Series, vol. 118, c. 862.

As William Gladstone declared in 1884, in the fifty years since the Reform Act of 1832 liberalism had been the “solid and permanent conviction of the nation.”²⁵ There was a solid “domination of liberal principles,” notes historian Jonathan Sperber, sustained by the broad liberal majorities in the electorate.²⁶ It was, in Matthew Arnold’s formulation, the “great middle-class liberalism, which had for the cardinal points of its belief the Reform Bill of 1832, and local self-government, in politics; in the social sphere, free-trade, unrestricted competition, and the making of large industrial fortunes; in the religious sphere, the Dissidence of Dissent and the Protestantism of the Protestant religion.” For a time, this liberalism had been “the paramount force in [the] country, and ... in possession of the future.”²⁷ The liberal electorate had been defined by its inclusions and exclusions, by the removal of “odious” distinctions against conscience and by the erection and maintenance of supposedly non-odious one based on property.

Within a few years after the passage of the Reform Act of 1832, a new movement for political democratization was organized. The People’s Charter it mobilized around demanded manhood suffrage (proposals for women’s suffrage were sidelined), the secret ballot, no property qualification for parliamentary office, equally apportioned constituencies, and annual elections. Chartists argued that the Reform Act had done little more than effect “a transfer of power from one domineering faction to another, and left the people as helpless as before.” Attacking one of the liberal government’s proudest achievements, the Chartist petition then invoked another: “our slavery has been exchanged for an apprenticeship to liberty,” it stated, referencing the period of apprenticeship imposed on formerly enslaved persons by the 1833 abolition act.²⁸ The liberal government announced its opposition and the petition was rejected 235 to 46. Riots broke out throughout the country, uprisings in Wales and Yorkshire were put down by the military, and several Chartist leaders were convicted of high treason.

Liberals, in the post-Reform United Kingdom, confronted the state not as outsiders but as its core ideological constituency. Their response was not univocal, but the central tendency of most elite liberals was to support some further reforms but to oppose mass democratization on the grounds that it was *a threat to liberalism*. An “unlimited extension of the franchise,” argued Charles Wood, “would be an evil and an obstacle to liberal and enlightened legislation.” He argued that had the English working classes been enfranchised, the Irish would still be suffering under religious oppressions. (A few years later, as Chancellor of the Exchequer during the Irish Famine, Wood could take solace in knowing that he had refused to break with liberal economic orthodoxy even

²⁵ Morley, *Life of Ewart Gladstone*, 128.

²⁶ Sperber, *Europe*, 63.

²⁷ Arnold, *Culture and Anarchy*, 36–37.

²⁸ “The People’s Petition”

as the bodies piled higher.)²⁹ Democratization was a choice “between progress and retrogression” from liberal principles.³⁰ Lord Russell asked whether, “with respect to many subjects in relation to religious liberty, as to the Roman Catholics particularly, [if] any one believe[d] that universal suffrage would produce less feeling of religious bitterness and animosity than existed among Members of this House? My belief is, that Members of this House are far more liberal than the community in general are disposed to be.”³¹ Liberals regularly complained that the working classes did not understand the harmonious operation of liberal economics, that their “political economy is not that of Adam Smith.” Conservatives, such as Disraeli, would often point out the tension between popular representation and liberal policies, asking whether liberal measures “would ever pass if the Parliament had been returned by universal suffrage?”³² Clay and a few others excepted, most believed the answer was no. Only by excluding the ostensibly illiberal elements of the population, and concentrating political power in constituencies that intuitively saw liberalism as the expression of their values and interests, could liberalism be secured.

Confronted with the choice of democratization or repression, both Conservative and Liberal MPs chose repression, in 1839 and then again in 1842.³³ The government also reinforced its ability to secure order through coercion, passing the Rural Constabulary Act in 1839 and the Parish Constables Act in 1842, both of which were intended to establish or modernize local police forces and make them more responsive to direction from the Home Office. The Home Office itself was transformed from an inefficient and laconic agency to a centralized and effective arm of the national government. Even as the Chartist petition was being presented to parliament for a second time in 1842, the House of Commons was debating the Crown and Government Security Act, which made anything resembling a seditious utterance an offence punishable by transportation overseas. “There must be something more than mere government to make men what one could wish them,” noted *The Spectator* in defense of the new police establishment. “Still there must be government; and when we say that, we say that there must be a certain amount of coercion.”³⁴

When a new round of Chartist agitation erupted in 1848, the coercive power of the British state was no longer as reliant on antiquated local authorities or the overbearing force of the army. The repression was more effective,

²⁹ *Hansard*, February 22, 1841, 3rd Series, vol. 56, cc. 825–26; Moore, *Charles Wood's Indian Policy*, 6–8.

³⁰ *Hansard*, May 27, 1852, 3rd Series, vol. 121, cc. 1184–85; *Hansard*, May 3, 1865, 3rd Series, vol. 178, c. 1439.

³¹ *Hansard*, June 5, 1849, 3rd Series, vol. 105, c. 1218.

³² *Hansard*, June 24, 1847, 3rd Series, vol. 93, c. 864.

³³ This is a choice often posed in comparative politics and economic studies of democratization. Acemoglu and Robinson, “Democratization or Repression.”

³⁴ *Hansard*, July 8, 1842, 3rd series, vol. 64, cc. 1205; *The Spectator*, “The Old Parish Constables”; Saville, *British State and the Chartist Movement*; Swift, “Policing Chartism.”

and entailed “a more fundamental abridgement of the constitutional rights of ‘freeborn Englishmen’,” than anything seen in the United Kingdom outside of Ireland (or those other colonies not formally constitutive of the Union) since the eighteenth century. The Duke of Wellington was given military control over London. More importantly, over 170,000 members, drawn largely from the enfranchised middle classes, were sworn in as special constables under the new police authority (their ranks included the exiled Louis–Napoleon Bonaparte, soon to crush democracy in France).³⁵ After the petition was rejected, a series of riots and uprisings flared in parts of the country; all were put down. The government preemptively suspended habeas corpus in Ireland, and after a brief uprising in South Tipperary the leaders of the Young Ireland movement were defeated, executed, or transported. The Chartists, writes one historian, “faced a governing class confident in the exercise of its power, secured by the reform settlement of 1832, and the loyalty of the military.”³⁶

The comprehensive defeat of the Chartists gave liberals space to pursue a strategy of progressive but controlled enfranchisement, supporting the targeted and partial extension of voting rights to those members of the working class who had sufficiently progressed in “civilization” and in the recognition of liberal principles.³⁷ In doing so, they hoped to fortify liberalism’s status as the public philosophy of the country, by winning the adherence of what they anticipated could be made into a liberal constituency. Still, in 1866 a very modest reform was defeated by a coalition of Conservatives and Liberals who argued that it went too far, destroying the liberal influence of the middle-class electorate. Robert Lowe, the leader of the Liberal opposition to reform, argued instead for an alternative strategy. “The middle class Parliament,” he argued, had not adopted in response to the Chartists a program for a reduction in working hours, or cut back payments to bondholders, or expanded the monetary supply, but “struck off the shackles from trade, meeting, while doing so, with every possible opposition from the working classes.” Liberals, he argued, had given the people what they needed, by ignoring what they wanted. He opposed the transfer of “power from the hands of property and intelligence” to the working classes precisely because he looked “forward to and hope[d] for [the] amelioration of society – because I am a Liberal.”³⁸ The bill was defeated.

³⁵ Epstein, “Rethinking the Categories of Working-Class History,” 204; Taylor, “Rethinking the Chartists,” 490; see the remarks by W. P. Wood, *Hansard*, February 28, 1850, 3rd series, vol. 109, cc. 179–80.

³⁶ *Hansard*, July 6, 1848, 3rd series, vol. 100, c. 210; Epstein, “Rethinking the Categories of Working-Class History,” 204.

³⁷ Cowling, *Disraeli, Gladstone and Revolution*, 2; McClelland, “England’s Greatness,” 101; Evans, *Parliamentary Reform*, 41; Harrison, “Teetotal Chartism.”

³⁸ *Hansard*, May 3, 1865, 3rd series, vol. 178, c. 1439; July 15, 1867, 3rd series, vol. 188, c. 1543–49.

The next year, a combination of parliamentary maneuvering, public pressure, and administrative difficulties resulted in a reform bill that went even further.³⁹ For decades, liberals had been arguing that the working classes should not be enfranchised until they had progressed in property, education, and the scale of civilization.⁴⁰ Liberalism needed “to fit the people for the use of political power before it was granted to them.”⁴¹ Education provided a critical metric and solution to the problem of political authority within liberalism, since education self-evidently meant the dissemination of liberal principles. But liberal commitments to voluntarism in education had impeded its further expansion. However desirable education might be, liberals were generally committed to the principle that its expansion must come about through the natural operation and progress of society, rather than being imposed on families, taxpayers, and employers.

Seeing a democratizing bill likely to pass, Lowe and like-minded liberals now announced a reversal of their positions. Those who had been opposed to “forcing education on people” were “completely changed.” “I was opposed to [centralizing an educational system and curriculum],” declared one; “I am ready to accept centralization; I was opposed to an education rate, I am ready now to accept it; I objected to inspection, I am now willing to create crowds of inspectors You have placed the government in the hands of the masses, and you must therefore give them education.”⁴² Confronted by a growing pressure for democratization, to which they had contributed with their emphasis on gradual, piecemeal reforms, liberals now recognized the possibility that liberalism itself would have to make more far-reaching accommodations. They had already fortified the coercive power and central authority of the state. They would now support a program of mass education that was explicitly understood as having the purpose of disciplining the working classes and training them in liberal principles. The priorities of liberalism were being redefined, some of its more libertarian features abandoned, in order to retain what Lowe and others now decided was its essential core, a liberal economic order.

“TO ABOLISH ODIIOUS DISTINCTIONS”

The tensions between democracy and liberalism appeared in a different form in the United States. The successive crises that culminated in the revolutionary war had separated a large portion of the population from their attachment

³⁹ The administrative difficulty was how, given the complexity of the municipal taxation system and county landholding arrangements, to set a new qualification that would enfranchise only relatively well-off working-class households without also disenfranchising substantial numbers of middle-class householders.

⁴⁰ See, for example, Russell in *Hansard*, August 2, 1839, 3rd Series, vol. 49, cc. 1159–60.

⁴¹ *Hansard*, July 8, 1842, 3rd Series, vol. 64, c. 1205; *Hansard*, May 3, 1842, 3rd Series, vol. 63, c. 49.

⁴² *Hansard*, July 15, 1867, 3rd series, vol. 188, c. 1549.

to “England” as an imagined community. Perhaps paradoxically, for such an agglomeration of disparate communities and interests, by the end of the revolution popular sovereignty had emerged as a central principle by which a broad cross-section of US political life could define the terms of their independence and provide a legitimating principle to underlie their new governments.⁴³

This was still a protean concept, with neither the boundaries of the “people” nor the appropriate scope and practice of its “sovereignty” having an agreed upon meaning. All of the new republics debated the proper ways in which popular sovereignty should be exercised.⁴⁴ But disagreement on form coexisted alongside widespread agreement on foundations: Even the US Constitution, which checked some of the more democratic tendencies of the state constitutions, established the broad state electorates as the authorizing voice of the new nation and was defended as securing popular sovereignty at the base of all of its institutions. The rule of the people was accepted, eventually by conservative and egalitarian republicans alike, as the legitimating principle and public philosophy of the new country.⁴⁵

With this settled, the definition of “the people” took on new importance. Some insisted that former loyalists, or those who had not taken the wartime oaths of allegiance, were not included. Others envisioned “the people” in almost wholly local terms, at the level of the state or a peripheral village. The “people” could be synonymous with the laboring portion of the population. For some, it had obvious religious and ethnic connotations – usually English, with the growing number of Scots-Irish viewed with more ambivalence. For others, the very language of “the people” promised an amalgamation of the country’s polyglot reality.

The porous boundaries of the American “people,” however, would come to have an important exception. There had long been an explicit civic hierarchy restricting the rights and privileges available to persons of African descent, most obviously in the civic status of “slave” but extending also to the small population of free Blacks. During the Revolution, political and military leaders had sought to provoke popular passion for the cause by warning about the “internal” enemies of enslaved Blacks and indigenous peoples, disseminating rumors of insurrection that would have long-lasting consequences.⁴⁶ The first meeting of the new US Congress restricted naturalization to “white” persons, a term whose basic content was defined by what it was not. But none of this foreclosed Black citizenship, and the issue would animate political debates and conflicts for decades.

⁴³ See Katznelson, *Chapter 6*, this volume.

⁴⁴ Wood, *Creation of the American Republic*; Zagari, *The Politics of Size* and “The American Revolution and a New National Politics”; Squire, *The Right of Instruction and The Evolution of American Legislatures*; Amar, *America’s Constitution*.

⁴⁵ Fischer, *Revolution of American Conservatism*.

⁴⁶ Parkinson, *Common Cause*.

By the 1830s, an explicit discursive and institutional formulation of the boundaries of American peoplehood – the “white man’s republic” – had been fully worked out. State constitutions were gradually amended to disenfranchise all non-whites, while new laws restricting the mobility and rights of free persons of color were passed. While championed by political elites, this narrative was justified by reference to popular sovereignty, both retrospectively by reference to the founding’s constitutive moment and as an ongoing expression of that sovereignty. Proto-originalist arguments held that the country’s founders, desiring a union between slaveholders and non-slaveholders, could never have intended extending the boundaries of “the people” beyond the white population.⁴⁷ As a contemporary matter, the prejudices of “the people” had to be respected as a matter of popular sovereignty. “I stop not to inquire whether [whites’ prejudice] be right or wrong,” argued one legislator, “or whether it spring from the virtues or vices of our nature – the fact is so, and it is the fact, immoveable and unchangeable as it is,” that for him and many others justified the exclusion of Blacks from citizenship. “The prejudices of the white man must be respected – no matter how he came by them. He is the lord of the soil.”⁴⁸ The “white man’s republic” was a rationale for exclusion that rested less on the supposed deficiencies of the group in question than on its supposedly alien character.⁴⁹

This shaped how the different antislavery movements in the United States confronted the tension between democracy and liberalism. For example, a broad and influential coalition of liberal elites supported gradual abolition on the condition that free and freed Blacks be removed from the United States. They argued that racially illiberal laws and conflict were inevitable in a democratic context where whites refused to recognize Blacks as part of “the people.” Insistent that democracy required homogeneity, they argued that liberalism and democracy could be synthesized only by the physical removal of the “discordant” part.⁵⁰ The movement’s most important contribution, given the refusal of slaveholders to consider abolition, was to further solidify this notion that heterogeneity was impossible in a democratic context and to popularize an increasingly “naturalistic” justification that for reasons of “inherent” racial difference and white prejudice, Blacks and whites could never “amalgamate.”

⁴⁷ See also Gilhooley, *Antebellum Origins*.

⁴⁸ Agg, *Proceedings and Debates*, vol. 10, 23, 76; Bishop and Attree, *Report of the Debates and Proceedings*, 1032.

⁴⁹ Its appeal no doubt varied. For whites invested in slavery or who hoped to be, the “white man’s republic” committed the political order to the defense of the institution. In places with growing free Black populations, whites uninterested in slavery might be given a meaningful contrast to define the foundation of their own civic inclusion. Roediger, *Wages of Whiteness*. And whites uninvested in slavery and who gained little from juxtaposing their status to that of free Blacks were warned that the mere suggestion of racial equality would imperil the Union and all the emotional and financial investments these implied. Claims of natural racial inferiority were also frequently, and increasingly, invoked.

⁵⁰ Bateman, “Transatlantic Anxieties”; Guyatt, *Bind us Apart*.

A more positive synthesis would come from the immediatist abolitionist movement. The abolitionists rejected colonization, partly in response to free Blacks demands, and would harshly critique colonizationists for disseminating unchristian and potentially illiberal claims of fundamental difference. Unlike colonizationists, however, active abolitionists were not well represented among the ranks of the regime's governing classes.⁵¹ While the threat of illiberalism in the United Kingdom was supposedly found in a disempowered mass public, or in the remaining legacies of Anglican and Protestant sectarianism, illiberalism in the United States was embedded at the core of a powerful political regime that enjoyed popular authorization. A strategy of insulating the state from popular majorities might have facilitated the cause of racial liberalism – as Tocqueville famously speculated – but it was hopelessly utopian in the antebellum United States. Enfranchised elites were largely committed to the “white man's republic,” while the regime's democratic institutions meant any state-centric strategy for advancing liberalism would first have to find approval among a public that was deeply illiberal on this issue.

Instead of empowering the state against the people, or claiming that the people's illiberalism could only be eradicated by removing the object of its hate, abolitionists would work to change the people. At one level this meant changing the attitudes of the white population, pulling it away from illiberal prejudices. But it also meant recognizing the “true” people of the founding, those who were born in the country, who had fought for the country, and who by the republican and egalitarian principles of the revolution were entitled to recognition as such. Instead of insulating liberalism from “the people,” US abolitionists would have to try and make liberal principles truly popular.

Few denied that the white population was deeply prejudiced, though the hostility that confronted the movement led many, such as James McCune Smith, to conclude that whites harbored “a hate deeper than I had imagined.”⁵² But in the pages of their newspapers, and sometimes in their meetings, abolitionists sought to dispel prejudice by encouraging and performing some measure of racial equality. Abolitionists opposed laws or constitutional provisions that imposed disabilities on the basis of color, and beginning in the 1830s they organized state-level lecture and petition campaigns demanding their repeal.⁵³ For Black abolitionists, repeal had immediate practical significance; but for both Blacks and whites it also embodied a larger goal. It was a mainstay of abolitionist thought that the legal disabilities and exclusions, rather than being

⁵¹ Many were disenfranchised persons of color and/or disenfranchised on the basis of sex.

⁵² Some, such as Thomas Earle, refused to believe that “the people, as a body, are bigotted, but a portion of the people are always so,” and it was easy for the “aspiring politician, the demagogue” to pass off theirs as the voice of the people. Agg, *Proceedings and Debates*, vol. 12, 81–82; Stewart, *Holy Warriors*, 112.

⁵³ “Since the 1830s the attainment of equal rights for Negroes had been an essential corollary to the abolitionist crusade for freedom.” McPherson, “Civil Rights Act of 1875,” 493; Bateman, “Partisan Polarization.”

a mere reflection of white prejudice, were critical vehicles for its production. White prejudice emerged from slavery and the racial distinctions it required, and it would be dispelled with emancipation and equal rights. While this optimistic posture – tactical for some, sincerely believed for others – would recede among Black commentators after emancipation, during the antebellum era it was a touchstone of abolitionist faith.⁵⁴

The enfranchisement of Black Americans, however, was believed to do more than reduce white prejudice. It would confirm in law what abolitionists, most crucially Black abolitionists, insisted upon in rhetoric and practice: persons of color were members of “the people,” fully entitled to recognition as such on the basis of the country’s revolution doctrines and founding.⁵⁵ It was in this context that the Declaration of Independence, along with a sometimes exaggerated history of the early egalitarianism of the early Republic, came to be deployed as defining the appropriate interpretation of the Constitution. Black Americans, by this account, had been recognized as part of “the people” at the founding, which had promised an eventual eradication of slavery; they were entitled to equal rights by these founding commitments, by birth, and by their revealed dedication to the country’s highest principles. This was an alternative narrative of political community and an alternative public philosophy, one that denied the validity of the “white man’s republic” and claimed that its establishment had been the product of a “slave power” that had perverted the true republican instincts of the country’s people and institutions.⁵⁶

Abolitionists’ goal of educating the people in liberal principles was similar to the disciplinary education to which British liberals turned after 1867. But the abolitionism of the 1830s and 1840s had little capacity to coercively shape public opinion through state-run educational institutions. It could only rely on persuasion or politics. Moral suasionists disclaimed coercion and, for some, a rejection of the political institutions of the United States; political abolitionists focused on the practical requirements of building local and state coalitions that could exercise power in pursuit of abolitionist aims. For neither was there much basis for imagining, in the short term, an insulated state as an available tool for advancing racial liberalism.⁵⁷ To hope to use the state for this goal, they would first need a governing class invested in their synthesis and a social base who connected it to their own interests and aspirations the way the British middle-class electorate did with English liberalism. One way or another, abolitionism and the eradication of illiberal distinctions would have to start from the bottom-up in a relatively democratic country.

⁵⁴ Tillery, “Reading Tocqueville Behind the Veil” and “Tocqueville as Critical Race Theorist.”

⁵⁵ Jones, *Birthright Citizens*.

⁵⁶ For a recovery of this strand of rhetoric as deployed by Republican politicians, see Nabors, *From Oligarchy to Republicanism*.

⁵⁷ In this regard, they were different from some other, more elite, reformers at the time, though their ranks could certainly overlap. Ryan, *Civic Wars*.

The Republican Party provided the “instrumentality” for achieving this goal.⁵⁸ Its election on an antislavery platform fractured the elite mutual security pact of the US Constitution, and provided abolitionists with a foothold in the state.⁵⁹ As the southern states seceded, abolitionists argued that preserving popular government – sustaining not just the Union but their more expansively understood Republic – required the fulfilment of what they (almost alone) insisted were its true foundational principles. Republican allies could echo these claims, even as they avoided the more liberal implications of the abolitionists’ vision. But war opened the possibility of Black soldiers and of emancipation; control over the territories and the Republican Party’s need for an electoral base in the postwar South opened the possibility of enfranchisement.⁶⁰ Abolitionists who supported Black suffrage did not shy away from arguments invoking political expedience. And Republican politicians could draw on abolitionists’ now well-rehearsed narrative of a political community dedicated to liberty and equality as a public rationale for action, even if electorally motivated. The Republican-led state would invite the loyal North and the emancipated South to rally to this vision of a racially liberal *and* democratic republic, one that had been substantially developed by abolitionists’ long crusade.

CONCLUSION

The abolitionists’ synthesis of liberalism and democracy failed to take deep root. The liberal rights established by the Thirteenth, Fourteenth, and Fifteenth Amendments were never repealed, but their meaning was altered and narrowed. Liberal grounds for disenfranchisement were soon found congruent with the public philosophy of the early twentieth-century US regime.⁶¹ Why? The Republican Party was never entirely committed to the principles of abolitionist liberalism, and these found even less support in the Democratic Party.⁶² More important was the limited reconstruction of “the people” achieved in the United States. In the United Kingdom, the governing classes were secure in their expectation that the regime’s social bases – especially the “liberal middle classes” enfranchised by the reforms of the 1830s – would support the suppression of mass democracy and gradual expansions of the franchise calibrated to retain liberal hegemony. The potential social basis for abolitionists’

⁵⁸ Malvin, *Autobiography*, 41.

⁵⁹ On elite security pacts, see Dahl, *Polyarchy*; Albertus and Menaldo, *Authoritarianism and the Elite Origins of Democracy*.

⁶⁰ Valelly, *The Two Reconstructions*.

⁶¹ These included ostensibly race-neutral criteria, such as literacy tests or property requirements. The obvious discrimination in their application could be justified by liberals on the basis of new, scientific criteria of “racial” capacities, which (since natural and not artificial) was appropriately accommodated in public policy.

⁶² Grossman, *The Democratic Party and Negro*.

synthesis of liberalism and democracy might have been more contradictory,⁶³ and the class most intuitively attracted to it was in an extremely precarious situation. The British middle classes held immense property, and with it a source of independent political power that could not be easily disregarded. Black Americans had very little property, and were concentrated in a region whose political economy was biased toward blunt coercion and where a deep investment in racist hierarchy provided the basis for appeals to white solidarity in defense of this hierarchy.

For abolitionists to fully establish their expansive vision of a liberal democratic people required a state capable of protecting its institutional foundations by supporting persons in the exercise of their civil and political rights, limiting the autonomy of local elites and governments in the process.⁶⁴ It would also require a redistribution of property to secure some of the material underpinnings for liberty and to blunt the most coercive possibilities of the region and country's political economy. It can be difficult to appreciate how close they came, and how remarkable this feat was given that their allies in government were mostly lukewarm on the principles. Their failure had many causes, one of which was the choice of a large subset of liberals, including many erstwhile abolitionists, to break with Republican radicals, and to oppose the continuation of Reconstruction. The legal (but not social) eradication of the distinction of color was, in their mind, all that could be asked for under liberalism; meaningful respect for the newly granted civic equality could be secured only through the natural operation of a liberal economy and the progress of education. For the state to support it, through regulating laws or redistribution, would be illiberal. British liberals, in the face of democratizing threats, had chosen to invest in state coercion and disciplinary education; these US liberals instead chose to allow the democratization that they had supported to flounder, rather than to invest in the state capacity to protect it.

After global depression undermined Republicans' promises of material prosperity, threatening their political hegemony and raising up alternative parties, liberals in both major parties gradually consolidated around a narrowed core of acceptable policy and on a belief that a final synthesis of democracy and liberalism required recognizing the hegemony of white elites in the South and liberal elites in the North. The state's ability to protect political and civil rights, or even the lives of southern Blacks, was whittled away. The governing regimes of many northern states, in which the liberal successors to the abolitionists

⁶³ Du Bois, *Black Reconstruction*; Richardson, *Death of Reconstruction*.

⁶⁴ The deployment of the army during military reconstruction was likely not a sustainable alternative to building the national legal and institutional infrastructure to establish democratic rights. Downs, *After Appomattox*; Valelly, "Party, Coercion, and Inclusion" and "Slavery, Emancipation, and the Civil War Transformation of the US State;" Lieberman, "The Freedman's Bureau."

participated, engaged in new efforts to build up local state authority to suppress labor unrest, more like their UK counterparts than ever. The democratic liberalism of the abolitionists, of a sovereign people that would sustain a liberal republic, was giving way to an insulated state dedicated in many states to the preservation of liberal economics and, in a growing swath of the country, to Jim Crow's concatenation of illiberal distinctions and antidemocratic practices. It would take new periods of struggle, and new syntheses, before these were undone.

* * *

The historically forged links between popular sovereignty and liberalism are unraveling. We can see the outlines of new syntheses all around us, most worrisomely populism's marrying of liberalism's most inegalitarian features with a chauvinistic nationalism that insists on its democratic authorization. While some of today's illiberal populists embrace so-called welfare chauvinism,⁶⁵ most are pursuing what might be described as illiberal neoliberalism, conjoining a deregulatory and market-expanding approach to political economy alongside populist appeals targeting internal and external "aliens."

Liberals in turn have at times juxtaposed democracy against populism and liberalism against the people. This raises the possibility that the languages of popular authorization and popular sovereignty will be in practice left to the illiberals. We should not cede this terrain. Neither welfare chauvinism nor illiberal neoliberalism enjoy an intrinsic affinity with popular sovereignty, even if their advocates have grown comfortable with some of its authorizing discourse. Popular sovereignty is not so easily cabined, and other syntheses capable of securing popular allegiance are possible.

The histories of US and UK liberalism can be useful in imagining what such syntheses might look like. The British synthesis prioritized liberalism over and against democracy, while liberal conceptions of political economy were prioritized over any opposition to a coercive state. The abolitionist tendency emphasized here sought to secure liberal values not by insulating them from democracy, but by widening democracy's scope. It would reconstruct "the people" to establish a revised liberalism on a popular foundation. It would expand the composition of the people along with the authority of the state to preserve this people. Like the Americans of the antebellum era, we live in a world of popular sovereignty. To stand opposed to it is to earn, rightfully, opprobrium. But the idea that a synthesis of liberalism and democracy should be pursued exclusively from the bottom-up, without using the state to protect and realize its core premises, would be to repeat the failures of Reconstruction.

Reconciling liberalism to popular sovereignty requires choices about what is valuable: Liberalism was vastly improved once its economics was reduced from the status of dogma, once its conception of the individual was broadened

⁶⁵ Afonso and Rennwald, "Social Class and the Changing Welfare State Agenda."

beyond a property owner with a conscience. Developing the capacities of the state to protect the meaningful exercise of the rights and freedoms, as well as to advance the social equality, necessary for popular sovereignty's fuller realization, has enriched both liberalism and democracy. The dialectic between a bottom-up reconstitution of "the people" and the support of the state in sustaining it as a foundation for a durable regime will likely need to begin with the former. The path of the abolitionists – the politics of fiction, of creating and giving form to a new conception of the public, in which a regime's real material benefits are linked to a meaningful vision of community and collective, intergenerational political life – is undoubtedly more difficult than the path of insulation or of an enhanced descriptive representation in the halls of power. But it is also the best possibility for a synthesis of liberalism and democracy that enriches both and can be anchored in the best security popular sovereignty can offer, the lived reality and aspirations of a renewed democratic community.

Three Vignettes

Popular Sovereignty in French History

Daniella Sarnoff

In November 2018 hundreds of thousands of yellow-vest-clad French took to the streets and roadways of France to protest a planned gas tax. In doing so they were also expressing a broad frustration with their sense of disempowerment within the French Republic. Images of the *gilets jaunes* wearing the Phrygian caps worn by French revolutionaries 230 years earlier circulated in the press. Some protestors carried banners that expressly put the actions of 2018 in a chronological relationship to 1789. The links between the foundational street activity of the French Revolution and the modern protestors of the twenty-first century were made purposely clear by participants and commentators alike, making explicit the vital French tradition of political and social action in the name of the people and popular sovereignty – from Abbé Sieyès’ 1789 pamphlet “*What is the Third Estate*” through the *gilets jaunes* protests begun in the fall of 2018. Within the French context the texts, images, symbols, rituals, and procedures that both gave birth to and sprang from the revolution are evidence of the creative fiction that sits at the base of investigations of the people and popular sovereignty.¹ While the French Revolution was a foundational moment for the invocation of popular sovereignty to support a new concept of rule and government, over centuries French leaders and citizens have continually invoked popular sovereignty to claim political legitimacy and make demands for a variety of political and social ends. At times the concept has been used to support a liberal ideal of the nation, at other times it has buttressed far-right claims to the nation. More recently it has been used by the National Front (now *Rassemblement National*) to rally for an exit from the European Union and the *gilets jaunes* in their protests against the French government of Emmanuel Macron.

¹ Morgan, *Inventing the People*, is an essential work on this topic and an important theoretical context for other chapters in this collection.

A look at three historical moments in the life of the nation captures the constancy, as well as the evolution, of the concept of popular sovereignty within French politics and society. Starting with a consideration of origins in the French Revolution (of course!), to the interwar internal battles of the Third Republic (with Franco-French civil strife around the meaning and uses of popular sovereignty), through to the popular protests of the yellow-vest movement, the chapter does not simply track the historical existence of claims to popular sovereignty, but also shows its uses across the political spectrum and the impact of couching political and social claims in the language of popular sovereignty and the demands of the people. A consideration of uses of “popular sovereignty” as rhetoric and a call to collective action across liberal and illiberal ideologies – sometimes calling on an inclusive idea of “the people” other times an exclusive idea – also illustrates the “endemic” nature of tensions and contradictions within popular sovereignty, as noted in this volume’s introduction and many chapters.

The vignettes of French history also show the importance of cultural embeddedness of expressions of popular will, the purposeful taking on of sartorial expressions of popular protests and political expression, and the malleability of that concept across centuries of French national politics and society – also endemic aspects of France’s particular popular sovereignty. These three events, spanning over two centuries, are moments of invention, inversion, and transition in the political uses of popular sovereignty by the people and moments of expressed grievances – via the streets, documents, and clothing – as well as evidence of the perpetual reenactment and redefinition of the people’s role within the democratic legitimizing claim that sovereignty resides in the people.

THE FRENCH REVOLUTION IN SYMBOL, DEED, AND LEGACY

It is almost impossible to discuss French history without paying one’s due to the French Revolution. While some of this is an inflated sense of the universal truths “gifted” to the world by the revolution, some of it is well deserved. A detailed blow-by-blow recounting of the French Revolution isn’t necessary, yet a discussion of French ideas of popular sovereignty must address and acknowledge the ideals, language, actions, and legacies of the French Revolution. The First French Republic (1792–1804) was short lived, but it created a new set of assumptions and expectations about the relationship of the nation and the people, and many generations after the revolution, indeed to this day (and not just in France) those assumptions remain a legitimizing force in claims to popular sovereignty. The revolution reconfigured ideas of French sovereignty from residing in the monarchy and body of the king to one embodied in the people. The language of the French Revolution would come to rely heavily on ideals of the role of the people and from that time forward many French, and historians of France, would argue that all subsequent claims to the right and capacity to rule resided with the people. It was a concept expressed and reaffirmed in

both abstract invocations of the nation, as well as in the specific philosophical undergirding of the nation: that a purposeful coming together of the people was the basis for a legitimate claim to sovereignty.

One of the essential attributes that this revolutionary upheaval ushered in was a new idea of the public and the concept of public opinion. But, from well before the end of the monarchy and the execution of Louis XVI in 1793, polemicists, philosophers, and, indeed, the soon-to-be-guillotined king and queen, appealed to the public to usher in a new idea of France or to preserve the *ancien régime*. No matter the “side,” leaders and would-be-leaders across the political spectrum (a spectrum of left and right which was born in the revolution) were forced evermore to appeal to a public to legitimate their claims to govern. And it was not just in a traditional sense of government that a public and a concept of popular sovereignty was being transformed in late eighteenth-century France. New concepts of sovereignty and public claims by the populace to be the expression of popular sovereignty were being proclaimed and circulated in documents, popular press, political clubs, anthems, festivals, symbols, and clothing. And while there would be ongoing debate (to this day) about ideals of the French nation and who can legitimately claim to speak for it, the process and expressions of those claims – including the very act of going into public space and asserting the right to do so because of the connection of the masses and popular sovereignty – and donning symbols and clothing and singing the anthems of these movements continues to be the legacy of the French Revolution and part of what has been “embedded in the political consciousness transmitted by the national culture” of the French.² The French Revolution offers a glimpse into particular French ideas about popular sovereignty that is expressed, transmitted, and passed on in national culture, through sartorial expressions, newspapers, popular movements that are distinguished from political parties, and going out into the streets *en masse* to claim, and perpetually reclaim, the right and legitimacy of the sovereignty of the people.

The French Revolution is sometimes considered one of the first moments of public opinion polling for the French state. And while even French absolutists couldn't maintain arbitrary rule or entirely dismiss consideration of the people, the 1789 decision to gather the Estates General was the first notice that the idea of who could or should be involved in government decisions had clearly expanded from the monarchical ideal inherited from the reigns of Louis XIV and Louis XV. Those previous Bourbon kings had not been “forced” to gather the broader group of French to give legitimacy to the process of tax collecting. The last time the Estates General had been convened was 1614. Louis XVI's “breaking” of a 175-year streak was the point of no return to a new age of popular sovereignty.

In the great debates about the nature of how the Estates General should meet the state went about collecting *cahiers de doléance*. These “notebooks

² Zolberg, “Moments of Madness,” 184.

of grievance” are telling compilations of the annoyances and degradations experienced and resented by segments of the French population. In many ways the *cahiers de doléance* were the incipient French nation conducting opinion polling and setting up the expectation that public opinion would be considered in broad political decision-making. It is telling that in January 2019, in the midst of popular unrest and the French taking to the streets in general protest, President Emmanuel Macron announced that there would be a modern collection of *cahiers de doléance*. This move, even the term itself, harkened back to the origin story of the French Republic – a story that the French have been reenacting for centuries and makes clear the ways that both the government and the people feel compelled to reenact the narrative. These continuities confirm Zolberg’s thesis that ideas of the public and popular sovereignty are embedded in French national culture – whether for the person in the street or for the head of the government – and that both the conflicts and tensions around popular sovereignty, including disputes about who the people are and who is allowed to claim that belonging, as well as the perpetual reenactment of that claim, are endemic to French popular sovereignty.

In 1789 the *cahiers des doléance* – across the three estates of clergy, nobility, and the Third Estate (all the rest) – indicated that all wanted some form of representation and constitutional rule.³ These eighteenth-century surveys created an expectation that the frustrations and desires expressed in the notebooks would be addressed. It also set the assumption of mass engagement in the workings of France and in many ways augured the move to a republic. And, finally, it established a precedent for French political action for the future: The people shall be consulted and any legitimate claim to rule in France must consider the role of the people and their claims to sovereignty.

At the same time when the notebooks of grievance were being collected a foundational document of the revolution was circulating. Abbé Sieyès’ “What is the Third Estate?” is exhibit A in the revolutionary power of language in the construction of French popular sovereignty.⁴ The revolutionary pamphlet turned the procedural conversation about how the Estates General should vote into a broad indictment of the privileging of the First and Second Estates (the clergy and the nobility). Sieyès argued that the Third Estate (the masses who were not part of the First or Second Estate) had been nothing in the political order and yet, in fact, were “everything.” As Sieyès wrote, “What is the will of the nation? It is the result of individual will, just as the Nation is the aggregate of the individuals who compose it. It is impossible to conceive of a legitimate association that does not have for its goal the common security, the common liberty, in short, the public good.”⁵

³ Cobb and Jones, *The French Revolution*, 29–30.

⁴ Sieyès, “What Is the Third Estate?,” 63–70.

⁵ *Ibid.*

Evidence of Sieyès' ideas is clearly enshrined in the *Declaration of the Rights of Man and the Citizen*, adopted by the National Assembly in August 1789: "representatives of the French people have resolved to set forth the natural, inalienable and sacred rights of man ... Further, the source of all sovereignty resides in the nation. The law is the expression of the general will and all citizens attain the right to participate personally, or through their representatives, in its formation."⁶

The nation being created in this document is one that places the power to rule, and its very sovereignty, in the people (though the citizen, an evolution from the French subject, in this formative invocation is a male citizen). While the question of whether women could exercise sovereignty was a debated revolutionary issue, there is no question that they played important revolutionary roles – most notably in the Women's March to Versailles and the subsequent removal of Louis XVI back to Paris.⁷ In many ways there is evidence of women's actions of and claims to popular sovereignty being decisively important in the revolution, even as they would not be enfranchised until over 150 years later.

The concept fashioned by the revolutionary documents was that the nation was the expression of both collective and individual identities and freedoms. The claimed universality of that sentiment (argued both at the time and since by the French) became the greatest legacy of the French Revolution. Equally, the summoning of connection and accessibility – the appeal to citizens and not subjects – was an aspect of French sovereignty that would be invoked over and over again by the French and by denizens of countries across the globe.

The foundational importance of popular sovereignty within French political and social tradition is not just apparent in the founding documents of the nation, but in many other areas that would continue to have meaning and value throughout French society – in both specific episodic moments within French history and as the common social, cultural, and political language of the French.

One of the symbols of the power of the people – or specifically a show of patriotic fervor during the revolution – was the *bonnet rouge*, or Phrygian cap (a reference to the cap of liberty worn by freed slaves) that originated with speakers at political clubs. By 1792, with the increasing power of the Jacobin Club, the cap came to be a general symbol of the Revolution and was associated with popular politics.⁸ Worn in the streets along with the tricolor cockade (the red, white, and blue of the revolutionary supporters), these symbols were shorthand public expressions of political allegiance to certain revolutionary ideals and to the very idea of citizens openly expressing their politics in the streets. The red cap would reappear in defining moments of French street politics (including in 2018 protests) and would sometimes be challenged by other sartorial markers, such as the blue shirts of 1930s fascists.

⁶ "Declaration of the Rights of Man and the Citizen," 77–79.

⁷ Olympe de Gouges, "The Declaration of the Rights of Woman."

⁸ Cobb and Jones, *The French Revolution*, 139.

The very form of political debate that had its origins in the French Revolution would be one of the key attributes “embedded” in French national culture. The French Revolution set a precedent for expressions of popular sovereignty that were separate from parties and formal representative government. For example, the many political sensibilities and beliefs in the French Revolution were often expressed through political clubs, organizations that were open to a much broader group than those who had access to the election of a representative or service as a representative. The Girondins, the Cordeliers, and the Feuillants were all political clubs which, in the absence of political parties, played important roles in political debate and information dissemination. Along with their newspapers, these clubs were the locus of mass debate and political activity. And while these political clubs had some strong leaders, most famous if not infamous the Jacobin leader Maximillian Robespierre, the fact of the diffuse leadership of the clubs, and the correlation to diffuse leadership within the Assembly, also meant that the French Revolution set a precedent of both collective decision-making, as well as a recurrent return to popular sovereignty and “taking to the barricades” over a single strong leader.⁹

The French Revolution had such wealth of political clubs and was so defined by direct political action and ensuing political violence that historians of the period often struggle to make sense of the different moments and stages of the revolution. By 1793 the argument about the intrinsic sovereignty of the people and their rights and claims vis-à-vis the government was well established (and it was about to become more democratic and enshrined in a new constitution). The Jacobin club, supported by the radical sans-culottes (yet another sartorial expression of politics), had taken control of the Convention (the structural inheritor of the National Assembly) and was pushing the revolution into a more democratic and more violent stage. One of the many legacies of the French Revolution would be the impact of the Terror (1793–1795), a stage in the revolution that amplified and sanctioned political violence in the name of democratic expansion, revolutionary dedication, and the assurance of ideals of popular sovereignty. And while many groups would be left out of the formal rights and privileges of the republic in the transition from French subjects to imagined French citizens, the French Revolution by and large offered a liberal and inclusive idea of popular sovereignty (certainly compared to French absolutist monarch), but, as we shall see, the same language and forms of appeal to be the people could also be used to create an exclusionary idea of the nation. These manipulations and conflicts within popular sovereignty on the road

⁹ Certainly there were strong leaders in the postrevolutionary period. However, within the republican French tradition, the perceived problem and therefore absence of strong leadership was not “resolved” until the Fifth Republic. By that time the idea of reenacting popular sovereignty in the streets or an embeddedness of collective memory, as Zolberg phrases it, was so well established that even the strong presidency established by the Fifth Republic could not counteract the French cultural and political culture of distrust of mediation between the will of the people and the government.

to a stable French Republic as well as the nation-specific glimpses offered by Katznelson and Shani give further evidence to this volume's overarching argument. While the people remain the basic unit of political authorization across many national and historical examples, the tensions, contradictions, and frictions over who the people are also remain.¹⁰

FROM THE REVOLUTION TO THE THIRD REPUBLIC, WITH
A BRIEF STOP IN THE MID-NINETEENTH CENTURY

Despite the brief life of the First Republic and the increasing authoritarianism of Napoleonic rule that came after it, neither Napoleon nor post-Napoleonic monarchical restoration would rid the country of the idea of popular sovereignty as the legitimizing force of a nation. In fact, it was in the fifty years after the fall of the First French Republic that the proclaimed faith in the nation, not the kingdom, as the greatest expression of popular sovereignty sees its fullest potential – especially as it was taken up by partisans across the political spectrum. As industrialization and urbanization became hallmarks of nineteenth-century Europe, and changed the realities of life for a great majority of individuals, the French revolutionary activities of the mid-nineteenth century gave further credence to the power of popular sovereignty. Inspired by nineteenth-century ideologies of liberalism, nationalism, and socialism, the revolutions of 1830 and 1848 appealed to ideals of popular sovereignty in different ways. In France, where revolutionary activity should also be seen in the context of fighting back stolid attempts to restore the French monarchy, a new phrase conveyed the immediate power and option of the physical insertion of the body of the people into political action: “To the barricades!” A growing industrialized working class, along with students and the poor, took to the streets to protest the repressive measures of the restored Bourbon dynasty (1814–1830). They did so in the name of the nation and the legitimacy of sovereignty via more expansive national representation. As one of the great legacies of the French Revolution was the idea that the “people,” and not just those with aristocratic titles, should participate in government, the activists of the 1830s pushed for the expansion of representative possibilities – to ensure that popular sovereignty would have real meaning within the nation – and to ensure that the right to govern was given by those who were governed.

By and large when nineteenth-century activists referred to nationalists they were inspired by the ideas of the French Revolution and considered the actions of a more and more enfranchised population to be a key component of the nation. The struggle of the new nation was in many ways practical. There was no question that a key component of any government had to be that it heeded the opinions (and actions) of its citizens.

¹⁰ See Katznelson, “As God Rules the Universe” and Shani, [Chapter 9](#), in this volume.

While invocations and expressions of popular sovereignty continued throughout the nineteenth century, in the revolutions of 1830 and 1848, as well as in dramatic moments such as the 1870 Paris Commune, the early twentieth century provides a different lens to viewing the claims to popular sovereignty within French political and social life and shows a moment of contention, and some would argue inversion, of that concept.

THE FASCIST LEAGUES AND POPULAR FRONT OF THE INTERWAR YEARS

In the first decades of the twentieth century, parties and movements from across the political spectrum came to lay claim to the populist side of popular sovereignty. France was not alone among European nations in the interwar years to see the proliferation of groups of the extreme-right that claimed, among other things, that it was parliamentary democracy that was corrupt and neither the republican system of the left nor the right truly represented the will of the people. Within France, league (*ligue*) was the designated terms for these organizations, which, by their own choice, were not political parties, as inherent in league existence was a criticism of political parties. “Neither right nor left” was the proud proclamation of many of these movements, capturing their disdain for traditional party politics.

The leagues formed in the years of the long shadow of the end of World War I. The five-year period following the Treaty of Versailles (1919) was one of political and economic instability in France. The depreciation and instability of the French franc, inflation, cabinet instability within the government, and, in 1923, the controversial decision to occupy the Ruhr to exact reparations from Germany (a move generally seen as unsuccessful) plagued a country still physically and psychologically recuperating from the death and injury of millions and a war-torn countryside. These issues alone fueled extreme-right action and rhetoric against the apparent inability of the Third Republic’s Parliament to lead the country. Added to such anger was the sentiment that the French had sacrificed greatly, even disproportionately, during the war and deserved a government capable of restoring French predominance and glory. When, in 1924, the *Cartel des Gauches* came into power many on the extreme-right saw the repudiation of all that France had given up in the war and the threat that, not only would the usual incapacity of the Parliament continue to plague the nation, but with the left in the coalition government Bolshevism and Leninism would soon destroy the country.¹¹

It was in this context that the first group of rightist populist leagues were formed. The *Jeunesses Patriotes*, founded in 1924 by Pierre Taittinger, and *Le Faisceau*, formed in 1925 by Georges Valois, a former member of the *Action Française*, were anti-communist and anti-parliamentarian. While the *Jeunesses*

¹¹ The Cartel of the Left was a political alliance between the so-called Radical-Socialist Party, the French branch of the Workers’ International (SFIO), and smaller left-republican parties.

Patriotes claimed between 100,000 and 300,000 members¹² and Le Faisceau much fewer, the far-right group that could lay greater claim to expressing and harnessing popular sovereignty was the Croix de Feu. Founded in 1927 by Maurice d'Hortoy, the Croix de Feu is best known under the leadership of Lieutenant Colonel François La Rocque, who took over the group in 1930. The Croix de Feu began as a loose association of veterans and under La Rocque it was transformed into a league of the extreme-right. By 1934, the Croix de Feu had over half a million members. The debate about the fascist nature of the Croix de Feu is ongoing and filled with more intensity than discussion about other groups, at least in part because it garnered the greatest amount of support.¹³

In 1926 Raymond Poincaré's victory brought the right back into power and in 1928 the franc was stabilized. This led to some quieting on the part of the 1920s leagues: Valois dissolved Le Faisceau in 1928, although the Jeunesses Patriotes continued their work. Further, the economic developments of 1927–1931 seemed to favor the French. Despite the New York stock market crash in 1929 France had a relatively healthy economy into 1931. This would change by 1932, at which point another left-wing Cartel government was elected. By that time France was suffering from the impact of global depression and over the course of four years France would have six governments, each, again, illustrating to the right the ineptness of the Third Republic's parliamentary form. A second group of fascist and extreme-right groups formed, with appeals to populism and claims to be recapturing sovereignty lost to parliamentary politics.¹⁴

It was in that context that the Solidarité Française was founded by François Coty in 1933, as was Marcel Bucard's Le Francisme.¹⁵ All the leagues shared paramilitary structures of brigades, legions, and local sections. They all shared

¹² Milza, "L'Ultra-Droite des Années Trente," 164; Berstein and Berstein, *Dictionnaire Historique*, 449. Milza, Berstein, and Berstein give different estimates of membership (between 100,000 and 300,000).

¹³ At the dissolution of the leagues in 1936 La Rocque created the Parti Social Français, which had close to 800,000 members before the war. See Soucy, *French Fascism: The First Wave* and *French Fascism: The Second Wave*; Irvine, "Fascism in France."

¹⁴ Soucy, *French Fascism: The First Wave* and *French Fascism: The Second Wave*.

¹⁵ Like all the leagues, the work of the group was publicized through a paper owned by Coty, *L'Ami de Peuple*, founded in 1928, and an eponymous publication, *La Solidarité Française*. The group claimed to have 300,000 members in 1934, although, like all the leagues, there is great variation in league membership statistics. Milza, "L'Ultra-Droite" and Milza, *Fascisme Français*, 146. René Rémond also places the membership of SF at no more than 10,000. Rémond, *The Right Wing in France*, 282. Milza argues that they never had more than 10,000, of which no more than 4,000–5,000 were active militants. Soucy, also noting the Solidarité Française's exaggeration of its membership, cites the police estimate of 180,000 members in February, with 80,000 in Paris. Soucy provides a breakdown of the membership of the SF as different historians estimate it: "Zeev Sternhell has estimated that the SF had no more than 20,000 members in 1934, with only 3,000 shock troops in Paris. Jean-Paul Brunet has described the SF as a groupuscule with no more than 1,500 members in all of France ... Richard Millmann, accepts the official police estimate of 180,000 ... but concludes that SF activists were far less numerous, with fewer than 2,000 participating." Soucy, *French Fascism: The Second Wave*, 61.

a strategy of direct action in the streets and advocated violence as a way to assert their political views, published their own presses, recruited heavily among veterans, and students and claimed to truly represent the French nation. They also shared the same sartorial expression: a uniform of a blue shirt and the straight-armed (*à la romaine*) salute. They were anti-parliamentary, in favor of suppressing the left and Marxism, desiring the end of the Third Republic and intent on the installation of a corporatist state. They launched attacks on Marxists, Communists, Jews, and Free-masons, whom they often linked together as being part of corrupt influences within the Third Republic.¹⁶

The leagues formation, structure, street action, and admiration of violence all point to the perceived rupture between the people and the republic by the late 1920s. The instability of the Third Republic (1870–1940) – parliamentary volatility and headline-grabbing scandals featuring members of parliament led to an erosion of French belief in the republic’s claim to legitimacy via popular sovereignty. As Kevin Passmore notes, the moments of the interwar years show the “complexity and diversity of social power in early 20th century France” and in many ways the evolution of the “people” in discourse and popular insurrection.¹⁷ Further, the perception that there was a crisis in the French Republic, meant there was one, and across the political spectrum the events of the 1930s indicate the ways traditional parties were perceived as not responding to or enacting the will of the people. The recourse for many, again, across the political spectrum, was to “take to the streets.”¹⁸

In addition to a claim to popular sovereignty and calls to action to take to the streets, the extreme-right political groups also projected a sense of solidarity and ideology by their dress. Within the groups of the far and fascist right all wore uniforms of blue (both men and women sporting French blue shirts) and gave the straight-armed Roman salute. Adherents of the different leagues wore some variation of the militarized blue shirt (the color itself also known as French army blue) and served as a visual expression of membership in a specific group and, like uniforms more generally, spoke to the individual’s willingness to subsume their identity within a larger group and political ideology. The blue shirts of the fascist uniform, along with the straight-armed salute, was the sartorial expression and evidence of the hierarchical and paramilitary structure of politics under far-right ideals – and like armies, this army of political ideologies expected violence.

The violence and street action of the rightist leagues led to the coalescence of the left in the mid-1930s. And the response of the Socialists, Communists, and Radicals to the actions of the far-right would be the birth of the Popular Front – a brief few years of leftist unity. They too would have their counterimages to the dress of the far-right. The partisans of what would be the Popular

¹⁶ Various pamphlets and paper, AN F7 series.

¹⁷ Passmore, “The Construction of Crisis,” 151–52.

¹⁸ Passmore, *France in the Era of Fascism*, 173.

Front would be defined by their closed fist salute – in visual and ideological contrast to the open-hand salute – and images of the periods show the Phrygian cap again being worn in the streets as historical and ideological uniform.

In action and in dress, both ends of the ideological spectrum were called upon, a French drama was acted out, and a foundational concept from revolutionary days was reaffirmed. For the most dramatic illustration of the impulse to assert popular sovereignty and reenact the French revolutionary formation and claiming of that right we turn to early 1934 which provides a sense of the polarization of politics of the extreme left and right, as well as the impetus of both groups to take to the streets in a show of direct action and critique of the status quo. The demonstration of early 1934 began with the January actions of the far-right – as they gathered, in their paramilitary uniforms, outside the Chamber of Deputies. These actions, as reported by the press, “were interpreted as a sign of the ‘awakening of the people.’”¹⁹ As one follows those actions into early February, it is evident that the increasingly authoritarian, anti-parliamentary, and militaristic “leagues” – who claimed they were neither right nor left, but for the people – were planning to hold the centrist (Radical) government accountable (or so they argued) by taking to the streets. What became known as the February riots had a mix of causes: the Stavisky affair, a financial scandal that seemed to touch men high up in the ruling Radical Socialist party; Prime Minister Daladier’s firing of Chiappe, the Police Prefect sympathetic to rightist causes and action; and general rightist upset with the leftist government in power.²⁰ Add to that the very existence of the populist leagues which for years had taken to the pages of the press, the streets, neighborhood associations, camps, and schools to argue that the form of government that existed in France was not a legitimate form, that it did not truly respect the will of the people. The combination of these things brought the leagues again to the streets of Paris on February 6, 1934. The leagues gathered by the Chamber of Deputies and appeared intent on storming the Chamber. The demonstration escalated and by the end of the evening fifteen people were dead and hundreds injured. The extent to which February 6 was an event planned by the leagues – their attempt at a fascist putsch – has been a topic of debate since the day it happened. While not successful as a takeover of the right, the riots and their aftermath did lead to the resignation of Daladier’s Radical cabinet, and the ascendance of a more rightist regime under Gaston Doumergue. The February 6 demonstration was a significant event for the leagues and they would invoke the memory, as well as the league “martyrs,” at every turn.

The extreme-right’s awakening and street activity and street action by the left – the ascent of Leon Blum and the Popular Front – are exemplars of a

¹⁹ *Journal des Débats*, 5, January 13, 1934, as cited by Passmore, *France in the Era of Fascism*, 188.

²⁰ Bernard and Dubief, *The Decline of the Third Republic*, 219–28; Soucy, *French Fascism: The Second Wave*, 30–33; Wright, *France in Modern Times*, 356–60.

particular power and malleability of the French tradition of direct action and a popular assertion of the sovereignty of the people. Both the right and the left in a few months in 1934 through to 1936 were asserting that representative government, and those holding the reins of the nation, had veered too far to party protections and away from a duty to the people. The especially notable aspect of this at a particular moment in the interwar years is that this critique and response span the political spectrum. That the left and right responded by taking to the streets and expressing their conviction that the sovereignty of the people was being ignored, and that they were reasserting the will of the people, illustrates the national repertoires of French ideals of government and the role of the masses, outside of discrete party politics, to remind those governing that the people must be heeded. That they did so with their own ideals and symbols – often in opposition to each other – shows not only the malleability of those expressions, but also the foundational aspects of it. All the groups “in the streets” were reminding the structures of power (political parties, individual leaders, and the republic at large) that the people, whatever their actual politics, were always in a position to renegotiate the terms of agreement – that they held the ultimate legitimacy of sovereignty residing in the people.

That the assertion of the far-right leagues to be reclaiming France in the name of popular sovereignty was matched by the same claim on the political left is part of what makes this period important for a broader consideration of the power of popular sovereignty within the French tradition. Perhaps it is ironic that the street violence of the far-right ushered in the direct street action of the leftist Popular Front. Both groups saw themselves as acting within a patriotic French tradition – even those on the right who often criticized the “chaos” of republican politics.

The election of Blum and the Popular Front coalition in 1936 gave even greater focus to the enmity of the leagues. The election of a Socialist, who groups like the *Solidarité Française* referred to as “*Le Juif*,” seemed to confirm fascist fears. Blum’s dissolution of the leagues in June 1936 – tired of their anti-Republican harangues as well as physical attacks upon him – forced most of them to re-form as political parties, now specifically attacking Blum and the Popular Front. While the left responded to the street action of the right, the Popular Front strikes of 1936 would continue with that tradition, and was part of the perpetual reenactment and further establishment of popular assertion of sovereignty.

As historians of these leagues often point out, the ideologies of these groups could be both vague and inconsistent. The movements were clear about their anti-communism and anti-parliamentarianism, their nationalism, their belief in a strong leader, and their use of paramilitary organization and blue shirt uniforms. As much as the leagues are often portrayed as the interwar years’ great threat to the French tradition of popular sovereignty (as it related to republicanism), they can also be viewed within the French revolutionary tradition of the Jacobins – going into the streets and asserting their right to speak for the people and have a direct impact on the polity – unmediated by parliamentary representatives.

THE EUROPEAN UNION, THE NATIONAL FRONT,
AND THE *GILETS JAUNES*

The revival of extreme-right organization in Europe in the last decade, and the meteoric rise of the French National Front in that time, also provides a moment to reflect on French ideas of popular sovereignty and the ways that different political affiliations come to both question and or reaffirm certain policies and actions in the name of popular.

The 2017 French presidential election, as well as late 2018 popular protests against the policies of Emmanuel Macron's administration, are a modern example of contentious French ideas about popular protest and its connection to popular sovereignty – and again begs the question of the connection of popular sovereignty to traditional democratic ideals (the process of voting, e.g.).

The 2017 elections in France confirmed the increasing popularity of the far-right National Front. Though the party, since renamed *Rassemblement National*, lost to Emmanuel Macron's *La République En Marche* in run-off elections, the polarizing election illustrates the ways in which political parties employ the language of sovereignty to legitimate their claims to govern the people, and capture partisans by raising the specter of a government that does not, so they would claim, represent the people or, by extension, respect the ideals of popular sovereignty. The foundational claim of *Rassemblement National*, under the leadership of Marine Le Pen, has been the promise of a Free France and the “return to France of her national sovereignty. Towards a Europe of independent nations, in service to the people.”²¹ The 2017 claim of Le Pen's party to truly represent the people can be best understood in the context of this volume's introductory framing: that globalization (in this case represented by the bureaucracy of the European Union) “impinges on the sovereignty of the nation state and threatens the integrity of democratic rule.”²²

As noted in the opening of this chapter, in late 2018 a new movement of “popular sovereignty” became active in France. The origin of the group lay in anger and protest against a new environmentally focused tax on gasoline fuel. The government of Emmanuel Macron claimed that the tax was in support of mitigating the damages of burning fossil fuels and in the context of trying to hold true to the Paris Agreement signed by France in 2016. The protestors, many of whom were from the more remote exurban areas of France that did not enjoy easy access to public mass transportation noted that this tax disproportionately punished the poor (and those already farther away from the well-funded larger cities of France) and was evidence of the French president's greater concern for global politics than the impact of such actions on the people and local concerns. The protestors began to coalesce around this specific tax though they quickly made connections to additional inequalities in French life.

²¹ www.rassemblementnational.com “Rendre à la France sa souveraineté nationale. Vers une Europe des nations indépendantes, au service des peuples.”

²² See the introduction to this volume, p. 5

The protestors chose as their sartorial symbol and moniker *gilets jaunes* or yellow vests, so named for the high-visibility neon yellow vests that all French motorists are required to have to indicate automotive distress. This clothing and name proved meaningful in multiple ways. First, it exposed another French law that many saw as a cost imposed by the state. However, because it is the law most had complied with it and had these vests, which made it easy for all French car owners to easily express solidarity with each other. Further, the vests had been designated by the law as an indication of distress, and, indeed, the *gilets jaunes* were indicating distress, just not precisely the kind the state had imagined.

This sartorial expression of public connectedness and group distress at the imposition of a tax that pushed working people to the brink of poverty captured the imagination of many, and hundreds of thousands participated in the initial protests. The vests became the 2018 equivalent of the tricolor or Phrygian cap of the revolution. Many protestors wore them along with home-fashioned *bonnets rouges* and carried signs specifically drawing the connection between 1789 and 2018 (and usually with a thread through 1968 as well). The vest could be seen on mannequins in shop windows – illustrating a shop owner’s political sympathies or perhaps with the hope that it would ensure against any shop damage as the protests did result in broken window and damaged cars (though many argued that this was done by individuals who were simply taking advantage of legitimate political activity in the street to act as “hooligans”).

The powerful seizure of a top-down law (requiring motorists to have yellow vests) for popular expression proved both deeply powerful and self-consciously connected to a broader French history of protests in the streets. Many protestors quickly made claims to other aspects of popular sovereignty, including the RIC (*Référendum d’initiative citoyenne*), or the citizen’s referendum initiative, in order “to give back the *parole* to the people.”²³

The *gilets jaunes* protests began in November 2018 and continued to grow into early December. The car-related vests proved a rallying point in other ways for protestors as they coalesced around important traffic circles and thoroughfares throughout France. Heading into the holiday season their protests were a powerful disrupter of holiday shoppers (something the French government seemed especially sensitive to in the somewhat stagnant French economy) and images of shop windows boarded up or being smashed on Paris’ Champs Elysees became a powerful image transmitted throughout the world. Based on polls at the time most French supported the protestors, especially their right to protest (as they should in a free liberal democratic society); however, the website of the Mayor of Paris also indicated the terms by which activities of popular protest might be judged. In early December 2018 the Paris Mayor’s office²⁴ unequivocally not only supported the individual and collective right to popular protest, but also noted the damage done in unequivocally “popular”

²³ RIC website and *Paris Soir*.

²⁴ *Mairie de Paris* site.

terms. In noting the damage to trees and protective grates, the Mayor tallied the damage in cost to the people.

The *gilets jaunes* were notable (and visually noticeable!) not only for their bright yellow vests, but also for their lack of clear leadership. While much of the rallying to the cause or organizing for protests happened, unsurprisingly, over social media, there did not emerge a leader or leaders who would claim to speak for others or seemed to be in control of the movement. This was the work of a populist movement, not a party. This also fits quite neatly with earlier French popular movements, including the revolution and interwar leagues previously discussed. While historians can speak of individual leaders of particular political clubs during the French Revolution or initial founders of the interwar leagues, there are no “founding father” equivalents to be found in those movements (something discussed in the eighteenth century as well as by historians since).

The visual power of yellow vests in the streets *en masse* was not lost on those who were less supportive of the disruption and feared the violence and economic loss due to *gilets jaunes* action. By mid-December another group took to the streets to express their frustration with the ongoing *gilets jaunes* protests – the *foulards rouges* (red scarves). The *foulards rouges* were also calling on a sartorial and cultural symbol and urged people to go out into the streets and assert their political claim to sovereignty. Red of course is one of the colors of the French flag and had been a symbol during the French Revolution. Or perhaps they were operating on the assumption that many French just might have a red scarf (just as surely as a motorist would have a yellow safety vest in their car trunk). And, once again, even those who are in some ways against protesting in the streets seem bound by French collective memory and social and cultural embeddedness to go out into the streets to protest it!

The Saturday protests of the *gilets jaunes* continued for over a year, until a global pandemic intervened. The “taking to the streets” of individuals across a broad spectrum – not guided by or proclaiming allegiance to a particular party – is just the most recent example of French reenactment of the national narrative and collective memory around popular sovereignty and shows both the power of that narrative and the centuries-long use and reworking of the claim itself. At this time, more than three years after the beginning of *gilets jaunes* actions, the movement continues, though with less force, partially, of course, because of the impact that Covid has had across the globe, but also because of disagreements within the always amorphous group of who “the people” are, evidence of the built-in tension within claims to popular sovereignty of the people. Across two and a half centuries of French history these vignettes capture, as the volume’s introduction makes clear, the tensions, contradictions, and ambivalences that inhere in the concept and practices of *popular sovereignty*. As France enters a new presidential election cycle these enduring frictions continue and will play out through official political structures, as well as collective street action and competing claims of sovereignty, as is the endemic nature of popular sovereignty.

The Founding of India and Popular Sovereignty

Ornit Shani

On October 24, 1947, just at the time the first draft of the Indian Constitution was ready, His Highness the Maharaja of Patna, a princely state in the North East of the subcontinent, issued “an extraordinary proclamation” declaring “the objective of full responsible Government under the aegis of the Ruler as the goal to be achieved by a date no later than April 1952 AD; and ... Whereas I consider,” the ruler stated, “that the time is appropriate for taking immediate steps for the setting up of a representative constitution-making body and for the transfer of power to the people’s representatives at the earliest possible date.”¹

Efforts toward establishing popular governments and constitution-making bodies such as the one the otherwise autocratic Maharaja of Patna pursued were taking place at the time in many other princely states across India. Indeed, the territories that comprised British India and were under direct British rule did not cover the whole of the subcontinent. When India gained independence at the stroke of midnight between August 14 and 15, 1947, spread throughout the subcontinent, were more than 550 princely states that covered about 45 percent of its territory, with a population of nearly 93 million. The princely, or Indian states, possessed various degrees of sovereignty under the paramouncy, which the British Crown exercised over them. But the Crown’s paramouncy lapsed with the attainment of independence by British India, and as the British Cabinet Mission Statement of May 16, 1946, stipulated, it could not be “transferred to the new government.”² Thus, all the rights surrendered by the states to the British Crown were to return to the states.

¹ His Highness’ Government Gazette, Patna, Extraordinary Proclamation of His Highness Maharaja Shreeman Shree Shree Rajendra Narayan Singh Deo, Maharaja and Ruler of Patna State, October 24, 1947, pp. 1–2, AICC I Inst., F. 2 (II) (noncategorized files), 1947, NMML, Delhi.

² ‘India: Statement by the Cabinet Mission,’ *Hansard* (HL Deb), May 16, 1946, vol. 141, cc. 271–87, <https://api.parliament.uk/historic-hansard/lords/1946/may/16/india-statement-by-the-cabinet-mission>, accessed 4.4.2020.

In the face of the impending severance of their relationship with the British Crown, the Chamber of Princes agreed as an objective already in January 1946 to “set up forthwith constitutions in which the sovereign power of the Rulers are exercised through regular constitutional channels without in any way affecting or impairing the continuance of the reigning dynasty in, and the integrity of, each State.”³ Six months later, in June 1946, the Chamber’s Standing Committee endorsed the view that the “State Governments should take active steps to place themselves in close and constant contact with public opinion in their State by means of representative institutions.”⁴ There was a prior history to these efforts. States peoples’ associations and movements for popular government started advocating for popular reforms on these lines already from the late 1930s. These struggles were energized at the time by the mass nationalist anti-colonial movement in British India, which declared *Purna Swaraj* (complete self-rule, or independence) as its goal on January 26, 1930. In the context of the demise of colonial rule, these struggles toward representative governments in the states gained greater dynamism from the mid-1940s.

Thus, when the Indian Constituent Assembly convened in December 1946, with the aim of establishing India as “an Independent Sovereign Republic ... WHEREIN the territories ... that now form the Indian States ... be constituted into the Independent Sovereign India ... and WHEREIN all power and authority of the Sovereign Independent India ... are derived from the people,” there were multiple competing sovereignties that aimed to establish popular governments across the subcontinent.⁵ Although the states were allotted ninety-three seats in the Indian Constituent Assembly, as the British Cabinet Mission Statement of May 1946 stipulated,⁶ the rulers made clear that “[t]he entry of the States into the Union of India ... shall be on no other basis than that of negotiation,

³ Quoted in a letter from the Secretary to His Excellency the Crown Representative to the Residents of 13 States and groups of States, August 19, 1946, India Office Records (hereafter IOR)/R/1/1/4466, British Library (hereafter BL), London. The residents were the representatives of the British Government in the states. The chamber was a forum of the princes that represented them on all-India matters; 242 states had representation in the chamber at the time; 135 rulers of states were members in their own right, and another 107 states were represented through ten representatives. Bhargava, *The Chamber of Princes*, 60.

⁴ *Ibid.*

⁵ “Resolution on Aims and Objectives,” *Constituent Assembly Debates* (hereafter CAD), December 13, 1946, <http://164.100.47.194/Loksabha/Debates/cadebatefiles/C13121946.html>. This resolution was adopted on January 22, 1947. All references to the CAD hereafter are from <http://164.100.47.194/Loksabha/Debates/cadebadvsearch.aspx>. The Indian Constituent Assembly, which was entrusted with the task of writing a constitution for free India, convened for the first time on December 9, 1946, six months before Britain declared the partition plan of the subcontinent. The constitution-making process took three years. The first draft constitution, prepared by the constitutional advisor was ready in October 1947. The second draft, prepared by the Constituent Assembly Drafting Committee was published in February 1948. The assembly adopted the final constitution on November 26, 1949. It came into force on January 26, 1950.

⁶ “India: Statement by the Cabinet Mission,” clauses 14, 19 (II). The Cabinet Mission stipulated 292 seats for the Provinces of British India.

and the final decision shall rest with each State”; “that their participation in the constitutional discussions in the meantime will imply no commitments in regard to their ultimate decision ...”; and that the “Constitution of each State, its territorial integrity, and the succession of its reigning dynasty in accordance with the custom, law and usage of the State, shall not be interfered with by the Union ...”⁷

It was not self-evident that India would succeed to consolidate a unified popular sovereignty against these contending sovereignties.⁸ There were, moreover, additional palpable reasons why the making and institutionalization of popular sovereignty for “We the People” of India was not bound to strike roots, resonate with its people, or that it would necessarily endure. The principle that power was to be derived from the people had to be achieved in the midst of the violent partition of India and Pakistan that was tearing the people and the territory apart. The population was largely illiterate and poor, and deeply divided by caste, language, and religion. These conditions were largely the basis of British officials’ unwavering belief that a popular government based on universal adult franchise was a bad fit, and administratively impossible for India.⁹ The Indian national movement had been committed to universal adult suffrage since 1928.¹⁰ The anti-colonial mass nationalism after World War I further strengthened that vision.¹¹ But there remained a large gap to bridge in turning this aspiration into a reality, both institutionally and in terms of the notions of belonging that electoral democracy based on universal franchise would require. Indeed, the fact that the Indian Constituent Assembly adopted universal franchise at the beginning of the constitutional debates, in April 1947, did not ensure by itself that this would be achieved under the adverse conditions of independence. At independence, the notion of “We the People” of India had yet to come into existence.

This chapter explores how despite multiple competing sovereignties, and deep pluralities, a unified popular sovereignty consolidated at India’s founding

⁷ “Text of Resolution Passed at Princes Meeting Held on 29 January 1947,” CAD, April 28, 1947 (<http://164.100.47.194/Loksabha/Debates/cadebadvsearch.aspx>). It is noteworthy that the Government of India Act, 1935, provided for a Federation of India comprised of the provinces and the Indian states. But that part of the Act required the accession of the Indian states in sufficient numbers for this federation to come into effect. That threshold was never reached.

⁸ This is contrary to a previously prevalent view that the destruction of the princely states was inevitable. Indeed, historical works in recent decades argue that there is little empirical evidence to suggest that the states were about to disintegrate. Yet, on the whole, these studies conclude their historical investigation at independence. For a broad review of the historiography of the princely states until 1947 see Groenhout, “The History of the Indian Princely States.”

⁹ Representative institutions existed before independence. These institutions, however, were largely a means of co-opting ruling elites and strengthening the colonial state. The representation was based on “weightage” and separate electorates, wherein seats were allotted along religious, community, and professional lines, and on a very limited franchise. For a recent analysis of the difficulty the colonial perception of Indians’ inability to qualify for self-rule posited to Indian national leaders see Sultan, “Self-Rule and the Problem of Peoplehood.”

¹⁰ See Nehru, “Report of the All Parties Conference,” 91–94.

¹¹ See, e.g., Sarkar, “Indian Democracy.”

between 1946 and 1950. It suggests that two complementary processes played a key role in fashioning an all-India popular sovereignty by the time India's constitution was adopted. First, the making of a unified popular sovereignty in India was driven, in the main, by efforts to work through rather than to forcefully prevail over the competing visions of popular sovereignty that were asserted at the time. In this process, the language of popular sovereignty was routinely used, the notion of the "peoples' will" was iteratively reasoned, and even people from the margins had opportunities to engage with it. This process undermined the legitimacy of states' efforts to define sovereignty on their own terms.¹²

Second, while multiple discussions about unified popular sovereignty were taking place and the question was being negotiated, bureaucrats across the country embarked on the preparation of the first draft electoral roll on the basis of universal adult franchise in the territories of former British India as well as the states that were by then in the process of integration. I argue that doing so in anticipation of the new constitution and the merger of the states resulted, in effect, in institutionalizing the edifice for implementing the "rule of the people" on an all-India level. The transformative effect of this process was the bounding together of the people of British India and the states as equal individual voters and as the agents of authorization of the newly forming Indian Union. Moreover, this process played a critical role in mitigating discrepancies that emerged from the competing sovereignties and the many constitution-making processes they engendered.

Drawing on Yaron Ezrahi's work on *Imagined Democracies*, I suggest that these processes and their scale combined to produce the reasoning, institutions, and rituals that were necessary to render persuasive and to sustain the political imaginary, or fiction of sovereignty of the people as a public choice.¹³ The first process resulted in making the otherwise abstract notion of the will of the people, and that all power derives from them into a convention that could not be easily withheld or delayed. The second process, the making of the electoral roll in anticipation of the constitution being finalized, outpaced state-level deliberations and created ground realities and the administrative delivery of one of the cornerstones of popular sovereignty. While the people of the states were not, in the main, consulted in the process of reaching merger agreements with rulers, they were enlisted as voters and made into "the people."

The chapter's investigation is based on original archival materials. It is composed of three parts. Part one explores the dynamics of working through

¹² Of the more than 550 princely states that ultimately merged with India, there are two exceptions to the argument proposed in this chapter: Hyderabad and Kashmir. The Indian government annexed Hyderabad by force in September 1948. A war between India and Pakistan over Kashmir in 1947–1948 ended with a ceasefire mediated by the UN. For a history of Hyderabad and Kashmir states at independence see Raghavan, *War and Peace in Modern India*; Sherman, *Muslim Belonging in Secular India*; Hussain, *Kashmir in the Aftermath of Partition*, [Chapters 1 and 2](#).

¹³ Ezrahi, *Imagined Democracies*.

competing sovereignties across India in the midst of India's constitution-making process. The second part examines how the implementation of the universal franchise contributed to embodying the multiple and competing visions of sovereignty that were asserted at the time, while producing a concrete sense of "We the People" of India. Finally, the conclusion reflects on the significance of the Indian experience of consolidating a unified popular sovereignty in the midst of deep pluralities.

CONTESTED SOVEREIGNTIES FOR THE PEOPLE OF INDIA

From the 1920s, States People's Associations began struggling for responsible governments in their princely states. In 1927, the All India States Peoples' Conference (AISPC), an association representing an alliance of these movements, was established. A decade later the Indian Nationalist Congress that led the struggle for Independence in British India affiliated itself with the AISPC and with the freedom struggles in the princely states. In the 1930s, most of these movements had failed and many of them were suppressed by the rulers. Yet, limited representative elective institutions were formed in many of the princely states, and some rulers established legislative assemblies. A majority of the members in the states' representative institutions were nominated. By the early 1940s, only about a third of these institutions were based on a majority of elected members.¹⁴

In the context of the imminent end of British rule in India, growing states people's struggles for self-rule, on the one hand, and pressures on the princes to surrender their sovereignty and integrate their state with the newly forming Indian Union, on the other hand, triggered a surge of popular reforms in the states. The Maharaja of Gwalior, for example, announced on October 25, 1946, that he aims to "set up a Government responsible to the people."¹⁵ This was a promise he already made five years earlier. A few days later, the Gwalior State Congress issued a resolution stating that a "mere acceptance of the aim is not enough. The People of Gwalior State are now tired of the irresponsible, feudal and autocratic system of government which exists to-day and they crave for its termination without delay."¹⁶ They demanded that "a constituent assembly consisting of popularly elected members and enjoying full sovereign powers may be set up forthwith for drawing up a constitution of a government fully responsible to the people."¹⁷

¹⁴ See Copland, *State, Community and Neighbourhood*, 76–77. Also see Copland, *The Princes of India*; Ramusack, *The Indian Princes and Their States*; Jeffrey, *People, Princes and Paramount Power*.

¹⁵ *The Tribune* 29.X.46, IOR/R/1/1/4411, BL, London.

¹⁶ "Main Political Resolution," Gwalior State Congress, 27th Annual Session, Gwalior, November 4–6, 1946, AISPC papers F. 59, 1946–47, NMML, Delhi.

¹⁷ *Ibid.*

Discussions on the formation of governments responsible to the people on the basis of a wide and popular franchise took place in a number of other states at the time, among them, Benares, Bhopal, Bikaner, Mysore, Patna, and Rampur. In some states, for example, Aundh, Cochin, Manipur, Mewar, Pudukkottai, and Travancore, adult franchise was in the process of being introduced or already instituted, with the Maharaja being the constitutional head of the state.

The different positions on the scope of the reforms toward popular governments in the states were reasoned at length in the reports of states constitutional committees, in protest letters and other documents, as well as in the proclamations that set out the intended policies of the rulers. Newspapers also covered these developments. These contending views manifested and took on a new dynamic with the beginning of India's constitution-making process from December 1946, especially as the question of the place of the states and "their people" within the newly forming Indian Union became more salient.

The Indian Constituent Assembly appointed a States Committee in January 1947 to negotiate with the States Negotiating Committee appointed by the Chamber of Princes on the question of the distribution of the ninety-three seats that were allotted to the states in the assembly, and on the method of filling them. The two committees, and then a joint committee they appointed, held discussions between February and March 1947. Pressures to ensure representation of the states' people came to the fore in that context.¹⁸

The Kolhapur State *Praja Parishad*, for example, asked of the government of India already in July 1946 to ensure that the members of the Constituent Assembly for the ninety-three seats allotted to the Indian states should be representatives elected by the people of the states.¹⁹ A note on the subject prepared for the Indian Constituent Assembly held that the representatives of the states should be chosen by the people "either through direct or indirect elections."²⁰ It suggested that existing representative bodies in the states could be the electors, and that in states where such bodies did not exist, a solution could be found in consultation with the states governments and the states' peoples' conference. The States Peoples' Negotiating Committee argued that the legislative bodies in the Indian states "are not sovereign, and even in matters transferred to them they are not the final authority."²¹ The committee also insisted that

¹⁸ It is noteworthy that the Indian Constituent Assembly did not actually represent the whole people of (British) India. Its members were, in the main, representatives of the elite, chosen by the legislative assemblies of the provinces of British India, which were themselves elected in the 1946 elections on the basis of a very limited franchise, and an electorate that was structured along religious, community, and professional lines, according to the colonial 1935 Government of India Act (for about fifth of the population).

¹⁹ Letter from the Working President of the Kolhapur State *Praja Parishad* to the Special Officer, Political Department Government of India, IOR/R/1/1/4466, BL, London.

²⁰ Letter from Gopalaswami Ayyangar to Nehru, November 18, 1947, Rao, *Framing of India's Constitution*, 588.

²¹ "A Note by the States' Peoples Conference," February 24, 1947; Rao, *Framing of India's Constitution*, 628.

the princes' negotiating committee does not represent the states or the states' people, and did not agree that it had the authority to decide.²²

The Joint Committee of the Constituent Assembly States Committee and the States Negotiating Committee ultimately agreed that "not less than 50 per cent of the total representatives of states in the Indian Constituent Assembly shall be elected by the elected members of legislatures or, where such legislatures do not exist, of other electoral colleges."²³ Representatives of the states began to enter the Constituent Assembly from late April 1947.²⁴ By July 15, 1947, however, a month before India's independence, only thirty-one of the ninety-three seats allotted to representatives of the princely states were designated as "popular quota."²⁵

By August 15, 1947, the date India gained independence, a majority of the princely states, signed an Instrument of Accession under which they ceded to the Indian government control over three matters: defence, external affairs, and communication.²⁶ From a constitutional viewpoint, the Instruments of Accession secured the rulers' sovereignty.²⁷ The merger of more than 550 states into the new Indian Union was a piecemeal process of ongoing disparate negotiations between the Indian Ministry of States and the rulers of states carried out until shortly before the Indian Constitution came into force on January 26, 1950. Pressures exerted from below by organizations of the people of the states also informed the dynamics of these processes. In the meantime, and while the framing of the Indian Constitution was in progress, constitution-making processes in the states continued and in some states constitutional acts even came into force. These states constitutions envisaged an Indian Union within which sovereign states, except for subjects that may be ceded to the Indian Union, would continue to exist.

The Maharaja of Mysore, for example, declared on October 12, 1947, the setting up of a "Constituent Assembly composed of elected representatives of the people and entrust it with the task of framing a Constitution Bill for the State of Mysore providing for responsible Government ..."²⁸ On May 10, 1948, the Constituent Assembly of Mysore held its third session. It decided as part of its "Aims and Objects" that "the Constitution of Mysore should be

²² "Summary of Discussions at the meeting of the States Peoples' Negotiating Committee," February 5, 1947; Rao, *Framing of India's Constitution*, 612–14.

²³ Report of the committee appointed to negotiate with the States Negotiating Committee, April 24, 1947, CAD, April 28, 1947.

²⁴ For the distribution of the ninety-three seats among the states see CAD, April 28, 1947.

²⁵ AICC I Inst., F. SP-24, NMML, Delhi.

²⁶ These Instruments of accession were reached through pressed negotiations conducted by the last Viceroy Mountbatten and India's Minister of States Sardar Patel.

²⁷ The states even retained exclusive authority over the states forces because these armed forces were "excluded from the scope of 'defence.'" Menon, *The Story of the Integration*, 429.

²⁸ Proclamation of His Highness Maharaja Sri Jayachamarajendra Wadiyar Bahdur of Mysore, October 29, 1947, p. 1, AICC I Inst. (Part II), F. 25 (II), 1947, NMML, Delhi.

such as will be in consonance with the Constitution of a Sovereign Democratic Republic adopted for India,” but should also conform to the principle, that “The individuality of the State of Mysore and the freedom of its internal autonomy should be secured in a manner not inconsistent with the other parts of this Resolution.”²⁹ Among these, for example, was a clause stipulating that “The Constitution should take the form of Constitutional Monarchy based upon the Sovereignty of the People and His Highness the Maharaja will be the upholder of the Constitution.”³⁰

By then the drafting committee of the Indian Constituent Assembly produced the draft constitution of February 1948, and it was given wide publicity. Some members of the Constituent Assembly raised concerns about the “different kinds of constitutions” that were being introduced in different states, and asked “what is the Government going to do to see that uniformity is kept throughout the country?”³¹ One member asked whether “anything is being done to advise any of these Princes to see that they will not tamper with the ordinary well-known fundamental democratic principles when they constitute their Constituent Assemblies and fix their franchise.”³² The Minister of States, Sardar Patel, replied that it was “for the Ruler and the People of the State to decide the constitution under which the State is to be governed subject to our general policy ... that the administration of the State must be democratised and that the States must be viable units.”³³

The “different kinds of constitutions” that were being framed in the states, despite being based, in the main, on universal franchise, presented difficulties for a united all-India popular sovereignty. Moreover, some rulers held the view that “the Draft Constitution of India seemingly in several ways encroaches on the sovereignty of the Rulers.”³⁴ They submitted criticisms and suggested amendments to the Indian Draft Constitution, so as to ensure that it would be acceptable to the states.³⁵ The question of citizenship, for example, was a big point of contention. The constitution makers envisioned a common citizenship and law of nationality throughout India and rejected the

²⁹ Constituent Assembly of Mysore, Third Session, “Resolution re: Aims and Objects,” May 10, 1948, Bangalore, AICC I Inst. (Part II), F. 25 (II), 1947, NMML, Delhi.

³⁰ *Ibid.*

³¹ Ministry of States (hereafter MoS), F. 12 (49)-P, 1948, “Supplementaries [sic] to Q [Question] No. 539,” March 1, 1948. National Archive of India (hereafter NAI).

³² *Ibid.*

³³ *Ibid.*

³⁴ Cover letter from Jaswant Singh, Prime Minister of Bikaner state, to the Joint Secretary of the Constituent Assembly of India, “Note containing the views of the Bikaner State in regard to the Draft Constitution of the Indian Union,” April 9, 1948, MoS, F. 590-P/48, NAI.

³⁵ “Note containing the views of the Bikaner State in regard to the Draft Constitution of the Indian Union,” April 9, 1948, MoS, F. 590-P/48, NAI. Also see, e.g., “List of Amendments to the Draft Constitution of India to be moved on behalf of the Indian States,” MoS, F. 590-P/48, NAI; V. T. Krishnamachari, Jai Dev Singh, B. H. Zaidi, and Sardar Singh of Khetbi, *Memorandum on the Draft Constitution of India*, March 22, 1948, p. 12, MoS, f. 414(I)-P, NAI.

notion of dual citizenship.³⁶ Some rulers and states' constituent assemblies, however, wanted to ensure that although their residents may be citizens of India, they should also maintain their state citizenship.

The Fundamental Rights Committee of the Mysore Constituent Assembly, for example, stipulated provisions for the definition of a citizen of Mysore, based on birth and domicile. The committee explained in its report that "there are special reasons for a clear definition of State Citizenship in Mysore, where the cherished institution of Monarchy makes loyalty to the Throne a distinctive characteristic of the people of Mysore. While every citizen of the Mysore state is necessarily a citizen of the Indian Union, he has certain rights and duties peculiar to himself."³⁷ Bikaner, Manipur, Travancore, and Cochin, among other states, also insisted on maintaining their own state citizenship. As many documents of the Secretariat of the Indian Constituent Assembly made clear, there was nothing at that point to disallow these states' legislative assemblies from adopting or implementing their own citizenship or subjecthood provisions.

In November 1948, the Chairman of the Drafting Committee of the Indian Constituent Assembly, B. R. Ambedkar, stated that the fact that the states that did not yet integrate were free to create their own constituent assemblies and to frame their own constitutions "is very unfortunate and ... quite indefensible. This disparity may even prove dangerous to the efficiency of the State. So long as the disparity exists, the Centre's authority over all-India matters may lose its efficacy. For, power is no power if it cannot be exercised in all cases and in all places."³⁸

In the light of a growing understanding of the difficulties the many constitution-making bodies across India may pose for the consolidation of a united popular sovereignty at the center, the Ministry of States appointed in November 1948 a committee to frame a model constitution, based on the Indian Draft Constitution, that would "serve as a guide to the Constitution-making bodies of the States in framing the constitution for the respective States."³⁹ The committee worked on the assumption that the Indian states would accede to the Indian Union, and thus followed provisions in the Draft Constitution of India that related to the provinces.

While there was still a great deal of work to do to bring the states and their people into the Indian Constitution's fold, and while negotiations with the

³⁶ See Jayal, *Citizenship and Its Discontents*, 55–56.

³⁷ Constituent Assembly of Mysore, "Report of the Fundamental Rights Committee," September 25, 1948, MoS, F. 444-P/49, NAI.

³⁸ CAD, November 4, 1948. By that time, 206 Indian states merged with provinces of India, twenty-three were merged and constituted as centrally administered areas, and 255 units amalgamated into independent Unions of States.

³⁹ "Report of the Committee for the Drafting of a Model Constitution for the Indian States," New Delhi: Manager Government of India Press, 1949 (May 30, 1949), MoS, F. 414-P, NAI, New Delhi.

rulers of states over their integration and states' people struggles continued, a bureaucratic undertaking on the ground across India, brought into effect in the most concrete terms the edifice for an all-India unified popular sovereignty.

MAKING AN EDIFICE FOR THE RULE AND "WILL OF THE PEOPLE"

A few months after the Indian Constituent Assembly adopted universal adult franchise, in April 1947, the Constituent Assembly Secretariat assumed and managed over the following two and a half years, in anticipation of the constitution, the preparation of the first draft electoral rolls on that basis.⁴⁰ The electoral rolls were prepared with the aim of holding the first general elections as soon as possible after the constitution would come into force. This undertaking was critical for the becoming of the people, of both the provinces and the princely states, into agents of popular sovereignty from whom power would be derived in a very concrete and meaningful way. Moreover, in the process of the preparation of the electoral rolls, the challenges that multiple and competing sovereignties posited to the consolidation of a united all-India popular sovereignty were worked through practically and administratively, often complementing, or even outpacing the legal and constitutional process at the center.

In November 1947, the Secretary of the Constituent Assembly of India wrote to the premiers of the provinces and the states, informing them of the intention to start preparing electoral rolls on the basis of universal franchise, and asking them to assess the feasibility of doing so. A majority of states responded positively to the secretariat letter. Indeed, although most of the princely states had no experience with any form of democracy until that time, in some states, as already mentioned, adult franchise was already introduced at the time, or was in the process of being introduced. Devising the guidelines for the preparation of rolls on the basis of adult franchise was done in consultation with the states. Notably, the final instructions drew largely on the instructions that the State of Travancore devised for the election it held in February 1948 on the basis of adult franchise. The registration of voters was done on a house-to-house basis. The Constituent Assembly Secretariat and local governments published detailed press notes, which conveyed in an accessible manner what the preparation of rolls entailed. The aim of the operation was to turn all adults into voters for the elections under the new constitution. By late 1948, the enrolment of India's prospective voters was in full swing, both in the provinces and the states. In some places the draft rolls were nearing completion.

In the states that by then merged with India, the preparation of the electoral rolls for the future Indian House of the People became in effect the means of integrating the people and territories of the merged areas into the structure of the

⁴⁰ For the history of the making of the universal franchise in India, see Shani, *How India Became Democratic*.

Indian administration, and of turning the states' people into "We the People" of India. The governments of the provinces and the states regularly sent reports to the Constituent Assembly Secretariat on the progress of the work of the preparation of rolls. The descriptions of the figures of houses that were numbered and enumerated and of the voters that were enrolled and other "sum-totals" these reports contained became a concrete expression of the integration of the states into the newly forming Indian Union. Thus, a report from the government of Orissa on the progress of the work in Orissa and the states ceded to it by the end of December 1948 showed that they completed the work in 2,688,828 houses and for 15,823 houses the work was still in progress.⁴¹ Reports from Kolhapur, as another example, just three months before it merged with Bombay province, stated: "From the number of voters so far enumerated, it is found that more than 50% of the population are recorded as voters. Based on this calculation there will be about 16000 pages of the roll of the State; each page containing 40 names; and that the Election Officer toured in six local administrative units, 'checked house numbering & voters in 64 villages on representative sample basis, correcting errors on the spot, after verification.'"⁴²

Through their place on the rolls, the people of the merged states turned into Indian voters. Because a voter had to be a citizen, they became, in effect, citizens, even though the Indian citizenship provisions were still in a draft form. The enlisting of India's adult population concurrently across the country on a house-to-house and village-by-village basis produced a tangible connection between people across the country and the center. Newspaper accounts of the preparation of electoral rolls in the provinces and the states fostered that sense of interconnectedness. This contributed to making real the vision of a united all-India sovereignty, and of the people becoming the agents of authorization of the future government. On the lists of voters, "the people" were named, real individuals, rather than an abstract notion.

In the case of states that had not yet merged, and were keen to retain their identity even within a future Indian Union, the preparation of the electoral rolls brought to light constitutional discrepancies between provisions in the Indian Draft Constitution and the constitutions that existed or that were being framed in those states. This occurred while some of the states or unions of states, which had not yet completed their integration, were also preparing elections for their own constitution-making bodies or legislatures. The constitutional incongruities that became evident in that context were intimately linked to a united all-India popular sovereignty, as envisioned by the Indian

⁴¹ Submission of return of progress ending November 30, 1948, from the Additional Secretary to the Government of Orissa (Home (Election) Department), to the Secretary of the Constituent Assembly Secretariat, December 31, 1948, CA/1/FR/49-I, Election Commission of India Record Room (hereafter ECIR), Delhi.

⁴² Letters from the Chief Secretary to the Government of Kolhapur to the Under Secretary of the Constituent Assembly Secretariat, November 23, 1948, and December 2, 1948, CA/1/FR/48-V, ECIR, Delhi.

Constitution Assembly. At the same time, the surfacing of practical challenges for the preparation of the electoral rolls presented opportunities for correction, and therefore a way of working through the contending sovereignties that were still at play, and of asserting the authority of the center.

Thus, in some cases, it became apparent that the qualifications for enrolment as a voter for the states' legislatures were different than the qualifications set for the preparation of rolls to the Indian House of the People. The government of Travancore, for example, refused to register on the electoral rolls it prepared for elections to its state legislature over 100,000 Tamilian laborers who resided in the state for over fifty years, because they were not naturalized subjects of the state. After a complaint in the matter from an organization that represented these Tamilian laborers reached the Indian Constituent Assembly Secretariat, its joint secretary wrote to the government of Travancore, stating that "under the Draft Constitution of India there will be only one common law of citizenship throughout the Union and it is not contemplated that each State should have nationality laws of its own as distinct from the union Nationality law."⁴³ The Travancore government, however, challenged this view. Its chief secretary explained that under the Travancore Interim Constitution Act, every person who is a Travancore subject is entitled to have his name registered in the electoral roll. The Tamilian laborers in question were not qualified to be included in the electoral rolls because they were not Travancore subjects.

Moreover, the Travancore Chief Secretary opined that "The enactment of common law of citizenship throughout the Union of India as indicated in the draft Constitution of India cannot alter the position of those Tamilians in respect of franchise for elections in the State ... Matters pertaining to suffrage will have to be regulated by the State, and it will be for the State to determine who shall vote at elections. The framing of a constitution for Travancore is under the consideration of the Travancore Representative Body."⁴⁴

The joint secretary of the Constituent Assembly clarified that the qualifications the states may prescribe for the purpose of voting must not be inconsistent with provisions of the Indian Draft Constitution, such as the one that prohibits discrimination against any citizen of India on the ground only of place of birth. The matter of the registration of the Tamilian laborers who emigrated from Madras to Travancore on the electoral roll remained unsettled for a while. It was further discussed and resolved during the final negotiations for the formation of the united states of Travancore and Cochin and its merger with India in late 1949.⁴⁵

⁴³ Draft letter from the Joint Secretary of the Constituent Assembly Secretariat to the Chief Secretary Government of Travancore, August 23, 1948, CA/12/FR/48, ECIR, Delhi.

⁴⁴ Letter from the Chief Secretary Government of Travancore to the Joint Secretary of the Constituent Assembly Secretariat, November 27, 1948, CA/12/FR/48, ECIR, Delhi.

⁴⁵ The united states of Travancore and Cochin merged with India on July 1, 1949. In September 1949 the government of the united states of Travancore and Cochin published an order, which stipulated the inclusion of "citizens of India who were not included in the original electoral rolls since they were not subjects of Travancore" on the electoral roll.

Similar problems also arose with the states of Cochin, Manipur, Tripura, Mysore, and Bhopal. Sometime problems became known as a result of people complaining, as they were struggling to ensure for themselves, like the Tamilian laborers, a place on the electoral roll. In other instances, challenges surfaced while the Secretariat of the Constituent Assembly was overseeing the progress of the work. Thus, in July 1949, replying to query about the preparation of the electoral rolls for the Indian House of the People under the new constitution, the Dewan (prime minister) of Manipur reported that the state was preparing fresh electoral rolls on the basis of adult franchise for its own elections that were due in 1951. He noted that “[t]he same rolls might also be utilized for the elections of the Indian House of the People, but a difficulty arises, in that the franchise qualifications as prescribed for voters for the Manipur State Assembly vary in certain particulars from those fixed for the House of the People.”⁴⁶ The Manipur Constitution stipulated that only a bona fide state subject had the right to vote, that a voter was to be twenty years old, and no residential qualifications were required. The Indian Draft Constitution prescribed that a voter had to be a citizen who was twenty-one years old, and it set residential qualifications. The Dewan of Manipur suggested a way of preparing a single voters list that would mark those eligible for the state legislature elections and those entitled to vote for the Indian parliament.

The Secretariat of the Constituent Assembly acknowledged at the time, in August 1949, only three months before the Constituent Assembly adopted the Indian Constitution, that there was nothing to disallow the Manipur government to implement the franchise qualifications it set for its state legislature. They clarified, however, that “in all probability there will be the same franchise qualifications and disqualifications throughout India and ultimately elections to the Manipur State Assembly will also be on the same basis as those for the House of the People. There is also going to be the same Common Law of nationality throughout India.”⁴⁷

The states gradually began to amend their lists of voters and aligned them with the electoral rolls for the Indian House of the People. In Cochin, for example, like in Travancore, only subjects born or naturalized under the Cochin Nationality and Naturalization Act were registered as voters for the Cochin state legislature. Upon correspondence in the matter with the Secretariat of the Constituent Assembly, the Cochin government agreed in July 1948 to revise their lists of voters and include citizens of India for elections to the Indian parliament at the time of revision of the rolls. This was a year before Cochin formed a union with Travancore and merged with India.

The making the Indian electorate, of ultimately over 173 million people, turned in the most definitive way Indians into agents of sovereignty.

⁴⁶ Letter from the Dewan of Manipur State to the Joint Secretary of the Constituent Assembly, July 30, 1949, CA/1/FR/49-II, ECIR, Delhi.

⁴⁷ S. note 101, August 18, 1949, CA/1/FR/49-II, ECIR, Delhi.

The electoral roll bound all adult Indians together as equal individuals, irrespective of their deep divisions of caste, class, religion, language, or state identity for the purpose of authorizing their government. The first draft electoral roll on the basis of universal franchise was ready just before the enactment of the constitution in January 1950. Indians became voters, the means through which their power as sovereigns was to be exercised, before they were citizens, with the enactment of the constitution. The institutionalization of procedural equality for the purpose of authorizing a government in as plural, hierarchical, and unequal a society as India, ahead of the enactment of the constitution, fashioned a concrete sense of a collective identity for all adult Indians as equal voters, and of the becoming of popular sovereignty.

CONCLUSION

Between 1946 and 1950, India tried to consolidate an independent sovereign union, wherein all power and authority would be derived from the people. This unified popular sovereignty had to be achieved in the face of multifarious contending sovereignties and a territory in great flux, overlapping struggles in pursuit of popular governments, and for people who were profoundly diverse, largely illiterate, and poor. By any standard democratic theory, India was expected to fail, and certainly likely not to endure. This chapter suggested that against this apparent insoluble predicament, the interplay between two processes that took place at an all-India level in parallel to the framing of the Indian Constitution produced and made persuasive India's united popular sovereignty.

In the process of working through the competing visions of sovereignty across the territory, popular sovereignty became a fundamental principle of the political imaginary of the Indian postcolonial order. With the coming of India's independence, and against the backdrop of long-standing internal struggles for popular power within the princely states, the principle of a government responsible for the people became the only prudent course of action for rulers' claims for continued legitimate authority and sovereignty of their state. A sovereign state based on the rule of the "will of the people," was also the rationale underlying the negotiations between India's Constituent Assembly and the government and the states about their future. The members of the Constituent Assembly could not, thus, renege on that promise.

In the midst of ongoing processes aiming to establish a rule of and for the people, the idea that the people were to be agents of sovereignty attained actual meaning through the implementation of the universal franchise on the ground. The preparation of the electoral rolls made evident discrepancies between the Indian Draft Constitution and the constitutions of states. At the time there were efforts to settle the "different kinds of constitutions" that were being introduced in different states. The committee that was appointed in November 1948 to frame a model constitution for the states, based on the Indian Draft

Constitution, submitted its report in March 1949. But by then, especially in the light of the ongoing developments in the states, the whole question was reconsidered. In August 1949, only three months before the Constituent Assembly of India adopted the constitution, the members of the Mysore Constituent Assembly still insisted that they “should have a voice in formulating and finalising the future constitution of Mysore.”⁴⁸ While these legal negotiations took their time, the preparation of electoral rolls compelled the Secretariat of the Constituent Assembly and the governments of the forming states of the union to address in practice and in good time the challenges that the integration wrought, and that surfaced during the work.

By October 1949, India was about to give birth to the world’s largest democracy. Its making represented a radical transformation of both its people and territory. From October 1949 onward the Secretariat of the Constituent Assembly received reports from across India on the final number of voters registered on the first draft electoral rolls. These lists of voters reified the fiction of “the people” as agents of sovereignty. The printed rolls were the material reservoir of the peoples’ power. These lists of voters would have to be perpetually revised and updated, and formed the basic rite that would continue to authorize the edifice of the peoples’ rule. The turning of all adult Indians into equal individuals for the purpose of authorizing their government was revolutionary for the social existence of the Indian people.

The preparation of the electoral rolls also fostered and made real the concurrent radical transformation of the territory. When the registration of voters started on the ground in April 1948, the Secretariat of the Constituent Assembly addressed 229 political units with regard to the work. In its circular on the preparation of rolls in early October 1949, the secretariat addressed only thirty units: nine provinces, ten chief commissioners’ provinces, six unions of states, and five individual states. The secretariat’s circulars and reports on the progress of the work from across the country described the actual creation of the new Indian democratic order. That month, the Minister of States, Sardar Patel, moved in the Constituent Assembly amendments concerning the states that would enable the final ratification of the constitution by the few states that had not yet integrated into the Union.

In the annals of democratic theory, India’s achievement of fashioning a united popular sovereignty has few parallels. Scholars of democracy, from a variety of disciplines, have, for many decades ignored the Indian case in their efforts to theorize the institutionalization of popular sovereignty and transitions to democracy. The Indian case was often considered an anomaly.⁴⁹ This has begun to change over the last two decades. The Indian experience of

⁴⁸ Letter from the President of the Constituent Assembly of Mysore, to the President, Indian National Congress, Pattabhai Sitharamiya, August 22, 1949, Bangalore, AICC I Inst. (Part II), F. 25 (II), 1947, NMML, Delhi.

⁴⁹ See, e.g., Dahl, *Democracy and Its Critics*; Dahl, *On Democracy*.

concurrently fashioning a united popular sovereignty out of multiple competing sovereignties, of granting and implementing successfully universal franchise at a stroke in a deeply plural, hierarchical, and divided society has been significantly different from the experiences in other parts of the world.

In France, for example, as Daniella Sarnoff notes in this volume, although women played an important role in the French Revolution, they were enfranchised 150 years after men got the vote, only two years before all adult Indians, women, and man were enfranchised.⁵⁰ And in the United States, while the early American republic, as Ira Katznelson shows, forged a unity out of plurality,⁵¹ the right to vote, which lay at the basis of popular sovereignty, had from the outset a fraught history of disparate forms of disenfranchisement on the basis of class, race, gender, poverty, and illiteracy, driven by efforts of propertied white males to safeguard their political power.

While making the universal franchise and the electoral system, which were key to forging popular sovereignty, Indian bureaucrats at the Constituent Assembly were conscious and cautious of Western democratic institutions and practices. They did not see them as a telos, which would provide safe shores to their democracy. As one of them noted in the context of discussions on the future election management body: “It is clear that no independent organization exists to secure the impartiality and fairness in elections in these countries ... the political gangsterism is far from eradicated from the latter [USA], while in the former [UK], the din of election brawls so aptly described by Charles Dickens are not yet extinct.”⁵²

Instead, Indian bureaucrats and leaders were informed by the particular problems and pressures from below, and they worked through them practically and administratively. There was no serious theoretical discussion about whether Indians were qualified enough to authorize their government. They were registered as agents of authorization. And in the long process of doing so there were many trials, failures, and successes. India, at its founding and thereafter experimented with democracy. “Experimenting with” has been one of the enduring legacies of Gandhi for India’s democracy. In other words, drawing on this volume’s editors’ approach of employing a heuristic frame to their discussion of popular sovereignty,⁵³ India, it could be said, took a heuristic approach to democracy based on universal franchise. This does not mean that India would become better than other democracies, nor immune from the problems that have beset democracies elsewhere. Nonetheless, that India’s democracy endured for seven decades against so many odds, forms an achievement that cannot be ignored, and it invites us to reflect on some conventions of democratic theory.

⁵⁰ Sarnoff, [Chapter 8](#), in this volume.

⁵¹ Katznelson, [Chapter 6](#), in this volume.

⁵² Shani, *How India Became Democratic*, 122.

⁵³ See introduction in this volume.

The “Other” Boundary Problem

Fictions of Popular Sovereignty at the State’s Edge

Matthew Longo

The words subject and sovereign are identical correlatives, whose meaning is combined in the single word “citizen.”

–Rousseau¹

Most historically established systems of identity veil the element of arbitrary conquest in the differences they create and negate.

–William Connolly²

Popular sovereignty suffers many fictions, principally regarding equality – the idea that races, ethnicities, genders, have equal voice in the demos – a moral harm that has garnered considerable scholarly attention. This focus on discrimination based on ascriptive characteristics is warranted, but overlooks another form of inequality, based on *geographical dispersion* not all parts of a territory count equally, nor do the voices of the people who live therein. In this chapter, I address these concerns through an examination of borderland dwellers – citizens of the polity who reside at the outermost territorial reaches of the state. To some degree, the fact that citizens of the borderlands do not have equal voice in the polity is not surprising. We recognize that peripheries are dominated by their centers, and state institutions often reach the peripheries but dimly – like light from a bulb lit in the capital, to borrow Benedict Anderson’s propitious phrase.³ This chapter makes a further point, that this is not simply an artifact of imperfect administration, but rather an inherent feature of the nation-state and the zero sum nature of bordering.

By approaching the problem of borders in this manner, this chapter departs from its classic treatment in political theory, via the so-called “boundary

¹ Rousseau, *Basic Political Writings*, 196.

² Connolly, *Identity/Difference*, 68.

³ Anderson, *Imagined Communities*, 19.

problem,”⁴ that from the standpoint of democratic theory, borders are arbitrary and thus reveal the fault line between democracy (which asserts a bounded polity) and liberalism (which is in principle unbounded). As Frederick Whelan explains, democracy “cannot be brought to bear on the logically prior matter of the constitution of the group, the existence of which it presupposes.”⁵ Thus, democracy in the nation-state is an incomplete ethical project, as the border structures the lives of people on both sides, but people only have agency over decisions in their own state. Those on the outside frequently risk their lives to enter states which others, just a few miles away, consider their entitlement merely by the accident of their birth.

This chapter takes a different approach to the problem of the border – highlighting harms inherent to *inclusion*, rather than *exclusion*. Rather than considering how borderland citizens are excluded from the decision-making process of neighboring states, it asks: Can a border population really be said to be sovereign within *its own* state? On paper, peripheral citizens are identical to any others. But in fact borders often represent the interests of the (central) polity *against* its periphery. This is part of the nature of border zones, in which rights and protections are greatly restricted, making citizens at once the *subject* of security protocols, as well as their *object*. Additionally, while we commonly accept that borders forge division between polities, they also enforce uniformity within them. Through the act of bordering, those on the outside are made into barbarians; those on the inside are brought under control – or, as Sheldon Wolin puts it, they are “domesticated” to condition their loyalty.⁶ As such, much state power at the border is aimed not at outsiders, but rather at the border community itself. By detailing the nature and extent of this authority, this chapter aims to identify the challenges it poses to popular sovereignty.

It unfolds as follows. The first section looks at the problem of popular sovereignty with a focus first on its conceptual grounding in equality, then how this literature fails to consider spatial and geographical dimensions of equality and pathologies of state making at the periphery. These issues are common to borders in general. The second section provides some context to this problem through an in-depth illustration of security in the US–Mexico borderlands, drawing upon evidence from fieldwork conducted from 2011 to 2014.⁷ It foregrounds three features: *surveillance*, or the extensive use of physical and technological infrastructure in the borderlands; *heterogeneity*, the multiple forms of jurisdictional authority, including federal, state, and local forces, as well as their expanded powers; and *vigilance*, the increased role that citizens play in law enforcement. The third section utilizes this empirical material to identify two

⁴ Whelan, “Democratic Theory and the Boundary Problem”; Goodin, “Enfranchising All Affected Interests.”

⁵ Whelan, “Democratic Theory and the Boundary Problem,” 40.

⁶ Wolin, “Fugitive Democracy” [in *Democracy and Difference*], 33.

⁷ For a more detailed treatment of this empirical material, see Longo, *The Politics of Borders*.

discrete fictions of popular sovereignty in the borderlands. The first pertains to governance, that authority in the borderlands is frequently unaccountable to democratic control – the fiction of uniform authorship. The second pertains to state-citizen relations, as center-driven policies are designed not in the name of peripheral citizens but against them – the fiction of equal concern. The conclusion returns to the question of popular sovereignty and borders broadly.

POPULAR SOVEREIGNTY REVISITED

Popular sovereignty is the principle that state authority derives from popular consent, usually associated with the thought of social contract thinkers like Thomas Hobbes (1588–1679), John Locke (1632–1704), and Jean-Jacques Rousseau (1712–1778). By choosing to enter into organized social cooperation with others, people surrender certain natural freedoms in return for protection against the dangers inherent to the state of nature. In doing so, they surrender natural inequality for a state of (formal) social equality, which in turn creates the conditions for a legitimate social order. The people do not necessarily draft laws or perform the tasks of government (except through elected representatives). Rather, they are sovereign because they have the final say in government decision-making, up to and including the right to depose the government and replace it with a new one. In this way, the people are sovereign, they are the “supreme authority” (as per Bodin).

This position evolved over time. Hobbes’s *Leviathan* (1651) posited what we might think of as a thin version of popular sovereignty, in which the people used their authority to name an individual (or group) as the sovereign, after which they would be broadly subservient. Locke’s *Second Treatise of Government* (1690) expanded this definition to include constraints such that in the event that the sovereign was not acting in the public good they could be legitimately deposed by a popular uprising. For Locke, final judgment always rests with the people – indeed this is what gives popular sovereignty its meaning:

Who shall be Judge whether the Prince or Legislative act contrary to their Trust? ... To this I reply, The People Shall be Judge ... If a Controversie arise betwixt a Prince and some of the People, in a matter where the Law is silent, or doubtful, and the thing be of great Consequence, I should think the proper Umpire, in such a Case, should be the Body of the People.⁸

Rousseau took this insight farther in his *Social Contract* (1762), as sovereignty could only be manifest in the “general will” and thus all legislative power was vested in the people – an authority that derives from the social contract itself and cannot be alienated or represented. Most importantly, it is with Rousseau that popular sovereignty is most clearly linked to *equality*, which sits at the center of the principle:

⁸ Locke, *Two Treatises of Government* [2014], 427.

Every act of sovereignty (that is, every authentic act of the general will) obligates or favors all citizens equally ... What is an act of sovereignty? It is not a convention between a superior and an inferior, but a convention of the body with each of its members ... So long as the subjects are subordinated only to such a convention, they obey no one but their own will alone.⁹

This final formulation, in which legitimate rule is simply the expression of the people – and all the people *equally* – most captures the spirit of the term as it is understood today. The exercise of popular sovereignty is the only way political union can retain legitimacy, and the people are only sovereign if they are equal and active in articulating the general will.

That equality plays a central role in popular sovereignty is now sacrosanct – indeed it gives democracy its principle normative value. This is never clearer than in the writing of Robert Dahl, for whom democracy and equality are essentially coterminous, as democracy derives from what he calls “the logic of equality.”¹⁰ Similar statements abound in contemporary political theory, as when Dworkin argues that “No government is legitimate that does not show equal concern for the fate of all those citizens over whom it claims dominion and from whom it claims allegiance.”¹¹ It is also central to debates about deliberative democracy, which requires what Joshua Cohen calls “*manifest equality* among citizens,”¹² as it is this that engenders conditions such that the “unforced force” of the better argument can prevail (Habermas).¹³

With this broad frame in mind, this chapter is interested specifically in the underexplored question of geographical dispersion.¹⁴ Popular sovereignty is only meaningful if it extends (equally) across a state’s entire territory. But there is reason to doubt whether this supposition holds. Indeed, for most of human history it was assumed that political control did not – and *could not* – extend evenly across the land, especially along the periphery. Rather, this was something to be achieved incrementally through policies of assimilation, co-optation, and control. In ancient Rome, the frontier lands were filled with disloyal subjects, including nomads, thieves, and tax-dodgers, so the center took great pains to cultivate their allegiance. Indeed, one of the principle functions of early walling systems was “to divide the barbarians beyond from the barbarians within, who were in the process of becoming Roman.”¹⁵ In the Chinese empires too, boundaries were not simply designed to keep people out,

⁹ Rousseau, *Basic Political Writings*, 158.

¹⁰ Dahl, *On Democracy*, 10.

¹¹ Dworkin, *Sovereign Virtue*, 1.

¹² Cohen, “Deliberation and Democratic Legitimacy,” 89.

¹³ Habermas, *Between Facts and Norms*, 306.

¹⁴ Spatial logics were not discussed by the early social contract theorists. In the modern political philosophy canon, it only really emerges in Alexis de Tocqueville’s *Democracy in America*, in his discussion of administrative decentralization and the New England townships – a structural (and spatial) feature of US democracy that made it a ripe domain for equality.

¹⁵ Luttwak, *Grand Strategy of the Roman Empire*, 78.

but also to command fealty (and tax revenue) from far-flung subjects.¹⁶ The same can be said for early modern states, where kings and their emissaries would voyage to the far reaches of their dominion and host lavish festivals designed to foment cultural identification with the center.¹⁷

It was only beginning in the eighteenth and nineteenth centuries with the rise of centralized forms of administration that states could reliably administer laws across their whole territories. It was at this point that boundaries came to be thought of as tools for cultivating likeness – for “taming” or *domesticating* local populations¹⁸ – achieved through military power and political education. This use of central power in the periphery is in no way limited to the west. Describing the southeast Asian highlands, James C. Scott explains how centrist attempts at reining in the periphery were enacted by “establishing armed border posts, moving loyal populations to the frontier and relocating or driving away ‘disloyal’ populations, clearing frontier lands for sedentary agriculture, building roads to the borders, and registering hitherto fugitive peoples.”¹⁹ It would be no stretch to suggest that such state power in the periphery is a form of internal *colonization*.

Thinking about the domestication of the periphery in this way highlights a more general problem with our fixation on so-called Westphalian sovereignty – which asserts a clear distinction between territorially bounded states – as this rubric papers over and renders invisible the distinction between center and periphery *within* polities. Indeed, the original challenge of statehood was to achieve homogenization within, not merely (and simplistically) to negate the world without. That this conception of power poses a challenge to popular sovereignty is immediately evident. Whereas popular sovereignty takes egalitarianism as its basis – it regards people as *equal* citizens – homogenization campaigns do not operate in this way. Rather than beginning with equal concern for all citizens and thus respecting their difference, they are designed to shape citizens until they are “made equal.” To whatever degree states treat peripheral peoples equally is thus based in part on the success of these campaigns – reflecting the weakness of the concept, as here the *fiction* of popular sovereignty generates and precedes the *fact*.

State efforts to subjugate their own peripheries are infrequently discussed in political theory except obliquely in debates over the *moment of founding*, or what Connolly calls the “paradox of origins,”²⁰ that the inceptions of democracies are never themselves democratic. Moments of founding frequently engender a colonial kind of violence, especially at the periphery. The link between the violence of founding and colonization is forged explicitly by Derrida:

¹⁶ Lattimore, *Inner Asian Frontiers*, 239–40.

¹⁷ Sahlins, *Boundaries*, 27.

¹⁸ Wolin, “Fugitive Democracy” [in *Democracy and Difference*], 32–33.

¹⁹ Scott, *Seeing Like a State*, 19.

²⁰ Connolly, *Identity/Difference*.

All nation-states are born and found themselves in violence ... [The moment of founding] is anterior to the law or legitimacy which it founds. It is thus outside the law, and violent by that fact ... Before the modern forms of what is called “colonialism,” all States [have] their origin in an aggression of the colonial type. This foundational violence is not only forgotten. The foundation is made in order to hide it; by its essence it tends to organize amnesia.²¹

Borders are physical spaces at which this unfreedom is not only forged but also maintained, as those originary exclusions are recreated daily through security and nation building tactics, even once the democratic experiment has begun. State authority in the borderlands is essential to this project of nation building, in ways not merely oblique to democratic processes, but also parasitic on them. This is the point from which the remainder of the chapter departs.

SECURITY IN THE US–MEXICO BORDERLANDS

Borderlands are diverse spaces. They are all peripheral, but the distance from the center varies greatly (both in terms of scale and significance). They all abut a national boundary, where one sovereign jurisdiction ends and another begins, but their physical manifestations differ – some have walls or fences, some simple stone markers, others are not demarcated at all. Some harbor a mix of national groupings with varied degrees of loyalty to the center, while others are relatively homogenous. The point of this chapter is not to reduce borderlands to any specific common feature, other than their sheer geographical location beside a border, a fact which in itself stipulates a special relationship vis-à-vis sovereignty. The broad questions raised by the borderlands were treated above; hereafter, the chapter will zoom in on the US–Mexico border. This empirical example is not meant to be representative in any way, although of course many of the features discussed here are endemic to border areas worldwide.²² Rather, the objective of this discussion is to provide an in-depth look at the challenges inherent to popular sovereignty when situated in a particular context. The empirical material is thus insight generative, exposing cracks in the conceptual foundation that may be invisible when viewed from afar.²³

This chapter will focus on one particular feature of contemporary border security policy in the United States: the move to make borders increasingly wide and zone-like with border security installations that extend far inland of the border itself. This way of thinking was institutionalized by the Border Patrol’s 2012–2016 National Strategy, which moved away from simply guarding the line and toward “widening” and “segmenting risk” at the border. Far from the simple

²¹ Derrida, “On Forgiveness,” 57.

²² I develop this point at length in Longo, *Politics of Borders*.

²³ For an explication of this method of using empirical and specifically ethnographic research – sometimes referred to as research with an “ethnographic sensibility” – for the purpose of advancing arguments in political theory, see e.g., Longo and Zacka, “Political Theory in an Ethnographic Key,” and Zacka et al., “Political Theory with an Ethnographic Sensibility.”

wall, this policy is designed around *sprawl*. As one official explained it: “The wider we make our borders ... the more effective we are going to be.”²⁴ This strategic language aligns with my personal experiences doing fieldwork in the borderlands, observing security installations that extend inland from the borderline, including with checkpoints – often well developed, border-like institutions, many miles into US soil – and camera and light towers that dot the horizon in every direction. In what follows, I synthesize these field notes into three features of security in the borderlands – what I call *surveillance*, *heterogeneity*, and *vigilance*.

Surveillance

Nearly all states embrace technologies of surveillance of some sort at their borders, although the quality and sophistication of this infrastructure varies greatly. In the United States, these technologies have evolved markedly over the last few decades, as have their function and design. In particular, there is an increased awareness in US circles that for borders to be effective, they cannot merely be “tall,” they must also be “wide” and “layered.” But what does this entail and how does it implicate citizens of the borderlands? At its most basic, this means widening the actual borderline, that is, extending the border’s “horizontal footprint” inland. There are several means of using technology and tactical infrastructure to widen the border. For example, one can thicken the physical line with ground sensors – seismic, magnetic, or infrared – mostly placed within a half mile from the border, but in some cases extended as far as 50–100 miles inland. Such sensors enable the Border Patrol to react immediately to “sensor hits” with the deployment of officers. As one Customs and Border Protection (CBP) official explained it, sensors act as a “trip-wire.”²⁵

Technology companies are perpetually designing new sensor systems. One technology developer explains that the “idea is to create a seismic zone along the border.”²⁶ Another offers perimeter fencing with “buried cable detection systems,” which complement fencing by providing an invisible “detection field” to protect a perimeter covertly with “software-controlled zoning.”²⁷ Other sensors can be spread throughout the border area – like landmines – creating a zone of detection at intervals beneath the earth.²⁸ These technologies contribute to the widening of border spaces, offering a vastly different type of functionality than contemporary border walls and fences. As these technologies are covert, they are aimed at detection, not deterrence; they attempt to expand the border rather than define it.

²⁴ Gilbert, “Cooperative Efforts between Mexico, Canada and the U.S. in Law Enforcement and Prosecution.”

²⁵ Padilla, *Investing in Proven Technologies*.

²⁶ King, “Filling a Need.”

²⁷ Southwest Microwave Advertisement, “Integrated Perimeter Security Solutions.”

²⁸ Senstar, “The Trusted Choice for Perimeter Security Technology & Products.”

An alternate way to thicken the line is through cameras and radars, extending the observation and detection range of the border. As a local police chief on the US–Mexico border explained to me: “It’s a net, basically. You are creating a new visual net, and then having a response to that net.”²⁹ New camera and radar systems serve as “the eyes of the border patrol agents,”³⁰ controlled remotely from a command center, and can be positioned to look inward from the border, mimicking the sensors, and are often covert. One technology company boasts developing “remote decoys” and “artificial rocks” which can be speckled throughout the border area to create an invisible surveillance zone.³¹ In addition to fixed sites, cameras and radars operate via ultralight aircraft, unmanned aerial vehicles, and radar balloons. As one Department and Homeland Security (DHS) technology expert explains it, the goal is to have a “tiered air surveillance system” that coordinates the many different types of air surveillance units which “can provide eyes almost around the clock.”³²

Taking this inland net concept a step further are checkpoints, which recreate the border inland. These checkpoints – or “choke-points,” as they are sometimes called in the industry – allow the state to monitor internal smuggling corridors.³³ Former Chief of Border Patrol Michael Fisher explains that checkpoints are part of a layered approach that “extends our zone of security,” and enables control not just at, but also “between borders.”³⁴ Checkpoints are also “contact points” where Border Patrol has direct access to individuals, thereby facilitating the capture of biometric data (usually from fingerprints or irises). This is essential for Border Patrol, whose mission is now to “identify, not just catch.” This latter feature has created a real stir in local border communities – a matter immediately palpable to anyone doing observation-based fieldwork in the region. Many borderland citizens feel unfairly targeted by these expansive and discriminatory protocols, leading to frequent protests and demonstrations against CBP.³⁵ Given the rhetoric of “choking” and “catching,” of “eyes” and “nets,” it is easy to see how local citizens might feel disenfranchised, even by policies and practices putatively designed for their protection.

Heterogeneity

Borderlands commonly feature multiple kinds of authority, usually both federal and local law enforcement, and sometimes also the military. In the United States, border areas can increasingly be seen as discrete regions, due to the integration

²⁹ Jeffrey Scott Kirkham, Nogales police chief. Personal interview, Nogales, AZ, March 20, 2012.

³⁰ Padilla, “Investing in Proven Technologies.”

³¹ RECONYX, “Wireless Remote Trigger & Illuminator.”

³² John Appleby, Homeland Security Advanced Research Projects Agency, Science & Technology Directorate, DHS. Personal interview, Washington, DC, May 17, 2012.

³³ Bonner, “Perspectives on Border Security.”

³⁴ Fisher, “Testimony of Michael J. Fisher,” 2; Fisher, “Securing Ports of Entry.”

³⁵ Nowrasteh and Eddington, “How Effective Is Border Security?”

of different actors and agencies – both within the federal government as well as between federal, state, and local forces – often with expanded powers. This broad integration strategy is referred to by US security officials as a “whole of government” approach to border security. Each component warrants address.

Beginning with intra-federal integration, there is increasingly an understanding in the federal government that effective risk prevention at the border begins with information sharing. This may seem self-evident, but historically there has been little to no information sharing between agencies in the United States – a fact made manifest nationally by the inability of first responders (mostly fire and police) to communicate on 9/11. This move toward intra- and inter-agency sharing at the border was first codified in the 2012–2016 Border Patrol agenda. The primary means of sharing is through the integration of Border Patrol with federal intelligence entities, often co-located at fusion centers on-site at the border. As a former head of CBP explains: “We have seen a level of sharing of information, certainly within the federal community, law enforcement and intelligence community, like we have never seen before.”³⁶

The second move has been toward coordination between local and federal forces. This shift in thinking is also derived from 9/11 and the linking together of the two great threats facing the polity – illegal immigration and terrorism – thereby collapsing much of the distinction between local and federal responsibilities as they pertain to border control. Beginning in 2009, the federal government encouraged state and local officials to make decisions over immigration at the border, because the federal government had “not enough money and too few beds,” to handle border issues on their own.³⁷ Similarly, former DHS Secretary Janet Napolitano advocated federal-state and federal-local sharing on border-related terrorism concerns: “Our goal is to give that front line of law enforcement the tools they need to confront and to disrupt terrorist threats.”³⁸

This intra-agency cooperation has led to the decentralization of DHS – a significant institutional change reflecting these new priorities. Whereas in the past the idea was to have a central knowledge bank, which circulated information to the perimeter, the plan now is to have CBP officials fan out into the border community.³⁹ From the federal perspective this type of collaboration is imperative. After all, in most border communities, the individuals most able to understand threats and observe suspicious activities are local officials, not federal ones. From the vantage of border governance, the benefits of this decentered model are self-evident. But this expanded federal presence takes a toll on the citizenry. The different profiles and capacities of these myriad

³⁶ Bonner, “Terrorism and Transnational Criminal Organizations.”

³⁷ Quoted in McCarter, “287(G) Vital to Immigration Reform.”

³⁸ Quoted in McCarter, “Napolitano Outlines DHS Priorities for 2010.”

³⁹ Chavez, “2012–2016 Border Patrol Strategic Plan.”

authority structures naturally generate a feeling of confusion and insecurity among citizens – there are a lot of different uniforms scattered throughout the borderlands – amplified by the heightened security rhetoric of the border zone.

Indeed, beyond the heterogeneous nature of this authority is the expansiveness of its powers. Legally, the border zone is defined as up to 100 miles from the border, a broad territory that includes as many as 200 million US citizens and in which certain constitutional rights protections don't apply – such as Fourth Amendment protections against search and seizure. This renders citizens not simply vulnerable to many kinds of state authorities, but overwhelmingly powerful ones – famously ICE, or Immigration and Customs Enforcement, which has perhaps the most nebulous and expansive authority in the borderlands. The ramification for such authority on the lives of citizens within this geographical area are discussed below.

Vigilance

Another mainstay of border regions worldwide is the incorporation of civilians into law enforcement. In the United States, there is a lengthy history of state-civilian relationship at the border – most notably among ranchers whose land abuts the line. However, Border Patrol is now cultivating an evermore vigilant border community, especially vis-à-vis terrorism. This is embodied by the strategic move away from involving local border communities simply through “public relations” to a thicker entanglement called “community engagement.”⁴⁰ This is because practitioners increasingly believe that the local community is the most reliable source of information:

We used to think information came from government sources, shared down to the agent ... [But] the agent has more information than anyone in Washington DC. [And] the local community actually has more information than the border patrol agents ... So you have gone from a top down [logic] – “information starts in DC and goes out to the agents at the border” – to this idea where border patrol agents have to interact with the community, engage with the community, and win over the community.⁴¹

Border Patrol has put forth a number of programs to this effect. For example, Operation Detour and Drug Demand Reduction Outreach are schooling programs that educate students about the dangers inherent to the borderlands. These programs are not only preventative in nature, but also train students to react in ways that assist Border Patrol if they do learn about or get entangled with transborder crime. In addition, Border Patrol engages in what they call “community and stakeholder outreach,”⁴² in which a federal liaison forges relations with local community leaders encouraging them to provide

⁴⁰ Fisher, “Securing Ports of Entry.”

⁴¹ Shiffman, “Patrolling the Border.”

⁴² “2012–2016 Border Patrol National Strategy,” 20–21.

information and assistance to Border Patrol, and promising stealthy assistance in return.

This “community engagement” also exists on the level of technological advancement – with new capabilities being developed so that individuals can enact their own self-governance. The most widely known of these campaigns is DHS’ “If You See Something, Say Something,” a slogan disseminated nationwide. But in the borderlands this pressure is more targeted and technologically advanced, increasingly enabled by apps, funded by the federal government. One example of this is the company Town Compass LLC, who made a most wanted terrorist database freely available for download. This software allows vigilant citizens to directly contact the FBI with information as “first responders,” forging communication channels directly between local communities and the police.⁴³ DHS itself has developed a First Responder Support Tools (FiRST) app for smartphones.

There is a veritable echo chamber within CBP about how vigilant communities are the most effective line of defense against the ills of the border – illegal immigration, drug smuggling, terrorism. Their vision is one in which border communities are not merely a source of information for the federal government, but are actually self-policing – even at the cost of pitting certain parts of the community against others, a division that inevitably cleaves along racial and ethnic lines. Potential ramifications of this strategy are considered below.

FICTIONS OF POPULAR SOVEREIGNTY IN THE BORDERLANDS

Borderlands are complex spaces, with many actors and structures of control. What significance does this have for popular sovereignty practically or theoretically? The opening section of this chapter decried the lack of critical attention paid to the question of geography in writings on popular sovereignty broadly; the previous section provided an in-depth illustration of the problem through a study of security policy in the US–Mexico borderlands. This section draws on this material to advance two claims that trouble the concept of popular sovereignty as it is manifest in the borderlands – what I refer to here as *fictions*, demarcating the space between how the concept is perceived and articulated in common usage (its narrative purchase) versus how it actually obtains in lived practice.⁴⁴ The first claim is that the nature and form of border authority makes it frequently unaccountable to democratic control – what I call the fiction of uniform authorship. The second is that border security policies are designed not only in the name of peripheral citizens but also against them – the fiction of equal concern.

⁴³ Quoted in Leggiere, “Beyond the One-Way Alert,” 11.

⁴⁴ The link between narrative and practice in the study of popular sovereignty is treated extensively by Rogers Smith, [Chapter 15](#), in this volume.

The Fiction of Uniform Authorship: Authority in the Peripheral State

In theory, democratic processes generate laws that state authorities subsequently enforce. This is the conceptual core of popular sovereignty – that we live under laws of which we are the author. But like any political principle, the gap between theory and practice is considerable. The argument leveled here is that in the borderlands this claim of popular sovereignty is largely fictitious, because while citizens do author laws, this authorship is uniform across the polity. This is in part due to the nature and structure of authority in the borderlands, where numerous overlapping actors frequently come to make law, rather than simply enforce it. Consequently, the citizens of the borderlands who are subject to those laws cannot be said to enjoy sovereign authority over them. They are *subjects* to the law, not *sovereigns* – falling short of the definition of democratic citizenship laid out by Rousseau in the epigraph.

The fact that numerous and overlapping authority structures frequently take authority into their own hands is part of the nature of the border, a place of constant emergency, where crises arrive unannounced. This is sometimes called *personalized authority*, exemplified by ICE, and their immense discretionary power to address matters of national defense deep into US soil. There are numerous reasons for why such individual police discretion might be justified, pursuant to the logic of security. But such reasons are not necessarily democratic. Indeed, traditionally personalized authority is thought to work in contravention of the law and the democratic process by which it is established. It is a hallmark of the modern, liberal democratic state that everyday politics does not have face-to-face violence, but rather the depersonalization of political power – filtered through legal processes, for example. We need look no further than the classic voices of the canon for strong statements to this effect. For example, Locke writes: “*Where-ever Law ends, Tyranny begins ... Exceeding the Bounds of Authority is no more a Right in a great, than a petty Officer; no more justifiable in a King, than a Constable.*”⁴⁵ Certainly, when security officials endeavor to make the law, democratic processes are circumvented.

Concerns about the undemocratic character of police discretion is not new to political theory. For example, Hannah Arendt remarked that the rise of stateless peoples in Europe after World War I engendered conditions through which police discretion took weight over state laws. The police, she writes:

had received authority to act on its own, to rule directly over people ... it was no longer an instrument to carry out and enforce the law, but had become a ruling authority independent of government.⁴⁶

⁴⁵ Locke, *Two Treatises* [2014], 400–401.

⁴⁶ Arendt, *The Origins of Totalitarianism*, 288.

In this case, what transpired was violence, lawlessness, and “illegal acts” by the police in the name of the state.⁴⁷ Certainly, the circumstances described in the US borderlands are different; but in either case, the authority in question is not democratically accountable to the people subject to its rules.

This point is worth unpacking, as it speaks directly to the problem of sovereignty writ large. Following Schmitt, sovereignty is he who *decides on the exception*:

It is precisely the exception that makes relevant the subject of sovereignty ... The precise details of an emergency cannot be anticipated, nor can one spell out what may take place in such a case ... The precondition as well as the content of jurisdictional competence in such a case must necessarily be unlimited.⁴⁸

In some sense police discretion in the borderlands is the ultimate sovereign act. After all, the border is a sphere of constant judgment about matters essential to the state; where the exception arrives constantly at the doorstep of the state and border guards (or state or local police) react to a case that could not have been anticipated.

The deficit generated in terms of popular sovereignty is immediately manifest: If the police are making sovereign decisions in the borderlands, the democratic process by which the law was ordained is not. Indeed, Schmitt predicted as much, that in the state of exception, the law would lose its value and state authority would expand. “What characterizes an exception is principally unlimited authority, which means the suspension of the entire existing order. In such a situation it is clear that the state remains, whereas law recedes.”⁴⁹ Obviously in the borderlands we are dealing with a more circumscribed example. But as far as local citizens are concerned, as much as they live under the law of their own design, they also live in a space where legal practices are reduced in scope, and in which rights protections shrink away or do not apply.

This problem is especially acute with regard to citizen engagement, and the increased state dependence on citizens for law enforcement. There is a thin line between *vigilance* and *vigilantism* – transgressed famously by the “Minutemen” of Arizona, who militarized self-policing. When citizens undertake the role of law enforcers, it clearly exacerbates problems of uniform authorship – in this rubric, some citizens act as law enforcers, against others, targeted as criminals. Moreover, such divisions nearly all fall along racial lines – thereby feeding back into concerns of ascriptive bias with which this chapter began. If equality is the *sine qua non* of democracy – and popular sovereignty, which is its normative core – then the challenge to the principle is clear. The further problem, of the adjudication of self/other in the borderlands, is expanded upon below.

⁴⁷ Derrida also comments on police taking the law into their hands after World War I: “The police became omnipresent ... once they undertake to *make the law*, instead of simply contenting themselves with applying it and seeing it observed” (*On Cosmopolitanism and Forgiveness*, 14).

⁴⁸ Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty*, 6–7.

⁴⁹ *Ibid.*, 12.

The Fiction of Equal Concern: State Building and the Peripheral Subject

Moving past the structure of authority in the borderlands, another problem arises given the purposes and objectives of that authority. In fact, it turns out to be not simply a question of law, but also of security more broadly. In the borderlands – in the United States and elsewhere – the peripheral subject is *conditioned* by security. Of course, this is true for all citizens to some degree or another. But there is something specific about the borderlands dweller as opposed to citizens in general. Because they are situated at a border, peripheral peoples are not trusted and so they are disciplined; consequently, as much as security is aimed at their protection, it is also aimed at their control. They are both the *subject* and *object* of security, once again troubling the conception of democratic citizenship postulated by Rousseau – what I call the fiction of equal concern.

The core of this problem derives from central control of the periphery – a relationship stipulated above as akin to a kind of internal colonization. Even without extensive security policies and practices, the border is a site of central presence and iconography – with flags, uniforms, songs, and so on. These ostentatious displays of national identity are designed to make clear to outsiders the awesome power of the state, but they are also targeted at borderland dwellers to command their loyalty – such policies are as much designed to remind locals of who they *are*, as it is to tell outsiders who they *aren't*. Security policies augment this agenda by asserting direct central control over the periphery and its subjects. In the United States, this assertion of power in the borderlands is embodied by some of the moves within CBP described above, such as the decentralization of CBP, the relocation of federal authority to the border, and the appropriation of local law enforcement into asymmetrical power relations with federal agents.

This coercive federal power in the borderlands has the effect of turning (generic) citizens into (peripheral) subjects – singling them out as not-quite-trusted, as the *demos'* most *distant self*. This point has immense conceptual purchase, as it helps us avoid a central problem in how we think about borders – discussed above as the Westphalian imaginary – which is that on one side of the line is a *self*, taken to be homogenous, and on the other side of the line is an *other*, taken to be equally homogeneous. However, at the border, national identities are not so distinct. They are to each the “other” but they are not foreign, they are neighbors. In the language of us/them, *they* are as much *of* the periphery as are *we*. Thus, identities at the border are intimately intertwined – with two peripheral peoples proximate to each other, and frequently loyal both toward each other as well as their respective centers. As far as citizens are concerned, such heterogeneous identity is perhaps part of the bounty of living by the border; for the state it represents a threat. It is no wonder that the security apparatus targets these individuals for surveillance, community infiltration, and control.

Peripheral subjects are no less citizens, at least on paper. But the specific citizen-sovereign relationship these security policies and practices engender bears little resemblance to the theoretical principles that the original social contract theorists espoused. The lives of borderland citizens are structured and contained by security practices, often designed over and against their own interests. This puts these peripheral subjects into a double bind. They are structurally insecure (by dint of being at the border), what we might call the *external* problem of security. But they are also insecure by dint of the colonizing center, the *internal* problem of security. Thus vis-à-vis security, borderland citizens face categorically different conditions than other peoples throughout the territory of the state.

The idea that state security is designed for everyone equally – that we are all subjects of equal state concern – is clearly a fiction.

CONCLUSION

Popular sovereignty in the borderlands is embattled. This chapter illustrated this through the example of security policy along the US–Mexico border. But beyond this specific illustration, this chapter makes a broader point about the international state system and the nation-state as such. Because of the nature of borders, where threats come from the outside and local identities are heterogeneous and intertwined, citizens in peripheral spaces suffer specific harms vis-à-vis the authorities of the central state – what I call the “other” boundary problem. This is true at all borders, even if the specific circumstances vary. In so far as this is true, bounded states by their nature have a popular sovereignty deficit at their periphery – a normative problem evermore urgent given the expanse of border security protocols worldwide.

The #BlackLivesMatter Movement and Black Public Opinion

A New Populist Divide in the Black Community?

Alvin B. Tillery, Jr.

INTRODUCTION

On July 13, 2013, Patrisse Cullors, Alicia Garza, and Opal Tometi posted the hashtag #BlackLivesMatter on Twitter, to protest the acquittal of George Zimmerman in the Florida murder trial of an unarmed African American teenager named Trayvon Martin.¹ In the nine years since, the hashtag has now become the internationally known slogan of a robust movement which calls for police reform and racial justice in the United States.² Further, since the summer of 2014, there have been two sustained waves of Black Lives Matter (BLM) protests within the United States, while the BLM movement has grown into a diverse network of grassroots organizations representing more than thirty American cities and four countries.³ BLM protests have garnered considerable attention from the media and registered in the national consciousness on public opinion surveys.⁴

As is often the case when new movements emerge, the origins, tactics, impact, and future trajectory of the BLM movement have become the subjects of intense academic scrutiny.⁵ Thus far, three points of consensus have emerged within this

¹ Garza, “A Herstory of the #BlackLivesMatter Movement”; Hockin and Brunson, “The Revolution Might Not Be Televised.”

² Bonilla and Rosa, “#Ferguson”; Freelon, McIlwain, and Clark, “Beyond the Hashtags”; Taylor, *From #BlackLivesMatter to Black Liberation*; Jackson and Welles, “#Ferguson is Everywhere.”

³ Ransby, “The Class Politics of Black Lives Matter”; Rickford, “Black Lives Matter.”

⁴ Horowitz and Livingston, “How Americans View the Black Lives Matter Movement”; Neal, “Views of Racism.”

⁵ Gusfield, “The Reflexivity of Social Movements”; Zald, “Looking backward to Look Forward”; Harris, “The Next Civil Rights Movement”; LeBron, *Making of Black Lives Matter*; Lindsey, “Post-Ferguson”; Ransby, “The Class Politics of Black Lives Matter”; Rickford, “Black Lives Matter”; Taylor, *From #BlackLivesMatter to Black Liberation*; Tillery, “What Kind of Movement is Black Lives Matter?”

nascent scholarly literature on the movement. The first point is that BLM activists are intentionally rejecting the centralized leadership model which characterized the African American Civil Rights Movement of the 1950s and 1960s. Second, BLM activists tend to utilize movement frames based on gender, LGBTQ, and racial identities to describe both the problems they are combatting, and the solutions they are proposing through contentious politics.⁶ Finally, there is general agreement that BLM activists see intrinsic value in the disruptive repertoires of contention that they utilize to better draw attention to their causes.⁷

Together, these points of consensus suggest that the BLM movement closely resembles the “new social movements” which have emerged in Europe and the United States since the 1980s.⁸ Harris, for example, has argued that “the spontaneity and the intensity of the Black Lives Matter movement is more akin to other recent movements – Occupy Wall Street and the explosive protests in Egypt and Brazil – than 1960s [African American] activism.”⁹ Rickford even goes as far as to say that the Occupy Wall Street protests were a precursor to the BLM movement.¹⁰

The rise of the BLM movement has been read by many esteemed scholars of African American politics as a populist reaction to a political crisis which has ensued in the African American community since the demise of the Black Power movement in the 1970s. This viewpoint is grounded in the belief that the incorporation of African American elites into the neoliberal power structure during the 1980s amplified the worst variants of “respectability politics” and rent-seeking behaviors that further disadvantaged the majority of African Americans.¹¹ Harris has described the relationship between elite incorporation and the amplification of respectability politics as follows:

Today’s politics of respectability ... commands blacks left behind in the post-civil rights America to “lift up thyself.” Moreover, the ideology of respectability, like most other strategies for black progress articulated within spaces where blacks discussed the best courses of action for black freedom, once lurked for the most part beneath the gaze of white America. But now that black elites are part of the mainstream elite in media, entertainment, politics, and the academy, respectability talk operates within the official sphere, shaping the opinions, debates, and policy perspectives on what should – and should not – be done on the behalf of the black poor.¹²

⁶ Harris, “The Next Civil Rights Movement,” 37–39; Lindsey, “Post-Ferguson”; Rickford, “Black Lives Matter,” 36–37; Taylor, *From #BlackLivesMatter to Black Liberation*, 153–91.

⁷ Rickford, “Black Lives Matter,” 36; Taylor, *From #BlackLivesMatter to Black Liberation*.

⁸ Clark, “White Folks’ Work”; Harris, “The Next Civil Rights Movement”; Rickford, “Black Lives Matter”; Taylor, *From #BlackLivesMatter to Black Liberation*; Tillery, “What Kind of Movement is Black Lives Matter?”

⁹ Harris, “The Next Civil Rights Movement,” p. 35.

¹⁰ Rickford, “Black Lives Matter.”

¹¹ Harris, “The Next Civil Rights Movement”; Ransby, “The Class Politics of Black Lives Matter”; Rickford, “Black Lives Matter”; Taylor, *From #BlackLivesMatter to Black Liberation*.

¹² Harris, “The Next Civil Rights Movement,” 33.

The fact that many leading BLM activists have disavowed these tenants – just as we find in new social movements – has moved some scholars to argue that the most marginalized segments of the African American community are rising up to promote new and more inclusive fictions of peoplehood. For example, Ransby describes the “lead organizers of the Movement for Black Lives” as focused on the most marginalized people within the African American community.¹³ Harris points out that the core activists of the BLM movement do not see traditional African American elites “as the gatekeepers of the movement’s ideals or leaders who must broker the interests of black communities with the state or society.”¹⁴

Taylor shares the appraisal of the behavior and attitudes of the core activists proffered by Harris and Ransby in their writings on the movement. Moreover, writing from a neo-Marxist perspective, she locates the rise of the BLM movement in a broader class conflict between the lower- and middle-class segments of the African American community. Taylor argues that this class conflict began under the Clinton administration, when “Black elected officials lined up to sign off on [a crime bill] that was literally intended to kill Black people.” In Taylor’s view, African American political elites were largely driven by their desires to reproduce respectability narratives about the African American community, in order to maximize their own power within the Democratic Party.¹⁵

In Taylor’s analysis, the rise of an elitist African American politics under the Clinton administration should merely be considered the fuse of the BLM movement. The match that sparked the thousands of mass protests that we have seen across the United States since 2014, is the disappointment that downtrodden African Americans have experienced with both the further deterioration of their neighborhoods during the Great Recession and former President Barack Obama’s conservative rhetoric about these conditions. Taylor describes the impact of these dynamics as follows:

Over the course of his first term, Obama paid no special attention to the mounting issues involving law enforcement and imprisonment, even as Michelle Alexander’s *The New Jim Crow* described the horrors that mass incarceration and corruption throughout the legal system had inflicted on Black families. None of this began with Obama, but it would be naïve to think that African Americans were not considering the destructive impact of policing and incarceration when they turned out in droves to elect him. His unwillingness to address the effects of structural inequality eroded younger African Americans’ confidence in the transformative capacity of his presidency.¹⁶

Taylor continues by describing the role the Occupy Movement played, as an ideological counterpoint to the Obama administration in some African American communities: “[N]ot only did Occupy popularize economic and class inequality in the United States by demonstrating against corporate

¹³ Ransby, “The Class Politics of Black Lives Matter.”

¹⁴ Harris, “The Next Civil Rights Movement,” 37.

¹⁵ Taylor, *From #BlackLivesMatter to Black Liberation*, 80–83, 100, 101–103.

¹⁶ Taylor, *From #BlackLivesMatter to Black Liberation*, 143.

greed, fraud, and corruption throughout the finance industry, it also helped to make connections between those issues and racism.” Taylor further argues, “The public discussion over economic inequality, rendered incoherent both Democratic and Republican politicians’ insistence on locating Black poverty in Black culture.” Throughout the remainder of her book, Taylor goes on to chronicle how the spirit of the Occupy Movement emboldened young, urban African Americans in cities like Ferguson and Baltimore to engage in populist activism which challenged both the white power structures and “Black faces in high places” within those cities.¹⁷

While Harris, Ransby, and Taylor argue forcefully that the African American community would benefit from the kind of populism that is found in the BLM movement, the fact of the matter is, there has yet to be any empirical evidence to substantiate these claims. This chapter examines the extent to which we can confirm the populist interpretation of the BLM movement through an analysis of African American public opinion. In short, the chapter asks the questions: Do the most marginalized members of the African American community see the BLM movement more positively than do their middle- and upper-class counterparts?

This chapter will proceed as follows. The following section presents a discussion of the theoretical context for our study. It describes both the evolution of ideas about elitism in African American politics over the past three decades within the literature on race and representation. This section also presents alternative explanations to this theory and presents the research hypotheses examined in this chapter. The next section describes the survey questions, mode of data collection, and the descriptive findings of the Qualtrics Panels survey commissioned for this study. The fourth section presents the main findings from statistical analyses of this data. The final section concludes by summarizing the implications of our findings on our wider understanding of contemporary Black politics.

THEORETICAL CONTEXTS AND HYPOTHESES

Populism is one of the most contested terms in social research.¹⁸ As Mudde and Kaltwasser have argued, the confusion over what populism means, “stems from the fact that populism is a label seldom claimed by people or organizations themselves.” They continue, “[populism] is ascribed to others, most often as a distinctly negative label.”¹⁹ This negative connotation to populism stems largely from the fact that the term was co-opted by radical right-wing parties that began to emerge in Western Europe in the late 1980s.²⁰ These parties railed against Europe’s political, economic, and social elites for their embrace of free-trade

¹⁷ Taylor, *From #BlackLivesMatter to Black Liberation*, 75–107, 146.

¹⁸ Ionescu and Gellner, *Populism*.

¹⁹ Mudde and Kaltwasser, “Studying Populism in Comparative Perspective,” 2.

²⁰ Ignazi, “The Silent Counter-Revolution”; Kitschelt and McGann, *Radical Right in Europe*; Betz and Johnson, “Against the Current.”

and pro-immigration policies.²¹ The parties also shared commitments to the ideologies of nativism and authoritarianism, and they developed propaganda that framed their vision for European societies as the “voice of the people.”²²

Over the past decade, social scientists and sociologists have begun to think more broadly about the concept of populism. Indeed, Mudde and Kaltwasser have argued that an “ideational approach” to populism has emerged within recent studies of Western Europe.²³ The consensus among the practitioners of this approach holds that all populist movements “involve some kind of exaltation and mass appeal to ‘the people’ and all are in one sense or another anti-elitist.”²⁴ Building on this consensus, Mudde and Kaltwasser (2018) write:

[P]opulism always involves a critique of the establishment and the adulation of the common people. Hence, we define populism as a thin-centered ideology that considers society to be ultimately separated into two homogenous and antagonistic camps, “the pure people” versus the corrupt elite, only which argues that politics should be an expression of the *volante generale* (general will) of the people.²⁵

Due to its association with xenophobia in Western Europe, scholars of African American politics and social movements have not widely deployed the concept of populism. Indeed, even the more recent studies of the BLM movement have rarely used the term. Despite this, the view that politics in the African American community is now a conflict between a corrupt establishment and a pure people permeates many studies of the BLM movement. Both Taylor’s argument about class conflict as the fount of the BLM movement and Harris and Rickford’s arguments about respectability politics are operating in the same register. Moreover, a cursory review of the literature on representation within African American politics reveals that an establishment versus the people theme has been growing in significance since the 1980s.²⁶

Smith makes one of the strongest expositions of this argument in his book *We Have No Leaders: African Americans and the Post-Civil Rights Era*. He holds that the Congressional Black Caucus’ decision in the 1980s to focus on obtaining full integration within the Democratic Party’s power structure over more communal forms of politics, was the beginning of a rift between these elected leaders and a burgeoning African American underclass forming in America’s postindustrial cities during the same period. Smith writes:

In the post-civil rights era, virtually all of the talent and resources of the leadership of black America has been devoted to integration or incorporation into the institutions of the American society and polity. Meanwhile the core community that they would

²¹ Mudde, *Populist Radical Right Parties in Europe*.

²² Mudde and Kaltwasser, “Studying Populism in Comparative Perspective,” 5.

²³ Mudde and Kaltwasser, “Populism,” 150.

²⁴ Canovan, *Populism*, 294.

²⁵ Mudde and Kaltwasser, “Studying Populism in Comparative Perspective,” 6.

²⁶ Marable, “Beyond Racial Identity Politics”; Smith, *We Have No Leaders*; Wilson, *Declining Significance of Race*; Wilson, *Truly Disadvantaged*.

purport to lead has become increasingly segregated and isolated, and its society, economy, culture, and institutions of internal uplift and governance have decayed. There is a systematic or structural logic to these processes, one that was probably inevitable and is perhaps irreversible This predictable bifurcation of black leadership and community has been made worse by ongoing challenges in the economy and culture of the larger society that matured at roughly the same time as the civil rights revolution.²⁷

The concern that there is now a bifurcation between the goals pursued by African American leaders and specifically lower-class, rank-and-file African Americans, has also been a core theme within the quantitative studies of the roll-call votes of African American legislators that began to emerge in the 1990s. Swain highlighted this as an area of divergence, when she found that the roll-call votes of the median white and African American legislators within the Democratic Party's caucus in the House of Representatives began to converge in the 1980s. For Swain, who is an avowed conservative political scholar, this finding meant that African American legislators were not representing the interests of their lower-class constituents any differently than white Democrats, and therefore, racially conscious public policies designed to boost the number of African Americans serving in the US Congress were unnecessary.²⁸

A second wave of literature on the roll-call behavior of African American legislators provides a strong counterargument to the charges of bifurcation within the African American community. This literature identified several ways in which African American legislators provide distinctive representation and unique benefits to their African American constituents. Katherine Tate's analyses of the 103rd and 104th Congresses, for example, found that "Black Democrats' voting behavior as measured by Poole and Rosenthal [was] significantly more consistent with the liberal Democratic party agenda than that of white and other minority Democratic legislators."²⁹ In other words, despite voting with their party on most roll-call votes, African American legislators have demonstrated a persistent willingness to promote and defend more liberal policies on the floor of the House of Representatives. Moreover, several studies have shown that African American legislators are far more likely than their white counterparts to introduce and champion bills advancing the interests of African Americans in the House's committees and on the floor.³⁰

But the fact that African American legislators as a group, have demonstrated a higher level of commitment to representing the interests of African Americans, does not mean that there is unanimity within the Congressional

²⁷ Smith, *We Have No Leaders*, 278.

²⁸ Swain, *Black Faces, Black Interests*.

²⁹ Tate, *Black Faces in the Mirror*, 85.

³⁰ Canon, *Race, Redistricting, and Representation*; Gamble, *Black Political Representation*; Grose, *Congress in Black and White*; Minta, *Oversight: Representing Black and Latino Interests in Congress*; Minta and Sinclair-Chapman, *Diversity in Political Institutions*; Tate, *Black Faces in the Mirror*; Tillery, "Foreign Policy Activism and Power in the House of Representatives"; Whitby, *The Color of Representation*.

Black Caucus on every policy matter. On the contrary, a broad consensus is found in recent studies of the Caucus that the expansion and institutionalization of the group has led to greater fragmentation on policy matters.³¹ Our conclusion holds that these varying studies and arguments demonstrate that even though “incorporation in the system has made Black legislative leaders less radical and more pragmatic,” African American legislators do continue to see value in providing representation to their constituents on racial issues.³²

Of course, it is important to note at this juncture, that the bifurcated class thesis is predicated on the behavior of the people and not their leaders. It is this segment of the equation where public opinion has the potential to shed light on the validity of the argument that African American communities are rising up against the middle- and upper-class elites who dominate policymaking in their communities. Once more, the literature on African American legislators is instructive. Public opinion surveys tell us that African American legislators remain very popular with their African American constituents.³³ Additionally, the same literature shows that African American legislators have a slightly higher reelection rate – more than 92 percent – than the model Democratic member of the House of Representatives.³⁴

It is also the case that four decades of public opinion research in the fields of political science and sociology have not produced much evidence of stable class, gender, and generational divides within the African American community on racial issues.³⁵ On the contrary, the consensus view which has emerged since the 1990s is that group consciousness binds African Americans together across social divides when it comes to racial issues.³⁶ Indeed, Dawson’s conceptualization of African American public opinion on racial issues as being determined by a “black utility heuristic” predicated on a strong sense of “linked fate” which cuts across class lines, is one of the main axioms of African American politics.³⁷

In light of the reelection rates of African American public officials and trends in public opinion studies of African Americans, the populism that Harris, Rickford, and Taylor see as generative of the BLM movement would be a sudden shock to the normal ecosystem of African American politics. Given the viral nature of the BLM protests that swept across the United States in 2014,

³¹ Bosisis, *Congressional Black Caucus*; Singh, *Congressional Black Caucus*; Tate, *Black Faces in the Mirror*; Tate, *Concordance*; Tillery, *Between Homeland and Motherland*.

³² Tate, *Concordance*, 4–5.

³³ Tate, *Black Faces in the Mirror*.

³⁴ Tate, *Concordance*.

³⁵ Huckfeld and Kohfeld, *Race and the Decline of Class*; Parent and Steckler, “Political Implications of Economic Stratification in the Black Community”; Welch and Combs, “Intra-racial Differences in Attitudes of Blacks”; Dawson, *Behind the Mule*.

³⁶ Gilliam, “Black America”; Dawson, *Behind the Mule*; Tate, *From Protest to Politics*.

³⁷ Dawson, *Behind the Mule*, 57–63; Gay, Hochschild, and White, “Americans’ Belief in Linked Fate”; Hajnal, “Black Class Exceptionalism”; McClain and Stewart, *Can We All Get Along?*

this is certainly a plausible argument. It is also true that several public opinion studies have found that neighborhood contexts and other life experiences can shift the value that African Americans attach to having a linked fate with other members of their racial group.³⁸ Thus, it is possible that the lived experiences of marginalized African Americans in places like Ferguson and Baltimore have so diverged from those of their middle- and upper-income counterparts in the African American community that they may no longer view establishment leaders as representing their interests or believe that the American political system can address their grievances.

This chapter tests the populism argument through a public opinion survey to determine if African American attitudes about the BLM movement are indeed segmented by social status – with those occupying more marginal subject positions having more positive evaluations of the movement. There are two research hypotheses:

Hypothesis 1: African Americans with lower incomes are more likely to see the BLM movement as effective in promoting the collective interests of the Black community.

Hypothesis 2: African Americans with lower levels of educational attainment are more likely to see the BLM movement as effective at promoting the collective interests of the Black community.

Again, the markers of the elevated socioeconomic status have rarely proven to be significant predictors of African American public opinion on questions related to racial issues. Moreover, where differences have emerged, it has typically been better educated and more affluent African Americans who have demonstrated stronger commitments to group consciousness and held more nationalist viewpoints about the Black community's development.³⁹ In light of this theoretical context, finding a socioeconomic divide between African Americans on how they see the BLM movement would challenge one of the dominant paradigms in the study of Black public opinion.

DATA

The data examined in this study is from an original internet survey conducted between September 22, 2017, and October 3, 2017. The Center for the Study of Diversity and Democracy (CSDD) at Northwestern University commissioned the survey from the research firm Qualtrics Panels. Qualtrics Panels recruited 815 subjects to take the twenty-five-item questionnaire using a census-matched recruitment strategy in thirty-nine states and Washington, DC, to maximize verisimilitude to a national probability sample. A recent

³⁸ Tate, *From Protest to Politics*; Hochschild, *Facing Up to the American Dream*; Gay, *Putting Race in Context*; Hajnal, "Black Class Exceptionalism."

³⁹ Brown and Shaw, "Separate Nations"; Hochschild, *Facing Up to the American Dream*.

meta-analysis conducted by Ansolabehere and Schaffner has demonstrated that this mode of data collection produces results that are as reliable as telephone and mail surveys.⁴⁰

The survey collected information about the respondents' age, gender identity, Latino identity, level of educational attainment, and household income, in order to build a demographic profile of the sample. The census-matched recruitment strategy produced a sample that looks very similar to the national African American population across all demographic measures. Indeed, the only difference between the sample and national trends worth noting is that the poll skews slightly more male than the general African American population. While men comprise of 48 percent of the overall African American population, they are 50 percent of the respondents to the CSDD's poll conducted for this study.⁴¹

The survey also asked respondents about their politics and racial orientations in society. First, the CSDD survey asked the respondents to place their political ideologies on a standard five-point political scale of conservative, slightly conservative, moderate, slightly liberal, liberal. Next, the survey asked the respondents to rate how important being Black was to their sense of themselves on a five-point scale from "Not at all important" to "Extremely important." Finally, the survey asked the respondents to describe how important it was for them to see their fate as a Black person as linked to the fates of other African Americans on that same five-point scale from "Not at all important" to "Extremely important."

The question on the CSDD survey designed to glean the respondents' attitudes about the BLM movement focused on their individual beliefs about the movement's effectiveness: In general, to what extent do you believe the BLM movement is effective? The question utilized a five-point scale – ranging from "Not effective at all" to "Extremely effective" – for the response categories. Previous research has found that the BLM movement is very popular in the African American community when surveys ask about "support" for the movement.⁴² The CSDD survey asked about effectiveness in order to get respondents to think more deeply about how they view the overall impact of the movement.

FINDINGS

Before turning to the results of the regression analyses to understand how public opinion in support of the BLM movement is segmented, it is useful to consider some of the general findings from the CSDD survey. The first noteworthy

⁴⁰ Ansolabehere and Schaffner, "Does Survey Mode Still Matter?"

⁴¹ Rastogi et al., *The Black Population*.

⁴² Bunyasi and Smith, "Do All Black Lives Matter Equally to Black People?"; Horowitz and Livingston, "How Americans View the Black Lives Matter Movement."

TABLE 11.1 OLS Regression models of evaluations of BLM movements' effectiveness

Variable	Model 1 Regression Coefficients	Model 2 Regression Coefficients
Age	-.067** (.028)	-.058** (.025)
Education	-.103*** (.022)	-.052*** (.021)
Gender	-.120 (.088)	-.154** (.080)
Hispanic Heritage	.378*** (.170)	.312 (.157)
Income	-.166*** (.032)	-.128*** (.030)
Black Consciousness	X	.135*** (.039)
Liberalism	X	.035 (.031)
Linked Fate	X	.284*** (.034)
Constant	4.06*** (.246)	2.87*** (.286)
R ²	.04	.20

Data Source: CSDD BLM Survey (2017)

* = $p \leq .10$; ** = $p \leq .05$; *** = $p \leq .01$.

Standard errors are reported in parentheses.

result is that a majority of the respondents – 59 percent – had never participated in one of the first wave BLM movement protests that took place between 2014 and 2016. The respondents also reported relatively low-participation rates in other activities supporting BLM, such as posting on social media, attending meetings, or fundraising. But in spite of these low-participation rates, the respondents overwhelmingly deemed the BLM movement to be effective at promoting the interests of the Black community. Overall, 81 percent of the 815 respondents rated the BLM movement as at least “moderately effective.” These findings suggest that, in general, the African American community has a high approval of the performance of the BLM movement. The main question guiding our study is: How segmented is this belief in the movement’s effectiveness by socioeconomic status, as measured by income and educational attainment?

Table 11.1 reports the results of two OLS regressions of respondents’ views of the effectiveness of the BLM movement. Column 1 reports a model of the respondents’ attitudes toward the BLM movement based on demographic

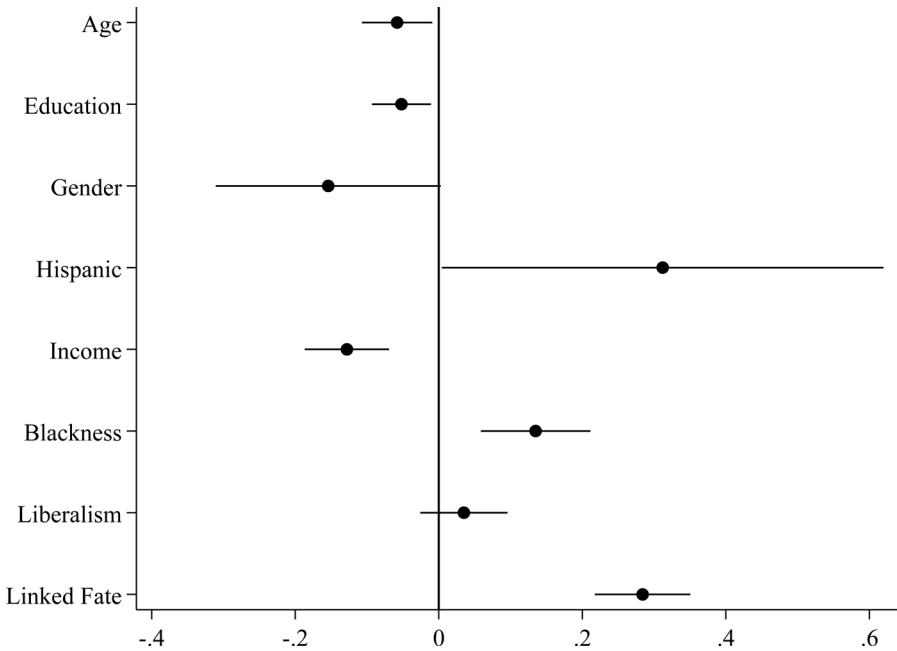


FIGURE 11.1 Plot of OLS regression coefficients from Model 2 with 95% confidence intervals

characteristics. The results of the model provide evidence that supports confirmation that (H1) lower income African Americans are more likely to see BLM as effective than higher income African Americans. (H2) African Americans with lower levels of educational attainment are also more likely to see the BLM movement as effective than those with higher levels of educational attainment.

For every position moved up in the six-category income scale, there is a $-.166$ decline in the view that BLM is an effective movement. Similarly, a one unit move up the seven-category, ordinal scale for educational attainment results in a $-.103$ decline in the view that BLM is effective. Both of these results are statistically significant at the $.01$ level.

Table 11.1 also reports the results of a second model which includes ideological covariates. As the table illustrates, Model 2 also provides confirmation of H1 and H2. Indeed, the coefficients for both income ($-.127$) and educational attainment ($-.048$) remain negative predictors of attitudes about the effectiveness of BLM in this fuller model. Moreover, the coefficients of both variables remain significant at the $.01$ level. Finally, as we would expect, heightened levels of both group consciousness and linked fate with other African Americans are positive predictors of the belief that the BLM movement is effective. Figure 11.1 presents a more intuitive graphical representation of the impact of the regression coefficients on the respondents' beliefs that the BLM movement has been effective.

The results of these regressions suggest that public opinion on the BLM movement is segmented by socioeconomic status within the African American community. This is a very unusual dynamic in African American public opinion. Indeed, as stated above, four decades of research on African American public opinion have failed to turn up stable divides over partisanship, policies, or social movements that track with demographic factors. Public opinion scholars will need to explore this dynamic more to determine the extent to which this is a secular trend or a trend that manifests itself only on public opinions about the BLM movement.

CONCLUSION

This chapter has examined African American public opinion about the BLM movement. As stated above, both the core activists who lead the movement and the main academic analysts who study it have proclaimed that the BLM movement has initiated a new phase of populist politics within African American communities. The mantra has become that the BLM movement is “centering the most marginal” voices in the African American community with their activism.⁴³ This chapter pursued the question: Can we see echoes of this populist approach in African American public opinion about the BLM movement? In other words, do we see that the groups that the BLM activists highlight in their communications express greater belief in the movement’s effectiveness than other African Americans?

The chapter tested two hypotheses to determine if there is evidence of segmentation along the lines of income and educational attainment. While the overall results showed that the vast majority of the 815 respondents to the survey believe the BLM movement is effective, there are differences in the sample population which confirm the two research hypotheses. African Americans with lower incomes and lower educational attainment were more likely to see the movement as effective than their counterparts with higher socioeconomic status. These findings suggest the populist messaging deployed by the core activists of the BLM movement is having a differential impact within the African American community.

The results are important not just because they shed light on the populist dynamics of the BLM movement. On the contrary, these findings also raise questions about the long-established axiom that middle-class African Americans are likely to be the vanguard of antiracist activism in the United States.⁴⁴ They also suggest the bonds of linked fate to downtrodden African Americans that Dawson demonstrated as the primary drivers of the political attitudes of middle-class African Americans in the 1980s and 1990s, may be loosening in response to the populist messaging generated by the BLM movement. If these dynamics hold over time, and are shown in subsequent

⁴³ Garza “A Herstory of the #BlackLivesMatter Movement.”

⁴⁴ Hochschild, *Facing Up to the American Dream*.

studies, they have the potential to fundamentally reorient our understandings of African American politics over the long term.

At the same time, it is important to read these results within the context of the dynamics of the first wave of BLM activism. As stated above, there have now been two sustained waves of protests for police reform under the banner of #BlackLivesMatter since 2013. While the first wave consisted largely of Black participants and their allies among young, urbane whites living in cities like New York, Chicago, and Los Angeles, the second wave of protests in the wake of the killings of Ahmaud Arbery, Breonna Taylor, and George Floyd drew participants from every walk of American life. Moreover, by some accounts, the second wave of BLM protests was the largest sustained protest in the history of the United States.⁴⁵

Obviously, it is impossible to say how the shift in the dynamics of the movement will impact the class divide in public opinion that we have observed in the Black community over the BLM movement. My hunch is that an increase in participation among other ethnic and racial groups will likely normalize participation in the movement for African Americans with higher levels of socioeconomic status. I would urge social movement researchers to explore this line of questioning in subsequent public opinion studies. If this hypothesis were confirmed, it would suggest that there is indeed the potential for a progressive, multiracial, and socioeconomically diverse populist movement for police reform in America.

APPENDIX

Description of independent variables and coding:

The coding schemes for the independent and dependent variables utilized in the regression analyses are listed below. The variables are listed in alphabetical order.

- 1) Age: This variable is constructed from an ordinal scale with eight categories – 18–24; 25–34; 35–44; 45–54; 55–64; 65–74; 75–84; 85 or older.
- 2) Black consciousness: This variable is constructed from an ordinal scale with five categories – not at all important; slightly important; moderately important; very important; extremely important.
- 3) Education: This variable is constructed from an ordinal scale with seven categories – less than high-school degree; high-school graduate (or GED); some college but no degree; associate degree in college (two-year); bachelor's degree in college (four-year); master's degree; terminal degree (PhD, EdD, JD, MD).
- 4) Gender: This is a dummy variable; coded 0 for male and 1 for female.
- 5) Income: This variable is constructed from an ordinal scale with six categories for annual earnings – less than \$20,000; \$20,000–\$29,999; \$30,000–\$49,999; \$50,000–\$74,999; \$75,000–\$99,999; \$100,000 or more.

⁴⁵ Kaiser Family Foundation, “Health Tracking Poll.”

- 6) Latino identity: This is a dummy variable; coded 0 for no Latino identity and 1 for persons with Latino identity.
- 7) Liberalism: This variable is constructed from an ordinal scale with five categories – conservative; slightly conservative; moderate, middle of the road; slightly liberal; liberal.
- 8) Linked fate: This variable is constructed from an ordinal scale with five categories – none at all; a little; a moderate amount; a lot; a great deal.

Popular Sovereignty and Recognition

H. Abbie Erler

The idea of popular sovereignty requires both that there exist a people that can consent to the actions of government and that this people is sufficiently defined and demarcated so that actions taken in its name are considered legitimate. A frequent criticism of populist demagogues, for example, is that they claim to speak for the people when they in fact do not (Müller, 2016). However, underlying this complaint is the assumption that there are a people for which a leader can in fact speak. A key question for any state that claims to be governed by popular sovereignty must necessarily be “Who are the People?” This “boundary problem” of who is part of the political community is particularly problematic for democracies as any procedural mechanism devised for answering that question depends on knowing *a priori* the identity of the people.¹ Popular sovereignty rests on a paradox in that it claims to embody the will of a constituted people, yet the people cannot be constituted prior to the act of constituting.²

This chapter argues that any answer to the boundary problem is continually contested and renegotiated in a liberal democracy because any definition of the people in such a regime is endogenous to a specific political community that itself is not static either in terms of its membership or its political commitments. I argue that the problem that presents itself in the contracting moment is never solved but instead is continually present in political life. As Frank observes, “Both democratic history and democratic theory demonstrate that the people are a political claim, an act of political subjectification, not a pre-given, unified, or naturally bounded empirical entity.”³ As such the people are made and remade not just in their initial moment of becoming but whenever

¹ Dahl, *Polyarchy*; Whelan, “Democratic Theory and the Boundary Problem.”

² See Althusser, *Politics and History*; Ochoa Espejo, *The Time of Popular Sovereignty*.

³ Frank, *Constituent Moments*, 3.

they come together to exercise their will in their collective capacity, such as elections or through the crafting of legislation by their representatives. Further, I argue that the boundary problem is exacerbated by the need in a democracy for members of a political community to recognize and accept each other as members in the absence of a settled understanding of what qualifies a person as a full member of the community. As a result, liberal democracies renegotiate and redefine definitions of the people both formally, through laws governing citizenship, naturalization, and immigration, and informally, through redistributive policies and political rhetoric. This ongoing process of people-making presents opportunities both for creatively redefining political membership and for potentially justifying the reification of historical exclusions in the name of “We the People.” In this chapter, I examine this process of people-making by considering the claims for inclusion in “We the People” made by DREAMers and related efforts to remake definitions of “We the People” evidenced in the political rhetoric and policies of President Donald Trump. These two contemporary examples illustrate the ways that democratic majorities use both policy and political rhetoric to define the people and highlight the exclusionary nature of people-making through the democratic process.

Citizenship laws are one way to define who is and who is not part of “We the People.” But, as the case of the United States shows, citizenship should not be equated with meaningful political membership. Prior to the Nineteenth Amendment, women were considered citizens but exercised no political rights, including the right to vote, a power that might be considered a necessary condition of being part of a sovereign people. The constitutional guarantee of suffrage in the Nineteenth Amendment did not immediately translate into effective political power or even full membership in the community given to the operation of coverture laws and the subordinate economic position of women.⁴ A similar situation was faced by African Americans in the South prior to the Voting Rights Act of 1965. The example of these two groups shows that individuals who legally may be citizens are often excluded from full membership in the political community, reduced to second-class status, through the withholding of political and civil rights or the denial of social status. As political theorist Elizabeth Cohen writes, it may be more useful to think of citizenship as “a political status that is gradient rather than binary.”⁵ Citizens of a democratic polity have varying degrees of rights, privileges, and statuses. For example, children, individuals currently incarcerated, and former felons (in many states) are denied the right to vote although members of both groups may be citizens. Citizens who have been involuntarily committed to a mental hospital are ineligible to own a firearm although this right is constitutionally

⁴ Cott, *The Grounding of Modern Feminism*; Shklar, *American Citizenship*; Ritter, *The Constitution as Social Design*.

⁵ Cohen, “Dilemmas of Representation,” 2; see also Cohen, *Semi-Citizenship in Democratic Politics*.

guaranteed to others. And a single mother who utilizes the Women, Infant, and Children (WIC) nutrition program has both a very different public identity and a claim to state benefits that may be seen as less legitimate than the public identity of a retired male wage earner and the claim that he has to his Social Security benefits.⁶

If citizenship status is not sufficient to define the boundaries of the political community, then what is? This chapter argues that recognition is a crucial, yet often overlooked, component of popular sovereignty. People-making in a democratic state is an exercise of majority will. Any definition of who constitutes the people will be null operationally if members of a political community refuse to recognize certain groups of individuals as fellow members of the body politic, even if legally these individuals who are denied recognition are in fact citizens. If we take recognition seriously as an element of popular sovereignty, then citizenship status is insufficient to consider an individual part of the people, even if the laws that define citizenship are the result of the democratic process. In this respect, the idea of popular sovereignty relies on self-reflexivity. Popular sovereignty requires that the people recognize themselves as a people. I consider myself a part of a particular political community, for any number of reasons (e.g., citizenship status, taxpayer, law-abider, voter). To the extent that I recognize those qualities that I see as qualifying myself as part of the people in others, I will see them too as comprising part of the political community with me. These qualities may be defined in terms of ascriptive categories, performative acts, or adherence to ideological principles. For example, in his second inaugural address President Barack Obama describes “our celebration of initiative and enterprise, our insistence on hard work and personal responsibility” as “constants in our character.” Those individuals or groups who are not seen as sharing in these character traits are thus rhetorically excluded from membership in the American people. These exclusions gain greater force when they are “resonant,” coinciding with widely held views about a group (see Smith, [Chapter 15](#), this volume) and when they are reinforced by policy.

The denial of recognition may force the withdrawal of individuals from the political life of the community. This isolation and diminished political activity that may result from a failure to be recognized is described in Martin Luther King’s “Letter from a Birmingham Jail” in his castigation of the “do nothingism” of many in the black community. He describes those who subscribe to this view as “a force of complacency, made up in part of Negroes who, as a result of long years of oppression, are so drained of self-respect and a sense of ‘somebodiness’ that they have adjusted to segregation.” Denied the recognition of their full humanity both through formal mechanisms, such as Jim Crow laws enforced by state agents, and informal mechanisms, such

⁶ Hancock, “Contemporary Welfare Reform”; Mettler, “The Stratification of Social Citizenship”; Orloff, “Gender and the Social Rights of Citizenship.”

as the prejudices and discriminatory practices of their white fellow citizens, these African Americans retreated from political life as far as possible. As such they operated in a liminal position neither inside nor outside of the political community. While the law had declared them citizens, granting them political rights and privileges, the refusal of their fellow citizens to recognize their status as members of the political community rendered their position more akin to that of noncitizens. This mass exclusion also rendered questionable southern states' claim of democratic rule. Popular sovereignty cannot be said to be in operation if only one part of the citizenry is recognized as part of the people.

We see this exclusionary impulse at work in democratic governance practices, most notably political rhetoric and policymaking. I identify these two areas as the main sites where messages about belongingness, political membership, and recognition are disseminated. Electoral politics relies on the identification and construction of various social groups. Politicians running for election identify individuals with similar interests or circumstances, label them as such, and compete for votes by either appealing to members of that group or excoriating members of that group to gain advantage with another group of potential voters.⁷ In other words, "We the People" are not simply an undifferentiated mass of individuals. Instead, we are organized into public identities, some of which are more salient than others and some of which have more political meaning than others and some of which are more enduring than others.⁸ Political rhetoric labels these groups – calling them into being through these labels – and gives them politically meaningful characteristics. During election season, various groups are constructed that are thought to be politically relevant to winning the upcoming contest and sometimes beyond to future election cycles. In 1996, "soccer moms" emerged; in 2004 it was "security moms."⁹ We speak in common political parlance of the Jewish vote, the working-class vote, the black vote, the married women's vote, and so on. This nomenclature not only denotes a shared interest among group members but also conveys a recognizable public identity. The heightened electoral attention they convey also privilege the interests of the group over that of other groups.

As Rogers Smith argues in this volume, presidential rhetoric creates stories of peoplehood. Political leaders, and would-be political leaders, frequently engage in the creation of public identities. Then-presidential candidate Hilary Clinton (in)famously divided those who were likely to vote for her opponent, Donald Trump, into two memorable camps: one half a "basket of deplorables" who are "racist, sexist, homophobic, xenophobic, Islamophobic" and the other half "those who feel that the government has let them down, the economy

⁷ Kam and Kinder, "Ethnocentrism as a Short-Term Force in the 2008 American Presidential Election"; Kinder and Dale-Riddle, *The End of Race?*

⁸ Hancock, "Contemporary Welfare Reform."

⁹ Carroll, "The Disempowerment of the Gender Gap"; Elder and Greene, "The Myth of 'Security Moms' and 'NASCAR Dads.'"

has let them down, nobody cares about them.” Mitt Romney described those who supported him as “makers” while supporters of his rival, President Barak Obama, were “takers”: “people who pay no income tax; who are dependent upon government, who believe that they are victims, who believe the government has a responsibility to care for them, who believe that they are entitled to health care, to food, to housing, to you-name-it.” Through the creation of these public identities, political leaders send signals about who matters for politics – whose interests, preferences, and concerns should be privileged in policymaking. The importance of the labeling of various groups in society goes beyond simple electoral gain. These group constructions can take on lives of their own, shaping public perceptions of these groups long after their origins have been forgotten. These constructions also shape policy directed at these groups, becoming embedded in the design of policy itself.

To make this case, I borrow insights from the literature on policy design in the field of public policy. Policy design approaches to public policy contend that policies contain messages about the deservingness of various groups within society. The social construction of target groups shapes the type of policy directed at that group.¹⁰ Policymakers construct target populations in either positive or negative terms, and the design of policy reflects this construction. Positively constructed groups (e.g., small business owners, the elderly) will reap benefits from policy whereas negatively constructed groups (e.g., criminals, welfare mothers) will be subject to policies that impose burdens on them. Social constructions of target groups are disseminated to the general public through media representations, which help lend legitimacy to policy. For example, negative media images of mothers on welfare as lazy, unwilling to work, and overly fertile helped justify the strict work requirements and family caps found in Temporary Aid to Needy Families.¹¹ These constructions also have a feedback effect through their operation in policy on the group they are constructing, thus contributing to their hegemony. Individuals in the target population receive messages that reinforce the policy construction through their experience with policy and related programs. This feedback can shape future political activity by individuals in the target group.¹²

Beyond justifying the distribution of benefits and burdens among groups in society, social constructions play a critical role in defining political membership and civic status both for those that are the target of policy and the broader public who are the audience for policy. These messages of belongingness are not simply confined to policy but become concrete through the implementation of policy by state agents. Every time a young black man is stopped and frisked

¹⁰ Ingram and Schneider, “Social Construction”; Schneider and Ingram, “Social Construction of Target Populations.”

¹¹ Hancock, “Contemporary Welfare Reform.”

¹² See, e.g., Campbell, *How Policies Make Citizens*; Mettler and Stonecash, “Government Program Usage and Political Voice”; Soss, “Lessons of Welfare.”

by a police officer, every time a Latina mother is asked to show proof of her and her children's citizenship status, they are being reminded by the state that they are not considered full members of the political community. Requiring a woman to sign a "Personal Responsibility Agreement" before she can receive much needed welfare benefits for herself and her children from the state sends the message that the political community does not view her as fully capable of governing herself and thus not worthy for inclusion in the people.

An example of contesting claims over who constitutes "We the People" can be found in the legislative struggle over the legal status of undocumented immigrants who entered the country as children. Known as "DREAMers," this group has seen their political fortunes wax and wane since 2001. Their struggle for inclusion in the political community illustrates the politically contested and politically determined identity of the people as well as how inclusion into the community is based on claims of recognition and deservingness. The political rhetoric of President Trump, on the other hand, presents a competing claim for who constitutes "We the People" and which groups should have a privileged position on the governmental agenda and in policymaking. Trump's resurrection of an old political identity reconfigured for a new political context finds expression in his description of "the Forgotten Man and Woman." Here, I explore these two case studies of people-making in order to illustrate the ways that democratic majorities use both policy and political rhetoric to define "We the People" in terms that are potentially exclusionary and contrary to liberal principles.

The youth undocumented immigrant movement emerged in the mid-2000s.¹³ It presented an opportunity to overcome the stalemate that had plagued the immigration debate by constructing a new category of recipients deserving of positive treatment. Known as DREAMers this group is comprised of young adults who have been brought across the United States' southern border illegally by their parents when they were children. The group gets their name from the Development, Relief, and Education for Alien Minors Act, a 2001 piece of legislation which, if passed into law, would regularize this group's immigration status. The original version of the DREAM Act signaled out for special legal consideration undocumented immigrants under the age of 21 who had lived in the country for at least five years, were enrolled in an institution of higher education, and were "a person of good moral character." Later versions of the DREAM Act included DREAMers who joined the US military. DREAMers would be free from threats of deportation and would be granted conditional permanent residence status. The Act would have helped approximately 1.8 million young undocumented immigrants regularize their immigration status and bring them fully into the social and economic life of the nation. The Obama administration championed the positive economic

¹³ Nicholls, *The DREAMers*.

benefits that the DREAM Act would have by allowing these youth to become responsible taxpaying adults. As Secretary of Education Arne Duncan stated, the Act will allow “these young people to live up to their fullest potential and contribute to the economic growth of our country.”¹⁴ Others argued for the Act on humanitarian grounds, highlighting the injustice of deporting from this country individuals who have lived here their entire lives and have never called any other country home.

Part of the political appeal of the DREAMers was found in their ability to distinguish themselves from and present themselves as more deserving of citizenship than other groups of undocumented immigrants. Their deservingness rested both on their blamelessness for their lack of status as well as their widespread portrayal as “model” immigrants. Unlike their parents, they were not tainted with the “original sin” of illegal entry into United States since they had no choice in the matter. As Senator Orrin Hatch, Republican from Utah and one of the original cosponsors of the Act, described them, DREAMers are children “who have been brought to the United States through no volition of their own.”¹⁵ Their lack of moral culpability draws a clear boundary between DREAMers and their criminalized parents who did engage knowingly in illegal behavior and sets the political fortunes of these two groups somewhat at odds with each other and with other groups of undocumented immigrants who cannot claim the same positive characteristics that the DREAMers possess.¹⁶ This boundary work is clearly seen in Senator Patrick Leahy’s observation that “the DREAM Act recognizes that children should not be penalized for the actions of their parents.”¹⁷ To use the language of policy design, DREAMers attempted to shift their social construction from the deviant category reserved for lawbreakers to the dependent (or possibly even advantaged) category. To do this, activists focused on the most “deserving” group of recipients.

DREAMers justified their claim for inclusion by highlighting aspects of their identity that they share with those who are considered citizens. Their claim is that American citizenship is under-inclusive in that it fails to include those within its terms who possess key characteristics of citizenship. As Keyes writes, DREAMers highlighted “the disjuncture between American citizenship as a formal legal status (something DREAMers clearly lack) and citizenship as American identity (something DREAMers have in abundance).”¹⁸ DREAMers are “model” immigrants who have already fully assimilated to life in the United States and, in many cases, they are presented as extraordinary rather than simply ordinary.¹⁹ In 2007 testimony before Congress one

¹⁴ Miranda, “Get the Facts on the DREAM Act.”

¹⁵ 107th Cong. Rec. S8580, 2001.

¹⁶ Sirriyeh, “Felons are also our family.”

¹⁷ Congressional Record, 153 (2007), part 20, Senate, p. 28095.

¹⁸ Keyes, “Defining American.”

¹⁹ Odio, “Latinx Populations and Jus Nexi Claims.”

witness sought to erase any distinction between native born Americans and their DREAMer counterparts: “While living in the U.S. and being educated in our school system, these children become ‘Americanized’. They repeat the Pledge of Allegiance ... root for their favorite baseball and football teams, and ponder their future.”²⁰ Senators in favor of the Act, echoed this argument. According to Hatch, DREAMers “have been raised here just like their U.S. citizen classmates. They view themselves as Americans, and are loyal to our country.” Senator Harry Reid stressed that many “don’t even remember their home countries ... or speak the language of their home countries. They’re just as loyal and devoted to their country as any American.” These claims illustrate the role of self-reflexivity in people-making. We are being asked to recognize the similarities between aspects of our identity and those of the DREAMers, a group that appears part of “We the People” in every way except legally. It is this claim of equivalence on which DREAMers base their demand for inclusion. They force those of us who are part of “We the People” to question what difference that legality makes. As President Obama put it, DREAMers “are Americans in their heart, in their minds, in every single way but one: on paper.”²¹ *TIME* magazine ran a cover story on DREAMers in 2012 with the headline “We are Americans*” and “*Just Not Legally.” The absence of legal status reduced here to an asterisk or footnote – nonessential information to understanding the identity of this group.

This focus on their distinctiveness from their “illegal” parents and the abundance of narratives that present DREAMers not simply as model immigrants but as extraordinary immigrants raises questions of deservingness and undeservingness. DREAMers are “deserving” immigrants whereas others who may have entered this country illegally are “undeserving” in this narrative. The deservingness of the DREAMers is evident in the design of the Border Security, Economic Opportunity, and Immigration Modernization Act of 2013. While the findings of the bill state that ours is “a Nation founded, build and sustained by immigration” they also note that “in order to qualify for the honor and privilege of eventual citizenship, our laws must be followed.” This piece of legislation would have created two pathways to citizenship: one for DREAMers who are not responsible for entering this country illegally and one for other immigrants who have entered the country illegally. Under the law, those who had entered the country illegally (and were not DREAMers) before 2012 would be eligible for registered provisional immigrant status (RPI) if they pay all past due federal income taxes, pay the application fee and fine of up to \$2,000 for being in the country illegally, and pass a background check and interview. Immigrants with RPI status would be ineligible for federal means-tested benefits such as Medicaid, food stamps, and subsidies under the Affordable Care Act.

²⁰ U.S. House, “Testimony on the Future of Undocumented Immigration Students.”

²¹ Obama, “Remarks on Immigration Reform.”

RPI status would be good for six years and could be renewed for another six years if the immigrant has proof that she has been regularly employed without a gap of more than 60 days between employment periods. She would also need to prove that she has income or resources as least 100 percent of the federal poverty level. Immigrants with RPI status would be eligible to apply for Lawful Permanent Residence but only after ten years in RPI status. They would essentially be forced to “the back of the line”; they would only be eligible for this status change once immigration visas from those who had followed the lawful process had been approved. As President Obama described the process, the bill would require “going to the back of the line behind everyone who’s playing by the rules and trying to come here legally.” After three years of maintaining permanent resident status, an immigrant would be eligible to apply for US citizenship. Immigrants with criminal felony convictions and three or more misdemeanor offenses (excluding minor traffic offenses) would be ineligible for RPI status. The process for those who qualify under the DREAM Act, however, would be different. DREAMers were eligible to have their status adjusted from RPI to lawful permanent resident after only five years. This accelerated path to a green card is only available if the applicant entered the United States before she turned sixteen, has earned a high-school diploma or GED, has completed at least two years of college or four years of military service, and has passed a background check. As soon as they achieve lawful permanent resident status, DREAMers are eligible to apply for US citizenship. Unlike their parents, DREAMers do not have to go to the back of the line.

The Border Security, Economic Opportunity, and Immigration Modernization Act of 2013 never became law. Despite strong support in the Senate, including a bipartisan group of eight Senators (the Gang of Eight) who drafted the bill and fought to get it to the floor, the Republican-led House of Representatives never took up the Senate’s bill. Many hard-liners on immigration in the Republican caucus demanded the expulsion of those here unlawfully and stricter border security measures first before they would consider a bill with any type of status legalization. The bill was portrayed by right-wing talk show hosts and Tea Party activists as “amnesty” for those who had entered the country illegally. Conservative provocateur Ann Coulter declared the bill “the end of America” in a column that raised the fear of “20 million newly legalized illegal aliens” on welfare benefits giving birth to children who would automatically become citizens under the Fourteenth Amendment and eventually Democrat voters.²² Rush Limbaugh warned that the bill “effectively wipes out the Republican Party” and that stricter border control measures and the ten-year waiting period would be eliminated by future Congresses. We’re going to hear from democratic politicians, he argues, about how “unfair having to wait 10 years is And of course others will readily agree because this will sound like it’s compassion and love, sensitivity and all these wonderful

²² Coulter, “If Rubio’s Amnesty Is So Great, Why Is He Lying?”

chickified things that our culture's become, and, voila, there won't be a ten-year waiting period."²³

In this atmosphere of renewed attention to what constitutes American identity billionaire businessman Donald Trump's candidacy flourished. Prior to his entrance into politics, Trump had come to symbolize the excesses of the American way of life and, in particular, its economic system. That Trump would seek to redefine the nation's conception of "We the People" should, in retrospect, not come as a surprise. After all, Trump's claim to political relevance before his run for presidency rested on questioning the claims of the nation's first black president to be part of "We the People," stating that there was "a real possibility" that Obama was not born in the country.²⁴ As a candidate, Trump made immigration the defining feature of his campaign. He announced his run for office by memorably labeling immigrants from Mexico as "people that have lots of problems. And they're bringing those problems with us [sic]. They're bringing drugs. They're bringing crime. They're rapists. And some, I assume, are good people."²⁵ And he claimed that his political success was in part due to his willingness to talk about an issue – immigration – that the American people were concerned about but that politicians had ignored.

While DREAMers presented themselves as emblematic of the American Dream, Trump's campaign rhetoric portrayed Latino immigrants as a threat to the way of life of white Americans.²⁶ In a campaign speech, Trump criticized the immigration system for serving the interests of "wealthy donors, political activists and powerful, powerful politicians" rather than the interests of the American people. "When politicians talk about immigration reform," Trump stated, "they usually mean the following: amnesty, open borders, lower wages. Immigration reform should mean something else entirely. It should mean improvements to our laws and policies to make life better for American citizens." Rather than focus on the hardships faced by those who must live in the shadows because of their undocumented status, Trump argued that the real immigration debate should be over the impact of immigration on the working class. He stated, "We have to listen to the concerns that working people, our forgotten working people, have over the record pace of immigration and its impact on their jobs, wages, housing, schools, tax bills and general living conditions." Trump starkly presents the economic harm that "illegal immigrants" cause working-class citizens. "Most illegal immigrants are lower skilled workers with less education, who compete directly against vulnerable American workers, and that these illegal workers draw much more out from the system than they can ever possibly pay back."²⁷ The message here is clear;

²³ Limbaugh, "We've Been Played on Immigration."

²⁴ Gustini, "The Today Show Gives Donald Trump a Birther Platform."

²⁵ Trump, "Donald Trump Announces His Presidential Candidacy."

²⁶ Vidal, "Immigration Politics in the 2016 Election."

²⁷ Trump, "Immigration Speech."

any gains, whether economically or politically, that undocumented immigrants may make come directly at the expense of working-class citizens.

In addition, in Trump's view, undocumented immigrants pose a threat to the lives of these very same citizens. Trump was notorious for campaigning with his "angel moms," a group of women (and sometimes men) who had family members who had been killed by undocumented immigrants.²⁸ Trump starkly presented the existential threat that undocumented immigrants pose to citizens: "Countless American who have died in recent years would be alive today if not for the open border policies of this administration."²⁹ Later in this same speech, he recounted the deaths of five Americans killed by an undocumented immigrant – a 90-old-man "brutally beaten and left to bleed to death," a female Air Force veteran raped and beaten with a hammer, a convenience store clerk shot to death – and at the end of his speech invited eleven more family members on stage to present stories about the deaths of their loved ones at the hands of undocumented immigrants. It is hardworking American citizens that are the victims of the US immigration system, in Trump's account, not those who were brought across the border as children or came searching for a better life for themselves and their families. "The media and my opponent discuss one thing and only one thing," Trump declared, "the needs of people living here illegally. In many cases, by the way, they're treated better than our vets ... There is only one core issue in the immigration debate, and that issue is the well-being of the American people."³⁰ While the rhetoric surrounding the DREAMers emphasized their commonalities with American citizens, Trump's rhetoric presents the interests of these two groups as diametrically opposed.

Trump's rhetoric clearly rejects the claim that immigrants – whether here legally or not – could ever be part of the "We the (American) People." While the DREAMers' rhetoric functioned to separate them from other less-deserving groups of immigrants, Trump's immigration rhetoric performs a different type of boundary work. Namely, erasing the distinctions between different immigrant groups – DREAMers, those who have overstayed their visas, Syrian refugees, unaccompanied minors from Central America – and lumping them together and labeling them as a threat to the United States. One of Trump's most repeated campaign tropes – "the Snake" – denies the possibility that immigrants can be assimilated and become part of "We the People." On the campaign trail, Trump would frequently tell the story of a wounded snake that a "tender-hearted" woman takes into her home, cares for and nurses back to health, only to have it kill her. When she asks it why it treated her in such an ungrateful manner, the snake replies: "Oh shut up, silly woman, said the reptile with a grin. You knew damn well I was a snake before you took me

²⁸ Golshan, "Trump Keeps Highlighting 'Angel Moms.'"

²⁹ Trump, "Immigration Speech."

³⁰ Trump, "Immigration Speech."

in.”³¹ While Trump first introduced this story in reference to the debate over whether or not the United States should open its doors to Syrian refugees, later in his campaign – and during his presidency – he described the snake story as a cautionary tale about immigration more generally. In his 2018 speech at the Conservative Political Action Conference he prefaced the snake story by saying: “So this is called – this is called the snake. And think of it in terms of immigration and you may love it or you may say isn’t that terrible?”³² The lesson to be drawn from this story is that immigrants – no matter where they are from or why they have come to the United States – cannot be trusted and if allowed to stay in the country will destroy it from within. The danger that they pose to the prosperity and safety of the American people is too great to ever allow them to be part of “We the People.”

Trump’s rhetoric excludes immigrants from “We the People” while at the same time presenting a contrasting claim for who rightfully constitutes the people; namely, “the Forgotten Man and Woman.” This political identity harkens back (whether intentionally or not) to an older rhetoric of class politics found in the works of William Sumner Graham and, more recently, the “silent majority” described in the speeches of President Richard Nixon.³³ This group symbolizes for Trump those who have been shut out of the economic and political successes experienced by other groups during Obama’s presidency. They have been forgotten by the economic and political elites of this country, although not by Trump. By describing them as “forgotten,” Trump contends that those in power have been paying attention to the wrong kinds of people. They have been both forgotten and ignored. Trump’s rise to power, in his view, signals the privileging of this group in politics and policymaking. As he states in his inaugural address: “The forgotten men and women of our country will be forgotten no longer. Everyone is listening to you now. You came by the tens of millions to become part of a historic movement the likes of which the world has never seen before.”³⁴ For those who were not part of the “tens of millions” who voted for Trump, their place in the new political moment is less clear. Rather than an expansive view of American identity, this speech conflates the people who have asserted their popular sovereignty with Trump voters.

By proposing to give voice to this new group, Trump is engaged in the process of people-making. To do this, though, it is necessary to describe the boundaries of this group who will comprise the people. For Trump, their identity is solidly working class. He described his coalition of supporters during a speech in Erie, Pennsylvania: “That’s why the steel workers are with me, that’s why the miners are with me, that’s why the working people, electricians, the

³¹ Klein, “The Snake.”

³² Trump, “Remarks at the Conservative Political Action Conference.”

³³ Plotica, “The Return of the ‘Forgotten Man.’”

³⁴ Trump, “The Inaugural Address.”

plumbers, the sheetrockers, the concrete guys and gals, they're all – they're with us.”³⁵ As Goodley and Lawthorn note, “Trump’s forgotten citizen is one ready and able to work.”³⁶ But their jobs are not those that require a college degree, they are jobs that require physical brawn over intellectual quickness; the very jobs that Trump promises to bring back to the United States rather than those in the technology or knowledge industries. Those workers, in contrast, are not part of the people that count for the Trump administration. The forgotten man and woman are those that have been left behind by globalization and international trade deals. They have seen their jobs sent overseas and factories in their hometowns closed. In his nomination speech to the Republican National Convention, Trump stated: “I have visited the laid-off factory workers, and the communities crushed by our horrible and unfair trade deals. These are the forgotten men and women of our country. People who work hard but no longer have a voice.”³⁷ This group has not shared in the wealth that the rest of the country has supposedly enjoyed and it is not their fault that they have been left behind while others have jumped ahead. A major component of Trump’s construction of “the forgotten man and woman” is their blamelessness for their condition and the destigmatization of their downward mobility. It is not the fault of the “forgotten woman” that she did not retool her skills or acquire additional education in order to compete in the new economy. It is instead the fault of the political elites that sold out her job in the name of free trade. Trump’s promise to this group is that he will return them to economic prosperity by bringing back their jobs. He promised in a campaign speech in Dimondale, Michigan, that under the Trump administration “millions of workers on the sidelines will be returned to the workforce.”³⁸ As he declared when he announced his run for president: “I will be the greatest jobs president that God ever created. I tell you that. I will bring back our jobs from China, Mexico, and other places. I will bring back jobs and our money.”³⁹

More than just bring back their jobs, however, Trump proposed to restore the dignity of the working class and grant them a privileged position in politics. As Lamont and her coauthors explain, many white working-class voters found Trump’s rhetoric appealing because it “fed a desire to reassert what they view as their rightful place in the national pecking order.”⁴⁰ Many working-class people believe that their contributions to the success of the nation have gone unrecognized and their values and way of life have been looked down on by coastal elites.⁴¹ They are working hard and playing by the rules but not getting

³⁵ Trump, “Remarks at Erie Insurance Arena.”

³⁶ Goodley and Lawthorn, “Critical Disability Studies, Brexit, and Trump.”

³⁷ Trump, “2016 RNC Draft Speech Transcript.”

³⁸ Trump, “Donald Trump Remarks in Dimondale, Michigan.”

³⁹ Trump, “Donald Trump Announces His Presidential Candidacy.”

⁴⁰ Lamont, Park, and Ayala-Hurtado, “Trump’s Electoral Speeches.”

⁴¹ Cramer, *Politics of Resentment*; Williams, *White Working Class*.

ahead, while others who do not exhibit similar characteristics of hard work and law abidingness are getting special advantages from the government.⁴² Trump, however, positioned the working class at the center of political attention. While past administrations proposed policies that benefited immigrants, big business, and political elites, Trump claimed that his policies would serve the American worker first and foremost. At a signing ceremony for his “Buy American and Hire American” executive order, Trump redefined his message of “America First” to mean “America’s Workers First.” “For too long,” he stated, “we’ve watched as our factories have been closed and our jobs have been sent to other faraway lands But this election, the American people voted to end the theft of American prosperity. They voted to bring back their jobs – and to bring back their dreams into our country With this action, we are sending a powerful signal to the world: We’re going to defend our workers, protect our jobs, and finally put America first.”⁴³ He used similar language in support of a newly negotiated trade deal with Mexico and Canada: “We’re proudly defending our most important national resource: the American worker. That’s what it is. It’s pretty amazing how the American worker has just really – there’s nobody like our American worker.” In addition, to framing many of his policy initiatives in terms of their effects on the working class, Trump also accorded this group a privileged position in policy, singling them out as an advantaged group. Time and again, he presents his policy decisions as being guided by his concern for the working class. According to Trump: “We’ve powered our economic turnaround by following two fundamental rules: If it hurts American workers, we don’t do it. It’s very simple. And if it helps American workers, we definitely do it and we do it quickly. It’s very simple.”⁴⁴ To employ Lamont’s idea of “recognition gaps,” Trump’s rhetoric aims to help a low-status group in society gain recognition and worth vis-à-vis other groups.⁴⁵ But even more than raising the status of the working class, his rhetoric has positioned this group as the *sine qua non* of the political community.

These two case studies illustrate the process of democratic people-making through policy and political rhetoric. They also highlight the dangers of democratic people-making. Namely, democratic majorities and their leaders cannot be counted on to define “We the People” in accordance with liberal principles. One might argue that the commitment to liberalism found in the United States restrains the majority’s ability simply to define the people according to its will. Our liberal principles of equality, inclusion, and respect for individual rights help prevent the exclusions that majoritarian people-making based on ascriptive characteristics, prejudices, and other such factors might lead to.⁴⁶

⁴² Hochschild, *Strangers in Their Own Land*.

⁴³ Trump, “Remarks on Buy American, Hire American Executive Order.”

⁴⁴ Trump, “Remarks on Supporting the Passage of the U.S.-Mexico-Canada Agreement.”

⁴⁵ Lamont, “Addressing Recognition Gaps.”

⁴⁶ Smith, *Stories of Peoplehood*.

While any definition of the people is necessarily exclusionary, in that defining who is part of a political community also requires specifying who is outside of the community, liberalism helps cast the net as wide as possible. Liberalism's impulse is to confer rights on all autonomous individuals and in the process abstract "from diverse identities to create the homogenizing identity of the citizen" free from all the markers of membership in a particular group or political identity.⁴⁷ We see this impulse in the text of the Fourteenth Amendment, which defines all those born in the United States as citizens, a very wide net indeed. Past exclusion in the United States based on ascriptive characteristics of race, ethnicity, and gender are often taken as violations of liberalism's principles, a relic of the "bad old days," when we failed as a nation to live up to our ideals.

However, as others have noted, liberalism's appearance of universality and inclusion is not what it seems.⁴⁸ Liberal theory proposes seemingly minimal qualifications for being a member of the political community. Individuals in the state of nature join together with each other to remove themselves from "inconveniences of the state of nature."⁴⁹ The requirements for those consenting to this contract are found in human nature itself; individuals must be equal, free, and rational. However, while these minimum requirements appear universal and non-exclusionary, they assume anthropological capacities that might not be recognized to obtain universally. As Mehta explains: "What is concealed behind the endorsement of these universal capacities are the specific cultural and psychological conditions woven in as preconditions for the actualization of these capacities."⁵⁰ It is not sufficient for an individual to meet the minimum qualifications necessary for entry into the social contract. Others who are parties to the contract must also see her as meeting these qualifications. There is an element of recognition that is required for political membership even in a liberal state.

But what exactly must be recognized by others in order to be included in a liberal political community? What are the key characteristics or public virtues necessary to be considered part of "We the People"? The universal reach of liberalism derives from the capacities that it defines as common to all human beings. Even theories of liberalism that are neither grounded in a fixed concept of human nature nor rely on a pre-political state of nature define the subject of liberalism in a universalizing manner. Namely, these deontological versions of liberalism presume an autonomous choice-making individual able to determine his or her way of life. By prioritizing rights over a conception of the good, liberalism leaves it up to individuals to pursue their own version of the good life. In this way, liberalism helps guarantee maximum liberty, for each individual supposedly knows best what is in his or her interest. Inclusion in a liberal

⁴⁷ Young, *Justice and the Politics of Difference*, 97.

⁴⁸ Mehta, "Liberal Strategies of Exclusion"; Pateman, *The Disorder of Women*.

⁴⁹ Locke, *Second Treatise of Government* [1980], 48.

⁵⁰ Mehta, "Liberal Strategies of Exclusion," 430.

political community is contingent on being able to determine one's life course free of the dictates of others. While liberal theorists argue that all human beings share this capacity qua human beings, certain groups have been denied the recognition that they are in fact capable of self-rule. This ability to rule oneself is frequently conflated with the ability to participate in the economic marketplace, with those groups who cannot do so subjected to the second-class status that comes from protective legislation and welfare handouts.⁵¹ The case studies above illustrate this. When undocumented immigrant youth are portrayed as future productive workers and taxpayers, their claims for inclusion in "We the People" are more readily accepted. When they are portrayed as just another immigrant group draining resources from the public treasury and threatening the economic fortunes of American-born workers, their political fortunes wane. As Trump's acting director of US Citizenship and Immigration Services described the type of immigrants who would be considered favorable candidates for citizenship: "Give me your tired and your poor – who can stand on their own two feet and who will not become a public charge."⁵²

⁵¹ Smith, *Welfare Reform and Sexual Regulation*; Soss, Fording, and Schram, *Disciplining the Poor*.

⁵² Forgery, "Trump Immigration Official Offers Rewrite Statue of Liberty Poem."

Populism, Popular Sovereignty, and Periphery

Julia R. Azari and Alexis Nemecek

INTRODUCTION

Populism has proven to be a ubiquitous, yet elusive, concept in discussions about the fate of democracy. The idea carries with it the promise of popular sovereignty – the potential for ordinary people to overthrow corrupt elites. However, it also poses a danger to political institutions and crucial elements of the liberal order, sometimes merging with anti-immigrant sentiment. This chapter addresses the challenge of populism in the US context, with specific focus on the role played by the rhetoric of antagonism in populist appeals. We argue that (1) antagonistic claims are central to understanding what distinguishes populism from other forms of popular appeals, (2) the US context is somewhat distinctive in that historically, populist appeals have incorporated antagonism across geographic regions, and (3) the nationalization of American politics has led populist rhetoric to seek other targets, fundamentally changing its relationship to political institutions.

We know that politicians use antagonistic rhetoric toward Washington, DC, political systems and institutions, and economic elites, and that this has been a recurring feature of American political discourse associated with the left and the right. Geographically speaking, this anti-Washington sentiment takes the form of populist rhetoric that invokes an elite core and a morally superior periphery. In this chapter, we examine the ways in which populist rhetoric in American politics has exploited the definitional ambiguity of populism in order to incorporate critiques of institutions into mainstream communication.

We begin by explaining the connection between populism and popular sovereignty and the debate about the relationship between populism and liberal democracy. We then identify factors in the US case that make the politics of populism distinct in this case, including the nature of the presidency and a decentralized political system often characterized by regional conflict.

The next section assesses recent use of populist and antagonistic rhetoric by presidents and presidential candidates. Based on this evidence, we argue that while the nationalization of politics and the emergence of new political outsiders created a populist moment in 2016, populist rhetoric also has origins in the tropes of mainstream political discourse.

POPULISM AND POPULAR SOVEREIGNTY

The forthcoming analysis of American populism is linked to the broader questions of popular sovereignty in this volume in several ways. Richard Boyd's chapter highlights the need to creating a fictive "people" as a prerequisite for popular sovereignty.¹ Populism addresses this task, often controversially, by highlighting a unified people and specifying the threats to the political community. In the case of the United States, there are many overlapping relevant political communities – regional, state, and other geographic identities like urban and rural. Studying populist rhetoric in historical context helps us understand how these identities have been manipulated differently as the country's politics have become increasingly nationalized.² Alvin Tillery's chapter in this volume features two themes present in this analysis: the complexity of intersecting identities in thinking about power and populism and the use of populism to challenge the failures of representative institutions.³ Our chapter attempts to understand the use of populist rhetoric in contemporary presidential politics as both a means of articulating important criticisms of power structures and also disingenuously manipulating the idea of popular sovereignty in order to gain political power.

The scholarly literature on populism has a complex normative orientation. In this section, for the sake of clarity, we divide this body of scholarship into two bluntly differentiated camps: those that see populism as compatible with democratic claims and aspirations and those that primarily depict populism as a threat to liberal democracy. These two schools of thought also differ in their diagnoses of the cause of populist insurgencies within consolidated democracies. Approaches that view populism as compatible with democracy tend to ascribe its rise to intrinsic tensions within the practice of democracy, or the inevitable gap between ideals and practice. Those that see populism as a threat to liberal democracy have generally instead attributed populist movements to failures by mainstream political actors or other systemic malfunctions, rather than as a natural byproduct.

While praise for populism is not confined to the American politics literature, there is a strain that identifies populism as an important part of the American political tradition. Writing about the populist tradition in American

¹ Boyd, [Chapter 4](#), in this volume.

² Hopkins, *The increasingly United States*.

³ Tillery, [Chapter 11](#), in this volume.

politics, historian Michael Kazin argues that “populism in the United States has made the unique claim that the “powers that be” are transgressing the nation’s founding creed, which every permanent resident should honor.”⁴ Kazin’s account suggests that populist rhetoric and persuasive argumentation emerge from the American political tradition, even as they have been harnessed by political actors with varying ideologies. Charles Postel conceptualizes the populist movement of the late nineteenth century as a complicated and dynamic one that incorporated multiple racial, economic, and regional interests. Postel, in what might be seen as a contradiction in terms in other contexts, depicts the American populists as a kind of modern and populist movement. Perhaps because of this particular history in the US case, discussions of American populism tend to associate the term with sincere efforts to resist economic exploitation and oligarchy.⁵

Democratic theory also links populism to the features of democracy. Margaret Canovan’s assessment of populism broadens the theoretical relationship between populism and democracy. Rejecting the notion that populism emerges from contradictions inherent in liberalism and democracy, Canovan suggests instead that populism is the result of two competing facets of democracy itself. She argues that populism arises from the tension between the “redemptive and pragmatic” faces of democracy. The pragmatic component of democracy requires institutions and procedures, while the redemptive face is “romantic” and offers a vision of “salvation through politics.”⁶ Critically, she points out that populism is typically characterized as a rejection of authority, but, in fact, it draws on an established source of authority: the people.

A different body of literature, much of it coming from contemporary comparative politics, takes a much dimmer view of the normative prospects for populism. In the European context, twenty-first-century populism is also associated with far-right parties. Claims to represent the interests of a unified and undifferentiated people have merged with anti-immigrant sentiment. Jan-Werner Muller identifies the opposition to pluralism as the defining feature of populism.⁷

In addition to an illiberal disregard for pluralism, populist parties have also been associated with disrespect for the essential institutions of liberal democracy. Anna Grzymala-Busse describes populist parties in Poland and Hungary as having governed by attacking both the formal institutions of democracy and the informal norms that allow it to function.⁸ In these accounts, populists’ claims to represent the “true people” become weaponized against the

⁴ Kazin, *Populist Persuasion*, 2.

⁵ Postel, *Populist Vision*.

⁶ Canovan, “Trust the People!,” 10.

⁷ Mudde, “Populist Zeitgeist”; Muller, *What Is Populism?*

⁸ Grzymala-Busse, “How Populists Rule.”

institutions like the judiciary and the news media. Populist actors who are antagonistic to the very existence of liberal democratic institutions undermine democracy even as they claim to speak for the people.

In sum, there is no clear scholarly consensus about the relationship between populism and democracy. By definition, populist rhetoric offers a critique of those in power. Scholars have in some instances deemed these targets worthy of criticism, as in the case of the late nineteenth-century US Populist movement's condemnation of the excesses of industrial capitalism. In other cases, scholars have warned that the institutions denigrated by populists are essential to the function of democracy. Populism can draw illiberal boundaries around the political community and undermine necessary institutions. At the same time, it can also serve as the basis for movements aimed at breaking up concentrated economic (and sometimes political) power. This leaves scholars of populism with many questions. Under what conditions does populism take the form of a necessary critique against the powerful? When does it take a corrosive form? How are existing subnational identities and conflicts mobilized? How do these questions map onto populism of the left and right? Can the targets of populism be both essential and corrupt?

The analysis of populist rhetoric in this chapter examines how this ambivalence manifests in the rhetoric of presidents and presidential hopefuls. While it certainly does not begin to address all of the major questions about populism and its relationship with healthy liberal democracy, the findings presented here offer some suggestions about the ways in which the populist moment of the 2016 election represented continuity and change in the treatment of populist themes in American presidential politics. The rhetoric of presidential hopefuls and their surrogates also illustrates the ways in which populist claims against elites and institutions are also mixed with defenses of these institutions and even appeals to reject populism.

THE AMERICAN POLITICAL LANDSCAPE

Scholars of comparative politics have identified populism as a “thin-centered ideology,” with few firm ideas about “the nature of man and society.”⁹ In the comparative context, this allows populism to attach itself to various other ideologies. However, in the US case, scholars have often noted the thinness of ideology as a matter of course in party politics. Previous iterations of the American party system were criticized by political scientists for being insufficiently ideological.¹⁰ The two major parties have frequently channeled multiple, not particularly compatible interests. In the late twentieth century, politics has undergone a dramatic shift with regard to ideological division. It is in the context of partisan sorting and polarization that populist appeals have

⁹ Kaltwasser and Mudde, *Populism*.

¹⁰ Rosenfeld, *The Polarizers*.

resurged. In light of this history, what makes the resurgence of populism in the twenty-first century distinct?

The unique structure of separation of powers has also shaped the backdrop of populism. Modern American presidents wield a great deal of real and symbolic power. The Trump presidency has uniquely merged this power with the grievance element of populism. The growth of presidential power has relied on the development of legitimacy claims rooted in populist ideas. Some scholars have linked the interpretation of elections to evolving institutional legitimacy.¹¹ Presidential claims to electoral mandates have accompanied expanding presidential power.

We draw a conceptual boundary around the idea of grievance against a corrupt elite as the operative characteristic of US populism; simply claiming popular authority is not sufficient to count as populist rhetoric.¹² This allows us to distinguish from other forms of plebiscitary appeals, especially at the presidential level, and to put twenty-first-century American presidential populism into a distinct and meaningful category.

Finally, American politics is becoming increasingly nationalized, with voting behavior oriented toward national figures, political divisions, and media.¹³ We examine the nature of populism in this new nationalized context, arguing that this constitutes a break with the history of more regionally based US populism. If the defining characteristic of populism is grievance, then the objects of that grievance are likely to shift in a nationalizing political environment.

THE POPULIST PRESIDENCY

As the previous section indicates, the American presidency is a distinct institution that offers unique opportunities to make public appeals and pronouncements about other institutions. The rhetoric analyzed in a later section looks at presidents and presidential candidates. But it is not just about the distinctiveness of the American presidency as an institution. There are also questions about the unprecedented presidency of Donald Trump.

There are a few important differences between past situations and the Trump administration. Even the most populist or paranoid presidents have been surrounded by people who remind them of the constitutionality of their office, and the power that it wields. Populist appeals have typically been primarily on behalf of others. At Trump's 2017 inauguration, he promised the crowds of supporters, "I will be your voice."¹⁴ However, his practice of populist rhetoric has deviated from this standard style. Instead, the grievances the president expresses are focused on himself. For example, in June 2019, the

¹¹ Azari, *Delivering the People's Message*; Ellis and Kirk, "Presidential Mandates."

¹² Bimes and Mulroy, "The Rise and Decline of Presidential Populism."

¹³ Hopkins, *The Increasingly United States*.

¹⁴ Trump, "The Inaugural Address."

forty-fifth president declared that no president in history had been “treated worse” than he had. The president’s surrogates have complained about unfair treatment from the news media, as Republican National Committee (RNC) Chairwoman Ronna Romney McDaniel did on the anniversary of D-Day. The news media is a consistent target of contemporary, nationalized populism. The beginning of an impeachment inquiry in fall 2019 has provided opportunities for Trump’s team to insist on their persecution by political opponents, including the press.

At the same time, a peculiar political logic obtains in the age of Trump. The politics that led to his presidency have created the conditions for a partisan presidential politics of grievance. Trump’s unconventional path to the Republican nomination, in which he beat candidates with more establishment support and yet went on to win mainstream support as the party standard bearer has created an unusually strong “team” feeling. As Lilliana Mason has described, partisan politics has come to symbolize more than mere policy disagreements; party labels also align with salient social identities.¹⁵ Under these conditions, fellow partisans identify strongly with Trump and attacks on him are plausibly also attacks on them.

The political environment bolsters these claims. Because of the closeness of partisan competition, it is possible for either side to credibly argue that it is at a political disadvantage, exploited by a corrupt elite that is affiliated with the other side. The arousal of populist anger becomes part of the dynamic between parties as well as within them. It is not difficult for the president, his surrogates, and his supporters to find evidence of significant and concerted opposition. Any action or statement is likely to elicit criticism and mockery; even the party that controls government can point to powerful and vociferous political adversaries. Furthermore, while Trumpist political forces control much of the federal government (as of 2019), the cultural establishment has been consistently critical of the administration. Partisanship is a compelling but incomplete explanation. The ferocity and ubiquity of Trump criticisms – which range from substantive policy arguments to mockery of the president’s body, hair, and eating habits – provide material for a narrative about elite opponents even as the administration pursues a conventional Republican economic agenda rather than one more commonly associated with populism.

The significance of this turn is twofold. First, Bonikowski and Gidron note in a study of populist campaign rhetoric among presidential candidates that populist appeals have generally been the domain of outsider candidates with less experience as professional politicians.¹⁶ In other words, populism has been an electoral appeal of challenger candidates, which fits with Trump’s status during the 2016 campaign. However, the dynamics of these arguments shifted when Trump assumed the power of the presidency. As Lieberman, Mettler,

¹⁵ Mason, *Uncivil Agreement*.

¹⁶ Bonikowski and Gidron. “The Populist Style in American Politics.”

Pepinsky, Roberts, and Valley have observed, the Trump administration has demonstrated a willingness to use the tools of the executive branch to punish political adversaries.¹⁷

While Trump has no clear historical antecedent, we pose the question of whether his populist rhetoric in 2016 and beyond was truly a departure from the language of previous presidential aspirants. We find that while Trump has uniquely used the language of anti-pluralist populism to delegitimize his opponents, language that incorporates broad criticisms of various institutional targets has not been uncommon in recent presidential politics.

LEFT POPULISM OF THE RURAL WEST

In this section, we turn to the political geography of American populism in historical context. Differences across the major regions of the United States has driven recent political conflict, although contemporary populism has not been examined explicitly through this lens.¹⁸ Perhaps the work that comes closest to this theme is Katherine Cramer's *The Politics of Resentment*, which examines the attitudes of rural Wisconsin residents toward public employees and urban areas in their state.¹⁹ The literature on American populism also highlights the importance of periphery and outsider status. Bimes and Mulroy argue that, "presidential populist leadership has been closely linked to wider changes in the relationship between presidents and governing institutions."²⁰ They find that while nineteenth-century Democratic presidents employed populist rhetoric to push back against a national government dominated by special interests (156), Republican populism in the twentieth century has adopted similar anti-statist themes, but with tamer rhetoric. In other words, as the presidency has come to be understood as part of a larger national administrative apparatus, the employment of antagonistic populist rhetoric has been a more difficult fit. Similarly, Bonikowski and Gidron find that a presidential candidate's "perceived distance from the federal political elite," as measured by previous offices held and length of political career, is linked to use of populist rhetoric.²¹

Populism as a distinct political movement emerged in the 1890s in the United States, although many of its ideological roots can be traced back to the early nineteenth century and before. Charles Postel has described at length the complexity of the movement's structure and ideas, noting that grassroots organization took place throughout the country. While Postel emphasizes the geographic diversity of the Populist movement, its merger with mainstream

¹⁷ Lieberman et al., "Trumpism and American Democracy."

¹⁸ Hopkins, *The Increasingly United States*; Mellow, *State of Disunion*.

¹⁹ Cramer, *The Politics of Resentment*.

²⁰ Bimes and Mulroy, "The Rise and Decline of Presidential Populism," 138.

²¹ Bonikowski and Gidron. "The Populist Style in American Politics," 1603.

politics also shifted focus to a more explicitly regional reach and strategy. The electoral map from 1892, when the Populist Party ran its own candidate, James Weaver, and from 1896, when the Democratic Party nominated the populist William Jennings Bryan (who was subsequently nominated by the Populist Party), illustrates the geographic nature of this movement. After substantially merging with the Democratic Party in 1896, nominating their candidate, William Jennings Bryan, populists found their electoral fortunes still largely concentrated in “under-developed regions ... whose residents had long nursed an anger against the urban, moneyed East.”²²

The best-known populist rhetoric of this era probably comes from the convention speech of William Jennings Bryan, accepting the Democratic presidential nomination in 1896. While the line about the “cross of gold” and the implications for the party’s shift on monetary policy are frequently cited, the speech also invokes many themes about economic elitism. This includes the urban–rural divide that both animated populist claims and limited the success of the movement. Bryan described the “producer” vision of agrarian populism in apocalyptic terms:

You come to us and tell us that the great cities are in favor of the gold standard; we reply that the great cities rest upon our broad and fertile prairies. Burn down your cities and leave our farms, and your cities will spring up again as if by magic; but destroy our farms, and the grass will grow in the streets of every city in the country.²³

The economic populism embraced by Democrats in this era reappeared in New Deal rhetoric.²⁴ Other themes, including geographic resentments and uneasy integration with mainstream party politics, have also recurred. Yet, as we will see in a later section, changing context has altered populism on the left, altering its regional content and orientation toward institutions.

RIGHT POPULISM OF THE SEGREGATED SOUTH

Defining the conservative populism of the South is more complicated. The focal point for the merging of a populist political messaging style and the substance of southern anti-integration was Alabama governor and presidential candidate George Wallace. The conservative populism of the late 1960s differed from the economic populism decades earlier; it focused on the middle-class and “ordinary” Americans. This emphasis was part of a political strategy to break away from the party’s disadvantage relative to Democrats with working- and middle-class voters, as well as an effort to capitalize on post-Civil Rights racial resentment.²⁵

²² Kazin, *Populist Persuasion*, 42; Postel, *Populist Vision*.

²³ Bryan, “Democratic Convention Address.”

²⁴ Gerring, *Party Ideologies in America*.

²⁵ Mason, *Richard Nixon and the Quest for a New Republican Majority*, 220.

Wallace biographer Dan Carter contrasts the segregationist governor with more “authentic” populist voices genuinely concerned with reform, and suggests that both the slippery definition of the term and Wallace’s own lack of conformity to received ideological categories drove the use of this label.²⁶ Nevertheless, conservative populism can trace its anti-elite, antigovernment and, to use Joel Olson’s phrase, “white ordinariness” roots to a geographically segmented system of politics.²⁷ The targets of this strain of populism were also less straightforward. While the literal targets of populist anger were intellectuals and elites, sometimes with a geographic component, the implied targets were racial minorities seeking rights and protections. Populism in this form becomes not only complicated but also insidious, as it makes one set of claims about elites in order to oppress the already disadvantaged.

POPULIST RHETORIC IN THE TWENTY-FIRST CENTURY

Here, we turn to the question of how twenty-first-century presidents and presidential aspirants have used populist appeals. We draw on several sets of speeches from the American Presidency Project. The 136 speeches analyzed in this section come from several different categories: speeches given by candidates and former presidents during the 2016 nomination campaign, speeches given by the major candidates in fall 2016, and speeches given by Trump during his early months in office. As with previous analyses of populist rhetoric, we relied on both automated and hand-coding methods. The text was analyzed by first creating a dictionary using the software program Diction (v. 7.1.3). This dictionary differed from some past efforts to assess populism because it did not include language about a unified people. Rather, it included words associated with frequent targets of American populism. These words included banks, bureaucracy, bureaucrats, cities, coasts, Congress, corporations, east, educated, elites, experts, interest groups, media, politicians, powerful, rich, special interests, system, Washington, wealthy.

In the hand-coding portion of the analysis, we eliminated references that were irrelevant, and drew qualitative assessments of the relevant references. These are presented in the following sections, and, as we will show, were not clearly classifiable into positive and negative references. Instead, we found that the praise and criticism for institutions of power were in many cases bound together or at least presented in the same speech.

The approach here departs from some previous studies, which hold individual politicians as the unit of analysis and compare them. For example, using a sophisticated, multipart measurement for populist speech, Eric Oliver and Wendy Rahn demonstrate that Trump and Sanders use more populist

²⁶ Carter, *The Politics of Rage*, 344.

²⁷ Olson, “Whiteness and the Polarization of American Politics.”

rhetoric than other 2016 contenders.²⁸ They also illustrate how the two candidates use forms of populism most typical for their respective parties. Trump employed political populism while Sanders used more economic populism. It is now well established that some politicians draw on more populist tropes while others use them more sparingly. However, we begin this analysis from the premise that most politicians use some populist frameworks, and that this language can be embedded in other types of political appeals, or spoken alongside opposing frameworks. Furthermore, the focus of this analysis is on the ways in which populist rhetoric is directed at institutions and other targets of antagonism. The method developed assesses how populist language about institutions, social groups, and ideas compares with other discourse about these same things.

The pursuit of the presidency has a distinct political geography. Nomination seekers and their surrogates (like George W. Bush speaking on behalf of his brother Jeb) concentrate their efforts in Iowa, New Hampshire, and South Carolina. These locations are relevant to the regional populisms that have historically shaped American politics, especially as they still hold identities as peripheral, rural areas excluded from the urban cultural core. Fundraising, especially for Democrats, happens in these urban centers, often not located in competitive or strategic states. For example, Obama's fundraiser comments are concentrated in Chicago, Illinois, Seattle, Washington, and Los Angeles, California. However, the relatively small number of speeches makes it difficult to draw serious inferences about regional patterns in presidential and candidate populism. We discuss our findings with regard to the politics of periphery in the next sections.

The 2015–2016 Nomination Campaign

The surveyed period included twelve speeches delivered by Barack Obama, then the sitting president, at fundraisers for various organizational wings of the Democratic Party as well as for specific candidates. This period also featured several speeches by Vermont Senator Bernie Sanders, whose left-wing populist tendencies have been documented in previous research.²⁹ Comparison between these two politicians' use of rhetoric about common populist targets illustrates the ways in which populism is both integrated into mainstream political discourse, as well as the contrast between its mainstream uses and more overt populist appeals.

Many of Obama's references to Congress, Democrats, and politicians were positive or neutral. A frequently repeated line was "And so our unfinished

²⁸ Oliver and Rahn, "Rise of the Trumpenvolk."

²⁹ Cinar, Stokes, and Uribe, "Presidential Rhetoric and Populism"; Oliver and Rahn, "Rise of the Trumpenvolk."

business doesn't depend on me or Congress or even the next Democratic President, it will depend on us." Obama also referred to politicians in a matter-of-fact way, conceding the realities of politics while drawing a comparison between Republicans and Democrats: "Democrats are politicians too. You've to worry about constituencies and polls and trying to get reelected. But we tend to pay attention to facts, and we tend to pay attention to evidence, and we actually listen to reason and arguments."

The forty-fourth president's comments on other populist targets, Washington and the media, were less positive. A typical comment from Obama about the media emphasized its role in exaggerating and rewarding political conflict: "And we've got a media that likes to concentrate on conflict, and you get attention, you can cash in by saying the most outrageous things – a system that rewards people trying to score political points rather than actually get things done."³⁰ These comments were linked to a critique of the "system" that rewards "division and polarization and short-term thinking." At a fundraiser in Seattle for Senator Patty Murray, Obama quipped about the dysfunction of the nation's capital: "Now, I know sometimes in the other Washington, our politics doesn't always reflect the decency and the common sense of the American people."³¹

Expressions of exasperation and willingness to blame the country's problems on "the system" and elites in Washington made some sense given Obama's political history. As Cinar, Stokes, and Uribe point out, Obama's initial entry into presidential politics drew on his status as a political outsider.³² Furthermore, as a politician who ran on the idea of changing the system and making major policy change, he had been thwarted by structural features – especially a polarized landscape and outrage-based conservative media – throughout his eight years in office.

Obama's comments about some of the frequent targets of populism – the media, Washington, "the system" – differed a great deal in tone and frequency from those delivered by Trump and Sanders. Nevertheless, they also contained some common kernels with more bombastic populist rhetoric. In contrast with Trump, Obama never referred to the media as "the enemy of the people" or accused them of lying. Yet, he did consistently point to their role in creating a polarized and dysfunctional political system. These statements implied that the "system" and the media sometimes fostered division at the expense of a more unified national public, conforming to a mild logic of populism. In another regard, Obama's comments were consistent with some of the research on polarization, which suggests that the news media has been pivotal in shaping the tone and hostility in partisan politics and that the importance of belonging

³⁰ Obama, "Remarks at a Democratic National Committee Fundraiser in Los Angeles."

³¹ Obama, "Remarks at a Fundraiser for Senator Patricia Murray."

³² Cinar, Stokes, and Uribe, "Presidential Rhetoric and Populism."

to a winning “team” has come to drive polarization.³³ Nevertheless, they did contain some of the same targets as later and more forceful uses of populism.

However, these comments also combined criticism of institutions with a defense of mainstream politics. For example, Obama’s Seattle remarks later included a more complex point about anti-Washington cynicism: “And look, it’s comfortable to just say Washington doesn’t work anymore, everything is dysfunctional, just to turn away.” His comments also suggested that while it was understandable that people might become frustrated and disengage because of the “system,” the only path to political progress also lies with engagement in the system. For example: “And as frustrating as Washington can be – and I promise you, it can be frustrating – [laughter] – the system has a way of, over time, just jiggering and going down blind allies and hitting bumps, but if we are determined to change it, it changes.”³⁴ Similarly, at a Democratic Hope Fund dinner, Obama acknowledged the prevailing anti-system attitudes of the moment. “And I know that we live in a cynical time, and you’re seeing in our election cycle right now the expressions of a lot of anger and frustration. Some of it is manufactured for political purposes. Some of it is hype that we see in the news cycle, in the media, in the age of Twitter. But the frustrations are there, and they’re real.” In many of Obama’s communications, critiques of institutions were often interconnected with messages of hope and encouragement about the potential to work for change within the political system.

Sanders’ use of populist rhetoric made him stand out not only from other Democrats (namely, Obama and Clinton) but also from populists on the right like Trump. Oliver and Rahn observe that Sanders’ 2016 primary rhetoric featured a high score on “economic populism, blame attribution, and invocations of ‘America’ but employs a more complex and sophisticated language. Nor does he score high in the use of ‘we–they’ collectivist rhetoric. Thus while Sanders may be ‘populist’ in a strictly economic sense, his language is not nearly as ‘of the people’ as either Carson’s or Trump’s.”³⁵ Cinar, Stokes, and Uribe identify Sanders as a left populist, observing that “Sanders’s words of disparagement are aimed at traditional populist targets: Wall Street, bankers, the super-wealthy. Except for the absence of complaints about the railroads and the gold standard, he sounds a lot like American populists of the late nineteenth century.”³⁶

Importantly, however, Sanders’ economic populist rhetoric, at least in the brief period surveyed here, was closely tied to his criticisms of the political system. For example, at the 2015 Jefferson–Jackson Day dinner, Sanders offered

³³ Grossmann and Hopkins, “Placing Media in Conservative Culture”; Young, *Irony and Outrage*; Mason, *Uncivil Agreement*.

³⁴ Obama, “Remarks at a Democratic National Committee Fundraiser in Chicago.”

³⁵ Oliver and Rahn, “Rise of the Trumpenvolk.”

³⁶ Cinar, Stokes, and Uribe, “Presidential Rhetoric and Populism,” 251.

an indictment of economic and political elites alike: “After I came to Congress, corporate America, Wall Street, the administration in the White House and virtually all of the corporate media pushed for passage of the North American Free Trade Agreement.” The same speech also criticized the media, along with the “political establishment,” for their support of the Iraq War in 2003. After his victory in the Iowa caucuses, Sanders took aim at several of the typical populist targets. His words emphasized the parallels across different seats of power, noting “As I think about what happened tonight, I think the people of Iowa have sent a very profound message to the political establishment, to the economic establishment, and by the way, to the media establishment.” Sanders also reminded his audience that “experts” had doubted the electoral chances of Barack Obama eight years earlier. In an address at Georgetown University, Sanders once again explained the connection between political and economic power.³⁷

Analyses of Sanders’ populist rhetoric that classify it as solely economic populism omit a critical aspect of his message. His critiques targeted economic elites in ways that were not entirely out of step with past democratic ideas and were, as we see in the next section, possible for Hillary Clinton to incorporate into her messages.³⁸ Populist ideas about the failures of the political system offer a different set of challenges for mainstream politicians. Such complaints have become a routine feature of political rhetoric, in the form of anti-Washington messages or those that decry the “system” as a corrupting force. However, Sanders’ merging of the two kinds of populist set his messages apart, and drew on existing frameworks to criticize the *status quo* in ways that were difficult for mainstream politicians to respond to or adopt.

CLINTON VERSUS TRUMP

As the 2016 campaign came to an end, Hillary Clinton and Donald Trump both spent a great deal of time in highly competitive states throughout the country – Colorado, North Carolina, Florida, Ohio, and Pennsylvania. Trump also expanded his geographic reach a bit, adding Michigan, Wisconsin, Arizona, and Nevada to the list. Clinton also spoke in New Hampshire and at the Alfred Smith dinner in New York City.

Like Obama, Clinton often married populist and anti-populist, pro-institution themes in her speeches. “Washington” was often a soft target, with critiques implicit in statements like, “That’s what we need more of in Washington, people like Patrick who are going to get up every day and go to work for you, a better life for you and your families, instead of blocking progress at every turn, listening to the special interests and powerful forces that really are not interested in what it’s going to take for every one of you

³⁷ Sanders, “Remarks at Georgetown.”

³⁸ Gerring, *Party Ideologies*.

to get ahead and stay ahead.”³⁹ In Daytona Beach a few days later, Clinton urged voters to elect Murphy because “we need people in Washington who are problem-solvers, not problem-makers.”⁴⁰ Similarly, in a speech in Winston-Salem, North Carolina, Clinton said of Senate candidate Deborah Ross, “She will be an independent voice for the working families in this state, and she will help break through the gridlock in Washington.”⁴¹ While these were campaign statements in support of Congressional candidates, they also drew on familiar tropes about the problems of government, the established system, and the incumbent politicians.

These kinds of statements seem at first glance to be political boilerplate. Yet, the very ordinariness of such reflexive anti-Washington statements, tied in with party politics and campaign rhetoric, reveals how populist anti-institutional ideas are woven into American political communication. Politicians voice these sentiments alongside defenses of the system and its institutions. Furthermore, the expectation that criticism of “Washington” will be a mainstay of campaign discourse helped to create the foundation for more overtly populist appeals. These anti-Washington remarks mingled both accurate critiques of the system’s lack of responsiveness and empty tropes about “breaking through gridlock” that cast political conflict as a problem rather than a natural occurrence in a democracy.

Clinton’s remarks in October 2016 differed from Obama’s in another critical way. While Obama sometimes castigated the media for their role in rewarding political division, Clinton praised the role of the press. These statements were embedded in the specific context of the general election against Trump. In her Coconut Creek speech, Clinton drew a contrast between herself and her opponent: “And we don’t punish newspapers or journalists that try to cover the news or are critical of politicians, or threaten to restrict the First Amendment, because our democracy depends on a free press.”⁴²

Clinton’s speeches featured notably more economic populism than Obama’s, however. By October, she had adopted some version of Bernie Sanders’ economically populist talking points, speaking about the abuses of corporations and banks. Her statements implicating “the wealthy” often tied tax cuts and other policies intended to benefit rich Americans to her opponent. In this sense, Clinton and Sanders were not so different in their use of populism, and both fit into an established, if not ubiquitous, tradition in the modern Democratic Party. When it came to other targets, Clinton both embraced populist critiques of established power and defended important, if powerful, institutions like the press and the political system in general. Some of her economic populist rhetoric was aimed at her opponent. As we shall see, Trump returned the favor in his frequent anti-system populist claims.

³⁹ Clinton, “Remarks at Broward College’s North Campus.”

⁴⁰ Clinton, “Remarks at the Dickerson Community.”

⁴¹ Clinton, “Wake Forest University.”

⁴² Clinton, “Remarks at Broward College.”

By the end of Donald Trump's presidency, his penchant for delegitimizing rhetoric against democratic institutions, perhaps most infamously the news media, had become a familiar aspect of American politics. However, it is worthwhile to consider the messages of antagonism that Trump used on the campaign trail in 2016. Our analysis of his October 2016 communication is consistent with other scholars' findings that Trump's populism took the form of political, rather than economic, antagonism. In contrast with Clinton and Sanders, Trump's speeches rarely included negative references to the banks, corporations, or the wealthy. Trump often ended speeches by talking about making America wealthy again. Instead, the targets of his criticism were politicians, the system, and Washington. Populist attacks on the media included complaints about their lack of coverage of preferred issues (such as the allegation of paid protesters at Trump rallies), and accusations that they were part of the Clinton campaign. Many of the statements about the corrupt Washington establishment or the mistakes of career politicians were directly linked to Clinton.

One distinct aspect of Trump's populist rhetoric is the extensive list of targets employed in nearly every campaign speech in October, 2016. In addition to talking about the media, Trump offered a comprehensive critique of the American political system in some speeches, decrying career politicians in Washington and the role of special interests. The political establishment was implicated in failing to enact adequate border policy or listen to the public on trade. The "Drain the Swamp" stump speech also called for Congressional term limits, a popular idea but also one within the populist domain.

It is difficult to assess the impact of specific campaign rhetoric on the hearts and minds of voters or the outcome of the election. However, examining how antagonistic populist rhetoric often works alongside mainstream political speech, with criticisms of groups and institutions often presented with defenses of different aspects of the political system, helps to illustrate how the populist turn in 2016 built on existing tropes. Sanders combined economic populism with broad institutional critiques. Clinton was able to pick up on that populism, but refrained in general from political populism. Trump, however, adopted anti-Washington rhetoric used by mainstream outsider candidates like Obama, and even invoked mildly by Clinton. Trump increased the intensity of this rhetoric, without tempering it with defenses of the system, and offered his own candidacy as the solution.

CONSERVATIVE POPULIST RHETORIC IN AND OUT OF THE WHITE HOUSE

The previous section illustrates how populist and anti-institutional campaign rhetoric built on mainstream language used by democratic politicians. This section looks at how Trump's rhetoric, this time on the road as a newly elected president, compared to that of the most recent Republican president, George W. Bush, during his first 100 days in office in 2001. While existing

research suggests that proximity to power makes a difference for how politicians use populist rhetoric, we also know that lines between governing and campaigning have increasingly blurred. This has been especially true for Trump, who has continued to hold campaign-style rallies throughout this presidency and to launch populist attacks against opponents and especially the news media.

Recent conservative populism has had a distinct rhetoric of political geography. During the 2008 campaign, Sarah Palin drew criticism for referring to North Carolina as “real America.” In an article on possible democratic challenges to Donald Trump, a Republican spokesperson was quoted saying, “[Trump’s 2020 opponent should be] Somebody who speaks to common-sense American values – that is what the Democrats need. I’m not sure who that person is, but I am pretty sure she or he does not reside in New York, Massachusetts or California.”⁴³

We have seen how the electoral map creates a politics of periphery that is evident in the rhetoric of populist antagonism among presidential candidates. How does this manifest once the president is in office? This section takes up the question with a specific focus on Republican presidents, comparing Donald Trump with George W. Bush. Both presidents undertook some travel during their first 100 days in office, with Bush making forty speeches and Trump making twenty-one, as archived by the American Presidency Project. The political geography of each president’s travel was somewhat different; Trump spent a higher percentage of his time in the South (thirteen speeches, not counting those delivered in Washington – adjacent areas of Virginia), including Florida. Bush also spent considerable time there (seventeen speeches, including two in Virginia outside of the DC area). Both presidents spoke in Wisconsin and Michigan. But Bush also traveled to other parts of the Midwest, interior West, and border regions, including Montana, North Dakota, Iowa, and Missouri.

One of the central purposes of Bush’s speaking tour in early 2001 was to promote education reform. In promoting this initiative (what would eventually be the No Child Left Behind bill), Bush frequently talked about the idea of local control and not allowing “Washington” to determine local education policy. (The contradiction between these statements and the passage of major legislation that increased federal involvement in education is perhaps another discussion entirely.) These comments often took the form of soft anti-Washington populism, as in an address in Omaha, Nebraska: “Even though I have a Washington, DC, temporary address, I want you to know I strongly believe in local control of schools. I believe the people who care more about the children of Nebraska are the citizens of Nebraska. And we must work together, the Congress and the executive branch must work together to pass power out

⁴³ Cohen, “Trump’s Road to 2024.”

of Washington to provide flexibility at the local level. One size does not fit all when it comes to educating the children of our country.”⁴⁴

Bush often repeated this line about having a Washington address but placing value on getting out of Washington (Atlanta, GA). Some stronger anti-Washington rhetoric appeared in two speeches in North Dakota. Speaking about the budget in Fargo, Bush said, “And that means the folks are overtaxed, and if you’re overcharged for something, you ought to demand a refund. And I stepped in front of the Congress and demanded a refund on your behalf.” (Bush also talked about refunds in Atlanta, but he used the word “remind” instead of “demand.”)⁴⁵ In Sioux Falls, he also implicated Congress, stating, “I also don’t trust the Congress to pick winners and losers in the Tax Code.” Further comments about government spending included, “But if you listen to the voices of those who would rather keep your money in Washington, DC, they say we can’t meet the needs. I’m telling you, we can meet the needs with the right kind of priorities.”⁴⁶

Bush’s anti-Congress rhetoric in these sets of remarks stands apart from some of his other communications, which often mentioned Congress in a more neutral or even positive way. These comments included statements about legislation he had sent Congress or noting that he hoped Congress understood ideas about local control or fiscal responsibility. In the two North Dakota speeches, however, Bush adopted a classic populist presidential stance. The presentation of the president as the true representative of the people’s interests against a Congress that represents power and special interests is a classic presidential populist appeal. Although we have too few observations to draw any clear inferences, it is notable that Bush used this rhetoric for an audience in one of the most peripheral – geographically and culturally removed from coastal elite politics – destinations during his early 2001 travels.

The general orientation of Bush’s messages was much what we might expect from a mainstream conservative politician and newly elected president. As with Obama in 2016, Bush alternated between criticizing and defending powerful governing institutions, generally avoided invoking economically populist rhetoric, and offered mostly mild jabs at the political establishment “in Washington.” It is possible to see how this style of rhetoric set the stage for more intense and bombastic populist antagonism nearly two decades later, while also differing substantially from the later style.

Trump’s 2017 rhetoric took aim at a narrower range of targets than the speeches during the campaign. While campaign appeals attacked “politicians” and the political system, sometimes even invoking economic populist language against the influence of the wealthy in the political system, the tone changed

⁴⁴ Bush, “Remarks in Omaha.”

⁴⁵ Bush, “Remarks at North Dakota State University” and “Remarks at Fernbank Museum.”

⁴⁶ Bush, “Remarks in Sioux Falls.”

once Trump took office. This is unsurprising, as Trump likely came to the realization that he would need allies in Washington in order to pursue his agenda. Some of the outsider anti-Washington rhetoric continued in these speeches, usually connected with Trump's signature policy issues. In Ypsilanti, Trump criticized "Washington" for not acting on trade policy; in Harrisburg, this was connected to immigration. Other anti-Washington critiques were linked to Andrew Jackson, whom Trump referenced in his Ypsilanti speech as well as one in Nashville, Tennessee (the latter address was at an event honoring Jackson's birthday). However, the target that came up in one-third of the speeches during this period was the media. These speeches often contained multiple references to the media, calling them "dishonest" and "fake" accusing them of neglecting to report facts about immigration and crime.⁴⁷

Scholars of comparative politics have discussed the use of the populist label to describe far-right anti-immigrant parties and movements. In the case of Trump, a striking feature of his governing rhetoric is the shift of emphasis from populist antagonism against a wide array of institutional targets to a more explicitly nationalist rhetoric framework. For example, when signing an executive order on trade in Harrisburg, Pennsylvania, Trump made references to keeping jobs in the United States. A similar theme dominated a speech in North Charleston, South Carolina. The focus in this essay on antagonism against institutions and other targets helps to illuminate the difference between these two forms of appeals.⁴⁸

The political geography of Trump's populist antagonism did depart from Bush's in several significant ways. Trump's speeches were more heavily concentrated in the South, with fewer visits to the Midwest and none to interior West states like North Dakota or Montana. Second, when Trump spoke about the problems with "Washington," he invoked policy failings or contrasted the nation's capital, implied to be filled with establishment elites, with the wisdom of the electorate in general. Bush's claims, on the other hand, contrasted Washington with the knowledge found at the local level. While Trump sometimes referred to the "Washington media" on the campaign trail, his later anti-media comments were less specific. Instead, the media serve as a flexible target of populism, amenable to connections with other elites and with periphery politics, or as a separate target all their own.

CONCLUSION

Several features of recent rhetoric from American presidents and presidential hopefuls prompt new questions about populism. The communication choices of Donald Trump and Bernie Sanders stand out, not for the unique targets of

⁴⁷ Trump, "Remarks at the American Center for Mobility."

⁴⁸ Trump, "Remarks at the Boeing Company Manufacturing Facility."

their antagonism, but for the tone and combination of populist critiques of institutions. Other politicians combined praise for targets like Washington, “the system,” or the media with ordinary rhetoric and even defenses of these institutions. The usage of populist rhetoric in this context challenges Canovan’s argument that populist politics exist outside of ordinary politics. The ordinariness of populist rhetoric, incorporated into mainstream speeches, is consistent with the distinct features of American politics such as federalism and decentralization, the downplaying of ideology, and a plebiscitary presidency.

Two major differences between early and contemporary populist rhetoric on the left are evident. While the Populist movement of the Bryan era reconciled itself to a powerful state as a counterweight to the growing power of industrial capitalism, the contemporary populist approach to state power is more complicated. The practical policy agenda calls for regulation and government expansion, building on conventional Democratic Party priorities and extending their scope. However, the distinguishing factor between Bernie Sanders’ campaign rhetoric and Hillary Clinton’s in 2016 was not their orientation toward economic elites but toward the political system. Populism on the left contains a contradiction between its advocacy for an expanded state and its condemnation of a corrupt system of political power. This contradiction can, of course, be resolved through systemic reform and, crucially, replacement of governing elites – this is where the remedies of populism come in. Nevertheless, the approach to state power is not entirely consistent. In the 2020 Democratic nomination contest, tensions between the party’s “establishment” and its populist critics briefly animated the debates between Bernie Sanders and Joe Biden.

Second, the persistent political geography of populism presents a conundrum. As we have noted, populism is historically rooted in a politics of periphery, with the regions like the West and South mobilized against “elites” located in the nation’s power centers, usually depicted as coastal cities. The electoral map has created a new, durable politics of periphery. While candidates stop in major cities for fundraisers, the nomination process emphasizes a handful of states: Iowa, in the Midwest, South Carolina, in the South and New Hampshire, which is in the Northeast but still carries a strong rural identity. Candidates employ anti-Washington rhetoric for these audiences. Similarly, the general election map in 2016 sent candidates to the South – North Carolina and Florida – and the Midwest – mostly Ohio. The rhetoric of populist periphery makes sense given this geography. However, the base of the Democratic Party is located heavily in coastal and urban areas. This presents a dilemma for populism on the left. Of course, this dilemma is not entirely new – nineteenth-century populists also struggled to form a multiracial coalition and to expand their appeal into the cities. The persistence of periphery rhetoric highlights the tension between the political geography of the presidential selection process and the base of the Democratic Party. For Republicans,

this emergent urban–rural divide has presented new opportunities to employ core-periphery rhetoric as a racist dog whistle. After the 2020 elections, Trump took geographical populist rhetoric in a new direction, claiming without evidence that voter fraud had occurred in cities with large Black populations, such as Detroit, Milwaukee, and Philadelphia.

Populist rhetoric integrates more seamlessly into some typical Republican tropes, such as distrust of the national government and valorization of the “ordinary” at the expense of experts and elites.⁴⁹ At the same time, the contrast between Trump’s rhetoric and that of other presidents and presidential candidates illustrates how much of a departure it is from standard political messages. The shift in Trump’s own rhetoric from campaigning to governing illustrates this distinction as well. The comparison between Trump and Bush also suggests that, even as multiple political structures – the Electoral College, the nomination process – encourage a politics of periphery, the nationalization of politics might prompt populists to address different targets and adopt different language. Such a development may be especially dangerous if it involves attacks on the news media. Another possibility raised by the 2020 election and its aftermath is that attacks will be sustained on the election administration apparatus, even beyond what we have already seen. It is not difficult to imagine the rhetoric of such attacks invoking ideas like local control against election administrators who are part of the political establishment.

American populism has evolved with changing institutions and ideological developments. It is also interconnected with mainstream politics and political rhetoric in a way that highlights what is different about the most recent populist turn. Questions remain about the normative implications of populism. Critics assail populism as at odds with liberal democracy, sometimes problematically defining “the people” in ways that are exclusionary. But populism also invokes criticisms of institutions, which are both essential to democracy and sometimes ripe for critique. An examination of contemporary populist rhetoric in the United States highlights this ambivalence, illustrating the ways in which populism reflects back routine anti-institution rhetoric. Yet, when intensified and mixed with other political developments, populist rhetoric can take on a new, destabilizing dimension.

⁴⁹ Gerring, *Party Ideologies*.

PART III

The Place of Constitutional Courts in Regimes Embracing Popular Sovereignty

Recent Problems in American Self-Governance

Carol Nackenoff

The complete independence of the courts of justice is peculiarly essential in a limited Constitution. By a limited Constitution, I understand one which contains certain specified exceptions to the legislative authority; such, for instance, as that it shall pass no bills of attainder, no ex post facto laws, and the like. Limitations of this kind can be preserved in practice no other way than through the medium of courts of justice, whose duty it must be to declare all acts contrary to the manifest tenor of the Constitution void. Without this, all the reservations of particular rights or privileges would amount to nothing.

Alexander Hamilton, *Federalist* 78 (2003 [1787–1788])

INTRODUCTION

The United States was not constituted to give unlimited sway to popular sovereignty.¹ Political institutions designed in the founding era were designed to check, as well as give voice to, the will of majorities. At the end of the eighteenth century, the idea of a written constitution as fundamental law, whose provisions had a status higher and apart from ordinary statute law was new, yet the framers understood the new constitution to place certain matters beyond the purview of the legislative – or the executive – authority.² Delegates who met in Philadelphia in 1787 and who drafted the constitution expressed real

¹ Thanks to Swarthmore College students Angus Lam '20, Natasha Markov-Riss '20, and Abigail Diebold '20 for research assistance. A note about the epigraph: Hamilton wrote the *Federalist Papers* 78–83 concerning the judicial branch, and yet he was not present in Philadelphia during most of the time when the delegates were discussing the role of the judiciary. It is probable that Hamilton conferred with Madison, who took the most extensive notes at the Constitutional Convention.

² Wood, *Creation of the American Republic*, 262, 274–75; Hall, *Magic Mirror*, 15, 54–55, 62.

misgivings about what popular majorities might do.³ They had before them examples of Daniel Shays' rebellion and expressed worries about debtor relief and other provisions in newly enacted state constitutions. One prominent thesis about the founding era is that, in 1787, wealthy elites, concerned over what they viewed as a dangerous excess of democracy, managed a kind of coup against the Declaration and the democratic sentiment in the Articles of Confederation.⁴ The House of Representatives, the body closest to the people, with members directly elected by them, was checked by the Senate and by the possibility of a presidential veto of legislation, yet one of Thomas Jefferson's complaints to Madison about the new American Constitution was that it was too easy to pass legislation. He thought any bill should have to be engrossed one year and considered without amendment the next before it could be passed, with a two-thirds vote of both Houses required if greater speed were deemed necessary.⁵

The federal judiciary, the Third Branch, was designed to play a role in curbing popular majorities. The scope of that power has been the subject of a great many scholarly treatments and disagreements; suffice it to say here that the power of judicial review, long established, is often justified today in terms of the protection of individual rights enshrined in the Bill of Rights and elsewhere in the constitution (e.g., *habeas corpus*) against majorities that may wish to trample these rights.⁶ As we will see, the role of constitutional courts in regimes that celebrate popular sovereignty is complex, and invocation of language about judicial activism and restraint is not of much help.

The relationship between constitutional courts and popular sovereignty is potentially fraught in any nation that aspires to democracy. In some nations and under certain circumstances there are provisions that permit an override of the judiciary. In a few nations, a simple legislative majority can negate some kinds of decisions of constitutional courts. In Canada, the "notwithstanding clause," found in Section 33 of the Canadian Charter of Rights and Freedoms permits both the federal and provincial legislatures to *expressly* declare by a simple majority that a law shall operate even if a constitutional court has ruled the law unconstitutional, when the matter involves Sections 2 and 7–15 of the charter, which contain many of that charter's most important rights guarantees.⁷ A Section 33 override lasts for five years, but can be renewed upon its expiration. After the provision was added to the Canadian Charter in 1981, then-Prime Minister Pierre Trudeau said: "[I]t is a way that the legislatures,

³ Farrand, *Records of the Federal Convention*; Hutson and Rappaport, *Supplement to Max Farrand's Records of the Federal Convention*, 84.

⁴ E.g., Jensen, "The Articles of Confederation."

⁵ Jefferson, "Letter to James Madison," postscript.

⁶ Akhil Reed Amar argues that rights were originally majoritarian, meant to protect the people collectively and/or the states, against the federal government. After the Civil War Amendments, a number of rights (though not all) became properly understood as individual rights. Amar, *The Bill of Rights*.

⁷ See Constitution Act, 1981, § 33 (Can.). Stephanopoulos, "Case for the Legislative Override," 260.

federal and provincial, have of ensuring that the last word is held by the elected representatives of the people rather than by the courts.”⁸ In Israel, a similar notwithstanding clause was added to the Freedom of Occupations chapter of its “Basic Law” in 1994, allowing a simple majority of the Knesset, to override certain judicial decisions.⁹ The override can last for four years. In a different sort of constitutional arrangement, there may be “directive principles of public policy” that are committed solely and expressly to the legislature, unenforceable by courts.¹⁰

The US Constitution does not provide for such overrides of the judiciary, and with its cumbersome Article V amendment process, “correcting” unpopular readings by use of formal amendments has been difficult.¹¹ However, Congress can sidestep and effectively erase court readings of ordinary statutes by passing new laws. On occasion, a displeased federal legislature has also stripped federal courts of jurisdiction to hear certain kinds of cases.¹²

If apex courts protect the separation of powers, they help prevent any one branch of government from claiming to be the sole voice of the popular sovereign.¹³ When perceived as protecting constitutional barriers to raw democratic power, constitutional courts have often been targeted by contemporary populist attacks on liberal institutions. This is part of a pattern of attacks on the foundations of liberal constitutional order in the name of democratic equality

⁸ Quoted in Brosseau and Roy, “Notwithstanding Clause,” 4.

⁹ That chapter now states that “A provision of a law that violates freedom of occupation shall be of effect... if it has been included in a law passed by a majority of the members of the Knesset, which expressly states that it shall be of effect, notwithstanding the provisions of this Basic Law.” Overrides can last four years. The Knesset had rarely used this power. See “Israel: Basic Law of 1994, Freedom of Occupation, 10 March 1994,” available at: www.refworld.org/docid/3ae6b52610.html [accessed 15 October 2022]. Stephanopoulos, “Case for the Legislative Override,” 260.

¹⁰ Tushnet points to the Irish constitution of 1937 and the Indian constitution of 1950, modeled on the Irish one. Tushnet, *Taking the Constitution Away from the Courts*, 321, 331n2.

¹¹ Some amendments do so. The Sixteenth Amendment (1913) authorizing a federal income tax was a direct response to the Supreme Court’s 1895 ruling in *Pollock v. Farmers’ Loan & Trust Co.*, 157 U.S. 429; the Nineteenth Amendment (1920) overturned *Minor v. Happersett*, 88 U.S. 162 (1875). The Eleventh Amendment (1795) was passed in response to *Chisholm v. Georgia*, 2 U.S. 419 (1793); *Dred Scott v. Sandford*’s 1857 holding (60 U.S. 393) that blacks could not be citizens was reversed by the Fourteenth Amendment (1868); the Twenty-fourth Amendment (1964), abolishing poll taxes, overruled *Breedlove v. Suttles* (302 U.S. 277 [1937]); and the Twenty-sixth Amendment, reducing the voting age from 21 to 18, overturned *Oregon v. Mitchell* (400 U.S. 112 [1970]), which had prevented Congress from setting the voting age for state and local elections under the Voting Rights Act Amendments of 1970.

¹² Yet, federal courts did not cease to hear *habeas* appeals from Chinese on the west coast despite repeated congressional efforts to limit their jurisdiction and to lodge final decision-making power in the executive branch. Nackenoff and Novkov, “Building the Administrative State.” See also *Boumediene v. Bush* (2008), where the Supreme Court found that power to grant habeas relief to prisoners deemed enemy combatants and held outside the United States could not be removed by passage of the 2006 Military Commissions Act.

¹³ Arato, “Populism, Constitutional Courts, and Civil Society,” 331.

and popular sovereignty flagged by Ewa Atanassow earlier in this volume.¹⁴ Andrew Arato observes that “in the populist struggle against enemies, from Peron to Indira Gandhi, and from Fujimori to Orbán, the one constant is the attack against independent apex courts, that fully ceases only when such a body entirely loses its independence”¹⁵ Since the time of Peron, populist regimes have attacked, or exhibited antagonism toward, independent apex courts.¹⁶ When courts uphold a secular liberal democratic order, they may also be seen as facilitating the “spread of a cultural liberalism at odds with custom and religion.”¹⁷

Support by political elites for courts could even be another factor contributing to the erosion of public faith in the project of legal neutrality.¹⁸ There is evidence that elites have been turning to constitutional courts to entrench their most important policy and rights preferences (e.g., property rights) against waves of democratization.¹⁹ Judicialization of political conflicts over the past half-century or more, removing political disputes from legislatures to courts, is a manifestation of this process. For some scholars, this behavior of constitutional courts represents a transition from judicial review to judicial supremacy.²⁰

AMERICAN SUPPORT FOR CONSTITUTIONAL COURTS

While the rise of populism has also affected American politics, the US Supreme Court still enjoys a good deal of legitimacy. Despite occasional attacks by former president Trump on the judiciary, blaming “Obama judges” for decisions with which he disagreed and expressing (as a candidate) the belief that a Mexican-heritage judge could not be impartial, the court has fared reasonably well, and the chief justice, a Republican appointee, has defended judicial impartiality.²¹ In Gallup Polls, Americans express considerably more confidence in

¹⁴ Atanassow, *Chapter 5*, this volume.

¹⁵ Arato, “Populism, Constitutional Courts, and Civil Society,” 330.

¹⁶ Arato, “Populism, Constitutional Courts, and Civil Society,” 318.

¹⁷ Galston, “The 2016 U.S. Election,” 23; Galston, “Populist Challenge to Liberal Democracy.”

¹⁸ Hailbronner and Landau, “Introduction”; see comments by Rogers Smith in *Chapter 15*, this volume.

¹⁹ Hirschl examines older democracies and Ginsburg finds newly democratizing nations in Asia exhibiting similar patterns. Recently in Great Britain, the Supreme Court has, rather surprisingly, behaved like the US Supreme Court, declaring the prorogation of parliament in advance of the no-deal Brexit deadline unconstitutional. Hirschl, *Towards Juristocracy*; Ginsburg, *Judicial Review in New Democracies*; see also Smith, “Judicial Power and Democracy.”

²⁰ Whittington, *Political Foundations of Judicial Supremacy*, 262; Kotkin and Kramer, “A Layman’s Document, Not a Lawyer’s Contract,” 222.

²¹ <https://time.com/5461827/donald-trump-judiciary-chief-justice-john-roberts/>; www.nytimes.com/2018/11/21/us/politics/trump-chief-justice-roberts-rebuke.html; www.politifact.com/article/2016/jun/08/donald-trumps-racial-comments-about-judge-trump-un/; <https://thehill.com/regulation/court-battles/375875-mexican-american-judge-that-trump-attacked-rules-in-favor-of-trumps>

the Supreme Court than in Congress, although that poll registered an 11 point drop in confidence in the Court between 2021 and 2022.²²

Support for the court has waxed and waned. When populist and progressive reformers were frustrated with the court for invalidating state and federal legislation dealing with social and economic ills a little more than a century ago, there were numerous calls to end judicial review.²³ That progressive era tide subsided. Yet, it remains the case that “[a] central puzzle for the study of judicial review is identifying how judges are able to exercise the power of judicial review so successfully and so often.”²⁴

Current levels of support for the Supreme Court are affected by partisanship. At the same time that former president Trump was challenging judicial independence, Republicans were gaining additional seats on the Supreme Court and on the federal bench. While 46 percent, of the US citizens surveyed in August 2022 in the Annenberg Civics Knowledge Survey trusted the Supreme Court to work in the best interests of the American people (down from 68 percent in 2019, when the question was last asked), 70 percent of Republicans expressed a great deal or a fair amount of trust in the Court, while only 32 percent of Democrats (and 44 percent of independents) did. Only 40 percent of those surveyed in 2022 believed that Supreme Court justices “set aside their personal and political views and make rulings based on the Constitution, the law, and the facts of the case,” but only 29 percent of Democrats, as opposed to 55 percent of Republicans (and 41 percent of independents) took this position.²⁵

There may be good reason to believe that the more politicized the court appears the less deference is accorded to court interventions in political controversies. The polarization of American politics has now become more pronounced

²² The 2022 Gallup Poll indicates 25 percent of respondents have a great deal or quite a lot of confidence in the Supreme Court (with Democrats and independents expressing 18 and 15 point losses in confidence respectively from 2021 and Republicans showing a three point gain). Those expressing a great deal or quite a lot of confidence in Congress was 7 percent (there were small differences between those identifying as Republicans, Democrats, or independents, and greater drops in confidence among Democrats from 2021 levels). Respondents expressing a great deal or quite a lot of confidence in the presidency in 2022 constituted 23 percent of all respondents, with a drop of about 10 points since 2021 in each party; the gap between Republicans and Democrats expressing such confidence in 2022 was forty-nine points. Jeffrey M. Jones, “Confidence in U.S. Institutions Down; Average at New Low,” Gallup, July 5, 2022; <https://news.gallup.com/poll/394283/confidence-institutions-down-average-new-low.aspx>.

²³ Robert Lowry Clinton argues that *Marbury* was practically neglected during its first century, being first invoked by the Court in connection with the principle of judicial review in the 1880s. Clinton, *Marbury v. Madison and Judicial Review*. See also Whittington and Rinderle, “Making a Mountain Out of a Molehill?” Ross, *A Muted Fury*.

²⁴ Whittington, *Repugnant Laws*, 9.

²⁵ Annenberg Civics Knowledge Survey, August 2022, posted August 10, 2022; www.annenbergpublicpolicycenter.org/over-half-of-americans-disapprove-of-supreme-court-as-trust-plummets/. For exact question wording and prior findings, see https://cdn.annenbergpublicpolicycenter.org/wp-content/uploads/2022/10/Appendix_APPC_SCOTUS_Oct_2022.pdf

on the Roberts Court. Major decisions that split justices along partisan lines and bitter, partisan confirmation battles (including the majority-Republican Senate's refusal to hold confirmation hearings in the case of Merrick Garland (President Obama's last nominee) fuel perceptions that the court is ideologically driven. "For the first time in the Supreme Court's history, every Republican on the court is to the right of every Democrat," observed Jeffrey Segal, who has used what are known as Martin-Quinn scores to plot the relative location of Supreme Court justices on an ideological continuum by looking at the votes they cast on cases.²⁶ A court that overturns long-standing precedent by narrow margins is likely to be perceived as simply another arena of partisan warfare.

Some legal scholars in the United States have been concerned (even prior to *Bush v. Gore* in 2000), about the propensity to defer to the court's declarations about constitutional meaning. This deference occurs alongside the court's willingness, in recent decades, to wade into politically charged controversies, sometimes declaring that it alone can determine the meaning of the constitution, and leading to charges that prudential judicial restraint is a thing of the past.²⁷ When other branches as well as the public are willing to accept that the court alone determines the meaning of the language in the constitution, deliberation about that document's values and meaning – along with a sense of ownership – as Cass Sunstein and others have noted, declines.²⁸ Such a court may then be contributing to a democratic deficit.

In this vein, Mark Tushnet toyed with the idea of taking the constitution away from the courts, or at least providing instead for a form of weak judicial review as a way for American citizens to own the constitution again.²⁹ Weak-form systems of judicial review "openly acknowledge the power of legislatures to provide constitutional interpretations that differ from ... [or] alter ... the constitutional interpretations provided by the courts."³⁰ This kind of review is a kind of dialogue between the court and the legislature, allowing for revision of the court's constitutional judgments.³¹ "Weak-form review combines some sort of power in courts to find legislation inconsistent with constitutional norms with some mechanism whereby the enacting legislature can respond to a court decision to that effect."³² However, Tushnet argues, legislative interventions cannot be too frequent or become routine if the system is not to morph into one of parliamentary supremacy.³³

²⁶ Segal, "Why We Have the Most Polarized Supreme Court in History."

²⁷ See below for further discussion of the political questions doctrine in light of *Rucho v. Common Cause*. Keck, *The Most Activist Supreme Court in History*; Skinner, "Misunderstood, Misconstrued, and Now Clearly Dead."

²⁸ Sunstein, *One Case at a Time*; Tushnet, *Taking the Constitution Away from the Courts*.

²⁹ Tushnet, *Taking the Constitution Away from the Courts*; Tushnet, *Weak Courts, Strong Rights*.

³⁰ Tushnet, "New Forms of Judicial Review and the Persistence of Rights," 818.

³¹ Tushnet, "New Forms of Judicial Review and the Persistence of Rights," 823.

³² Tushnet, "The Rise of Weak-Form Judicial Review," 322.

³³ Tushnet, *Weak Courts, Strong Rights*, 24–25.

While there are dangers to institutionally constrained, liberal popular sovereignty arising from attacks on constitutional courts, there are also dangers that flow from extreme deference to such courts if popular sovereignty is to be anything other than a fiction we invoke.³⁴ If the Supreme Court engages in decision-making that undercuts processes that help construct a democratic “people,” such decisions become highly problematic, even if they are accepted by a majority of “the people.”

Determining who are the sovereigns in the United States adds another complication. Atanassow, Bartscherer, and Bateman write in the Introduction to this volume that “the fundamental questions of popular sovereignty” concern questions of people: Who is or are the people, against whom is it defined, and who can rule in its name?³⁵ As Azari and Nemecek point out in this volume “there are many overlapping relevant political communities” in the United States; we will explore some dimensions of this particular problem below.³⁶

SITUATING THE US COURT AMONG POPULAR SOVEREIGNS

At the height of the Warren Court’s liberal rights jurisprudence, Alexander Bickel famously worried about an unelected tribunal whose members have lifetime appointments to insulate them from political pressure; identifying a “countermajoritarian difficulty,” he recommended the court exercise the “passive virtues.”³⁷

A major counterargument in this long-running discussion is that the court has largely worked in concert with other branches of the federal government and is much more aligned with dominant political coalitions than Bickel’s worry suggests.³⁸

The court can do harm not only by thwarting the wishes of popular majorities but also by acceding to them. An illustration that the latter problem poses for systems of popular sovereignty with limits is that some of the court’s most egregious decisions regarding indigenous peoples have been robustly majoritarian. *Lone Wolf v. Hitchcock* (1903), referred to as “the Indians’ Dred Scott decision” established congressional plenary power over Native Americans. The

³⁴ On the notion of popular sovereignty as useful fiction, see Morgan, *Inventing the People*.

³⁵ Atanassow, Bartscherer, and Bateman, “Introduction,” in this volume.

³⁶ Azari and Nemecek, [Chapter 13](#), in this volume.

³⁷ Bickel, *The Least Dangerous Branch*.

³⁸ Robert Dahl argued that judicial replacement keeps the Court reasonably closely linked to the dominant political coalition, but the average tenure of justices has now risen to more than twenty-five years, undercutting some of the claim’s merit. Dahl, “Decision-Making in a Democracy.” Scholars exploring the Court’s relationship with dominant political coalitions and/or minimizing the countermajoritarian difficulty include Whittington, “Interpose Your Friendly Hand” and *Political Foundations*, Graber, “The Non-Majoritarian Difficulty”; Klarman, “Rethinking the Civil Rights and Civil Liberties Revolutions”; Friedman, “The Birth of an Academic Obsession.”

court held that Congress could legislate for American Indians just as they did for ordinary Americans, and no longer had to respect past treaties. In an act of what some would call judicial restraint, the court took itself out of the business of reviewing congressional decisions that established direct governance over Native Americans, stating (with great misrepresentation): “Plenary authority over the tribal relations of the Indians has been exercised by Congress from the beginning, and the power has always been deemed a political one, not subject to be controlled by the judicial department of the government.”³⁹ Supporting settler colonizers and also progressive reformers who wanted Indians to live under the law like other Americans the court followed public sentiment and dominant narratives.⁴⁰ This meant that Native Americans were generally legislated for without representation, since “Indians, not taxed” were still deemed ineligible to vote by some western states when they set voter qualifications. Even after the Indian Citizenship Act of 1924, Native Americans living on reservations were sometimes deemed under guardianship or not state residents and were not fully enfranchised until courts intervened in the years leading up to, and immediately following World War II.⁴¹

While the *McGirt* decision (2020) was celebrated as a victory for Native American authority over reservation lands and a rebuff to states seeking to enforce their own criminal laws over crimes committed there, in fact the court’s 5–4 holding simply established that unless and until Congress explicitly abrogated a treaty promise, tribal authority over lands that were explicitly protected by treaty remained intact.⁴²

An issue that has too often been neglected in considerations of when popular majorities should be curbed is which majorities, if any, are being thwarted (although it is sometimes suggested that federal courts lean in the direction of supporting federal power).⁴³ Some make the argument that the majority the court should follow is the one that adopted the constitution – even against temporary latter-day majorities.⁴⁴ This claim, however, would require that constitutional meaning can be clearly ascertained, which does not help us very much if meaning often has to be constructed.⁴⁵

Popular sovereignty is exercised through an ensemble of institutions in the American constitutional structure. By constitutional design, each branch of the

³⁹ *Lone Wolf v. Hitchcock* (1903), 565.

⁴⁰ Thayer, “A People Without Law”; Nackenoff, “Constitutionalizing Terms of Inclusion and Citizenship for Native Americans.”

⁴¹ On less formal means of disenfranchisement, see Schroedel, *Voting in Indian Country*; Keyssar, *The Right to Vote*, 253–55.

⁴² *McGirt*, 2020; Nackenoff and Markov-Riss, *McGirt v. Oklahoma on Native Rights*.

⁴³ That argument, that Article III courts would support the accretion of national power was famously made by Robert Yates, writing as Brutus in the constitutional ratification debates. Yates, “Brutus #11.”

⁴⁴ Rostow, “The Democratic Character of Judicial Review.”

⁴⁵ Whittington, *Constitutional Construction*.

federal government makes efforts to represent “We the People.”⁴⁶ Popular sovereignty is exercised at the subnational as well as the national level. This makes an attempt fruitless to locate a specific guardian – or single institution policing the boundaries – of popular sovereignty. With multiple layers of governance, national power is not all-encompassing, and powers are sometimes concurrent or overlapping; there may frequently be more than one sovereign. Court can thwart popular majorities at one level of government while supporting popular majorities at another.

We therefore must incorporate federalism when exploring the relationship between national-level constitutional courts and popular sovereignty in the United States. While Article V federal amendment procedures are cumbersome, state activity in constitutional amendment and rewriting is ongoing and dynamic, responding far more readily to popular pressures. In practice, as Robinson Woodward-Burns argues, states play an important role in constitutional development as nationally divisive controversies are pushed to the state level. Finding a positive association between the topics of federal and state constitutional proposals, Woodward-Burns argues that state constitutional reforms help stabilize national constitutionalism; the result is a patchwork of changes that are nonbinding on national actors. Many matters are left to the states, partly because the court accepts such a small percentage of cases that parties would bring before it. Most regulation of elections, police powers, referenda, and grassroots initiatives occur at the state level.⁴⁷

When thinking about matters best left to the voters and their elected representatives and matters that ought not be decided by majority vote for the sake of preserving the health of bounded popular sovereignty, constitutional courts sometimes have conflicting claims of both state and federal majorities to factor in alongside a founding document that seeks to limit certain kinds of harms that national majorities might inflict. As Keith Whittington observes, “State laws pose the question of not only *whether* the political majority should get its way but also *which* political majority should get its way.”⁴⁸

Several important cases decided in the recent past raise pointed questions about the role the Supreme Court has to play in maintaining the health of popular sovereignty in a liberal institutional order. In the *Crawford* decision (2008), the court upheld vigorous new state requirements for voter identification, imposed in the name of enhancing confidence in the integrity of the electoral system, without any evidence of in-person voter fraud, giving the green light to states wishing to impose such burdens on what had been considered an extremely important right. In *Citizens United* (2010), Justice Kennedy, writing for the court, found that only *quid pro quo* corruption warranted congressional intervention in election contributions by individuals or corporations;

⁴⁶ Ackerman, “Discovering the Constitution,” 1028.

⁴⁷ Woodward-Burns, *Hidden Laws*, Ch. 1.

⁴⁸ Whittington, *Repugnant Laws*, 12–13.

the appearance of corruption rationale the court held sufficient to justify the Federal Election Campaign Act in *Buckley* (1976, 26–30) (for undermining faith in the integrity of the electoral system) was no longer sufficient. In *Shelby County v. Holder* (2013), the court invalidated the congressional formula used in the preclearance provisions of the 1965 Voting Rights Act – reaffirmed by Congress most recently in 2006 – effectively erasing Section 5 and leaving the Department of Justice the recourse of initiating prosecution on a case-by-case basis under Section 2.⁴⁹ The court went further in *Brnovich* (2021) and made it much more difficult for the federal government to prevent states from implementing new voting restrictions under Section 2, absent proof of a racially discriminatory purpose.

In addition, in *Schuette* (2014), the court determined that state voters could instruct the state of Michigan not to take race into account in admissions and hiring. In *Obergefell v. Hodges* (2015), the court, nationalizing a right, held that majorities within states could not bar same-sex couples from marrying. And in *Rucho v. Common Cause* (2019), the court determined that extreme politically motivated gerrymandering in the states did not present a justiciable question.

This array of important decisions sometimes thwarted the will of national majorities expressed in statute law in favor of states, or a majority of voters in some states; sometimes upheld emerging national majority opinion and rights of gay couples against majorities in dissenting states; sometimes empowered state citizens to challenge state actors seeking to promote racial diversity in state institutions; or empowered members of one political party to reduce the effectiveness of the vote of the opposition party within a state. All these cases had invited Supreme Court interventions in the political process and raised, directly or indirectly, equal protection issues.

For liberal legal scholars such as the late John Hart Ely, the strongest rationale for judicial review is to correct a democratic deficit and pursue representation reinforcement where the political process had failed. In *Democracy and Distrust*, Ely famously claimed that the constitution embodied a textual commitment to democracy as a *process* for resolving issues.⁵⁰ The judiciary played an important role in upholding that commitment, by protecting discrete and insular minorities who had been systematically barred from achieving their goals through the political process (via discrimination). When Congress chose to impose some costs on white Americans by enacting affirmative action, the court had warrant to uphold such measures; since African Americans had been systematically excluded from participation in the political process, they could not rely upon the political process to achieve redress (Ely, 1980). As

⁴⁹ Arguably, the Court had warned Congress to rethink its coverage formula in *Northwest Austin Municipal Utility District No. 1 v. Holder* (2009); the *Shelby County* decision spoke about the aged formula's offense to the dignity to which the states were entitled.

⁵⁰ Ely made clear that democracy did not entail substantive outcomes. Ely, *Democracy and Distrust*.

one scholar restates Ely's formulation, judges "should try to make representative democracy more democratic. They should try to make democracy work according to its own underlying principles."⁵¹

Somewhat similarly, Akhil Amar, for whom the underlying and legitimating principle of America's constitution is popular sovereignty, contends that statutes passed when suffrage has become more inclusive may trump the earlier written constitution, especially when a modern Congress is protecting citizens at risk of being systematically injured on the basis of their birth status. If a post-Nineteenth Amendment statute protective of women's rights conflicted with an older statute or even a constitutional provision that restricted women's rights or interests, the recent one should be preferred since women were not excluded from the decision-making process or the electorate – correcting a retrospective democratic deficit.⁵²

Below, we take a deeper dive into two of the cases mentioned above that are less well mined than the others, posing questions about the relationship between constitutional courts and popular sovereignty in the context of equal access to the political process. Such access is essential if the voice of the "people" is to be credited in a liberal political order. In both cases, the response of the court is troubling.

Partisan Gerrymandering: *Rucho v. Common Cause* (2019)

Since *Carolene Products* (1938, footnote 4), the court has frequently reiterated that it closely scrutinizes cases in which government impinges on the rights of discrete and insular minorities. Race, the court recognized, is different, and the Thirteenth, Fourteenth, and Fifteenth Amendments are read as conferring special court responsibility to closely scrutinize classifications based on race. Certain classifications are inherently suspect (*Yick Wo v. Hopkins*, 1886; *Korematsu v. United States*, 1944). The constitution says nothing about parties; the framers viewed parties as factions inimical to the general interest.⁵³ And yet parties quickly became essential to organizing political preferences, and the party system became integral to American politics without formal amendment to the constitution. What about the rights of persons who identify with a political party – are there any equal protection rights, or associational rights?

Inherent in the notion of free and fair popular elections is that, when the voice of the people is authoritative in determining political outcomes, votes should be counted equally. That principle is sometimes modified or violated in the United States. The Electoral College and the election of US senators modify this principle. The Electoral College design provided for no direct election of the president; each state made provision for selection of electors,

⁵¹ Strauss, "Modernization and Representation Reinforcement," 761.

⁵² Amar, *America's Unwritten Constitution*, 279–83.

⁵³ Madison, *Federalist* #10, 2003 [1787–1788].

but since South Carolina allowed for their direct popular election (1868), all states allowed voters to select electors.⁵⁴ Since 1832, almost all states have allocated their electors on a winner-take-all basis. Some scholars complain that the method of election of US senators provided for in the US Constitution – with sparsely populated states (e.g., Wyoming) having the same number of senators as heavily populated states (e.g., California) – is highly undemocratic, yet a clause in the constitution stipulates that no state can be deprived of its equal representation in the Senate without its own consent, effectively making change impossible.⁵⁵ States, not American citizens at large, were to be represented in the Senate.

The right to vote – and to have one's legitimate vote counted – has often been thought of as having special status in American democracy. “The political franchise of voting” was deemed a “fundamental political right, because preservative of all rights” in an important 1886 Supreme Court case (*Yick Wo*, 370), and quoting that case in a 1960s apportionment case (*Reynolds v. Sims*, 1964, 361–62), the court stated:

Undoubtedly, the right of suffrage is a fundamental matter in a free and democratic society. Especially since the right to exercise the franchise in a free and unimpaired manner is preservative of other basic civil and political rights, any alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized.

While the court occasionally protected the rights of blacks denied the right to vote because of white-only primaries and grandfather clauses (*Smith v. Allwright*, 1944; *Guinn v. United States*, 1915), beginning in the 1960s, the political branches of the federal government weighed in more vigorously to protect voting rights of African Americans, and the court supported these efforts for nearly half a century. Because of a legacy of black vote denial and voter intimidation in the South and the purpose of the Civil War Amendments, the power given to Congress to enforce those amendments (e.g., §5 of the Fourteenth Amendment and §2 of the Fifteenth) and the 1965 Voting Rights Act with subsequent amendments, race has generally been treated differently in the court than other kinds of interference with counting votes equally. In 1960, the court held that when Tuskegee, Alabama, redrew its boundaries to become an irregular twenty-eight-sided city, removing all but about five black voters and no white voters, it violated the Fifteenth Amendment (*Gomillion v. Lightfoot*, 1960). When it comes to drawing electoral districts on a racial basis, the court has held that voters should have an equal chance to elect the candidate of their choice, and no changes in a VRA-covered state or district can lead to retrogression in the right to vote.

⁵⁴ Dixon, “Electoral College Procedure,” 215; South Carolina, *Constitution of the Commonwealth of South Carolina*, 1883.

⁵⁵ Dahl, *How Democratic Is the American Constitution?*, 17–18, 144–45; Levinson, *Our Undemocratic Constitution*, 49–62.

Since 1993, the court has demanded that, even when race is a predominant factor in redistricting based in a desire to remedy past racial discrimination, such plans must be viewed using the highest level of scrutiny: The government must demonstrate a compelling interest in using the race classification and the remedy has to be narrowly tailored to achieve this compelling purpose (*Shaw v. Reno*, 1993).

The Supreme Court also began to intervene in districting that was not simply race based in the 1960s, determining that the equal protection clause of the Fourteenth Amendment and Article I §2 of the constitution required that districts be drawn so that they were as closely equal in population as possible. This rule governed both state legislative districts and US congressional districts (*Baker v. Carr*, 1962; *Reynolds v. Sims*, 1964; *Westberry v. Sanders*, 1964). Justice Felix Frankfurter, objecting to the court's intervention to equalize the population in state districts, cautioned that "there is not under our Constitution a judicial remedy for every political mischief."⁵⁶

When the court issued its decision in *Rucho v. Common Cause* in 2019, it declared state legislative gerrymandering of electoral districts designed to advantage a specific political party a *political question*. Political questions are matters the court refuses to engage in, either because they are thought to be textually consigned by the constitution to a coordinate branch of the federal government or, for prudential reasons, the court thinks it cannot find a judicial remedy or manageable standards for resolving them.⁵⁷ Infrequently used in recent years, invocation of the political questions doctrine is often applauded as an indicator of the court's wisdom and self-restraint. But "when the Court refrains from engagement because it cannot devise or identify appropriate tests or standards, it means that constitutional guarantees may not yield judicially enforceable rights."⁵⁸

The issue of partisan gerrymandering as an equal protection issue under the Fourteenth Amendment was not new to the court. Since 1986, the court has been asked to determine that gerrymandering for purely partisan purposes constituted vote dilution, impeding the ability of voters to elect the candidate of their choice. That year, the court held that cases of partisan gerrymandering could, at least in some cases, be heard. But "unconstitutional discrimination occurs only when the electoral system is arranged in a manner that will consistently degrade a voter's or a group of voters' influence on the political process as a whole," and "plaintiffs were required to prove both intentional

⁵⁶ Frankfurter, J., dissent in *Baker* (1962), 269–70.

⁵⁷ See John Marshall's remark in *Marbury v. Madison*, 5 U.S. 137 (1803) at 170 that "Questions, in their nature political or which are, by the Constitution and laws, submitted to the Executive, can never be made in this court." The prudential strand of the political questions doctrine was most fully articulated in Justice Brennan's majority opinion in *Baker v. Carr* (1962).

⁵⁸ The quote is from Nackeroff and Diebold, "*Rucho v. Common Cause*," 113. The point is made in Fallon, "Judicially Manageable Standards." See also Marietta, "Roberts Rules."

discrimination against an identifiable political group and an actual discriminatory effect on that group.” And furthermore, the constitution does not mandate proportional representation; legislatures do not have to “draw district lines to come as near as possible to allocating seats to the contending parties in proportion to what their anticipated statewide vote total will be.”⁵⁹

In *Rucho*, the court found no judicially manageable standard for intervention in even the most extremely partisan gerrymanders; dissenters said the tools and standards were there to be used. Blatant partisan gerrymanders are troubling; they may contribute to polarization, they threaten democracy, and may undermine faith in the democratic process. But the federal judiciary declines to intervene. The remedies the court left were state constitutions and statutes, congressional legislation, or possibly independent redistricting commissions (which the conservative minority would have barred under Article I §4 because establishing them took power away from the legislature in *Arizona State Legislature v. Arizona Redistricting Commission* in 2015).

Deference to “we the people” does not seem to promote the health of democratic self-governance. Elected leaders have incentives to entrench themselves (either collusion among the elected or collusion to maximize the strength of their parties in Congress) at the expense of voters. Vote dilution, the ability to elect candidates of one’s choice, associational rights, and equal protection now depend, in this context, on elected branches. The invocation of the political questions doctrine to extricate the court from this controversy arguably undermines faith in the democratic process, discourages voters whose candidates have been deliberately engineered out of contention, and depresses participation in the political process. The court’s nod to restraint by deferring to legislative redistricting practices deliberately aimed at minimizing the other major party’s electoral chances tends to undermine free, open, and fair elections – much as the court’s more interventionist *Citizens United* decision in 2010 did.

Rights of Minorities and *Schuette v. Coalition to Defend Affirmative Action* (2014)

This case is not about how the debate about racial preferences is resolved. It is about who may resolve it. There is no authority in the Constitution of the United States or in this Court’s precedents for the Judiciary to set aside Michigan laws that commit this policy determination to the voters.⁶⁰

Justice Kennedy, author of the fractured holding in *Schuette v. Coalition to Defend Affirmative Action* (2014), also penned the major gay rights and gay marriage decisions in *Romer* (1996), *Lawrence* (2003), *Windsor* (2013),

⁵⁹ *Davis v. Bandemer*, 1986, 111, 127, 130.

⁶⁰ Justice Anthony Kennedy in *Schuette* (2014) at 314.

and *Obergefell* (2015). Only two other justices supported the language in Kennedy's *Schuette* opinion; three other justices wrote concurrences. It is useful to compare *Schuette* (2014) and *Romer v. Evans* (1996) as we consider why popular majorities in the states are permitted to make some decisions that have meaningful consequences for minorities but not others. Michigan voters adopted a constitutional amendment by ballot initiative, prohibiting state universities, employers, and contractors from discriminating or from giving any kind of racial preferences.⁶¹ *Schuette* held that this amendment did not violate the Fourteenth Amendment equal protection clause. The court had never maintained that the federal or state governments were required to use affirmative action to remedy society-wide inequalities – at best, for a few years, such remedies were permitted;⁶² and recognition of race for remedial purposes is now subjected to strict scrutiny and is acceptable only in very narrow circumstances.⁶³ Kennedy reasoned – and the effect of the decision means – that if the voters of Michigan choose to bar the state from recognizing race in their university admissions decisions, they may do so.

Colorado voters attempted to exclude LGBTQ individuals from the protections of antidiscrimination legislation in employment or housing by constitutional amendment (Proposition 2). Passage of Proposition 2 also retroactively invalidated measures that had been passed (including by municipalities) to extend antidiscrimination protections to gays and lesbians.⁶⁴ In *Romer v. Evans*, Kennedy saw no rational basis – only animus against a group of people based on their sexual orientation – and sided with liberals to strike down Proposition 2. “A law declaring that in general it shall be more difficult for one group of citizens than for all others to seek aid from the government is itself a denial of equal protection of the laws in the most literal sense.”⁶⁵ Kennedy's reasoning in *Romer* was that the Colorado Amendment “exclud[ed] sexual minorities from accessing political remedies that were freely available to others.”⁶⁶ The perspective that treating gays and lesbians differently violated equal protection (and privacy) without having to consider them a suspect class paved the way for the larger same-sex marriage decision in *Obergefell* (2015). In the case of gays and lesbians, a national majority was rather quickly moving

⁶¹ The Michigan ballot initiative process and requirements are outlined at https://ballotpedia.org/Laws_governing_the_initiative_process_in_Michigan. Once the initiative clears ballot hurdles, it needs only garner a majority of votes cast. (The amendment was known as Proposition 2, as was the Colorado measure.)

⁶² If the entity itself was found at law to have discriminated, the case may be different.

⁶³ Compare *Grutter v. Bollinger*, 539 U.S. 306 (2003) and *Gratz v. Bollinger*, 539 U.S. 244 (2003); see also *Fisher v. University of Texas II*, 579 U.S. (2016).

⁶⁴ The process for passing a constitutional amendment by initiative in Colorado is detailed at https://ballotpedia.org/Laws_governing_the_initiative_process_in_Colorado; after 2016, a supermajority of 55 percent was required for passage of such an amendment.

⁶⁵ *Romer*, 1996, 626, 633.

⁶⁶ Pollvogt, “Thought Experiment,” 1.

toward reading equal protection more generously, and the court moved to endorse that position.

Perceived animus toward LGBTQ citizens *invalidated* Colorado voters' determination not to extend antidiscrimination protection to gays and lesbians, whose identities (or behaviors) they did not wish to affirm; there was no perception of animus in Michigan voters' determination to bar state actors from taking race into account to enhance diversity. Yet, placing racial minorities outside the normal political process (by making it impossible for under-represented minorities to pursue greater access to employment and educational opportunities through the normal legislative process)⁶⁷ should arguably be more closely scrutinized than a voter decision such as Colorado Proposition 2, because a lower level of scrutiny (rational basis plus) was applied when the issue was sexual orientation. The result is somewhat ironic, given that strict scrutiny for classifications based upon race is now the norm. Today, "affirmative action" and "preferences" are dog whistles about race, especially in the context of Michigan's earlier experience with *Grutter* and *Gratz*. Justice Kennedy saw race-neutral language in the amendment.

John Hart Ely himself would probably have concluded that if white voters chose not to disadvantage themselves in pursuit of greater racial equality once barriers to African American voting fell, they were not required to do so. But when the court endorsed what Michigan voters chose, they stepped away from claiming constitutional grounds for measures supporting diversity or racial inclusiveness.

Racial discrimination may currently be more subtle than sexual orientation discrimination, but it is engrained in the social fabric.⁶⁸ The difference between categorization based on sexual identity or orientation (*Romer*, 1996; *Obergefell*, 2015) and racial categorization (*Schuetz*, 2014; *Fisher v. University of Texas I*, 2013) may be that the court is much better at seeing – and addressing – overt discrimination than more subtle forms. This may help explain what Russell Robinson (2016, 153) terms "LGBT exceptionalism" within the court – advantages LGBT people enjoy relative to other contemporary civil rights constituencies. The *Bostock* decision (2020), in which the court extended Civil Rights Act Title VII protections ("because of ... sex") to those experiencing employment discrimination because of sexual orientation is a case in point.

Just as the *Rucho* majority declined to intervene in extreme cases of motivated partisan gerrymandering, and the *Brnovich* majority declined to invalidate measures passed by Arizona's legislature that would make it harder for some citizens (including Native Americans, rural Latinos, and blacks) to cast

⁶⁷ In some states, different routes to state constitutional amendments have different vote thresholds for passage, as is the case in Michigan. See https://ballotpedia.org/Amending_state_constitutions#Michigan.

⁶⁸ Pollvogt, "Thought Experiment," 2; Tesler, *Post-Racial or Most Racial?*

ballots, the court passed the baton to Michigan voters in *Schuette*, saying: “The holding in the instant case is simply that the courts may not disempower the voters from choosing which path to follow” (*Schuette*, 2014, 314). Is it best that the court leave these kinds of matters to the democratic process in the several states?

Since Michigan voters were allowed to determine what equal protection meant or required, this did allow citizens to deliberate and own the meaning of the constitution in an area where affirmative action has not been mandated. They were constraining, by constitutional amendment, state actors. However, the court is most certainly not making clear which classifications it is willing to turn over to the elective branches, which it is not, and why. The constitution presumably took some contentious issues off the table, removing them from resolution through the democratic process.⁶⁹

CONCLUSION

Systems of robust legislative supremacy, even with a written constitutional framework, rely on internalized norms for boundary maintenance – either self-policed by legislators or vigilantly policed by an attentive citizenry. Notable examples since the early twentieth century have shown that such systems run risks of fascism, authoritarianism, or totalitarianism.⁷⁰ American judicial review, within a written constitutional framework, is one significant structural impediment to full-throated majoritarian rule. The results are imperfect.

It is hardly certain that robust constitutional courts could serve as bulwarks against radical popular sovereignty on the left or the right, against authoritarianism or rising ethnic and racial animus, or even against strong-willed majorities. However, there remains considerable support for a US Supreme Court that thwarts some majorities some of the time. Balancing the claims of national majorities, state majorities, and even occasionally making borderline antimajoritarian decisions, the court could probably maintain legitimacy while doing a better job than it has of late in expanding the scope for participation in the electoral process, enhancing faith in the fairness of elections, reinforcing representation, extending principles of equal protection, and thereby advancing a more inclusive version of the “people.” Perhaps a “no backsliding” principle for rights, equal protection, and access to the democratic process would be consistent with a commitment to enhancing popular sovereignty, although by defending a particular vision of popular sovereignty, it would discourage some deliberation.

Article III courts could be more vigilant in promoting the health of democracy as process, while limiting the harm majorities impose on minorities. These are roles courts can perform reasonably well – probably better than other

⁶⁹ Graber, *Dred Scott*.

⁷⁰ E.g., Arendt, *Origins of Totalitarianism*.

branches. Mariah Zeisberg urges us to think about “distinctive governance capacities” of the branches. Though writing in the context of war powers, her point is applicable here: “the Constitution fails to provide for one authoritative institution to settle” many controversies.⁷¹ We can evaluate branches’ competing claims of authority “in terms of how well they bring their special institutional capacities to bear on the problem of interpreting the Constitution’s substantive standards ...”⁷² They “exercise distinctive capacities that predictably generate distinctive perspectives on both policy and constitutional meaning.”⁷³

This perspective seems akin to that of Stephen Breyer (2010): Judges need to consider comparative institutional expertise and specialization when they think pragmatically about the constitution. For Breyer, a workable constitution is one that allows problems to be solved in a way that the public, and other governmental institutions, can find acceptable. Constitutional Courts have an important role to play in persuading other participants in the political system that their comparative institutional expertise and specialization includes promoting the health of the democratic process, limiting the harm majorities sometimes impose on minorities, and by doing so, preserving the health of popular sovereignty.

⁷¹ Zeisberg, *War Powers*, 6, 26.

⁷² Zeisberg, *War Powers*, 13, 18–19.

⁷³ Zeisberg, *War Powers*, 32.

Popular Sovereignty, Populism, and Stories of Peoplehood

Rogers M. Smith

INTRODUCTION

As right-wing authoritarian movements labeled populist have gained prominence in many lands, analysts have debated what the term “populism” means, what are the causes of populism, and how best to respond to them. Most writers recognize that populist movements champion popular sovereignty, even if they are not truly committed to competitive democratic processes. Yet, even though much scholarship affirms that conceptions of “the people” are political creations, “popular fictions,” few scholars have focused on populist “stories of peoplehood,” their accounts of who “the people” are and why they should rule.¹ Nor have many addressed whether it makes sense to devise competing narratives of national identities and popular sovereignty, or the tasks required to do so. Here and elsewhere, I argue that it does make sense to counter right-wing populist narratives with better national stories, along with other responses explored in this volume.² I lay out some guidelines for doing so and for assessing the results, using the example of the United States.

DEFINITIONS AND DIAGNOSES

Contributors to *The Oxford Handbook of Populism* see populism as “a thin-centered ideology that posits a struggle between the will of the common

¹ Seminal works on the processes of creating conceptions of “the people” include Anderson, *Imagined Community*; Morgan, *Inventing the People*; Colley, *Britons*. The analysis here extends these works by advancing general criteria for better and worse stories of peoplehood, focusing on how the best stories respond effectively to current conditions, confer legitimacy, and express contextually appropriate themes.

² These include Carol Nackenoff’s reflections on the role of constitutional courts in checking authoritarianism, Andrew Perrin and Nicole Mellow’s explorations of modes of democratic civic education, and Adam Davis’ analysis of the potential of grassroots community engagement to foster democratic skills and norms that may check populist excesses.

people and a conspiring elite.”³ Though like most in this volume I largely embrace this definition, I modify its “thinness” with one addition below. I build on the answers scholars commonly give to explain the recent surge of populist movements. Most agree the major drivers include both economic anxieties linked to globalization and new technologies, and cultural anxieties stirred by heightened immigration, secularization, and other social transformations. While concurring, I focus here on the content of populist ideas. For even though globalizing forces fostering job displacements, economic inequalities, demographic diversity, urbanization, and often senses of disempowerment provide conditions conducive to populist revolts against economic and cultural elites, those revolts are neither inevitable nor wholly self-actualizing. Elements of contingent political agency are always at work.

I have long contended that would-be political leaders – a capacious category that includes all those that Antonio Gramsci called “intellectuals” – must advance stories of peoplehood that persuade people to interpret their experiences in certain ways.⁴ They can offer many different narratives to do so, some better and some worse, in terms of both their practical efficacy and their normative desirability. Failure to attend to the content of populist stories of peoplehood, their themes identifying who “the people” are, how they are aggrieved, and what they should do, can lead scholars to overlook both significant causes and possible cures for authoritarian forms of populism today. I have therefore proposed adding to the *Oxford Handbook*’s definition the observation that every populist ideology *has* some story, or often stories, explaining who the people are and why they are more deserving than elites.⁵ We must grasp the appeal of these stories and meet them with better ones if we hope to build political communities that are more fully democratic and respectful of the rights and dignity of all.

TURNING TO STORIES

Doing so is necessary because people have always created and sustained political communities not just through coercive force, but also through persuasive stories. In Israeli historian Yuval Harari’s words, one cannot “organize an army solely by coercion.” There must be “some true believers” who provide uncoerced loyalty, even when it is risky to do so.⁶ Persuasive stories of peoplehood win such loyalty by inspiring *trust* among fellow members of a community, and between the members and their leaders, as well as senses of the *worth* of their community membership.⁷ When they gain acceptance, stories

³ Hawkins, Read, and Pauwels, “Populism and Its Causes.” See Kaltwasser et al., *Oxford Handbook of Populism*.

⁴ Smith, *Stories of Peoplehood*, 38–42.

⁵ Smith, *That Is Not Who We Are!*, 19.

⁶ Harari, *Sapiens*, 111–12. Cf. Smith, *Stories of Peoplehood*, 43–44.

⁷ Smith, *Stories of Peoplehood*, 56–60.

help to constitute “political peoples,” defined as “any and all human associations, groups, and communities that are commonly understood to assert that their members owe them a measure of allegiance against the demands of other associations, communities, and groups ... the more demanding the claims, the more political the group.”⁸

For any story of political peoplehood to sustain senses of collective identity and cooperative endeavors over time, it must convincingly advance three basic themes, though it can do so with different emphases. It must have an economic theme promising both personal and collective material well-being. It must have a political power theme promising both personal safety and community power sufficient for collective self-defense, as well as, perhaps, a measure of political voice. For many, feelings of wealth and/or power are ends in themselves. Yet, many find such goals avaricious and discreditable. Successful stories must therefore also have constitutive themes presenting “membership in a particular people as intrinsic to who the members really are, because of traits deemed to be normatively good.”⁹

Even though no political society can long endure if it does not have credible economic and political power stories – with confirming results – it is also true that no political society can sustain itself through economic and political power benefits alone. In addition to moral doubts about those goals, there are inevitably economic and political down times. So political communities’ longevity depends also on senses of allegiance rooted in beliefs that belonging to that community is part of its members’ core identities, and a part that gives their lives meaning and worth. Constitutive themes may feature religion, ancestry, ethnicity, race, gender roles, language, culture, class, customs, and more. However, they always present the traits they feature as of high value, and as integral to “who we are.”

TOWARD GOOD STORIES OF PEOPLEHOOD

Today many liberal democratic writers are worried that claims of “popular sovereignty” are bolstering intolerant forms of populism.¹⁰ They tend to respond with three basic claims.

First, many argue that desirable national identities must be fundamentally “civic” and liberal democratic in nature, resting on an ideology championing universalistic commitments to democracy and human rights, rather than “blood and soil” conceptions of nationalism or of a democracy’s people.

Second, many suggest that desirable liberal democratic national identities must somehow simultaneously reflect the distinctive cultural traditions

⁸ Smith, *Political Peoplehood*, 2; cf. Smith, *Stories of Peoplehood*, 19–20.

⁹ Smith, *Political Peoplehood*, 50–53.

¹⁰ For examples, see Mounk, *The People v. Democracy*, 197, 207–10; Galston, *Anti-Pluralism*, 4, 66–71, 96, 117–19; Fukuyama, *Identity*, 7–11, 142, 162, 166, 170–74, 178.

prevalent in particular societies. This second response is in tension with the first. How distinctive can national identities be, if all the desirable ones rest on commitments to the same universal principles of liberal democracy? Most writers display some awareness of this problem, but few address it very fully.

Third, most critics of populism instead elaborate the economic and cultural grievances that they see as driving populist movements, and they offer economic and social policies to ameliorate those grievances. The economic policies seek to promote greater employment, wages, and benefits, while the social policies focus on finding compromises with the opponents of demographic diversity and, especially, heightening immigration. Most writers do not articulate specific “stories of peoplehood” for particular modern nations, precisely because they do not wish to favor any “ethnocultural” conceptions of nationality more than “civic” ones.

I also favor strengthening commitments to democracy and to human rights, and adopting economic and social policies that address the hardships and grievances many now feel. To do so, however, political and intellectual leaders need to elaborate good stories of peoplehood that can motivate allegiance to desirable popular movements by articulating appropriate senses of shared identity, helping to restrain illiberal, authoritarian impulses while delineating and defending needed policies.

What makes some stories of peoplehood better than others? Two things are key. Stories must do a good job empirically of engaging and inspiring people. Stories must also convey substantive messages that their adherents can credibly present as normatively commendable – in part because they support democracy and human rights, in part because they help fulfill a people’s distinctive aspirations in other ways.

Insisting that stories must be good according to norms of democracy and human rights risks, however, reproducing the formula for countering problems of populism just summarized, instead of improving it. It can seem like good stories of peoplehood must all be variants of the same abstract liberal democratic creed. This criticism assumes a view I do not take: that principles of democracy and human rights are universal moral conclusions reached through detached philosophic reasoning. My argument instead builds on Michael Walzer’s conception of normative prescription as, at its most truthful, connected social criticism – the fruits of efforts to interpret the experiences, identities, and moral values people find in their social worlds, and to reason from them.¹¹ That reasoning may or may not eventually take the form of claims for universal principles of reason, or perhaps divine revelation. Rational principles or revelations are not the starting point, however, for treating the values in particular social realms as concerns political actors should take seriously. The starting points are the beliefs of the people whose identities a story of peoplehood seeks to express and shape. In today’s world,

¹¹ See, e.g., Walzer, *Interpretation and Social Criticism*.

even these points of origin will prompt many, though not all, reflective persons to elaborate stories in which concerns for democracy, human dignity, and human rights have prominent places.

THE THREE R'S OF STORIES OF PEOPLEHOOD

The logic of seeking through connected critical engagement to develop good stories of peoplehood points to three interrelated criteria to guide these endeavors – the “three R’s” of writing good peoplehood stories. Stories must be *resonant*, *respectful*, and *reticulated*. Just as in the case of “reading, ‘riting, and ‘rithmetic,” it is a reach to get to that third R! Winning acceptance of this novel criterion of reticulation is, however, the most important task for resisting repressive stories today.

First, *resonant*. Stories of peoplehood must speak to and from the identities and interests that the audiences whom the stories address already possess, even when political narrators seek to convince people to reconceive those identities and interests in some ways, as they always do. The stories must find a persuasive place for the economic and cultural anxieties people are experiencing. They must articulate community policies and goals in which people can see many of their values advanced. As Alinsky-style organizers have long preached, would-be leaders must take people where they are.

Consequently, composing good stories of peoplehood requires a rich knowledge of particular political contexts, the traditions, values, preexisting identities, and practices that the inhabitants of certain areas possess, as well as the challenges they face. This criterion assures that stories of peoplehood will differ significantly for populations in different places. They will always have varying preexisting identities, histories, and problems. Thus, it is not exceptional, it is inevitable, that successful stories will present their people as in some ways exceptional. Resonance is, moreover, not just necessary for stories of peoplehood to gain acceptance. Resonance is needed if stories of peoplehood are to be good normatively – for stories must also conform to the second R, which requires that stories be *respectful*.

Who must stories of peoplehood respect, how, and why? The answers are always contested. Yet today, these contests take place on material and moral planes with different horizons than in the past. Most people today have far more access to more news than they did through most of human history. Few persons can escape awareness of the challenges facing people in remote regions. Most know that many religious, philosophical, moral, legal, and political traditions insist on the value and dignity of every human being. Most now identify with at least some of those traditions. Frequently their governments are signatories to international treaties that promise respect for human rights and democracy. Journalists, religious leaders, advocacy groups, and sometimes states bring pressure to live up to those commitments. As a result, in virtually every context today, many “local” values give strong reasons for insisting that

states should act with respect for all human beings – especially those over whom states are exerting power.

Most moral traditions agree that respect requires, first, giving some minimal hearing to people's voices, to their concerns, hopes, and fears. As elites so often need to recognize, it is impossible to claim to respect those to whom one refuses to listen. Respect means, second, engaging with people in a spirit of accommodation whenever possible. It means accepting that others are entitled to pursue their ways of life, unless their ways damage the legitimate pursuits of others.

Of course, that “unless” is a huge qualification. Some societies deem repugnant practices that other societies valorize, such as cross-ethnic or same-sex marriages. Virtually every society displays intense internal disagreements over some members' preferred pursuits. Yet, even in the most restrictive societies, there are values and traditions holding that all persons initially deserve to receive respect, even if their conduct ultimately warrants contempt. Consequently, those narrating stories of peoplehood in most societies can still urge basic consideration for all, in ways that resonate with moral commitments their audiences can see as their own.

The second criterion leads logically to the third. Good stories must be *reticulated* stories, narratives that openly embrace a significant measure of pluralism. *Reticulated* is a term for networks that display legible patterns. Good stories of peoplehood portray, and so help people to weave, political networks of groups, institutions, and policies that display two kinds of patterns. One is internal to the political communities the stories depict. One is visible in those communities' external relationships with other societies.

Internally, out of respect for all, narratives should not urge total civic unity or uniformity. Instead, they should promote pluralistic solidarity, by authorizing institutions and policies that include accommodations for the society's subgroups, especially vulnerable ones such as minority religions, disadvantaged ethnic groups, impoverished regions, indigenous communities, and more, to the greatest degree possible, consistent with the stories' constitutive themes. These accommodations can take many forms, including federalism, targeted aid programs, special representation in legislatures, exemptions from generally binding laws, and others.

Externally, stories should support openness to accommodating, and often allying with, the policies and institutions of other societies, whenever they share a community's objectives. This openness should include receptivity to transnational regional and international institutions and associations. By urging cooperation in common endeavors and policies of accommodating diversity within and beyond existing borders, reticulated stories can promote broad and inclusive flourishing, in ways that will resonate with many and show respect for all.

Though general, these criteria are specific enough to aid assessments using empirical metrics. Modern polling and voting data provide evidence for how many in the audiences for particular stories of peoplehood actually embrace them.

Analysts can also measure the extent to which institutions and policies display respect by tabulating the rights granted to the diverse communities and individuals with whom a government deals. They can similarly add up the accommodations and partnerships a society offers to the subgroups within it and societies outside it. The results will be rough quantitative metrics for how reticulated societies and their stories of peoplehood are, like the measures scholars use to assess how democratic and free societies are.

COMPETING STORIES OF AMERICAN PEOPLEHOOD

America First!

To make this argument more concrete, consider the United States. In 2016, the United States elected a president who made a distinctive story of peoplehood the centerpiece of his Inaugural Address, promising: “From this day forward, a new vision will govern our land. From this day forward, it’s going to be only America first. America first.”¹² This narrative resonated powerfully with many millions of Americans, even as it repulsed millions of others. It scored poorly, however, on the other two criteria for good stories of peoplehood, respectfulness and reticulation.

Donald Trump’s Inaugural fit perfectly with the *Handbook*’s definition of populism as an “ideology that posits a struggle between the will of the common people and a conspiring elite” – and it told a potent story of peoplehood. Trump narrated America’s past as one in which “a small group in our nation’s Capital has reaped the rewards of government,” while “the people have borne the cost” of “American carnage.” He promised, “January 20, 2017 will be remembered as the day the people became the rulers of this nation again.” This was Trump’s main political power theme, though he also vowed protection against crime and greater military power. Trump’s economic theme was the promise that every “decision on trade, on taxes, on immigration, on foreign affairs, will be made to benefit American workers and American families.” New initiatives would “bring back our jobs ... bring back our wealth,” with “new roads, and highways, and bridges, and airports, and tunnels, and railways,” getting people “off welfare and back to work.” Above all, Trump emphasized his constitutive theme of making America “great again.”¹³

The new president explained that his America First vision rested on the principle that “it is the right of all nations to put their own nation first.” He maintained that Americans “do not seek to impose our way of life on anyone, but rather to let it shine as an example for everyone to follow.” He also pledged that his vision encompassed “all the citizens of America.” Americans, he said, form “one nation,” sharing “one heart, one home, and one glorious destiny,”

¹² In his oral presentation, Trump added, and emphasized, the “only” and the repetition of “America first” to his official written text. Compare Trump, “The Inaugural Address” with “Donald Trump’s Inauguration Speech – Full Speech,” www.youtube.com/watch?v=FFH7QMZ5Nrk.

¹³ Trump, “Inauguration Speech.”

with “no room for prejudice,” but rather an awareness “that whether we are black or brown or white, we all bleed the same red blood of patriots.” So, Trump concluded, “the bedrock of our politics will be a total allegiance to the United States of America, and through our loyalty to our country, we will rediscover our loyalty to each other.”¹⁴

In terms of the three R’s of good stories of peoplehood, both polls and electoral results show that Trump’s America First narrative resonated with the concerns and identities of many millions of Americans. He also claimed to respect all American citizens, though his denunciations of the nation’s previous leaders made clear that this respect did not extend to all. His vision also had little room for reticulation, for recognition of the many diverse communities and commitments that characterize modern America. Instead, he demanded “total allegiance” and loyalty, as authoritarian populists do.¹⁵

Trump’s prior challenges to Barack Obama’s citizenship already suggested that he did not respect an African American president. During the campaign, he denied that an American-born judge of Mexican descent could be faithful to US law, and he disparaged black and brown Americans by grossly overstating criminal statistics for blacks and immigrants.¹⁶ In office, Trump’s comments suggesting there were good people among the white supremacist protestors at Charlottesville, criticizing African American athletes and celebrities protesting against police violence toward people of color, and urging Congresswomen of color to “return” to their home countries, continued to express hostility toward a truly diverse America.¹⁷

Trump’s deeds matched these words. His Justice Department’s Civil Rights Division pursued lawsuits against universities’ affirmative action policies.¹⁸ The Justice Department and the Department of Housing and Urban Development stopped filing disparate impact suits to advance the Fair Housing Act’s goal of fighting racial discrimination in housing.¹⁹ Trump officials ended a federal grant to a group working to oppose white nationalist extremist organizations.²⁰ The president created a commission to investigate vote fraud led by one of the nation’s most extreme proponents of anti-immigrant and voter restriction laws.²¹ Early on, Trump appointees praised the race-based National Origins Quota system of the 1920s.²² Trump officials then curbed visitors from Muslim and African countries, while favoring immigration legislation that

¹⁴ Trump, “Inauguration Speech.”

¹⁵ Bender, “Trump Strikes Nationalistic.”

¹⁶ Leonhardt and Philbrick, “Donald Trump’s Racism.”

¹⁷ Leonhardt and Philbrick, “Donald Trump’s Racism”; Rogers and Fandos, “Fanning Flames, Trump Unleashes a Taunt.” See generally Sides, Tesler, and Vavreck, *Identity Crisis*, 201–20.

¹⁸ Savage, “Affirmative Action in College Admissions,” *AT*.

¹⁹ Arpey, “Business Implications of Disparate Impact’s Uncertain Future.”

²⁰ Raymond, “Trump Administration Eliminates Funding.”

²¹ Ingraham, “Here Are the First 10 Members of Trump’s Voting Commission.”

²² Bazelon, “Department of Justification.”

would replace family unification priorities with preferences for high-skilled immigrants, probably limiting both the diversity of newcomers and overall legal immigration.²³

This record makes it impossible to see Trump's program as respectful toward all Americans, or even as clearly committed to democracy, human rights, and the rule of law. Despite his loss in 2020, Americans still need stories of peoplehood to check these features of the Trump movement's MAGA (Make America Great Again)/America First vision, while responding to the concerns in it that do express respect for all. Americans have long told many stories, from utopian religious narratives to radical socialist and anticolonial accounts; but four narratives have most normative and political power.

First, American politics as a *democratic* project, the view of John Dewey and others. Second, America as a specifically *consumers and producers* democracy, a vision advanced by Progressive Era and New Deal activists, and Franklin Roosevelt. Third, America as a *constitutional* endeavor to form a more perfect union, without effacing diversity, the "*e pluribus unum*" story told best by Barack Obama and extended by Joe Biden. And fourth, America defined by the *Declaration of Independence* project of extending rights to all, the vision propagated by Abraham Lincoln.

Democratic Stories

Many of the constitution's framers like James Madison feared too much democracy. They preferred republics, with governance by elected representatives, to direct popular rule.²⁴ Yet with fits, starts, and major reversals, US history displays steps toward greater democracy. These include the expansion of the franchise to all white men, then all men, then all male and female citizens over twenty-one, and eventually eighteen-year-olds as well; the adoption of direct election of judges in many states and of US senators; and the democratization of candidate selection processes through primaries in the twentieth century.²⁵ Stories of America as a democratic project have done much to advance inclusive, egalitarian visions of American peoplehood in the past. They may be the best to do so today.

Indeed, democratic commitments suggest an alternative to the whole focus on national narratives proposed here. Perhaps egalitarian inclusion is most attainable through grassroots democratic engagement in self-governance, pursued without any larger account of who "the people" are. Organizing democratically around resistance to specific forms of oppression, exploitation and domination may be sufficient, and safer. Dewey often argued in this vein, focusing on needs to combat democracy-distorting economic inequalities and corporate

²³ Baker, "Trump Supports Plan," A1.

²⁴ See, e.g., Madison, "*Federalist No. 10*," 50–52.

²⁵ Bateman, *Disenfranchising Democracy*, 43–200; Keyssar, *The Right to Vote*.

power, rather than on any tale of American identity.²⁶ Today, in calling for a “left populism” to oppose neoliberal policies, European political theorist Chantal Mouffe has acknowledged the risk that “to bring together ... democratic demands in the creation of a ‘people’ will produce” or worse, presume, “a homogeneous subject, one that negates plurality.”²⁷

However, Mouffe ultimately agrees that democratic projects must “be congruent with the values and identities” of those they seek to enlist.²⁸ They must start from where people “are and how they feel, offering them a vision of the future that gives them hope.”²⁹ At present, Mouffe contends, this often means beginning “at the national level” and mobilizing people “around a patriotic identification with the best and most egalitarian aspects of the national tradition.”³⁰ Mouffe stops short of calling for better national stories, however, because she wants notions of “the people” constructed with “democratic values in the leading role” in defining political identities everywhere.³¹

This is an endeavor worth pursuing, but there are reasons to doubt whether it can work on its own. History shows that if democracy means unqualified majoritarian rule, the rights of many minorities, especially ethnocultural minorities, will not be safe. Moreover, as Madison warned and as Rosenbluth and Shapiro have recently affirmed, the democratizing of institutions such as the selection of representatives can be done excessively or poorly.³² Primaries often select polarized ideologues rather than candidates striving to meet widely felt needs. Furthermore, less than half of young Americans today take an active interest in politics; and many do not view democracy as the best form of government.³³ A democratically disengaged and disillusioned citizenry is not likely to respond to stories that feature democracy alone.

Consumer and Producer Democracy

Contemporaneously with Dewey, economist Walter Weyl and reformers like Florence Kelley and the National Consumers League urged progressives to organize politically around a vision of America as a nation of consumers with common interests in restraining “plutocracy,” aiding workers, and achieving broadly shared economic prosperity.³⁴ In the New Deal era, Franklin Roosevelt called repeatedly for a new “economic declaration of rights, an economic constitutional order” ensuring that everyone had “a right to make a comfortable

²⁶ See, e.g., Dewey, *Reconstruction in Philosophy*, 186, 200–209.

²⁷ Mouffe, *For a Left Populism*, 62.

²⁸ Mouffe, *For a Left Populism*, 76.

²⁹ Mouffe, *For a Left Populism*, 76.

³⁰ Mouffe, *For a Left Populism*, 71.

³¹ Mouffe, *For a Left Populism*, 6, 45.

³² Rosenbluth and Shapiro, *Responsible Parties*; Madison, *Federalist No. 10*, 53.

³³ Foa and Mounk, “Are Americans Losing Faith in Democracy”; Diamond, “Are People Losing Faith in Democracy.”

³⁴ Weyl, *The New Democracy*, 249–54; Kelley, “Aims and Principles of the Consumers’ League.”

living” so that “purchasing power is well distributed throughout every group in the nation.”³⁵ He sought to achieve it through the Social Security Act, the National Labor Relations Act, and other major New Deal initiatives.

But as the Cold War abetted opposition to labor unions and egalitarian economic restructuring, this vision of American democracy increasingly narrowed to what historian Lizabeth Cohen has called a “Consumer’s Republic.”³⁶ Its focus became simply representing consumer interests in existing economic and political institutions. Today this consumerist narrative of American identity sounds more like recent neoliberal visions, from which many American feel left out, than a basis for civic renewal. Perhaps the left progressive resurgence spurred by Bernie Sanders can refashion it into a more inclusive, egalitarian, social welfare-centered story of American peoplehood; but how widely such social democratic visions can resonate is unclear.

The *E Pluribus Unum* Story

The first goal stated in the constitution is “to form a more perfect Union.” In 1789, Congress adopted a Great Seal of the United States with the motto “*E Pluribus Unum*” – out of many, one. Consequently, it has always been possible to narrate the American people as devoted to forming a greater unity out of their manifold diversity. No leader ever told that story as powerfully as Barack Obama, beginning at the 2004 Democratic Convention. There Obama expressed gratitude “for the diversity of my heritage.” He maintained that his story was “part of the larger American story” and that “in no other country on earth” could his life be “even possible.”³⁷ Obama traced that possibility back to America’s founding commitment to the proposition that all “are created equal.” But he stressed, using biblical and familial language, that “alongside our famous individualism, there’s another ingredient in the American saga, a belief that we’re all connected as one people ... I am my brother’s keeper, I am my sister’s keeper ... It’s what allows us to pursue our individual dreams and yet still come together as one American family. *E pluribus unum*: ‘Out of many, one.’”³⁸

Obama thereby summoned the nation’s religious traditions of moral obligation and republican conceptions of civic duty in service of the constitutional endeavor of achieving a “more perfect union” – the phrase favored by his heir, Joe Biden. Obama’s subsequent election as the nation’s first African American president, and a two-term president, along with the popular vote victories of his secretary of state in 2016 and his vice president in 2020, all prove that his story has undeniable resonance. It promises respect for all, and unprecedented recognition for many forms of diversity as well. It thus complies with all three

³⁵ Roosevelt, “Commonwealth Club Address,” 510.

³⁶ Cohen, *A Consumers’ Republic*.

³⁷ Obama, “Obama 2004 Democratic National Convention Keynote Address.”

³⁸ Obama, “Obama 2004 Democratic National Convention Keynote Address.”

R's of good stories of peoplehood. It also blends its *e pluribus unum* constitutive theme with calls for economic policies to expand opportunities for all, and with political power themes of protecting voting rights and promoting civic-minded decision-making.

Yet, while that combination had great strengths, Obama's presidential record raises concerns. Obama's emphasis on pragmatic deliberative democratic processes aiming at unity, rather than on substantive policies, meant that his vision of union could appear hollow. When Republicans in Congress refused to engage in good faith negotiations, Obama's *e pluribus unum* narrative also gave little guidance on how to respond. His best hope was to defeat his opponents at the polls; but he failed to sustain the broad support he built in 2008. He then struggled to find a better story to tell than the one that had brought him to the White House. The quest for *e pluribus unum*, while valuable, proved not potent enough. Though Joe Biden has tried to bet less on bipartisanship, he may still prove to have been too wedded to it to succeed.

The Declaration of Independence Story

By proclaiming, "Four score and seven years ago, our fathers brought forth upon this continent a new nation, conceived in Liberty, and dedicated to the proposition that all men are created equal," Lincoln's Gettysburg address traced the nation's origin to 1776 and the Declaration of Independence.³⁹ Lincoln spoke in a broad tradition of invoking the Declaration in order to claim that more people should have their basic rights better secured. That tradition already included Jacksonian workers' advocates and the antebellum women's rights movement, and it has gone on to include champions of property rights, human rights, civil rights, LGBTQ rights, disability rights, and other rights.⁴⁰

Lincoln also spoke in the spirit of, though not in full agreement with, the advocates of antislavery constitutionalism, including the Massachusetts abolitionist Lysander Spooner and the formerly enslaved Frederick Douglass.⁴¹ In 1845, Spooner published *The Unconstitutionality of Slavery*, arguing that the "people of this country" first "announced their independent political existence" in a document that amounted to "constitutional law" and that took as a "self-evident truth" the principle that all men had a natural right to liberty – a position Spooner insisted the 1787 constitution did not disavow.⁴² Douglass argued, citing the Supreme Court, that when reading legal documents, "the language of the law must be construed strictly in favour

³⁹ Cosgrove, "The Declaration of Independence in Constitutional Interpretation"; Wills, *Lincoln at Gettysburg*, 261.

⁴⁰ For a brief overview, see Smith, *Political Peoplehood*, 133–44.

⁴¹ See, e.g., Wiecek, *The Sources of Antislavery Constitutionalism*; Tushnet, *Taking the Constitution Away from the Courts*, 182–93.

⁴² Spooner, *The Unconstitutionality of Slavery*.

of justice and liberty.”⁴³ Since the constitution did not use the word slavery and promised to secure “the blessings of liberty,” Douglass maintained Americans should read it as an antislavery document.

Lincoln did not agree that the constitution banned enslavement. Still, he and the new Republican Party came to adopt a moderate version of anti-slavery constitutionalism. They contended, with real if mixed historical evidence, that the intent of the constitution was to fulfill the principles of the Declaration by putting slavery on the path to gradual extinction.⁴⁴ Lincoln often called the Declaration’s proclamation of human equality and inalienable rights a “maxim” set up for “future use.” It should be “constantly looked to, constantly labored for, and even though never perfectly attained, constantly approximated,” and so “constantly spreading and deepening its influence,” thereby “augmenting the happiness and value of life to all people, of all colors, everywhere.”⁴⁵

Lincoln’s embrace of the Declaration as the foundation of his story of America also shaped his economic and political power themes, which called for national measures to promote broad economic opportunities while protecting property rights, and for republican self-governance. His dedication to the Declaration’s goals also eventually led him to conclude that if African Americans were to gain secure possession of basic rights, many would need the franchise. This evolution highlights a major difference between his story of American peoplehood and Obama’s and perhaps Biden’s. For Obama, the goal was simply fostering unity through processes of deliberative democracy. For Lincoln, the goal was more specific. It was the extension of basic rights to all, a project that could justify overriding, sometimes by force, the preferences of those who would deny rights to others.⁴⁶

Lincoln’s view stands in far more striking contrast to Trump’s America First vision. To be sure, Lincoln also sought to make America an example to the world. Yet, when Lincoln said the nation should spread the influence of the Declaration of Independence to benefit *all* people, everywhere, there is little doubt that he meant it. At the height of the anti-immigration Know-Nothing movement in the 1850s, Lincoln wrote, “I am not a Know-Nothing. That is certain ... As a nation, we began by declaring that ‘all men are created equal.’ We now practically read it ‘all men are created equal, except negroes.’ When the Know-Nothings get control, it will read ‘all men are created equal, except negroes, and foreigners, and catholics.’”⁴⁷ Lincoln clearly thought that if US policies worked against the

⁴³ Douglass, “The Constitution of the United States.”

⁴⁴ Cosgrove, “The Declaration of Independence in Constitutional Interpretation,” 107, 112–13, 117–26.

⁴⁵ E.g., Johannsen, ed., op cit., 304; cf. Smith, *Political Peoplehood*, 137–38, 160–62.

⁴⁶ For discussion of Lincoln’s thought in comparison to Obama’s, see Smith, “Lincoln and Obama,” 17–51.

⁴⁷ Lincoln, “Letter to Joshua Speed.”

goal of securing basic rights for all people everywhere, those policies violated the values to which Americans should be dedicated.

THE DECLARATION OF INDEPENDENCE STORY TODAY

Whether or not the Lincoln Republicans were right to see the original constitution as dedicated to this Declaration of Independence project, they wrote their vision into the constitution in the form of the three great Civil War Amendments. Even before then as well as since, the Declaration has proven a great asset for inclusive, egalitarian reforms worldwide, though the wealthy have also used it to buttress their privileges.⁴⁸

Does this Declaration of Independence story, which presents the end of *all* legitimate governments as securing inalienable rights, reduce the tension between upholding a civic identity grounded on universalistic liberal democratic tenets, and celebrating a more particular conception of nationality? It does permit Americans to see their peoplehood as distinctive, though no more “exceptional” than other nations. Not only can Americans say theirs was the first nation “so conceived, and so dedicated.” Partly in pursuit of the Declaration’s vision, Americans went on to adopt new political and social institutions that in many ways remain unique, for good and ill, even as they have had global influence. Americans have also struggled mightily over their most massive violation of the Declaration, chattel slavery, making issues of race and region more central to the nation’s experience than is true in many other countries. All this enables Americans to see themselves as a people with a special historical project, achievements, and challenges as they seek to advance the Declaration’s goals. Many therefore can and do find meaning not only in being dedicated to rights and democracy, but also in being the heirs and the authors of the distinctive American story.

Though this Declaration of Independence narrative has strengths in combating MAGA views, it also has serious limitations. It can lead Americans to be obsessed with claiming individual rights instead of pursuing common goods. Americans may also rest satisfied with a formal equality of rights that leaves many living in conditions of crippling inequalities. Worst of all, privileged Americans may use claims to be protecting rights to impose their own conceptions of how others should live on diverse communities at home and abroad.

These concerns suggest that Americans who favor this Declaration story must expand upon the Civil War Republicans’ views of what securing rights for all entails. Policies and practices must help people acquire the economic, educational, and political resources and capabilities they need to exercise their rights. Today it is especially vital to address the needs and concerns of both the deeply disadvantaged, and those more traditionalist Americans who feel endangered by globalizing trends, even if the desires of neither group can be met fully.

⁴⁸ See, e.g., Armitage, *The Declaration of Independence*.

What policies can do so? Economic measures should include national aid to communities and workers that lose jobs due to economic globalization or necessary environmental regulations. Since the benefits of immigration are often national while the costs may be locally concentrated, aid programs for regions facing demands for expanded social services to recent immigrants are equally appropriate. Trade agreements with better pay for workers in immigrant-sending regions can address both the economic and cultural concerns of older-stock Americans. As Biden has recognized, a still greater opportunity is massive public infrastructure spending on transportation, communications, climate-conserving energy production, water supply, and educational facilities, with environmental protections. These investments could generate profitable employment for displaced native workers *and* for immigrants, while spurring economic growth for decades.

In regards to political power, the goals of the Declaration call on Americans to continue to improve their democratic institutions, by removing instead of imposing barriers to participation, and by altering candidate selection processes to reduce the influence of wealth and of extremists. It is also vital to restructure Congress to help restore it to its past role as the centerpiece of representative governance, before heightened electoral preoccupations, polarization, and the decline of responsible parties led it to abandon authority to the other branches.⁴⁹

Moreover, powerful groups have in fact often prompted American governments to impose those groups' preferred forms of life on minorities at home and on other societies abroad. These practices violate the Declaration of Independence project, for its rights include the pursuit of happiness, and people's notions of happiness legitimately vary, as do the social, economic, and political barriers they face. To be effective, policies seeking to enable all to enjoy basic rights must be reticulated policies that do not treat differently situated persons in strictly uniform fashion. Americans must engage in continuing contextual judgments about what special accommodations will augment "the happiness and value of life" for all concerned – and what forms of differential treatment will instead foster divisions, inequalities, and injustices.

Americans can best make these policy judgments by adopting a new civic ethos.⁵⁰ It should encourage all to pursue, among the many forms of happiness they might seek individually and as communities, those that are most valuable to others as well as to themselves – in part because those choices can permit and assist others to pursue *their* distinctive forms of happiness. Today most people recognize themselves as complex beings with many affiliations, identities, and aspirations. That awareness can be disturbing, but it also can help people see that they can seek self-realization in many different but equally satisfying

⁴⁹ For valuable analysis and recommendations, see Chafetz, *Congress's Constitution*.

⁵⁰ For elaboration, see Smith, *Political Peoplehood*, 197–99, 202–205.

ways – ways that might have better or worse consequences for others. To show respect for those others, all must take those consequences seriously.

I have suggested that people might do so by adopting a modification of John Stuart Mill's "harm principle" as both a personal and a civic ethos. This modified maxim is, "the *best* uses of their powers by communities and individuals are those that aid others, without doing harm to themselves." Though governments must still combat harms, citizens can strive more consciously to exercise their rights, individually and as a nation, in ways that benefit others, *not* just themselves. Doing so means they should sometimes favor accommodations and exemptions in public policies for unconventional minorities, because doing so will enable those groups to pursue their forms of happiness in ways more equal to the majority. Instead of simply "live and let live," Americans need a civic ethos of "live and help live."

This ethos can guide reflections on appropriately reticulated policies and practices. Legislators and executives devising public policies, and courts adjudicating them, should apply it when responding to all claims for assistance, exemptions, and accommodations, including those of religious groups, linguistic, cultural, ethnic and racial minorities, the poor, the disabled, women, LGBTQ persons and groups, children, the elderly, and more. Rather than regarding all special treatment as suspect, lawmakers and courts should reverse the burden of proof. They should only reject claims to accommodations when those denials are necessary to achieve compelling governmental purposes – purposes that must involve more than hostility to the groups in question, or demands that they give the nation "total allegiance."

Will this call for extensive accommodations only heighten fragmentation and inequality? One great safeguard should be borne in mind. If policies pursue equal, but not always uniform reticulated rights – if they aim at providing each group and individual with rights that have comparable value, but not greater value, than those granted to other groups and individuals – then frequent denials of demands for special rights and accommodations *will* be justified by compelling state interests. Once governments provide accommodations to any one group, they must provide them to all groups who claim them. An ethos of accommodations for all is also an ethos that rejects special privileges for some.

This means that both legislators and courts must ask what the consequences will be of granting, for example, exemptions from Affordable Care Act requirements not only to conservative religious groups and to corporations owned by religious believers, but also to *all* entities who make similar demands – a position the Trump administration endorsed.⁵¹ If there are many other such bodies, then the accommodations will be too costly, both in dollars and in terms of their impacts on other public goals, to be acceptable. Similarly, if Congress ever repeals the 1954 Johnson Amendment to the tax code and

⁵¹ Internal Revenue Service et al., "Moral Exemptions and Accommodations."

permits religious groups to endorse political candidates, as Trump urged, it must allow *all* tax-exempt advocacy groups to endorse candidates. Tax exemptions and full political speech rights cannot be bestowed on religious traditionalists while one or the other are denied to environmental and animal rights advocacy groups.

If, however, requests for accommodations arise from only a few groups, while the interests of those adversely affected by those accommodations can be met through relatively costless alternative policies, then it is wise to support those accommodations. They may well contribute to civic peace and heighten the prospects for many to pursue happiness. Paradoxically but beneficially, America's rich diversity makes it likely that many requests for special privileges will be advanced by so few groups that they can be granted. Through these policies, a wide range of communities – Midwestern farmers, public sector labor organizers, immigrant groups, fundamentalist Christians, deaf culture communities, persons of mixed race descent, families with transgender members, and more – may come to share one vital form of solidarity. They may feel that they all truly belong to the larger American political project of making the pursuit of happiness a right of all.

CONCLUSION

Despite these strengths of the Declaration narrative, its limitations may lead many American to prefer another account of their identities and purposes. It is both unrealistic and undesirable for all Americans to embrace any single story of who they are, for doing so would efface valuable differences. So, all who oppose ethnocentric, authoritarian populisms should advocate for the alternative stories of peoplehood they find compelling – while also building coalitions around areas of overlap among these stories, finding common ground to resist injustices, and common paths for progress. Those who reject “America First” must look for stories that resonate, that are respectful, and that are reticulated, stories that provide secure places for as many diverse groups as possible in American society and in larger regional and global networks. By so doing, Americans may find they can bring to life better stories of peoplehood and popular sovereignty than ever before.

Popular Sovereignty in the Trump Era

A Case Study of Pedagogy and Practice

Nicole Mellow and Andrew J. Perrin

Ensure equal representation for all. Protect rights of individual and minority groups. Ensure majoritarian procedures of decision making. Ensure full voter participation. Ensure capacity for constitutional change. Establish an independent but also a democratic judiciary. Ensure a diversity of political parties. Proscribe lobbying. Ensure wealth redistribution. Ensure efficiency. Protect rights to safety, education, privacy, food security, speech, equality, medical care, the ability to support oneself, a decent life, religion, marijuana use, and cheap rehabilitation. Prohibit tobacco use. Set the voting and drinking age at 18. Ensure renewable energy, rehabilitative criminal justice, taxation by wealth, a minimum wage.

This is a partial list of required attributes of a new constitution. The list was generated by students during a final class exercise in a first-year seminar on popular sovereignty in the United States that we taught jointly at Williams College and the University of North Carolina, Chapel Hill, in the fall of 2018. For the exercise, students were asked to design a constitution for a country resembling the contemporary United States, knowing what we now know after two-plus centuries of American government. Self-contradictory and partial, and not supported in its entirety by all the students, the list nonetheless reveals key fault lines of teaching about democracy in the Trump era and encapsulates our experience with the class.

This exercise asked students to determine the core elements of a good constitution. They had spent the semester studying strains of democratic theory, as well as political science and sociology research on political behavior and governance, and following the hotly contested 2018 election campaigns. Here we outline the goals and approach of the course, paying particular attention to the challenges it raised and the successes and failures we experienced in addressing those challenges. We focus in particular on two assignments: first, a paper assignment in which students reflected on democracy in a cultural and social register and second, the

constitutional design exercise referenced above. Each of these examples illustrates the crux of the class: the students' concern for the survival and health of democracy in tension with their reticence to accept key demands of democracy – principally, accepting policy losses resulting from disagreements with fellow citizens. In what follows, we explore this tension through the lens of the class.

THE CONTEXT

In the aftermath of the 2016 election, emails, blog posts, and articles about how to teach politics and society in the Trump-era undergraduate classroom ricocheted among social science faculty: How should one treat the president's unfactual statements and claims? How best to characterize his assaults on democratic practices, norms, and institutions? Should Trump be described in the classroom as a populist, an oligarch, a proto-fascist, or simply the president? What about the American regime itself: a liberal democracy, a backsliding democracy, a decaying (or "rotting") constitutional democracy? It seemed clear that the country was in new terrain, and that the new administration shared important elements with other right-wing authoritarians and populist parties around the globe. But what that meant for teaching the rules and regularities of American political life was less clear.

While these sorts of questions animate researchers too, they have a special urgency and complexity in the classroom for a number of reasons. First, many features of Trump's candidacy and presidency are abnormal, even unprecedented, in American political history, so the lessons of "normal" social science that populate many syllabi may not always seem applicable. This includes the mundane: Should tweets be covered in the same way as traditional pronouncements by a president's administration? Doubtful. But they also include the more ominous: Should Trump's repeated attacks on the media as "traitors" and "public enemy number one" be treated as just another example of presidents' fraught relations with the media? Surely not.

Secondly, even with American exceptionalism largely discredited in the academy, squaring the American experience under Trump with the rise of nationalism and populist politics elsewhere might require faculty to embrace new analytic and pedagogical tools. Many students, arriving on campus following high-school civics classes, start with the assumption that American traditions and institutions are uniquely effective and stable. There is a reason why some of the most sought after texts since 2016 include work by comparativists like Steven Levitsky and Daniel Ziblatt (*How Democracies Die*) and theorists like Jan-Werner Müller (*What is Populism?*). Instructors might find these texts at least as helpful for contextualizing Trump for students in their American politics classes as traditional texts like Neustadt's *Presidential Power*.¹

¹ Levitsky and Ziblatt, *How Democracies Die*; Müller, *What Is Populism?*; and Neustadt, *Presidential Power*.

Finally, in an era of highly polarized politics, describing Trump with terms usually reserved for other nations and leaders might appear exceedingly partisan and alarmist to students, leading them to discredit the information. We found that students had quickly assimilated the Trump phenomenon into a familiar Republican-versus-Democrat dichotomy, glossing over or failing to absorb the remarkable institutional challenges, disruptions of conventions, and ideological reconfigurations occurring before their eyes. Given conservative assaults on higher education and efforts to undermine faculty (“liberal elite”) expertise, instructors might be concerned that students will suspect a left-wing agenda behind genuine, objective questions about whether Trump’s actions are consistent with liberal democracy. To simply normalize President Trump’s actions seems pedagogically suspect and politically inadequate – part of the very phenomenon that needs to be better understood, a teaching version of “How was the play, Mrs. Lincoln?” What steps can instructors take to encourage open debate and expression in a context where previously accepted norms have been recast as partisan?

These dilemmas admit of no easy answers, and to be sure, they are not unique to the post-2016 classroom. Trump’s presidency has amplified and clarified longer-term issues about how best to teach American students the promises and pitfalls of democratic representation. But they pose new, urgent challenges for pedagogy on popular sovereignty during the Trump administration.

Perhaps most immediately driving these conversations among faculty about how to teach in the Trump era is an awareness that students are the citizens – United States or otherwise – that we reach most directly. With democracy tottering, it is imperative that instructors get it right so that students, many of them newly enfranchised as voters, have the tools to be effective agents in the world they are inheriting. How does one teach young people about popular sovereignty – and their role in it – in a moment and context in which its sustenance, in any real fashion, seems tenuous at best? Further, how does one teach to democratically empower students given the real power imbalances of the traditional academic classroom (e.g., the “rules” are established and maintained by the instructor, grades are given)?

COURSE AIM AND DESIGN

With these and related questions in mind, we set out in the fall of 2018 to teach a course on popular sovereignty in the United States to first-year college students. The course was unique in many dimensions. First, we aimed to merge normative theory with empirical evidence and investigation, enrolling students in the work, not just of evaluating, but also of ascertaining the practices and limits of popular sovereignty. We wanted students to experience democratic citizenry, not just learn about it. Second, the course linked first-year students from two very different institutions: one a small liberal arts college, the other

a large public research university. The goal here was for students to negotiate the types of differences that are present in a diverse democracy like the United States. Finally, it did all of this with students in their first semesters of college, as they were learning the opportunities higher education provides along with those that democratic citizenship provides. As they arrive in college, students are presented with new intellectual opportunities for their own exploration, which also dovetail with expanding possibilities for being democratic agents. We sought to use academic expectations, on-the-ground research, and challenging interactions to reinforce the connection between intellectual and democratic development as the students began a new chapter in their lives.

Many students, especially in the United States, come to college with predispositions and assumptions about American democratic institutions and practices based in high-school civics. Because these classes often teach about American institutions alongside the ideals of popular sovereignty and liberal freedoms – with the institutions at most modestly imperfect vehicles for the gradual realization of those ideals – we aimed to challenge those taken-for-granted assumptions by triangulating democratic theory, empirical and comparative social scientific research, and the students' own investigations. In separate sections on the people (“popular”) and governance (“sovereignty”), students probed questions such as does democracy require minority protections, or are the two at odds? Can the will of the people be reliably discerned? Can a deeply divided society govern itself?

At the same time, given popular and elite despair about the state of democratic politics in the United States and elsewhere, we additionally aimed to give students the tools to better appreciate the demands, opportunities, and perils of democratic politics. Our hope was that through the substance of the course as well as the pedagogical approach we adopted, we would provide students with a realistic appraisal of the essential nature of collective democratic life as well as the forces with which they must contend in order to preserve and enhance it.

As instructors, we wanted not only to better understand both the apprehensions and beliefs of this group of young people but also to see whether an intervention of this sort – a class on the prospects of popular sovereignty (the course was titled *Power to the People?*) – would affect their orientation to or appreciation of the demands of democracy. After all, these were first-year college students just beginning their democratic participatory lives in a moment of global populist and nationalist upheaval. We hoped to learn from them how they saw their civic task at the same time that we aimed to prepare them for their new responsibilities. We sought to balance examination of general questions of popular sovereignty with specific questions raised by the contemporary moment.

With two explicit aims of the course – to educate students about the idea and practice of popular sovereignty and to equip them with the intellectual and practical tools for democratic participation – the decision to include a substantial amount of hands-on research had a dual pedagogical aim. We wanted students to learn how to do basic research of the sort they would be expected

to do throughout their college careers – in this case, how to find information about the democratic polity around them so that they could assess the scholarly materials they encountered in class. Additionally, we hoped that the students, armed with both their own observations and the scholarly insights of the class, would be better equipped to act as empowered democratic citizens, able to consider ideas and evidence with greater objectivity than their preexisting partisan dispositions might otherwise incline them. We wanted students to see that they could collect data about the world in which they live and subject it to thoughtful, critical analysis, guided by the insights of professional analysts.

We operationalized this decision about practical democratic investigation in two primary ways. First, we decided to teach the course, with the same syllabus, at our two institutions, at the same time to similar groups of students (nineteen first-year students at each), with frequent sessions combined via videoconferencing. One of us was teaching at a large public university in the South and the other at a small liberal arts college in the Northeast. While both institutions are known for being “liberal,” in fact the student populations are considerably different geographically, socially, and politically. Our hope was that the experience of bringing the students together across this difference would additionally expose students to the practice of learning about and negotiating differences as well as discovering commonality – both fundamental attributes of a thriving democratic politics in our estimation.

Second, we taught the course in an election year (2018) and asked students to investigate different aspects of the democratic practices that were unfolding. These included gathering evidence and conducting research on the voters and candidates on Election Day; the public conversation about issues through the media and social media; representative bodies such as Congress and non-governmental advocacy groups representing societal interests; and federal and state constitutions. Here, too, our idea was to invest in students the power and ability to ask questions about the performance of various features of democratic functioning. The two classes compared notes about their investigations regularly, culminating in a joint trip to Washington, DC.

During that trip, students worked in teams that bridged the two institutions, meeting with legislative, nonprofit, journalistic, and other leaders to investigate core practices of governance. They also met as a full group with legislators of both parties, journalists, and others for discussions about the performance of government at that moment. Many students commented that the independent research and combined conversations were an important highlight of their first semesters.

POPULAR SOVEREIGNTY AND PEDAGOGY UNDER TRUMP: EVIDENCE FROM TWO ASSIGNMENTS

A midsemester analytic essay assignment as well as the end-of-semester constitutional design exercise described earlier give some insight as to how students

responded to the course. What we describe here with these examples is largely consistent with how students responded, in writing and discussion, to course materials throughout the semester, and thus are, we believe, usefully illustrative of our experience overall.

In general, we found students to be pessimistic, even cynical, about the state of democracy in the United States and concerned about the country's capacity for change. This is not surprising: It is consistent with standard indicators of public opinion. During the course, students read scholarship that drew attention to the many deficiencies, inadequacies, and problematic features of contemporary democratic life in the United States. But while students expressed concern that democracy was in decline, they, at the same time, had difficulty reconsidering their own partial views of what American democracy should look like. This challenge – the tension between concern about democracy and reticence about accepting the demands of democracy – became a fundamental crux of the class.

Generous in the abstract but generally uncompromising when it came to concrete formulations, students' vision of healthy democratic politics seemed at times to be actually antidemocratic. This was hinted at by a common theme in students' midsemester papers about the necessary ingredients for democratic flourishing. Students spent the first part of the semester considering the challenges to creating a common public and an ascertainable public will, beginning with *Federalist 10* and running through evidence about contemporary polarization. They were then asked to evaluate a claim made by theorist Melvin Rogers that "placing the fate of democracy in the domain of culture requires ... that we see our present moment as a fight about what kind of people we want to be and what kind of society we long to create."²

Although students offered many thoughtful reflections about current social and political conflicts, most framed these conflicts, implicitly or explicitly, as problematic because they prevent consensus and action on what the students took to be common or "mutual goals" of liberal progress. Rather than seeing democracy as something to be fought for and preserved, or as a socio-cultural achievement, they tended to define "what kind of people we want to be," in terms of policy stances (e.g., "what kind of people 'we' want to be towards immigrants").³ Similarly, in a final evaluation comment, one student admonished, "Talk about race. American democracy was founded on white supremacy."

But the generic need to collaborate in a diverse polity does not depend on the specific historical development of American government, even though the capacity to do so is affected by the specific history. In other words, although

² Rogers, "Democracy Is a Habit."

³ Unless otherwise noted, all quotes are from papers students wrote for the class, and are offered without identification of the specific student.

the country's history of white supremacy continues to constrain the practice of true democratic deliberation and collaboration, it does not vitiate the importance of those features of democracy (if anything, it only underscores the urgency of the need). Students often struggled with the juxtaposition of the empirical reality of the country's antidemocratic practices, historical and current, with the value and meaning of democratic negotiation in theory and aspiration. Feeling fury and despair at the former, they were reluctant to grant legitimacy to the latter even while they were unable to articulate an acceptable alternative. How might American democracy be redesigned to improve representation? They found it very challenging to address that question.

These discussions implied that students' dissatisfaction with today's democracy might actually have more to do with frustration that their preferred policies were not being adopted than with a systemic evaluation of democracy. In these papers, few of the students grasped that a culture of democracy, especially in a country as large and diverse as the United States, requires a commitment to negotiating differences and a willingness to lose some disputes – that a democratic culture involves sharing a polity with people who differ from them. The despair many of the papers expressed over current divisions was because the divisions were impediments to realizing the students' own normatively desired ends (a problem of democratic outcomes), not because of the challenges those divisions pose to the collectivity (a problem of democratic process and culture). Their responses failed to take into account that insistence on those substantive ends, or a culture that would support those ends, might foreclose the very democratic politics they were reflexively celebrating.

This instinct to prioritize substantive policy ends over democracy showed up even more clearly in the constitutional design exercise, where students insisted on “rights” to so many things, often directly related to the politics of today, that they ended up removing many important areas of social and economic policy from democratic control. By creating a right to renewable energy, a living wage, and marijuana use (though prohibiting tobacco use), for example, they avoided subjecting these multifaceted issues to the scrutiny of democratic contestation.

This tendency to be superficially magnanimous about democracy but less charitable in discussing specifics had parallels to US citizens' calls for lawmakers both to be more bipartisan or compromising and, simultaneously, to be unyielding on the partisan positions about which they care. Perhaps this is just another way of saying we live in polarized times. And given that the majority of the students had a vision of democracy that was, in actuality, *liberal* democracy, to be unrelenting in this particular moment of illiberal populist resurgence is perhaps a virtue – it might even be a necessity for students who find their communities to be under attack by Trump administration policies and rhetoric. It did suggest to us that were we to teach this course again, especially to students new to social science study as these students were, we should reinforce the distinction and relationship between democracy and liberalism.

Students spoke, again, almost reflexively, certainly reverently, of the virtues of the former, but their comments in these two exercises and elsewhere suggested that they were perhaps more concerned with the latter, and in fact, with their present and partial definition of liberal rights, a definition that, as a gross generalization, could perhaps best be described as liberal (even libertarian) on social/cultural issues and statist on the economy.

This was the deeper challenge – students seemed largely unable to disentangle liberalism from democracy, or to see where tensions might exist between their commitment to democracy and their commitment to a particular set of liberal entailments. When these tensions did present themselves, students by and large stood firm on their interpretation of liberal commitments, at the expense of democracy. If – even in the artificial environment of the classroom setting – the perceived stakes are too high to relent, the prospects of negotiating democratic differences are disheartening.

This challenge was made more complex by the fact that many students struggled to distinguish, or prioritize, what might be vital to the preservation of democratic community (e.g., a right to equal representation) from what is more clearly about contemporary social problems (e.g., a right to marijuana use). Students struggled to distinguish core principles of the constitution from particular policy instantiations of core principles that might be considered subsidiary – to be worked out at some future date by some future polity given future conditions. For example, students disagreed about whether wealth redistribution or full employment were as fundamental to a democratic constitution as the assurance of political equality or whether these were better conceived of as preferred policy means for achieving political equality.

Another example comes from a debate over whether the constitution should secure life. A preference for women's reproductive freedom and an unwillingness to step outside current political rhetorical frames made a large number of students uncomfortable agreeing to a requirement that their new constitution protect citizens' lives. In fear that a future polity would interpret that in a manner similar to how today's social conservatives have (right to life being a mandate to restrict access to abortion), students refused to allow language about life, in any variant, in the hypothetical constitution. The students – overwhelmingly pro-choice on the matter of abortion – could not view the more general question other than through the lens of contemporary abortion politics. They resisted what we, as instructors, took to be a fundamental requirement of any social contract, a general right to life, on the grounds of the narrower question of abortion rights.

These multiple examples show how students were unable to extricate themselves from today's politics even after a semester of pulling back the lens to contextualize and historicize issues, institutions, and processes. Perhaps this was the result of a semester of investigating different perspectives on contemporary policy issues. During their earlier empirical research, students had

spoken to voters, interest groups, and lawmakers on both sides of the aisle and had dived deep into internet subcultures to look at the different ideological framing of issues. Perhaps their increased awareness of deeply held issue positions in the United States only fortified them in their desire to see their own preferences enacted.

Regardless of the cause, the result was that students were stymied by today's politics and unable to imagine a constitution that committed to general principles while preserving or creating space for negotiating political differences – out of fear that those future negotiations might lead to policy choices which they saw as contrary to, or undermining of, their definition of liberal protections.

This impasse presented us with a thorny pedagogical challenge. As we taught the class, we were unable to sufficiently liberate students' imaginations such that they could conceive of a future polity – even if that required imagining one freed from the historical antecedents of the United States – that could be persuaded to make, or endorse, the value choices that the students preferred. More profoundly, this exercise revealed to us a need for new and different approaches to teach students that the practice of popular sovereignty requires processes by which to work through difference – different perspectives, different beliefs, different experiences. Instead of processes to elevate deliberation and persuasion, students' current sense of political vulnerability led them to want to mandate and instruct an imaginary polity.

LEARNING ABOUT DEMOCRACY IN THE AGE OF TRUMP: COMMITTED TO DEMOCRACY BUT UNWILLING TO ACCEPT THE ASSOCIATED RISKS

With the title of the course a question (*Power to the People?*), our aim was to leave room for students to conclude that the idea of popular sovereignty is untenable and/or that the practice of popular sovereignty is failing/under threat for any one of various reasons that the course investigated. To aid us in this process, we administered pre- and post-course surveys of students' attitudes about democracy and political life in the United States. While in their graded essays and class discussions they by and large concluded that democracy in the United States has degraded to an alarming level and that for it to be preserved we needed to restore agreement (on their substantive definition of liberal democracy), pre- and post-course surveys show that students maintained a high level of commitment to democratic precepts.

We surveyed the students at the beginning of the semester on a range of measures including support for democracy. At that time, nearly all students answered the question "How important is it for you to live in a country that is governed democratically" positively; only two answers were below 7 on a 1–10 index, with the modal response 10 and the mean 8.5. Students also expressed high levels of support for minority protections, freedom of speech, and the value of global democracy to American interests. Students were mixed

on their judgment of American democratic performance at the beginning of the semester; eighteen of thirty-five rated it “very weak” or “weak,” while the other seventeen rated it “strong.” None rated it as “very strong.” These responses were virtually unchanged at the time of the exit survey, revealing stable and high support for democracy and stable and mixed assessments of current democratic performance.

The students’ generally high and sustained levels of commitment to democracy is noteworthy. Not only had the course materials and discussion exposed them to the real limits and deficiencies of democratic functioning in the moment, the political cultural environment in which they’ve been raised – from left, right, popular, and scholarly perspectives – is one of general despair about the state of democracy.

At the same time, should we be troubled that students remained committed to democratic precepts even when their midsemester essays about the ingredients for a healthy democracy and their end-of-semester foray into constitutional design showed a potentially problematic conception of democracy? Perhaps not. They too were struggling with the tension between formal democratic protections and the urgency of this moment when both democratic practices *and* liberal values appear under assault in new and more threatening ways.

The culminating class visit to Washington, DC, to meet with leaders and examine American governance firsthand, provided some clues to understand the tension that we perceived in their response to class discussions. Through full-class and small-group meetings with journalists, representatives, and other leaders in DC, students were able to interrogate not just *what* these actors did but *why* they did it. They asked leaders not only about their policy positions and the reasons for them but also about the political pressures and constraints under which they operated. Witnessing democracy in action in this way may have reinforced both their support for democratic principles and their skepticism about how those processes were actually working.

At the same time, the cross-class engagement throughout the semester, culminating in the DC trip, simultaneously underscored similarities between students’ experiences and highlighted the differences between the two institutions. Engaging directly with students from the other college, whose experiences were often considerably different from their own, students struggled to understand the different backgrounds from which they came. One wrote that they “loved the collaboration with the UNC students and being able to ... interact with students outside of the Williams bubble was something I deeply appreciated about this course.” This student’s experience underscores how engaging with students from a different environment helped them clarify their own experiences and outlook. That lesson led back to a broader point of the course: connecting across differences to form a workable community (or polity).

Some students ended the course convinced of the problems but unclear about how to address them (“what am I supposed to do with this knowledge?”) while

others found a passion for civic mobilization – including one who transferred to a different college in order to participate more directly in activism. Students also valued the opportunity to listen and be heard across differences; through modelling such thoughtful deliberation, one student wrote that “seminar discussion allowed virtually all class participants a say on the subject matter.”

Although as instructors we found the students’ lack of distinction between polity building and policy preferences concerning, students’ responses suggested that they experienced the class as an unusually broad, nuanced approach to these questions. They appreciated the opportunity to move beyond high-school civics and to consider the health of American democracy theoretically and empirically. In looking toward future iterations of the class, we plan to address these questions head-on, emphasizing the tensions and connections between democracy and liberalism and the tools students might develop to navigate related questions, whether as an academic exercise or as a practical political choice, thoughtfully. In particular, we plan to include more practical exercises in democracy in the class, giving students even more opportunities to see the challenges of working across differences up close and in person. If done well, we hope these additional exercises will allow students to appreciate the challenge of forging a collective life out of difference.

CODA, SUMMER 2021

In the fall of 2020, we once again taught *Power to the People?* In the midst of the COVID-19 pandemic, with students largely remote at both institutions (and masked and distanced when not), this was more of a *sui generis* experience than a replication of the prior course. Nonetheless, we took advantage of the new, technology-reliant mode of teaching to incorporate more hands-on investigations and collaborative work among students across the two institutions. Whether it was the practical, pedagogical shifts we made or simply coincidence, students this time seemed to better appreciate the challenges posed by working together and incorporating different perspectives – an understanding that was manifest both in their response to the projects as well as in their analyses of the challenges confronting US democracy.

As profound as the pandemic-induced alterations were, however, changes we made to the syllabus as a result of the dramatic shifts in the terrain of American politics were even more significant. Even while crafting the syllabus in the summer of 2020, it was evident that one plausible outcome of the November presidential election would be a refusal by President Trump to accept the results as legitimate – and concomitant legal challenges, procedural subversions, street protests, and violence by his supporters and allies. Anticipating this possibility and the need to address that sort of fundamental assault on democracy, we created a new final unit, titled, “The Popular Sovereignty Agenda and Challenges for the Next Administration,” and we noted explicitly that the section was subject to modification depending on the political circumstances of the fall.

Reflecting back on that decision, we thought we were hedging our bets given the fluid nature of American politics in 2020. We did not anticipate the events that would unfold on January 6th, 2021, when Trump's supporters left the rally he was holding to storm the Capitol in an effort to force lawmakers to invalidate electoral college results and reinstate him as president. The alarming developments of 2020, while disturbing and unprecedented, were foreshadowed by the rhetoric and practices evident during the first iteration of our class in 2018.

The stakes for our students in 2018 were sufficiently high that they could not imagine prioritizing democratic politics over their policy commitments. They sought to write policy preferences into a hugely expanded bill of rights in order to prevent current or future majorities from changing those policies. The armed, militant extremists and their sympathizers on the right also rejected the right of current or future majorities to implement their policies.

The two groups' approach to this mistrust of the populace was of course dramatically different; one was a thought exercise undertaken by young people for the purpose of imagining their ideal polity, the other a real-life, violent undertaking by those persuaded that the election had been stolen. One was the expression of a fulsome commitment to liberal rights, albeit a particular and time-bound conception of them; the other was an embrace of illiberal practices and ends. Yet, they share a cynicism about the value of practicing popular sovereignty in a meaningful way.

In the context of this growing skepticism, focusing higher education on democratic citizenship becomes all the more necessary. Based on our experience with these exercises, the 2018 class, and the 2020 reconsideration, we encourage educators to consider in-depth courses with hands-on exercises like these to help students fully conceptualize the opportunities and pitfalls of popular sovereignty in theory and in practice.

The Voices of the People

Adam Davis

I say the mission of government, henceforth, in civilized lands, is ... to train communities through all their grades, beginning with individuals and ending there again, to rule themselves.

Walt Whitman, "Democratic Vistas"

And what would a new trust-generating citizenship look like?

Danielle Allen, *Talking to Strangers*

WOLF

In some parts of Oregon – and other places throughout the United States – the word “wolf” is more dangerous than a real wolf. The word “gun” is almost as explosive as a real gun. The word “gentrification” is almost as disruptive as the phenomenon itself.

These words, and others I could list here, divide people, or they mark divides between people. When these words are spoken, people take sides. Differences of concern and perspective are inflamed; similarities and shared commitments get lost.

Where there might have been a people, a community, or a public – even if only implicit or thin – there suddenly appear to be groups set against one another. If you want to protect wolves, you’re not one of us. If you believe carrying a gun makes us safer, you make me unsafe. If you think the new coffee shop is a sign of progress rather than racism, you’re a racist yourself.

But, with some allowance for where you call home, wolves and guns and changing neighborhoods are a part of a shared conversation. The words stand for shared concerns, or shared challenges; our capacity to understand one another’s beliefs and feelings about these words and the issues they stand for is a big part of our capacity to constitute a community, a public, or a people together.

I learned that “wolf” is an explosive word when I led a community conversation at the Joseph Center in Enterprise, Oregon, and asked participants, at the beginning, to name something that they find difficult to talk about in their community. In Prineville, Oregon, my organization led a conversation about guns in America that revealed and may even have contributed to serious rifts in that community. And in Portland, my organization has been involved with too many contentious conversations about home ownership and race to count.

This essay is rooted in experiences like these.

SELF-RULE AND SELF-UNDERSTANDING

My two main goals in this essay are (1) to suggest that popular sovereignty or self-rule depends on self-understanding and (2) to point to a set of practices and activities that make this kind of popular self-understanding more likely, even or especially in a populace as vast, complex, and divided as that of the United States in 2020.

If we take seriously the idea that we, in aspirationally democratic communities, can rule ourselves, it would seem that we are also required to understand ourselves, or to try to – though the more diverse or complex a populace, the more challenging this endeavor to understand ourselves becomes. How can we, the people of the United States, at once complex and unified, understand ourselves? Even the word “we,” as I’m sloppily and presumptuously using it here, already points to and builds on this challenge, but I hope the slippery meaning of this word helps us focus on the question I’m most trying to explore: how can and should a complex and diverse populace express, hear, and come to understand itself?

Here at the outset, I want to suggest that self-rule and, along with it, self-understanding require us to express and listen to ourselves not only when we’re making decisions about representatives or policy but also in a wide variety of less formally political contexts. One rules oneself, as a community and as an individual, not only in moments of obvious and explicit decision-making but also in one’s habits and ongoing ways of being. Yet, few public or political communities create adequate conditions for self-understanding – for reflecting, with others, on their mutually constituted selves – and therefore for self-rule.

In a bit, I’ll point to some current efforts to do just this – to create conditions for people to reflect on their mutually constituted public selves. The efforts I’ll look at most closely are those I know through my own work as a facilitator of community discussions, trainer of discussion leaders, and director of two organizations that have worked to create and strengthen conditions for mutual understanding and, I believe, for self-governance. The on-the-ground efforts I’ll describe and argue for are a necessary and often overlooked complement to more formal civic education efforts like those that Andrew Perrin and Nicole Mellow experiment with and study, and to the kinds of useful top-down stories

Rogers Smith propounds.¹ They also complement legal and institutional efforts such as those that Carol Nackenoff analyzes.² I argue in this essay that self-rule, or popular sovereignty, needs all of these efforts – and my particular focus is on largely unrecognized and underfunded, dispersed, bottom-up efforts to create conditions for people in and from a wide range of contexts to talk with and listen to one another in order to build a more robust and recognizable public.

The perspective from which I write this essay is chiefly that of a practitioner rather than a theoretician or a researcher. Before turning to the practice, however, I want briefly to sketch some general theoretical context within which these on-the-ground efforts take place.

WE THE PEOPLE

When we – the United States of America – constituted ourselves as a nation, our first word was “we.” What we meant by “we” came next: “the People of the United States.” This is a superficial but significant indication that, from the start, the United States of America has been devoted in word and principle, if not in practice, to the idea that the people ought to rule themselves – and that we are sufficiently united by geography, belief, or other factors to assign ourselves the name “the people.”

Our most respected president during our most trying and precarious national moment elaborated on and further inscribed this ideal of self-rule with the closing words of his Gettysburg address: “that government of the people, by the people, for the people, shall not perish from this earth.”

Yet, there are a wide range and a good number of reasons to doubt that, in the United States, the populace has been, is, or should be sovereign, should rule itself. To name only one example of this sort of skepticism, Walter Lippmann, nearly a century ago, argued in *The Phantom Public* that we ought to “abandon the notion that the people govern.”³ Lippmann looks at everything from invariably poor voting turnout to generally deficient civic knowledge to the real, insider-driven machinery of democratic governance and concludes, “There is not the least reason for thinking, as mystical democrats have thought, that the compounding of individual ignorances in masses of people can produce a continuous directing force in public affairs.”⁴ Lippmann doesn’t believe the people do govern and he doesn’t think it would be desirable for the people to govern. The implication is that he likely doesn’t believe a unified, engaged, knowledgeable people exists, and he clearly doesn’t believe a self-governing people exists. At best, he suggests, the people should be interested and informed spectators rather than political actors themselves. There may come moments or crises

¹ Smith, *Chapter 15*, in this volume.

² Nackenoff, *Chapter 14*, in this volume.

³ Lippmann, *Phantom Public*, 61

⁴ Lippmann, *Phantom Public*, 39.

when the people or the public should intervene, but only in the process or the selection of representatives and not, Lippmann emphasizes, to deal with the substance of the problem itself, whatever it may be. If we saw things more clearly, Lippmann suggests, we would see that the essence of popular government is to “support the Ins when things go well, the Outs when things go badly.”⁵ It should be no surprise that the epigraph of *The Phantom Public* comes from Alexander Hamilton at the 1787 Federal Convention: “the voice of the people has been said to be the voice of God; and however generally this maxim has been quoted and believed, it is not true in fact.”

Before continuing, I want to note the following two large and distinct questions implicit in Lippmann’s skepticism and Hamilton’s words. (1) Can there be a voice of the people? (2) Would it be possible or desirable for the people’s voice not only to express itself but also to rule or to govern the people – that is, itself? Another way to ask this second question is can and should the people be a “continuous directing force in public affairs”?

In what follows, I offer suggestions built on a combination of practical and theoretical efforts about what would be required in order to meet especially the first of these questions with an affirmative response.

THE PUBLIC AND ITS PROBLEMS

In 1927, two years after the appearance of Lippmann’s *The Phantom Public*, John Dewey published a set of lectures called *The Public and Its Problems*. I want to look at Dewey’s argument here for two reasons. First, the challenges to self-rule and self-understanding that Dewey identified in 1927 have grown only more comprehensive and pressing over the ensuing decades. Second, Dewey’s arguments about how a populace might move from society to community – or, in brief, from people living among each other to people living together – provide useful theoretical background for the on-the-ground efforts that the latter part of this essay will describe.

Much of what Dewey takes pains to illuminate can be detected in one short sentence from his third lecture, entitled “The Democratic State”: “The democratic public is still largely inchoate and unorganized.”⁶ Here Dewey reveals a few important parts of what he’s seeing, beginning with the idea that the “democratic public” is one kind of association among many. This particular public association – the democratic public – emerges not only in response to older associations such as the Church but also in response to a revolt against those associations – the idea or myth of the free individual. So the democratic public, in Dewey’s view, is nascent, competing, and unformed, but it is “still,” to use Dewey’s word, where we seem to – or could, with care – be headed.

⁵ Lippmann, *Phantom Public*, 199, 126.

⁶ Dewey, *The Public and Its Problems*, 109.

In addition to the challenges to the democratic public posed by older associations such as the Church and newer myths such as that of the free and independent individual, there are also a host of new forces that shape communities and publics in mostly undetectable ways. Dewey doesn't use the word "globalization," but it's clearly what he has in mind: "The invasion of the community by new and relatively impersonal and mechanical modes of combined human behavior is the outstanding fact of human life." He goes further: "the machine age has so enormously expanded, multiplied, intensified and complicated the scope of the indirect consequences ... that the resultant public cannot identify and distinguish itself [...] There are too many publics and too much of public concern for our existing resources to cope with."⁷ Just as our individual lives are shaped by new, large, and complex forces we cannot see or control, even more do these forces shape our community and public lives. As a community, we cannot see clearly who we are or how we're shaped and formed.

On top of these mechanical and economic challenges to a democratically organized public coming to understand itself, Dewey also points to related and serious demographic challenges: "The notion of maintaining a unified state, even nominally self-governing, over a country as extended as the US and consisting of a large and racially diversified population, would once have seemed the wildest of fancies ... It seemed almost self-evident to Plato – as to Rousseau later – that a genuine state could hardly be larger than the number of persons capable of personal acquaintance with one another."⁸ Because we're so large and diverse, it's very difficult to know what we share, and difficult to understand distant and apparently different others as part of one coherent national "people."

But here it's important to stress that Dewey is not pointing to the absence of a public: "It is not that there is no public, no large body of persons having a common interest in the consequences of social transactions." If, as Dewey says, a public is "a large body of persons having a common interest in the consequences of social transactions," then it turns out that "[t]here is too much public, a public too diffused and scattered and too intricate in composition. And there are too many publics, for conjoint actions which have indirect, serious and enduring consequences are multitudinous beyond comparison"⁹ The problem is not no public but competing publics – some of them recognized and some of them opaque but forceful. How then, according to Dewey, can the democratic public emerge? How can we understand ourselves and act as a political community, as the nominally coherent "people" that some of the Framers and Lincoln had in mind?

For starters, according to Dewey, we must recognize ourselves as a people: "the prime difficulty ... is that of discovering a means by which a scattered, mobile and manifold public may so recognize itself as to define and express

⁷ Dewey, *The Public and Its Problems*, 126.

⁸ Dewey, *The Public and Its Problems*, 114.

⁹ Dewey, *The Public and Its Problems*, 137.

its interests.”¹⁰ If this sounds “mystical,” as Lippmann would have it, Dewey is only getting started. “Communication alone can create a great community. Our Babel is not one of tongues but of the signs and symbols without which shared experience is impossible.”¹¹ If “the outstanding problem of the Public is discovery and identification of itself,” then, according to Dewey, “the essential need ... is the improvement of the methods and conditions of debate, discussion, and persuasion.”¹² What Dewey is suggesting, it turns out, is neither mystical nor farfetched. He’s suggesting that we talk and listen to one another, especially about the lives we have in common.

If what we’re after is healthy democracy, Dewey suggests, the problem seems to be that we don’t see ourselves as a *democratic* public. Instead we see ourselves as members of all sorts of other associations, groups, or tribes – and, at the same time, as independent individuals. The solution, according to Dewey, seems to be that we talk to each other about what sort of public we are or could be. What we need to move toward, in Dewey’s words, is “a society in which the ever-expanding and intricately ramifying consequences of associated activities shall be known in the full sense of that word, so that an organized, articulate Public comes into being.” Or, to put the same point differently, “when free social inquiry is indissolubly wedded to the art of full and moving communication ... democracy will have its consummation.”¹³

I’m preparing to leave Dewey, Lippmann, and the 1920s behind, and to turn directly toward Oregon and the United States at the start of the 2020s. But before doing so, a few last words from Dewey – a bridge toward what some practitioners of democracy and dialogue call “bridging.”

Dewey argues that the best response to our scattered, mobile, and manifold situation is to revitalize the local, the nearby. “In its deepest and richest sense a community must always remain a matter of face-to-face intercourse ... Vital and thorough attachments are bred only in the intimacy of an intercourse which is of necessity restricted in range.”¹⁴ When we’re thinking about democracy – and, for the purposes of this essay and this volume, about popular sovereignty, or self-rule – Dewey insists that we go local: “Democracy must begin at home, and its home is the neighborly community.”¹⁵ After identifying all the ways that the modern world complicates how we live together, Dewey offers this warning: “Unless local community life can be restored, the public cannot adequately resolve its most urgent problem: to find and identify itself.”¹⁶ To build our national democratic “we,” we have to focus first and maybe always on the local “we.”

¹⁰ Dewey, *The Public and Its Problems*, 146.

¹¹ Dewey, *The Public and Its Problems*, 142.

¹² Dewey, *The Public and Its Problems*, 185, 208.

¹³ Dewey, *The Public and Its Problems*, 184.

¹⁴ Dewey, *The Public and Its Problems*, 211.

¹⁵ Dewey, *The Public and Its Problems*, 213.

¹⁶ Dewey, *The Public and Its Problems*, 216.

SO MANY PEOPLES

How, though, to restore community life? How to create conditions for mutual understanding and for the public to find and rule itself – given that all the contrary forces and tendencies Dewey and Lippmann enumerated just under a century ago have only intensified? From Bill Bishop’s *The Big Sort* to hundreds of other recent books, studies, articles, editorials, and polls, the dominant belief about “the people of the United States” seems to be that there is no self-consciously unified people to be found.¹⁷ We are two peoples, three classes, seven tribes, or eleven regions. We are rural or urban, red or blue, Fox or MSNBC, white or black or brown, boomers or millennials or generation X, Y, or Z. We have college degrees or we don’t. We served in the military or we didn’t. We care about “justice” or we care about “freedom.” No matter who might say “We the People” today, many of us wouldn’t believe it – both because it (a coherent national people) doesn’t seem plausible and because we would distrust the person who says it, no matter what they’re saying. I don’t want to rehearse these ubiquitous analyses and lamentations here, but I do want to note that they bear on the question of self-rule in the following way: How can we talk about popular sovereignty in the absence of a unified people that would govern itself?

One first step – and a step that follows straight from Dewey’s diagnosis – is to name the problem and build off it. To restore or move toward a public, toward recognizing and governing ourselves, we would need to start by talking with neighbors about our community – and especially by listening to one another. In other words, we would need to embark on a project – or many projects – of mutual understanding and shared reflection.

That this sort of project may sound mystical, or crazy, attests to how oddly this particular experiment – the American experiment – in self-governance has gone. We seem not to believe that we can talk or listen to each other. We certainly don’t believe that we can govern ourselves for ourselves – at least not in any coherent, inclusive way.

VOICES OF THE PEOPLE

Here are the names of four programs that my organization – Oregon Humanities – runs: the Conversation Project, Bridging Oregon, Dear Stranger, and Reflective Discussion Facilitation Training. We run these programs in partnership with public libraries, social service organizations, houses of worship, law firms, schools, municipal bodies, and numerous other outfits around the state. In doing so, we engage tens of thousands of Oregonians per year (and in some years, over a hundred thousand). Much of our work in these and other programs consists of creating conditions for people to talk with one another,

¹⁷ Bishop, *The Big Sort*.

face-to-face, and across a range of differences, about matters of shared concern. We are a small nonprofit approaching our fiftieth year, and we are trying with increasing clarity and increasing reach to do what we believe to be the underlying work of democracy: to foster community-wide habits and practices of listening, reflecting, and understanding. We are trying to build a more connected and self-conscious public.

Our programs vary in format, content, and dosage, as well as in participants. Most programs are self-selecting, but some are obligatory (through the workplace). Some draw a majority of college-educated white people over the age of fifty, others draw people living at or near the poverty line who are more likely to come from a wider range of ethnic and racial backgrounds. The most difficult work is rarely what happens in the room; instead, it's the prework of building partnerships with communities and community organizations in order to convene diverse groups – and diverse in a number of ways.

The Conversation Project includes a changing menu of topics that any organization or community group can request. From “Crime and Punishment in Oregon” to “What We Want from the Wild” to “Faith and Politics” to “Race and Place: Racism and Resilience in Oregon’s Past and Future,” these fifty rotating Conversation Projects are designed to help people all around the state think about their community lives together and in doing so, to strengthen those community lives – to think about and shore up their public. If the Four Rivers Cultural Center in Ontario (fifty miles west of Boise, Idaho, just over the border into Oregon) requests “The Space Between Us: Immigrants, Refugees and Oregon,” we send out a trained discussion leader (who some months or years earlier proposed some version of that topic to us) to get that community talking.

Conversation Projects are one-off discussions open to whoever shows up, and they last for ninety minutes to two hours. Some organizations host loads of them and see a high percentage of repeat participants. Others host only one or two events and don't expect or see many repeat participants. What we hope for from these Conversation Projects is revealed by the evaluative questions we ask: Did you hear a new perspective? Did you talk with someone you hadn't talked with previously? Did you think differently about the topic? Do you feel more likely to take action in your community? Did you continue this discussion with anyone outside the room? What other topics do you think your community wants to discuss? We don't seek consensus or agreement with these programs; instead we're after mutual understanding of different perspectives, which can lead to increased trust, sparked during any single ninety-minute conversation and built over time.

The people who lead these Conversation Projects are community members themselves. They propose the topics, and we help them shape the discussion plans and become more skilled and confident facilitators. Our belief is that we're building civic infrastructure by elevating and training this growing corps of discussion leaders; they become important community resources, and they

see their role in community differently than they had prior to their experience of traveling around to get various groups of people talking and listening to each other. They also come to see themselves as part of a larger cohort and perhaps even a larger public.

Bridging Oregon is a higher-dosage program than the Conversation Project. For Bridging Oregon, we spend a few months reaching out to people and organizations from multiple towns in designated regions of the state to prepare for the gatherings. We then assemble groups of thirty people who gather for four half-day sessions over a two-month period to explore the divides in their region and how participants might work across them.

At the time of this writing, we had just completed a Bridging Oregon series in the Rogue Valley (Southwestern Oregon) that included participants from Medford, Grants Pass, Ashland, Klamath Falls, Williams, and other towns. As we assembled the group, we kept a strong eye on potential participants' access to power and worked to invite and include those who had been least likely to find themselves in rooms like this before.

Here are some of the comments about the program we heard from participants toward the end of the fourth half-day session:

- *It's helpful to start something really small. It gives me hope because I see people's hearts. It's a mirror put up to my face and it's different than me.*
- *I understand and I'm part of the community. I have more ease in working with my group and how to move forward. I'm calmer about what I have to do.*
- *I have more optimism about what we can do together.*
- *It was refreshing to be with people who are not my age, color, or religion.*
- *I'm appreciative that everyone has a way in.*
- *It has been a humbling and I'm still curious.*
- *I feel more able to see where potential for action exists.*
- *The divisions in this region are rough. I see that if no one else is going to do it I have to do it, period.*
- *I have a group that's actually listening to me here.*
- *This made me get a lot of power inside myself and I want to do something with a group of coworkers or whatever.*
- *I have greater awareness because I'm hearing it from your mouths.*
- *I have a little more hope for certain kinds of social change.*
- *I appreciate being in a room with people who seem like they give a fuck.*
- *I have more understanding of the value of time together. A change happens with time together.*
- *I have a greater sense of accountability and responsibility.*
- *This is helping me reconnect with my broader community.*
- *I have more clarity around the complicated concept of diversity.*
- *I have more readiness to start an uncertain project.*
- *I am seeing this group and our valley differently.*

- *I have been able to hear the voice of the North end of the Valley. Neil, Jesse, Fox – I hear you. I got you.*
- *I am moving away from distrust of others as a first instinct.*
- *We can afford ourselves the same courtesy we afford other people.*
- *I feel able to really hear other people, to get a peek into people and to get more understanding.*
- *This fanned the flame of curiosity about people and race.*
- *I have the feeling of having more roots.*
- *I am feeling courage and encouragement to build a community group.*
- *Yes, pat yourself on the back, but keep working.*
- *Please reach out to me.*

These comments come from a man who works in a cannabis shop, a woman who works at McDonald's, a man who works as an administrator at a college, a woman who retired with her husband to a senior facility in the region and then lost her husband, a high-school teacher, a former pastor, a photographer, a hospitality professional, a few people who are patching multiple part-time jobs together, and others. One of the discussion leaders is a priest. The other runs a start-up nonprofit and teaches.

Bridging Oregon, like the Conversation Project, is not principally geared toward information delivery or toward agreement or consensus. Both programs are designed to build connections, ensure that people hear perspectives other than their own, reconsider their own beliefs and commitments, and feel a stronger sense of agency in their communities.

Dear Stranger is a much lower-dosage program than either the Conversation Project or Bridging Oregon; it's an invitation to write a letter to someone you don't know. Our organization offers a prompt – for example, describe something about your community that people who don't live there might find surprising – and then, when we receive letters, we swap them with letters from writers in other parts of the state. Sometimes people exchange only one letter each; sometimes they keep writing to each other and go on to visit and develop enduring relationships. In addition to the people who participate in this letter exchange, we've seen this program get a lot of attention from media outlets around the state. The idea that people might connect across regions and perspectives seems to strike a chord. This is an inexpensive, easily accessible step toward building a stronger public.

Here I should pause to note that with Dear Stranger, as with the Conversation Project and Bridging Oregon and all our programs, inviting people to share views across differences of background and belief sometimes leads to tension or outright conflict. In some instances, the moments of tension are the most important and productive parts of the experience. In other instances, the moments of tension break into outright conflict and do some damage to the trust we're hoping to build. What we've tried to do in instances like these is keep an eye on the horizon for this work; one conflict-ridden ninety-minute conversation can turn

out to be a good opportunity for a community to make an effort to address and work through underlying conflicts, which may take years.

The Prineville conversation about guns in America that I referred to at the start of this essay was an example of this. The conversation was full of conflict. Several people left partway through. Multiple people wrote letters to the local paper. The library that hosted the event was shaken by their role in all of it. But the library and many other local parties responded to this one incident by redoubling their commitment to talking about difficult community issues, and that library in Prineville chose, three years later, to host our first four-session Bridging Oregon series, which was, in many ways, a palpable success.

Oregon Humanities also trains groups of people to lead reflective discussions in their communities and workplaces. We provide this training around Oregon and around the country. The basic format of these trainings is fairly straightforward: Over a two-day period, we facilitate and model a discussion (about, say, difference and connection, or freedom and self-expression, or what we hope for when we intervene in others' lives), talk together about what was valuable about that activity, and then move participants into planning and leading their own smaller group discussions with one another. We try to provide participants with tools that they can soon put to use in convening and leading conversations – and along the way, we get people talking and listening with one another and thinking more about the communities in which they live. We create conditions for participants to experience a public, and we prepare them to shape similar experiences for other people in their communities after the “training” ends.

Is this the kind of training Whitman had in mind when he wrote that “the mission of government” is “to train communities through all their grades, beginning with individuals and ending there again, to rule themselves”? Briefly, I would argue that this training, provided by a nongovernmental organization, provides part (and a small amount) of what self-rule requires. It provides opportunities for people to talk with and listen to each other, to ask shared questions and engage in shared reflection, and to develop skills and confidence in doing similar work going forward. This training and the other three programs I've mentioned pursue necessary but not yet fully sufficient conditions for a diverse people to recognize and understand and even rule itself. Without the sort of mutual recognition and understanding that programs like these deliberately pursue and contribute to, I believe the prospects for self-rule are dim.

Yet, it's also worth saying that none of these four programs (or any others that we run) are partisan or political in the way the word is usually used. Instead the activities are political in an older sense of the word. They are the kinds of activities that, as Aristotle would have it, can only happen in the polis, where individuals have the opportunity to talk with each other about the advantages and the disadvantages, the good and the bad, the just and the unjust.¹⁸ They are

¹⁸ Aristotle, *Politics*, 1253a7.

programs that encourage us to talk about the public we comprise together, and in doing so, to build – to constitute – that public.

These conversations and exchanges of stories are driven by open-ended questions that everyone can respond to. The shaping and scaffolding of these questions is one of the ways we try with all of our programs to ensure that everyone feels welcome. There is a public, we try to suggest, and you are part of it. When there are choices to be made – and there are always choices to be made – we try to tilt our outreach, facilitate recruitment, partner development, and program design toward those who haven't always felt welcome or included in the past.

I believe this is necessary work – necessary because our communities need it and necessary because our democracy depends on it. It is thoroughly public work, though the questions often begin in personal experience and the conversations are not primarily intended to move people toward voting or to take the measure of their attitudes or beliefs. We assume that people are fluid rather than fixed, that they are thoughtful, that they want to listen and be listened to. We are more committed to engaging participants with one another than to extracting information from them or delivering information to them.

We know that this is slow work and that the horizon is far off: “the long haul,” as Myles Horton would have it. We are sometimes encouraged by people who know or hear about this work to do it with leaders, influencers, and officeholders, but thus far we have chosen not to focus specifically on those in power. Sometimes officeholders are involved in these conversations, but more often they are not. We're more interested in the long work of self-rule than in the prospect of working with those who rule right now.

UNDERSTANDING OURSELVES

I've tried to suggest and begin to show that self-rule must begin before and extend beyond governing and voting, that it only makes sense for we the people to rule ourselves if (a) we recognize ourselves as a people and (b) we are able to engage in ongoing, inclusive efforts to understand who we are, who we would like to be, and what we share. To rule ourselves, we need to know ourselves. And to know ourselves, we must engage in ongoing efforts to understand one another and what we share.

If this particular people were not so diverse and spread out, or if there were more broadly shared experiences and activities, or if we put a large share of trust in certain national institutions or figures, then we might not need to find ways to foster habits and practices of understanding ourselves. But this populace is remarkably diverse in a number of ways and increasingly wary of large institutions. Without broadly shared history or belief, without shared sacrifice or service, without a shared sense of threat or opportunity, and without even a broadly shared story of identity, of who we are, the ideal of popular sovereignty, of people governing themselves, depends on practical, ground-level, long-term efforts to build connections and a shared sense of a democratic public.

In an essay written toward the end of his life, Dewey asserts that “we now have to re-create by deliberate and determined endeavor the kind of democracy which in its origin one hundred and fifty years ago was largely the product of a fortunate combination of men and circumstances.” Dewey in 1940 was responding to a smaller set of barriers to self-rule than those that have developed since, but his concluding exhortation still holds: “It is a challenge to do for the critical and complex conditions of today what the men of an earlier day did for simpler conditions.”¹⁹

I have touched briefly on these four programs that Oregon Humanities runs because I believe they are examples of the “deliberate and determined endeavor” Dewey had in mind and because these are efforts that I know well from personal and professional experience. But there are many more initiatives and programs devoted to similar goals than I could possibly name here. There are, for example, state humanities councils in every state and territory. Most if not all of these councils are devoted to the kinds of goals Oregon Humanities pursues – to getting people talking, listening, connecting, and reflecting. There is also a Federation of State Humanities Councils – a network that makes it easier for councils to learn from one another and amplify the impact and visibility of their work. There are other national efforts such as the National Coalition for Dialogue and Deliberation and the National Campaign for Political and Civic Engagement (led by the Watts College of Public Service and Community Solutions). There are state-level efforts including, in my own Pacific Northwest state, those run by Healthy Democracy, Oregon’s Kitchen Table, and Oregon Community Foundation’s Latino Partnership Program. There are regional and local efforts such as City Clubs, The Hearth (in Southern Oregon), and the High Desert Partnership (based in Harney County, where High Desert Partnership collaborative efforts helped community members respond as the Bundy brothers instigated an armed standoff over management of public lands). There are municipal agencies such as the City of Portland’s recently renamed Office of Civic and Community Life and the conversation-minded City of Woodburn, which has hosted numerous Oregon Humanities Conversation Projects to help residents connect with one another across differences of background and belief. And there are foundations like the Whitman Institute, Meyer Memorial Trust (especially their Building Communities division), the Kettering Foundation, and the Kellogg Foundation as well as coalitions of funders like PACE (Philanthropy Active in Civic Engagement). Again, there are many more local, regional, and national efforts and organizations than I could possibly list or even know about.

But even with all these efforts across various levels and sectors, we fall a good bit short of a clearly identified field, and a good bit short of the impact that such a clearly constituted field might have. And aside from incipient efforts at participatory budgeting and well-advertised but far-from-conversational “town hall meetings,” the most obvious engine for this kind of activity – government

¹⁹ Dewey, “Creative Democracy,” 225.

itself – is rarely in the business of helping people talk with, listen to, and understand one another. Instead government tends to function more as decider than convener, and often the reasons for its decisions are deliberately oblique, somehow beyond the reach of dialogue. Government itself is not trusted, and its operations rarely demonstrate commitment to creating conditions for people – civilians – to understand and trust each other.

TRUST AND SELF-RULE

If the government of the United States, for one, does not appear to be in the business of training communities to understand and rule themselves, then, I would argue, communities and community organizations have to be the engine of self-government. Their work must begin with and steadily point toward the goal of creating conditions in which diverse peoples can see one another and themselves as sufficiently unified and connected to recognize themselves as a coherent democratic public.

I started this essay with two short quotations. The first was Walt Whitman's call for government to train communities to rule themselves. Whitman was a poet, not an officeholder or even a political philosopher. He was also a volunteer nurse in military hospitals during the war that elicited from President Lincoln the formulation of "government of the people, by the people, for the people." And in the same book – *Democratic Vistas* – that includes Whitman's call for government to train communities to rule themselves, he also asked the following question: "Did you, too, O friend, suppose democracy was only for elections, for politics, and for a party name?"²⁰ Whitman's political imagining begins and ends not with government but with the people. He lays out a vision of individuals and communities ruling themselves, and he recognizes, with Dewey and against Lippman, that people of all origins and occupations ought to be and can be involved in the project of self-rule. "The purpose of democracy ..." Whitman writes, is "to illustrate, at all hazards, this doctrine or theory that man, properly train'd in sanest, highest freedom, may and must become a law, and series of laws, unto himself."²¹ And Whitman recognizes that the best hope of getting there is not finally or fundamentally through institutions or electoral processes but through "comradship" – without which democracy "will be incomplete, in vain, and incapable of perpetuating itself."²²

Here Whitman prefigures Dewey, who writes I am inclined to believe that the heart and final guarantee of democracy is in free gatherings of neighbors on the street corner to discuss back and forth what is read in uncensored news of the day, and in gatherings of friends in the living rooms of houses and

²⁰ Whitman, "Democratic Vistas," 956.

²¹ Whitman, "Democratic Vistas," 942.

²² Whitman, "Democratic Vistas," 982.

apartments to converse freely with one another.”²³ Dewey, like Whitman, understands that the prospect of self-rule depends on much more than our political framework. “Merely legal guarantees of the civil liberties of free belief, free expression, free assembly are of little avail if in daily life freedom of communication, the give and take of ideas, facts, experiences, is choked by mutual suspicion, by abuse, by fear and hatred.”²⁴ Where and how does this happen, this “give and take of ideas, facts, and experiences”? What are the barriers to it and how can we reduce those barriers?

If Whitman’s vision of comradeship and Dewey’s vision of friendship can sound strangely optimistic or even hallucinatory today for many of the reasons I’ve mentioned – chiefly the size and scale of the country and the divisions and differences it seems to contain – I want to stress that neither Whitman nor Dewey looked away from the “canker’d, crude, suspicious, and rotten” parts of the aspirationally democratic society that both had great hopes for.²⁵ Second, I want to turn to and conclude with a contemporary thinker, Danielle Allen, who makes simultaneously sober and hopeful arguments about how, in service to the ideals of democracy, we might relate to and understand one another and thereby rule ourselves.

The second quotation I started this essay with – “And what would a new trust-generating citizenship look like?” – comes from Danielle Allen’s 2004 book *Talking to Strangers*. In *Talking to Strangers*, Allen, like Whitman and Dewey, makes a case for what she describes as “forms of citizenship that, when coupled with liberal institutions, [can dissolve distrust].”²⁶ In other words, Allen believes that how we relate to one another is determinative for our capacity to rule ourselves, or that, as Dewey puts it, “the heart and guarantee of democracy” resides at least as much in how we the people are with each other as in our laws and institutions. And Allen locates trust – and distrust – at the center of this endeavor.

As I bring this paper toward its conclusion, I want to highlight what I take to be the central point of Allen’s argument: Self-rule is only possible under conditions in which the people that would rule itself develops certain “muscular” habits – specifically habits of “trust production.” Distrust, in other words, is the core challenge. And it “can be overcome only when citizens manage to find methods of generating mutual benefit despite differences of position, experience, and perspective.”²⁷ The habits and methods Allen has in mind exceed the merely legal or institutional though they depend on legal and institutional frameworks in order to develop and flourish. They are habits and methods of building what Allen, echoing Whitman and Dewey, calls “political friendship.” They are habits and methods of talking – and listening – to strangers.

²³ Dewey, “Creative Democracy,” 227.

²⁴ Dewey, “Creative Democracy,” 228.

²⁵ Whitman, “Democratic Vistas,” 937.

²⁶ Allen, *Talking to Strangers*, xx.

²⁷ Allen, *Talking to Strangers*, xix.

There is nothing complicated about what Allen means by political friendship – or about what Whitman means by comradeship and Dewey means by friendship. All three of these thinkers recognize that for a people to rule itself, we must be able to understand and connect to one another across inevitable and often valuable if painful differences and divides. In Dewey's words, "To cooperate by giving differences a chance to show themselves because of the belief that the expression of difference is not only a right of the other persons but is a means of enriching one's own life-experience, is inherent in the democratic personal way of life."²⁸

Allen goes further than Dewey in that she explicitly brings sacrifice and loss into the array of differences that must be reckoned with. "Citizenship is not, fundamentally, a matter of institutional duties but of how one learns to negotiate loss and reciprocity."²⁹ When Allen talks about negotiating loss, she has in mind the most significant kinds of loss one can imagine: loss of safety, loss of the sense of self, loss of sovereignty. Democracy, Allen suggest, demands that its people aspire to be sovereign yet regularly undermines "each citizen's experience" of sovereignty.³⁰ "As a result," Allen writes, "democratic citizenship requires rituals to manage the psychological tension that arises from being a nearly powerless sovereign."³¹ It is precisely because loss, distrust, and the sense of powerlessness are inevitable parts of the attempt to rule ourselves that habits of trust production need to be cultivated.

A moment ago I asserted that there is nothing complicated about what Allen, Whitman, and Dewey mean by comradeship and friendship. Here I want to assert that what's complicated – and difficult – and necessary – is to commit deeply to the habits and practices that produce and sustain comradeship and friendship and to continue to recognize the inextricable relationship between these habits and practices and the audacious project of self-rule.

As a last word, I want to bring back the three inflammatory words I mentioned at the start of the essay and then conclude with three voices from the 2019 Bridging Oregon series in the Rogue Valley:

Wolf. Guns. Gentrification.

And:

I have more understanding of the value of time together. A change happens with time together.

I have been able to hear the voice of the North end of the Valley. Neil, Jesse, Fox – I hear you. I got you.

I am moving away from distrust of others as a first instinct.

²⁸ Dewey, "Creative Democracy," 228.

²⁹ Allen, *Talking to Strangers*, 165.

³⁰ Allen, *Talking to Strangers*, 27.

³¹ Allen, *Talking to Strangers*, 41.

Epilogue

The Precipice of Hope: A Conversation with Hahrie Han

David Bateman: I'd like us to start the conversation by asking you to connect your work to the questions of popular sovereignty that we've been wrestling with in this volume. Do you find the concept of popular sovereignty useful in the work you do or for the types of questions in which you are interested?

Hahrie Han: I recognize that it might be synonymous to some people, but I probably use the term self-governance more than popular sovereignty.

A large part of what I've tried to do in my work is think about this question: If we really want to have a self-governing polity, what are the capacities that people need? How do they develop those? And then, what does self-governance mean beyond just elections?

Thomas Bartscherer: In the book, there is a lot of discussion about peoplehood, how it is defined, and how "peoples" are formed. There are discussions about tensions between popular majorities and individual or group rights; or between liberalism and democracy; and then there are discussions about interpersonal dynamics, how power is developed on a small scale within small-sized groups or organizations. For instance, the group dynamic in a classroom, or in a civic conversation as in Adam Davis's work with Oregon Humanities.

One thing that's missing is a discussion of how large-scale social and political movements build and exercise power, which is central to your work. How is that done? Is it scalable? What would it mean to scale it up to the level of a nation state?

Hahrie Han: I think there are a couple of ways to think about the answer to your question.

In much of my research, I work with students and colleagues to partner with grassroots organizations, mostly in the US (but not exclusively) to try to understand how we can put research and learning around what they do, to essentially make them more effective in doing what they're trying to do: to build political power at scale.

If I was having this conversation with a group of practitioners, I think the way that I would start to tackle your question is to say, “Well, here’s what we’ve learned about what works.” Of course, there is not any kind of formula; there is no formulaic way to build a movement. But there are certain kinds of capacities that movements should be building.

Another way to tackle your question is to think about what is the thing we are trying to scale? I often start by thinking about some of Danielle Allen’s work. She asks what this idea of self-governance by a free, equal people actually means.¹ One of the things that she says, which I really love, is that the most fundamental way in which we are all equal is that we all move through our days trying to make a better tomorrow, even though we might disagree about what that means. The challenge in self-governance is essentially how this group of individuals, who each need their own sphere of influence to build their own vision of a better tomorrow, comes together to create a broader polity.

When I think about the work that we’re doing around movements, I start by taking seriously this idea that everyone should be able to be an architect of their own future: What does it mean to equip people to become architects of their own future within the context of a movement? And then, how does that movement scale people’s ability to be architects of their own futures to whatever the domain is relevant – local, state, national politics?

A structure that I’ve come to over time is this notion of a fractal. I think a lot of the concepts that we think about with respect to popular sovereignty have to do with things at some broad, macro level. But I don’t think you can think at that scale without thinking about how it patterns all the way down. Part of what I like about a fractal, as I understand it, is that the same pattern that we might see in something like a fern, for example, would be repeated to ever smaller and tinier scales if I was to put it under microscope.

The most effective movements I’ve seen create a pattern like a fractal. It starts at the individual level, where people all bring their individual capacities, interests, desires, blind spots, and contradictions right to the table. And the movement creates some sphere, within which each of those people really are putting their hands on the levers of change, in which they really are architects of their own future. And then that gets patterned to a slightly bigger scale, and a little bit bigger, and a little bit bigger. So, it can start at the level of an individual, then a team, and then it can grow to the level of some political arena, like a local municipality. To get to the national level, we have to have structural mechanisms through which those fractals are repeated in different ways.²

¹ Allen, *Our Declaration*.

² One way to think about the federated structure identified by Theda Skocpol and others to early US social movements is that not only does it replicate the structure of power within the United States, but it repeats a pattern of social movements’ exercising power from the local to national level. See, for example, Skocpol, *Diminished Democracy*; Skocpol, *Protecting Soldiers and Mothers*; Skocpol, Liazos, and Ganz, *What a Mighty Power We Can Be*; and Skocpol, Ganz, and Munson, “A Nation of Organizers.”

And so to answer your question: self-governing movements have to somehow extend that pattern of a free and equal people learning how to exercise power from the micro level up to the macro level. I work with movements who have thought a lot about this question at a very micro level. What does it mean for me to draw someone off the sidelines, to equip them for public action, and then to help them realize their own agency in public life? If you've ever been part of a movement where you've seen that happen, it's an amazing thing. As teachers, we see that in our students sometimes. It's this incredible experience, when you see it. In the conversations that we're having with organizers, we try to point out that there's a structural component to this work that goes beyond just the individual or the relationship. The structure matters, because that's how we begin to think about questions of scale.

Ewa Atanassow: I very much like the fractal metaphor and would like you to elaborate on it.

It seems to me that the fractal is a metaphor for thinking about how we can reconcile individual or group autonomy with popular sovereignty, about the actual structure that would allow this reconciliation. Yet, the fractal analogy also hints that this structure, whatever it may be, might have to be analogous across different scales; that each component has to have the same pattern; and in that sense, though different in scale, all parts need to be homologous or uniform.

In other words, the fractal suggests a limitation on how much diversity in structure and orientation such a system can accommodate. It would seem that certain basic patterns or commitments need to be in place across society for something like the fractal structure to be possible.

Hahrie Han: I think the central question that we're facing as a society right now (at least in the US) is the question of whether multiracial democracy can work. Part of that big question is your question: What are the boundaries of diversity that we can accommodate? And how do we define these boundaries? Of course I can't fully answer these questions, but there are a couple of things that I can say in terms of how I think about the question you're asking.

If I want to start as an organizer, I have to start small. I can't go to scale from the beginning. I start by organizing the people around me, and then those people organize other people and then it begins to grow. As I'm doing that, I don't know at time-one (T_1) what kind of challenges we're going to face at time-two (T_2). Those challenges might be political challenges from the outside. They could also be challenges within the group. I don't know at T_1 how some of the differences amongst us might create fissures and limit our ability to create a coherent movement.

One of the questions we – my collaborators and I, and the people I'm in conversation with – think a lot about is uncertainty. If we take seriously this idea of uncertainty – that there's no formulaic way of building popular sovereignty – then what are the choices that I can make at time-one (right now), that make it more likely that at time-two (in the future) we'll be equipped to deal

with whatever challenges might come our way? One of those challenges might be challenges of diversity within the group.

A lot of our research focuses on the idea that there are a set of capacities movements can invest in at T1 that help them negotiate these uncertain futures in T2. Some of those capacities can help equip people and movements to negotiate boundaries of “peoplehood,” to use a term invoked in the volume, within the movement itself. The question of who’s in and who’s out is not just one that gets enacted at the polity, or at the level of the nation. It arises at the level of every movement that I’ve seen. Movements constantly ask: What is the community of belonging that we’re really constructing? What is the extent to which belonging comes before belief?

These are questions that every movement that I’ve seen has to grapple with. And, there are a certain set of capacities regarding the nature of the relationships that are constructed amongst constituents that make movements more or less likely that they can navigate these questions. For instance, what is the extent to which they have systems of learning built into their work? What is the nature of the commitments that they create with each other? All of these things are *ex ante* decisions that movement leaders can make that don’t necessarily ensure that they’re going to be able to negotiate the differences that come up, but that create the conditions that make it possible or more likely.

Let me add two more things. First, in the kind of work I do, we think a lot about how people negotiate their interests with each other. I don’t mean diplomats, but ordinary people in everyday lives. What does it look like for us to be negotiating our overlapping and distinct interests and negotiating boundaries of belonging, to be negotiating disagreement? Those are fundamental skills of negotiation. Yet, I wish we had more research on it. That’s a place where sometimes, when I’m talking to organizers, I feel like I come up against the limits of what I know about how to negotiate those differences, based on the research that I’ve seen.

The second thing is this: In thinking about negotiating our relationships, and thinking about relationships as the building block of power or sovereignty or self-governance we have to think about how power gets negotiated in those relationships. Here, I borrow from Marshall Ganz’s work, who says power is an exchange of interest and resources.³ This is not a full definition of power, but it is an aspect of it: I have power over you if I have resources that act on your interests, and you have power over me if you have resources that act on my interest. We agree to share power if we mutually agree to use our resources to act on each other’s interests. And that mutuality is ultimately what a movement needs to be able to do.

But to create that kind of mutuality (or solidarity), we have to be able to say, “I’m different from you. We have a different set of resources and different set of interests. But we have realized that we’re stronger together than if we act

³ Ganz, “Leading Change,” 531; Blau, *Exchange and Power in Social Life*.

alone, and so we have to figure out how to use each other's resources to act on each other's interests." That's the kind of negotiation that has to happen to figure out the boundaries of difference that we can accommodate or not. Obviously, as we scale that to bigger levels, the structures through which that happens become more and more formal. If I'm doing this with my neighbors, it's basically a torturous homeowners' association meeting. And then maybe in the city council, it's kind of the same thing. But by the time you get to the state, or the nation, it becomes a much more formalized system.

So I think there's a constant interaction between the individual and collective capacities that people have as they come to the table, and then the structures that we create to shape the table itself.

Thomas Bartscherer: I want to underscore two things in what you just said. The first is the distinction between belonging and belief, and the question of which comes first. It's a really eloquent way of articulating a central tension for us.

The second goes back to your invocation of Danielle Allen's work, and the futurity question. In the volume, we haven't talked much about the temporal axis in different conceptions of peoplehood.⁴ There is a lot of drawing on the past in conceiving peoplehood. But this is different: You are directing the idea of peoplehood toward the future.

We all know that we want a better future; that at least holds us together. But who is this "we" that you're conceiving? That's one way to think about the question of scalability. Can the "we" entail something as large as a nation?

Hahrie Han: So maybe I'll ask a question in return: It seems very obvious to me that "we" includes everybody. Why would it not? Why would everyone not want a better future, even knowing that we may all disagree about what this means, and that what a better future means for each person can be different?

Thomas Bartscherer: There are two ways, I think, that one can imagine this. One can say that the "we" includes everyone in the nation, and so therefore necessarily excludes other nations. Or one can ask whether a given nation, say the United States, holds together as a "we." Our differences are so great, that some would argue that California should secede, or that "red states" should secede. So, how do we think about the "we" in the particular example of this nation.

Hahrie Han: I was thinking about the question in a different way. I didn't mean it as a definition of the nation, of a boundary. Instead, I understood it as a universal. It's part of the human condition. As Allen once put it, we all go through our days thinking about how we can make tomorrow better than today. That's just a human thing, not a question of boundaries.

The reason it is important is that this question of self-governance, or popular sovereignty, begins with the idea of figuring out how we equip people to exercise their own agency in public life. That, to me, is the value of the temporal dimension, and of wanting to think about a better tomorrow. In a way, I start in the same way economists start with the assumption that all people are

⁴ See also Espejo, *The Time of Popular Sovereignty*.

rational. I start with the assumption that all people want to exercise agency. That's the way in which I meant it.

Then, if everyone wants to exercise their agency, how do we think about the boundaries of our commitments to each other – that we either have or should have – and what is the basis on which that commitment is built? When do we exit and when do we exercise voice? I struggle with these questions. I grew up in Texas. Texans talk about seceding all the time. But almost every movement that I've seen that has gotten to any kind of scale has struggled with that question of who's in and who's out – especially movements that are fighting for rights for people who have been traditionally excluded. What is the extent to which we are willing to accommodate people who are ignorant of or actively challenge the dignity of our people? Who will we bring into our movement to help us get to scale? Put another way, how do we think about the boundaries of how far we're willing to go to create that community of belonging?

I would love to see some kind of framework for that. I don't know that there's ever going to be a clear line. Instead, for me the question is how do we create the processes, the spaces, and the capacities for people to constantly negotiate those blurry boundaries. Engaging in that negotiation, and doing the work, is an end in and of itself.

One of the big projects that I've been working on recently examines a movement of people who are fighting for racial justice within evangelical megachurches in America. As you might know, in the United States, there's a big battle going on within evangelicalism right now about who gets to define the faith. A big portion of it is defined by people who have an image of faith grounded in a white Christian nationalist worldview. But there are people who are fighting for racial justice within that context. This is not a domain that I myself come out of. It's different from a lot of other movements I've studied. But I've learned so much about how they think about negotiating these questions.

This phrase, "belonging comes before belief," actually comes from this big megachurch I have been studying in Ohio. They say explicitly, as one of their mottos, "belonging comes before belief": we are all about trying to bring Jesus and the Kingdom of God to earth, but you can come to our church whether or not you believe in God, whether or not you believe in our God, etcetera. You are still a part of our community. They have this ethos of radical hospitality, of bringing people who may disagree with fundamental tenets of the church into that community. That is something I've learned a lot from. I don't see it as explicitly stated in other movements, but I think there are ways in which lots of other movements that I've studied have a similar ethos of creating belonging, and not assuming that only people who agree are the ones that are drawn in.

David Bateman: Something I find very useful in this discussion is that what "building belonging" means is different when you start from the bottom up, where there's not necessarily a reason to circumscribe it right away. I think a lot of us who think about democracy or popular sovereignty start from the premise that there is already a state, there is already a nation, or that this is

what is being explained. The questions then become: What common thing binds everyone within this state together, or how can we justify these boundaries rather than something else? Starting from the bottom up, not as a post-hoc rationalization but as an *ex ante* practice, means we don't need to start from that premise. We can start by asking, how do I relate to the specific persons next to me, and how do they relate to the next, and how do we negotiate the differences between us.

Earlier you suggested that you were interested in participation and self-governance beyond just elections. Could you say a bit more about this? One thing about your work that is so inspiring is that it is oriented around belief that participation is good, and that we want more of it. But what are the limits to that? Polarization can drive participation, but this might not be worth the cost. The increase in participation of people might not be worth the cost of fraying civic bonds.

Hahrie Han: Sometimes I think that when I die, if there's one thing that I hope I convinced my colleagues of, it will be the idea that not all forms of participation are the same. In my world of empirical American politics, the tendency is to just count participation. It's like 30 thousand votes is equal to 30 thousand people showing up at a meeting, to 30 thousand people coming to a protest, or something like that. As an empiricist, I understand why we do things like that. But by reducing participation to numbers of participants or numbers of actions, we have lost sight of the extent to which participation can have prodemocratic effects or not.

Let me reframe the question: What are the conditions under which participation is a carrier of democracy versus a carrier of authoritarianism? From historical and cross-national studies, we know that there are lots of cases where a really thick civil society produces really authoritarian outcomes. It's clear that civil society can be a carrier of either. So what are the conditions under which it actually promotes democracy?

In a recent paper with Andrea Campbell and Elizabeth McKenna, we develop this notion of what we call civic feedbacks.⁵ How do you differentiate between forms of participation that enrich the ability of vehicles of collective action to translate the actions of people into popular sovereignty versus those that impoverish it? We draw on the policy feedbacks literature to say that in the same way that policy design can have feedback effects that shape mass publics, so too can the ways in which we construct participation have differential downstream consequences.⁶

We start from the premise that any model of popular sovereignty has to take seriously collective action. It has to take seriously the ways in which people come together, and the vehicles or scaffolding through which they're able to

⁵ Hahrie, Campbell, and McKenna, "Civic Feedbacks."

⁶ For a discussion of how policy design can shape the boundaries of inclusion and exclusion, see Erler's chapter in this volume.

channel their participation into some kind of voice or power over the outcomes they care about. Certain kinds of participation are going to have feedback effects that enrich the ability for that collective action to happen, and certain kinds will not. That helps us get at something that I've always struggled with: A lot of times when people think about the difference between things like thick versus thin participation, it ultimately comes down to a measure of time. But I can put a lot of time into something and still get very little out of it. Conversely, with the right organizer, and with the right context around it, a relatively time-limited kind of action can actually be quite meaningful. The concept of civic feedbacks tries to provide us with a conceptual tool to examine not just the act of participating, but also the downstream consequences of each action.

So is participation always good? First, I would differentiate between participation as an outcome and the forces that drive participation. I absolutely think that there are forces that drive participation that are "bad." White nationalist politics is antidemocratic and unjust and yet it drives participation. But does this mean that participation itself is "bad"?

I know this is disputed, but I generally start with this idea that we want more people to feel like they have their hands on the levers of change. We want more people to feel they have voice. When we see people participating and it leads to more authoritarian or polarized outcomes, the question I ask is whether it's a problem with the actual act of someone participating or a problem with the kind of participatory opportunity they were offered, or the thinness of the participation that is so common nowadays. One of the really destructive things about neoliberalism, or whatever the term is that you want to use to define that regime, is that it's reduced us to thinking about participation in individualistic, market-based terms. This ignores civic feedbacks and other aspects of any participatory act that turn any individual act into something that can be richer and more collective.

David Bateman: So what would be an example of participation that generates positive feedback versus participations that do not?

Hahrie Han: In the paper, we develop a case study around a fifteen-year campaign for universal preschool in Cincinnati.⁷ There were two phases to the campaign. In phase one, they were essentially trying to get lots of petition signatures to show the breadth of public support for preschool. Organizers tabled outside grocery stores, they went to community marches and festivals, and so on. And they got something like twice the number of signatures that they thought that they were going to get. When they brought those signatures in, the city council said, "Great you showed us some breadth of public support, just like we asked you to, but you know what, we have no money. Sorry we can't do it." What could they do then? Unfortunately, they hadn't generated those signatures in a way that built any kind of relationships or a sense of commitment among those people. All they had were names on a piece of paper.

⁷ See note 5 above.

They couldn't go back to those people and say, "Hey, the city council just pushed back on the thing that you said you support. What's our next move?" They were assuming that the petition would be enough to bring the city council around. But it didn't unfold the way they were expecting, and they didn't have the tools to be able to respond.

And then, in the second phase of the campaign, a grassroots organization comes along and builds a real constituency by engaging people in house parties and other actions that help develop people's consciousness around preschool, racial justice, and economic justice issues. They reach the constituencies in Cincinnati who are likely to benefit most from a universal preschool program. So then later, when they have a similar moment of being challenged, their response is very different. Instead of having to walk away, they say, "All right. If you are going to challenge us, we're going to take this back to the people, and see how the people are going to respond." And the people are already equipped and ready for action in a way that enables them to hold people in positions of power to account. So, those choices they made earlier in the second phase about how to cultivate that constituency created feedback effects that enabled a thicker form of accountability, which I think is another dimension that we could talk about here. To be clear, the feedbacks did not come from the fact that a house party takes more time than signing a petition. Instead, it's more about the kind of capacities that were built, the sort of relationships that were built, and how these had downstream consequences that were able to feed into the campaign.

My hope is that our paper can agitate a conversation around this idea of the downstream consequences. What are the conditions under which you could imagine civic feedbacks that feed into authoritarian versus prodemocratic outcomes? This gets us to questions that the volume also engages with – questions about negotiating across difference and thinking about how we construct peoplehood. You can imagine that there are ways to address those questions that have positive downstream consequences, and ways that actually shut down future prodemocratic outcomes that you might want.⁸

David Bateman: I think there is a notion that going to a city council meeting and yelling at each other is the essence of participation. And what you are saying is: no, showing up, and even speaking, is not the same thing as building relationships.

Hahrie Han: I hear all the time from organizers that we don't have models of representation or co-governance. So when government doesn't do something that we want, people say, "All right, we're going to go sit in on Nancy Pelosi's office!" or something like that. And you know, there are times when that is exactly the right thing to do, but movements need to have repertoires

⁸ Consider, e.g., work by Maya Tudor and Dan Slater on the importance of inclusive narratives in social movement organizing for democratic outcomes. Tudor and Slater, "The Content of Democracy."

of action that go beyond that. And one of the things that we, as a community of scholars, can do is help articulate models of representation that go beyond just voting, or just using bodies as a cudgel. I think there's a lot of work to be done there to expand that repertoire and deepen our understanding of how that relationship of accountability can work.

Ewa Atanassow: I'd like to connect this to the discussion about the conditions that make participation produce desirable effects. Obviously, "desirable" needs to be defined, and distinguishing between democratic versus authoritarian outcomes is one way to do so. But just as there hardly is anybody who doesn't want to improve their tomorrow, I wonder if there are many people today who don't want democracy. One of Tocqueville's original insights I've been mulling over is that we live in a world where democracy is the only game in town, it is seen as the only legitimate basis for political power. The question then is not whether to have a democracy, but what kind of democracy, and how do we put content into that concept. So the radical hospitality model, which seems very attractive, sooner or later is going to hit against the question that you say is central to any movement: Who is in and who is out? Unless we have some kind of shared understanding, however broad and negotiable, about the meaning of democracy and the criteria of belonging, common action would be difficult to mobilize. This at least is what I imagine constituency means: shared understanding of and commitment to what we're after.

Hahrie Han: So, a couple of reactions. I agree with everything you said, except for one point: Does everyone want democracy? There's increasing data showing that people's commitment to democracy is lower than we might think. This is true in the US, it's true among young people, and comparatively. That, of course, then raises the question of what people are thinking about when they think about democracy. I don't know the answer to that question. But whether people want democracy is, in my mind, a question.

Part of what makes democracy unique as a form of government is that it asks people to accept uncertainty over outcomes in order to have certainty over process. I first heard this from Valerie Bunce.⁹ Lots of other forms of government will give you certainty over outcomes, but uncertainty over process. I think this is such a clear encapsulation of one of the problems that we're confronting right now: Namely, what are the conditions under which people are willing to accept uncertainty over outcomes?

Well, if the possible set of outcomes that you're asking me to accept is too broad, then yes, I am much less willing to accept that. I am much less supportive of democracy, as a result. If you're asking me to accept an outcome where I may not be able to feed my family, where my children may be impoverished,

⁹ "To put it simply," writes Valerie Bunce, "liberal democracy features *certain* political procedures, but *uncertain* political results. State socialism, by contrast, reverses this combination by featuring *uncertain* political procedures but *certain* political results." Bunce, "The Struggle for Liberal Democracy," 400.

where they may not have a sustainable world to live, etc., I become a lot less supportive of the democratic processes that could lead to those outcomes.

That's why I worry when our conversation about threats to democracy and inequality does not include this question of voice and power. To me, a key question we must ask is, "Will people be more willing to accept the uncertainty democracy demands if they feel that they have legitimate voice in the process?" My hypothesis (though I don't have the data) is yes. If I feel that I'm going to be able to have some say over the range of outcomes I'm being asked to accept, and that they're within bounds of what I view to be acceptable, then will I be more willing to accept that process, overall? I think part of where we're at right now is that the range of outcomes we're asking people to accept is broader than what many people find acceptable, so people are undermining the system itself.¹⁰

Ewa Atanassow: What you just said touches on the issue of legitimacy. If I participate in the democratic process, it is likelier that I'll recognize its outcome as legitimate. And yet, while having a voice is a source of legitimacy, it's not the only one. For instance, if in my opinion, the other party is the enemy and authoritarianism incarnate, even or especially if I have participated and was actively engaged in the process, I could still view the outcome as illegitimate, as happened after the 2020 US elections.

Hahrie Han: I agree, but my one caveat is that I didn't say that mere participation will lead people to view the outcome with legitimacy. It's whether I experienced voice, which to me is different from participation. I can vote and not experience a feeling of voice. The hypothesis I have is that if I experienced an authentic feeling that I was able to help shape the process, I might view the outcome as more legitimate, or be more willing to accept it.

One other thing: accepting the outcome as legitimate is an *ex post* evaluation. I look at the outcome, and I think retroactively about whether it was legitimate or not. I was trying to ask: is there an *ex ante* evaluation that I might make? I hypothesize that people would be more willing to *ex ante* engage in a process without knowing what the outcome is, to accept the uncertainty, if they feel like they have authentic voice in it.

Thomas Bartscherer: That's very useful, to identify the link between civic participation, accountability, and legitimacy. We've been thinking about the connection between legitimacy and accountability. But to make clear the connection between thick participation, building relationships rather than merely voting, and feeling that your voice is heard, that you have a voice in the process – to put those three together is very helpful.

And to return to the idea that uncertainty about outcome is characteristic of democracy, one might say that in a functioning democracy at least one outcome is certain: self-governance. In other words, there may be a distinction between

¹⁰ Peter Levine has been grappling with many of these questions, developing a theory of civic life that integrates questions of deliberation and voice. Levine, *What Should We Do?*

outcome in terms of particular policy choices, and outcome understood as the practice self-governance, and that seems worth thinking about.

David Bateman: We started this volume with the crises of liberal democracy. We would like to hear your take on this: Is there a crisis and what is it?

Hahrie Han: I talk to a lot of people, both scholars and practitioners, who seem to have very worked out analyses of the crisis of liberal democracy. It's as if they can say, "This is the crisis. These are the dimensions of it. And these are the things that we need to do to fix it. It's just a matter of building public will for it."

My analysis, by contrast, is still somewhat inchoate. Obviously, there's a lot of truth in many of the common explanations people provide: the changing information sphere, the rise of disinformation, the increase in affective polarization, and the ways in which that diminishes our ability to build the sense of peoplehood that you're talking about.¹¹ I don't disagree with any of that. But it always strikes me as being somewhat incomplete. I'm not quite sure that I have an alternative answer. Part of what I found useful about the work you all are doing is putting this into historical context and giving us a broader way of thinking about the contemporary "crisis" as being a part of the democratic process itself, and part of democracy-building itself.

Whether or not we think "crisis of liberal democracy" is the right term, I do think that we are in a moment of tremendous upheaval. The structure of the economy is changing; the structure of nation state and the relationships between nation states are changing; there's increasing diversity in populations across the world; there are all these ways in which the social, political, economic trends are creating a lot of uncertainty. And so, regardless of whether or not we think about it as a crisis, I do think we're at a choice point, as a country, as a people, however we define that.

Sometimes when I'm in conversations about this "crisis" or this moment, the choices for how to act are being defined at the level of institutions or individuals. At the level of institutions, people ask how we fix our institutions to allow for better decision-making processes, from election reform to congressional procedures. These are all very important. Alternately, it's very much at the level of individuals: Why are human brains wired to dislike other people, to be so parochial, etc.

But I worry that we're not thinking about how to strengthen the scaffolding at the meso-level. How do we create the scaffolding that gives people the opportunity to overcome those parochial instincts, or to take advantage of the institutions that are created at the macro level? But that's not all. That scaffolding should also give people the opportunity to actually experience those fractals, to experience effective collective action – which, in turn can then strengthen the ability of either the institutions or the individual capacities.

¹¹ For a recent set of analyses, see Lieberman, Mettler, and Roberts, *Democratic Resilience*.

Thomas Bartscherer: A starting point for the conversations that generated our volume was Edmund Morgan’s book *Inventing the People*, especially his notion that “the success of government requires the acceptance of fictions.” His idea of fiction has been central to a lot of our discussions.

With regard to popular sovereignty, the idea that there is a people in a substantive sense, and that the people can and should govern itself, is an example of what Morgan means by a fiction. And Morgan argues that when the gap between fact and fiction grows too great, the efficacy of that fiction can collapse. Can we think of self-governance, as you put it, or popular sovereignty, as a constructive fiction? And what is its status in contemporary liberal democracies?

Hahrie Han: This question about fiction is essentially tied to the question about hope. Part of the reason why we need this fiction of self-governance, or this fiction of a “people,” is because we need hope that we can reach that goal which we haven’t yet. I think that matters at a macro and a micro level.

In the movement work that I do, one of the questions we ask is about how you motivate people to take action. One thing I always tell organizers is that people are not dumb. People know when you’re asking them to do something useless, and people know when you’re asking them to do something meaningful. If you really want to draw people into action and do so in a way that is going to help build a movement, then draw them into actions that are tied to this sense of hope. In the context of a movement, hope is often tied to some kind of strategy, or a story about how those actions are going to add to the kind of influence or change that people might care about. I think the same is true for this fight that we’re having about democracy as well. We need the fiction in order to generate the hope.

There’s a quote that I use a lot from the Jewish theologian Maimonides who says, “Hope is belief in the plausibility of the possible as opposed to the necessity of the probable.” In *Prisms of the People*, part of what we’re trying to do is to think about how we make the possible more plausible.¹² Doing research this way sort of flies in the face of the intellectual infrastructure of quantitative social science, which is built on probability theory. If X, then what is the most likely outcome Y? But we know that most movements fail. Yet we’re nonetheless doing all this work, and trying to think about how we strengthen the ability of people to exercise their self-governing capabilities; we’re trying to think about how we make more plausible this fiction of self-governance, of popular sovereignty.

I didn’t become an academic because I wanted to be better at predicting all the negative outcomes out in the world. For sure, it’s really important to understand how the world works. But I got into this work because I want to try to strengthen our ability to reach for these hopeful fictions that we have. I remember in grad school my advisor used to say, “The difference between you

¹² Han, McKenna, and Oyakawa, *Prisms of the People*.

and me, Hahrie, is that I just want to understand how the world works and you want to make the world work better.” And I was like, “Why wouldn’t you want to make the world better?” It always just seemed so self-evident to me that this is what we should want.

But there is one thing about the word “fiction” that I would maybe nuance, which gets me to the second part of your question. I think there’s a difference between the stories that we tell ourselves and the experience that people have of those stories. One of the fights that we’re having right now in America is who gets to tell those stories. And part of what’s been happening is that for so long, the stories that we’ve told ourselves about America have been told by a certain group and many people felt left out of that story. And so now, you see all these other voices coming and saying, “Hey, here’s the story properly reinterpreted and understood.”

And so, when I think about fiction, I think it’s important to see it as a useful framework in tying us to the kind of hope and ideals that we’re reaching toward. But it’s not just the stories that we tell ourselves, but also the experiences that we construct for people. Part of why I’m so focused on this meso-level infrastructure is because that’s where these experiences are constructed for and by people. They are sometimes constructed for people in places like the family, which reformers don’t have any influence over. But we do have influence over how we construct our political system and civil society, and can create experiences in those places that make real – or don’t make real – the stories that we’re trying to tell.

Ewa Atanassow: I’d like to tie this notion of fiction and hope to the discussion about crisis and process. It seems to me that the pandemic we are witnessing is not only of Coronavirus but also of loss of meaning. There seems to be a loss or at least some kind of deficit of the stories that make political systems effective and credible and legitimate. It is interesting to try to understand where this deficit is coming from. But what you are putting on the table is that for self-government to work, we need the kind of stories that sustain hope on all levels of political life. This calls to mind Rogers Smith’s chapter in this volume, and his claim that, while populism is problematic on many levels, it often succeeds in cultivating the capacity to produce such stories. These might not be the most attractive or inclusive or admirable stories, but they work in some ways and we should learn from them how to tell better ones.

Hahrie Han: Part of the reason why I think the fractal metaphor is important is because, as with movement organizing, there’s no shortcut to justice or inclusion. I’ve learned a lot from my work with social movements and evangelical megachurches that have grappled with questions about multiracial solidarity. Justice and inclusion have to emanate from the ways in which we interact with each other, up to the movements that we create, up to the thing that we’re trying to agitate for.

Impoverished notions of participation try to create shortcuts. The logic goes something like this: “Well, if we only got this outcome, if only we got this

institutional reform, if only we got this anti-poverty policy in place, then, everything else will take care of itself.” Yet part of what we’ve learned throughout history is that it does not take care of itself. Yes, there are things to do from the top down and from the bottom up. But why I like that image of the fractal is that it creates a structure through which people have the experience of grappling with these thorny questions all the way through, even if there aren’t clear answers that we come to at the end.

Ewa Atanassow: I’m still thinking about your teacher, who said that what he strove for was to understand while you wanted to improve things. This calls to mind Marx’s eleventh thesis on Feuerbach which declares that, while the philosophers only interpret the world, the point is to change it. Coming from the Eastern European experience, I’m a bit skeptical of the changes Marx’s interpretations managed to bring about. But I’m wondering if one way to sustain salutary hope is to stay on that edge between understanding and improvement and beware of separating them.

Hahrie Han: I love the idea of sitting on that edge and it just reminds me: I was talking to a colleague yesterday, who said something like: “I feel like I’m on the precipice of hope.” And my response was: I don’t think you can ask for more than that right now.

Select Bibliography

- “2012–2016 Border Patrol Strategic Plan.” US Customs and Border Patrol, 2012. www.cbp.gov/sites/default/files/documents/bp_strategic_plan.pdf
- Aaron, Rhodes. *Debasement of Human Rights: How Politics Sabotage the Ideal of Freedom*. New York, NY: Encounter Books, 2018.
- Abts, Koen, and Stefan Rummens. “Populism versus Democracy.” *Political Studies* 55, no. 2 (2016): 405–24.
- Ackerman, Bruce. “The Storrs Lectures: Discovering the Constitution.” *Yale Law Journal* 93, no. 6 (1984): 1013–72.
- Afonso, Alexandre, and Line Rennwald. “Social Class and the Changing Welfare State Agenda of Populist Radical Right Parties in Europe.” In *Electoral Realignments and Welfare Transformations in Europe*, edited by Philip Manow, Bruno Palier, and Hanna Schwander, 171–95. Oxford: Oxford University Press, 2018.
- Agg, John. *Proceedings and debates of the Convention of the Commonwealth of Pennsylvania, 1837–1838*. Harrisburg, PA: Packer, Barrett, and Parke, 1838.
- Ahrens Dorf, Peter J. “The Limits of Political Rationalism: Enlightenment and Religion in Oedipus the Tyrant.” *The Journal of Politics* 66, no. 3 (2004): 773–99.
- Albertus, Michael, and Victor Menaldo. *Authoritarianism and the Elite Origins of Democracy*. Cambridge: Cambridge University Press, 2017.
- Alfano, Mark, Michael P. Lynch, and Alessandra Tanesini. *The Routledge Handbook of Philosophy of Humility*. New York: Routledge, 2021.
- Allen, Danielle. *Our Declaration: A Reading of the Declaration of Independence in Defense of Equality*. New York, NY: W. W. Norton & Co., 2014.
- Allen, Danielle. *Talking to Strangers: Anxieties of Citizenship Since Brown v. Board of Education*. Chicago, IL: University of Chicago Press, 2004.
- Allen, Danielle, and Justin Pottle. “Democratic Knowledge and the Problem of Faction.” *White Paper*. Knight Foundation, 2017.
- Althusser, Louis. *Politics and History: Montesquieu, Rousseau, Hegel, and Marx*. London: NLB, 1972.
- Amar, Akhil Reed. *America’s Unwritten Constitution: The Precedents and Principles We Live By*. New York, NY: Basic Books, 2012.

- Amar, Akhil Reed. *The Bill of Rights: Creation and Reconstruction*. New Haven, CT: Yale University Press, 1998.
- Anderson, Benedict. *Imagined Communities: Reflections on the Origin and Spread of Nationalism. Original Edition*. New York, NY: Verso, 1983.
- Anderson, Greg. "Before Turannoi Were Tyrants: Rethinking a Chapter of Early Greek History." *Classical Antiquity* 24, no. 2 (2005).
- Anderson, Fred. ed. *George Washington Remembers: Reflections on the French and Indian War*. Lanham, CO: Rowman & Littlefield, 2004.
- Anker, Elisabeth. *Orgies of Feeling: Melodrama and the Politics of Freedom*. Durham, NC: Duke University Press, 2014.
- "Annenberg Civics Knowledge Survey." Reported PRNewswire, August 2019. www.annenbergpublicpolicycenter.org/political-communication/civics-knowledge-survey/
- Ansolahehere, Stephen, and Brian F. Schaffner. "Does Survey Mode Still Matter? Findings from a 2010 Multi-Mode Comparison." *Political Analysis* 22, no. 3 (2014): 285–303.
- Appiah, Kwame Anthony. *The Lies That Bind: Rethinking Identity*. New York, NY: Liveright Publishing Corporation, 2018.
- Applebaum, Anne. "Illiberal Democracy Comes to Poland." *The Washington Post*, December 16, 2016. www.washingtonpost.com/news/global-opinions/wp/2016/12/22/illiberal-democracy-comes-to-poland/
- Arato, Andrew. "Populism, Constitutional Courts, and Civil Society." In *Judicial Power: How Constitutional Courts Affect Political Transformations*, edited by Christine Landfried, 331–41. Cambridge: Cambridge University Press, 2019.
- Arendt, Hannah. *The Origins of Totalitarianism*. New York, NY: Harcourt, 1976.
- Aristotle. *Politics*. Tr. by H. Rackham. Cambridge, MA: Harvard University Press, 1944.
- Arneil, Barbara. *John Locke and America: The Defence of English Colonialism*. Oxford: Clarendon Press, 1996.
- Arnold, Matthew. *Culture and Anarchy: An Essay in Political and Social Criticism*. London: Smith, Elder, & Co., 1869.
- Arpey, Conor. "The Business Implications of Disparate Impact's Uncertain Future." *BLR Buzz Blog, American University Business Law Review*, April 17, 2017. www.aublr.org/2017/04/business-implications-disparate-impacts-uncertain-future/
- Aslam, Ali. *Ordinary Democracy: Sovereignty & Citizenship Beyond the Neoliberal Impasse*. New York, NY: Oxford University Press, 2016.
- Atanassow, Ewa. *Tocqueville's Dilemmas and Ours: Sovereignty, Nationalism, Globalization*. Princeton, NJ: Princeton University Press, 2022.
- Augustine. "Against Faustus the Manichean, XXII, 73–79." In *Political Writings*, edited by Michael W. Tkacz and Douglas Kries, 220–22. Indianapolis, IN: Hackett, 1994.
- Ausland, Hayden W. "On Reading Plato Mimetically." *American Journal of Philology* 118 (1997): 371–416.
- Azari, Julia R. *Delivering the People's Message: The Changing Politics of the Presidential Mandate*. Ithaca, NY: Cornell University Press, 2014.
- Badiou, Alain, Judith Butler, Georges Didi-Huberman, Sadri Khiri, Jacques Rancière, and Pierre Bourdieu. *What Is a People?* New York: Columbia University Press, 2016.
- Bailyn, Bernard. *The Peopling of British North America: An Introduction*. New York: Alfred. A. Knopf, 1986.
- Baker, Peter. "Trump Supports Plan That Would Cut Legal Immigration by Half." *The New York Times*, August 3, 2017, A1.

- Balakrishnan, Gopal. "The Age of Carl Schmitt." In *Man and His Enemies: Essays on Carl Schmitt*, edited by Svetozar Minkov and Piotr Nowak, 11–24. Bialystok: University of Bialystok Press, 2008.
- Ball, Sam. American Creed. *Citizen Film*, 2018. www.americancreed.org/watch
- Bancroft, George. *History of the United States, From the Discovery of the American Continent*. Boston, MA: Charles Bowen, 1834.
- Bancroft, George. *Oration Delivered on the Fourth of July 1826 at Northampton, Mass.* Northampton: T. Watson Shephard, 1826.
- Bassier, Roy P. *The Collected Works of Abraham Lincoln, Volume 2, 1848–1858*. New Brunswick: Rutgers University Press, 2013.
- Bateman, David A. *Disenfranchising Democracy: Constructing the Electorate in the United States, the United Kingdom, and France*. Cambridge: Cambridge University Press, 2018.
- Bateman, David A. "Partisan Polarization on Black Suffrage." *Perspectives on Politics* 18, no. 2 (2020): 470–91.
- Bateman, David A. "Transatlantic Anxieties: Democracy and Diversity in Nineteenth-Century Discourse." *Studies in American Political Development* 33, no. 2 (2019): 139–77.
- Batuman, Bülen. "Architectural Mimicry and the Politics of Mosque Building: Negotiating Islam and Nation in Turkey." *The Journal of Architecture* 21, no. 3 (2016): 321–47.
- Bazon, Emily. "Department of Justification." *The New York Times*, February 8, 2017. www.nytimes.com/2017/02/28/magazine/jeff-sessions-stephen-bannon-justice-department.html?_r=0
- Beiler, Rosalind J. "Dissenting Religious Communication Networks and European Migration, 1660–1710." In *Soundings in Atlantic History: Latent Structures and Intellectual Currents, 1500–1830*, edited by Bernard Bailyn and Patricia Denault, 210–3. Cambridge, MA: Harvard University Press, 2009.
- Bender, Michael C. "Trump Strikes Nationalistic Tone in Inaugural Address." *The Wall Street Journal*. January 20, 2017. www.wsj.com/articles/donald-trump-strikes-nationalistic-tone-in-inaugural-speech-1484957527?tesla=y&mod=e2tw
- Bergmann, William H. *The American National State and the Early West*. Cambridge: Cambridge University Press, 2012.
- Berman, Sheri. "Civil Society and the Collapse of the Weimar Republic." *World Politics* 49, no. 3 (1997): 401–29.
- Berman, Sheri. *Democracy and Dictatorship in Europe: From the Ancien Régime to the Present Day*. Oxford University Press, 2019.
- Bermeo, Nancy. "On Democratic Backsliding." *Journal of Democracy* 27, no. 1 (2016): 5–19.
- Bernard, Phillipe, and Henri Dubief. *The Decline of the Third Republic, 1914–1938*. Cambridge: Cambridge University Press, 1985.
- Berstein, Gisèle, and Serge Bernstein. *Dictionnaire Historique de La France Contemporaine*. Paris: Editions Complexe, 1995.
- Best, GFA. "The Protestant Constitution and Its Supporters, 1800–1829." *Transactions of the Royal Historical Society*, 5, no. 8 (1958).
- Betz, Hans-Georg, and Carol Johnson. "Against the Current – Stemming the Tide: The Nostalgic Ideology of the Contemporary Radical Populist Right." *Journal of Political Ideologies* 9, no. 3 (2004): 311–27.
- Bhargava, R. P. *The Chamber of Princes*. New Delhi: Northern Book Centre, 1991.

- Biagini, Eugenio. *Liberty, Retrenchment, and Reform: Popular Liberalism in the Age of Gladstone, 1860–1880*. New York: Cambridge University Press, 1992.
- Bickel, Alexander M. *The Least Dangerous Branch: The Supreme Court at the Bar of Politics*. Indianapolis, IN: Bobbs-Merrill, 1962.
- Billings, Warren M. ed. *The Old Dominion in the Seventeenth Century: A Documentary History of Virginia, 1606–1700*. Chapel Hill: University of North Carolina Press, 2007.
- Bimes, Terri, and Quinn Mulroy. “The Rise and Decline of Presidential Populism.” *Studies in American Political Development* 18, no. 2 (2004): 136–59.
- Bishop, Bill. *The Big Sort: Why the Clustering of Like-Minded America Is Tearing Us Apart*. Indianapolis, IN: Houghton Mifflin, 2008.
- Bishop, William G., and William H. Attree. *Report of the Debates and Proceedings of the Convention for the Revising of the Constitution of the State of New York, 1846*. Albany, NY: Evening Atlas, 1846.
- Blau, Peter M. *Exchange and Power in Social Life*. Routledge, 1986.
- Blondell, Ruby. *The Play of Character in Plato’s Dialogues*. Cambridge, and New York: Cambridge University Press, 2002.
- Bodin, Jean. *Les Six Livres de La République*. Translated by Ioannis D. Evrigenis. Paris: Jacques du Puys, 1576.
- Bonikowski, Bart, and Noam Gidron. “The Populist Style in American Politics: Presidential Campaign Discourse, 1952–1996.” *Social Forces* 94, no. 4 (2016): 1593–621.
- Bonilla, Yarimar, and Jonathan Rosa. “#Ferguson: Digital Protest, Hashtag Ethnography, and the Racial Politics of Social Media in the United States.” *American Ethnologist* 42, no. 1 (2015): 4–17.
- Bositis, David A. *The Congressional Black Caucus in the 103rd Congress*. Washington, DC: Joint Center for Political and Economic Studies, 1994.
- Bourke, Richard, and Quentin Skinner, eds. *Popular Sovereignty in Historical Perspective*. Cambridge: Cambridge University Press, 2016.
- Boyd, Richard. “The Early Modern Origins of Behavioral Economics.” *Social Philosophy & Policy* 37, no. 1 (2020): 30–54.
- Boyd, Richard. “Thomas Hobbes and the Perils of Pluralism.” *Journal of Politics* 63 (2001): 392–413.
- Bradford, William. *Of Plimouth Plantation, 1620–1647*. New York, NY: Modern Library, 1981.
- Brennan, Jason. *Against Democracy*. Princeton, NJ: Princeton University Press, 2017.
- Brewer, Holly. “Slavery, Sovereignty, and ‘Inheritable Blood: Reconsidering John Locke and the Origins of American Slavery.” *American Historical Review* 122, no.4 (2017): 1038–78.
- Breyer, Stephen. *Making Our Democracy Work: A Judge’s View*. New York, NY: Knopf, 2010.
- Brock, André Brock. “From the Blackhand Side: Twitter as a Cultural Conversation.” *Journal of Broadcasting and Electronic Media* 56, no. 4 (2012): 529–49.
- Brosseau, Laurence, and Marc-André Roy. “The Notwithstanding Clause of the Charter.” Library of Parliament, 2018. https://lop.parl.ca/sites/PublicWebsite/default/en_CA/
- Brown, Wendy. *In the Ruins of Neoliberalism: The Rise of Antidemocratic Politics in the West*. New York: Columbia University Press, 2019.
- Brown, Wendy. *Undoing the Demos: Neoliberalism’s Stealth Revolution*. Cambridge: MIT Press, 2015.
- Brown, Wendy. *Walled States, Waning Sovereignty*. Cambridge, MA: MIT Press, 2010.

- Brown, R. A., and T. C. Shaw. "Separate Nations: Two Attitudinal Dimensions of Black Nationalism." *Journal of Politics* 64, no. 1 (2002): 22–44.
- Brubaker, Rogers. "Populism and Nationalism." *Nations and Nationalism* 26, no. 1 (2020): 44–66.
- Bugaric, Bojan. "Could Populism Be Good for Constitutional Democracy?" *Annual Review of Law and Social Science* 15, no. 1 (2019): 41–58.
- Bunce, Valerie. "The Struggle for Liberal Democracy in Eastern Europe." *World Policy Journal* 7, no. 3 (1990): 395–430.
- Bunyasi, T. L., and C. W. Smith. "Do All Black Lives Matter Equally to Black People? Respectability Politics and the Limitations of Linked Fate." *Journal of Race, Ethnicity, and Politics* 4, no. 1 (2019): 180–215.
- Butler, Judith. "'We the People': Thoughts on Freedom of Assembly." In *What Is a People?*, edited by Alain Badiou, Judith Butler, Georges Didi-Huberman, Sadri Khiari, Jacques Rancière, and Pierre Bourdieu, 49–64. New York: Columbia University Press, 2016.
- Brands, H. W. *What America Owes the World: The Struggle for the Soul of Foreign Policy*. Cambridge: Cambridge University Press, 1998.
- Calhoun, John C. *A Disquisition on Government and A Discourse on the Constitution and Government of the United States*. New York: D. Appleton and Company, 1853.
- Calhoun, John C. *The Works of John C. Calhoun. Volume 1*. New York: D. Appleton and Company, 1853.
- Calloway, Colin G. *The Indian World of George Washington: The First President, the First Americans and the Birth of the Nation*. New York: Oxford University Press, 2018.
- Campbell, Andrea L. *How Policies Make Citizens: Senior Political Activism and the American Welfare State*. Princeton, NJ: Princeton University Press, 2003.
- Camus, Anaïs, and Tristan Storme. "Carl Schmitt, Lecteur de Tocqueville." *Revue européenne des sciences sociales* 49, no. 1 (2011): 7–34.
- Camus, Anaïs, and Tristan Storme. "Schmitt and Tocqueville on the Future of the Political in Democratic Times." *The Review of Politics* 74 (2012): 659–84.
- Canon, David T. *Race, Redistricting, and Representation*. Chicago, IL: University of Chicago Press, 1999.
- Canovan, Margaret. *The People*. Cambridge: Polity, 2005.
- Canovan, Margaret. "The People." In *The Oxford Handbook of Political Theory*, edited by John S. Dryzek, Bonnie Honig, and Anne Phillips, 349–62. Oxford: Oxford University Press, 2006.
- Canovan, Margaret. *Populism*. Boston, MA: Houghton Mifflin, 1981.
- Canovan, Margaret. "Trust the People! Populism and the Two Faces of Democracy." *Political Studies* 47, no. 1 (1999): 2–16.
- Carney, Nikita. "All Lives Matter, but so Does Race: Black Lives Matter and the Evolving Role of Social Media." *Humanity and Society* 40, no. 2 (2016): 180–99.
- Carroll, Susan. "The Disempowerment of the Gender Gap: Soccer Moms and the 1996 Elections." *PS: Political Science & Politics* 32, no. 1 (1999): 7–12.
- Carter, Clarence Edward, ed. *The Territorial Papers of the United States: Volume X. The Territory of Michigan, 1805–1820*. Washington, DC: United States Government Printing Office, 1942.
- Carter, Dan. *The Politics of Rage: George Wallace, the Origins of the New Conservatism, and the Transformation of American Politics*. Baton Rouge, LA: Louisiana State University Press, 1995.

- Center for the Study of Diversity and Democracy Poll. Evanston, IL: Northwestern University. www.csdd.northwestern.edu/research/. Accessed December 18, 2017.
- Chafetz, Josh. *Congress's Constitution: Legislative Authority and the Separation of Powers*. New Haven, CT: Yale University Press, 2017.
- Che, Chang. "The Nazi Inspiring China's Communists." *The Atlantic*, December 1, 2020. www.theatlantic.com/international/archive/2020/12/nazi-china-communists-carl-schmitt/617237/. Accessed January 28, 2022.
- Childers, Christopher. *The Failure of Popular Sovereignty: Slavery, Manifest Destiny, and the Radicalization of Southern Politics*. Lawrence: University of Kansas Press, 2012.
- Chung, Heera. "From a Protectionist Party to a Church Party, 1846–48: Identity Crisis of the Conservative Party and the Jew Bill of 1847." *Albion* 36, no. 2 (2004): 256–78.
- Çinar, Ipek, Susan Stokes, and Andres Uribe. "Presidential Rhetoric and Populism." *Presidential Studies Quarterly* 50, no. 2 (2020): 240–63.
- Clark, Meredith D. "White Folks' Work: Digital Allyship Praxis in the #BlackLivesMatter Movement." *Social Movement Studies* 18, no. 5 (2019): 519–34.
- Cleen, Benjamin De, and Yannis Stavrakakis. "Distinctions and Articulations: A Discourse Theoretical Framework for the Study of Populism and Nationalism." *Javnost – The Public* 24, no. 4 (2017): 301–19.
- Clemens, Elisabeth. *The People's Lobby: Organizational Innovation and the Rise of Interest Group Politics in the United States, 1890–1925*. Chicago, IL: University of Chicago Press, 1997.
- Clinton, R. L. *Marbury v. Madison and Judicial Review*. Lawrence: University Press of Kansas, 1989.
- Cocks, Joan. *On Sovereignty and Other Political Delusions*. London: Bloomsbury, 2014.
- Cohen, Elizabeth F. "Dilemmas of Representation, Citizenship, and Semi-Citizenship." *Saint Louis University Law Journal* 58 (2014): 1047–70.
- Cohen, Elizabeth F. *Semi-Citizenship in Democratic Politics*. New York: Cambridge University Press, 2009.
- Cohen, Joshua. "Deliberation and Democratic Legitimacy." In *Democracy*, edited by David Estlund, 87–106. Malden, MA: Blackwell Publishing, 2002.
- Cohen, Lizabeth. *A Consumers' Republic: The Politics of Mass Consumption in Post-war America*. New York: Vintage, 2003.
- Cohen, Roger. "Trump's Road to 2024." *The New York Times*, 2017. www.nytimes.com/2017/10/20/opinion/trumps-road-to-2024.html
- Colley, Linda. *Britons: Forging the Nation, 1707–1837*. New Haven, CT: Yale University Press, 1992.
- Conlin, Michael F. *The Constitutional Origins of the American Civil War*. New York: Cambridge University Press, 2019.
- Connolly, William. *Identity/Difference: Democratic Negotiations of Political Paradox*. Minneapolis: University of Minnesota Press, 2002.
- Constant, Benjamin. "The Liberty of the Ancients Compared with that of the Moderns." In *Political Writings*, edited by Biancamaria Fontana, 308–28. Cambridge: Cambridge University Press, 1988.
- Conti, Gregory. *Parliament the Mirror of the Nation: Representation, Deliberation and Democracy in Victorian Britain*. Cambridge: Cambridge University Press, 2019.
- Copland, Ian. *The Princes of India in the Endgame of Empire, 1917–1947*. Cambridge: Cambridge University Press, 1997.

- Copland, Ian. *State, Community and Neighbourhood in Princely North India, c. 1900–1950*. New York: Palgrave Macmillan, 2005.
- Corduwener, Pepijn. “The Populist Conception of Democracy beyond Popular Sovereignty.” *Journal of Contemporary European Research* 10, no. 4 (2014): 423–37.
- Cosgrove, Charles H. “The Declaration of Independence in Constitutional Interpretation: A Selective History and Analysis.” *University of Richmond Law Review* 32, no. 4 (1998): 107–64.
- Cott, Nancy. *The Grounding of Modern Feminism*. New Haven, CT: Yale University Press, 1987.
- Coulter, Ann. “If Rubio’s Amnesty Is So Great, Why Is He Lying?” 2013. www.anncoulter.com/columns/2013-04-17.html
- Cowling, Maurice. 1867: *Disraeli, Gladstone and Revolution: The Passing of the Second Reform Bill*. Cambridge: Cambridge University Press, 1967.
- Craiutu, Aurelian. “Tocqueville’s Paradoxical Moderation.” *Review of Politics* 67, no. 4 (2005): 599–630.
- Cramer, Katherine J. *The Politics of Resentment: Rural Consciousness in Wisconsin and the Rise of Scott Walker*. Chicago, IL: University of Chicago Press, 2016.
- Critchlow, Donald T. *In Defense of Populism: Protest and American Democracy*. Philadelphia: University of Pennsylvania Press, 2020.
- Cutler III, William W. “Status, Values, and the Education of the Poor: The Trustees of the New York Public School Society, 1805–1853.” *American Quarterly* 24, no. 1 (1972): 69–85.
- Dahl, Robert. “Decision-Making in a Democracy: The Supreme Court as a National Policy-Maker.” *Journal of Public Law* 6 (1957): 279–95.
- Dahl, Robert. *Democracy and Its Critics*. New Haven, CT: Yale University Press, 1989.
- Dahl, Robert. *How Democratic Is the American Constitution?* 2nd ed. New Haven, CT: Yale University Press, 2003.
- Dahl, Robert. *On Democracy*. New Haven, CT: Yale University Press, 1998.
- Dahl, Robert. *Polyarchy: Participation and Opposition*. New Haven: Yale University Press, 1971.
- Dahl, Robert. *A Preface to Democratic Theory*. Chicago, IL: University of Chicago Press, 1956.
- Daly, Tom Gerald. “Democratic Decay: Conceptualising an Emerging Research Field.” *Hague Journal on the Rule of Law* 11, no. 1 (2019): 9–36.
- Dawson, Michael C. *Behind the Mule: Race and Class in African-American Politics*. Princeton, NJ: Princeton University Press, 1994.
- de Gouges, Olympe. “The Declaration of the Rights of Woman.” In *The French Revolution and Human Rights: A Brief Documentary History, Translated, Edited, and with an Introduction by Lynn Hunt*. Boston, New York: Bedford, St. Martin’s, 1996.
- Dean, Eric T. Jr., “Stephen A. Douglas and Popular Sovereignty.” *The Historian* 57, no. 4 (1995): 733–48.
- “Declaration of the Rights of Man and Citizen.” In *The French Revolution and Human Rights: A Brief Documentary History, translated, edited, and with an introduction by Lynn Hunt*. Boston, New York: Bedford, St. Martin’s, 1996.
- “Declaration of Independence, July 4, 1776.” www.archives.gov/founding-docs/declaration-transcript
- Derrida, Jacques. “On Forgiveness.” In *On Cosmopolitanism and Forgiveness*. Translated by M. Dooley and M. Hughes. Edited by S. Critchley and R. Kearney. New York: Routledge, 2001.

- Derrida, Jacques. *Specters of Marx: The State of the Debt, the Work of Mourning and the New International*. Translated by Peggy Kamuf. New York: Routledge, 1994.
- Dewald, Carolyn. "Form and Content: The Question of Tyranny in Herodotus." In *Popular Tyranny*, edited by Kathryn A. Morgan. Austin, TX: University of Texas Press, 2003.
- Dewey, John. "Creative Democracy: The Task before Us." In *John Dewey: The later works, 1925–1953*, edited by Jo Ann Boydston, 224–29. Carbondale, IL: Southern Illinois University Press, 1990.
- Dewey, John. *The Public and Its Problems*. New York, NY: Holt Publishers, 1927.
- Dewey, John. *Reconstruction in Philosophy* (Boston: Beacon Press, 1920, enlarged ed. 1948).
- Diamond, Larry. "Are People Losing Faith in Democracy." *The American Interest*. March 16, 2018. www.the-american-interest.com/2018/03/16/people-losing-faith-democracy/
- Diamond, Larry and Mark F. Plattner. "Why the Journal of Democracy." *Journal of Democracy* 1, no. 1 (1990): 3–5.
- Dinwoodie, Jane. "Evading Indian Removal in the American South." *Journal of American History* 108, no. 1 (2021): 17–41.
- Dixon, Robert G., Jr. "Electoral College Procedure." *The Western Political Quarterly* 3, no. 2 (1950): 214–24.
- Dotti, Jorge E. "From Karl to Carl: Schmitt as a reader of Marx." In *The Challenge of Carl Schmitt*, edited by Chantal Mouffe. London/New York: Verso, 1999.
- Douglass, Frederick "The Constitution of the United States: Is it Pro-Slavery or Anti-Slavery?" March 26, 1860. *BlackPast.org*. <https://blackpast.org/1860-frederick-douglass-constitution-united-states-it-pro-slavery-or-anti-slavery>
- Downs, Gregory. *After Appomattox: Military Occupation and the Ends of War*. Cambridge, MA: Harvard University Press, 2015.
- Du Bois, W. E. B. *Black Reconstruction in America*. New York: Harcourt Brace, 1935.
- DuVal, Kathleen. *Independence Lost: Lives on the Edge of the American Revolution*. New York: Random House, 2015.
- Dworkin, Ronald. *Sovereign Virtue*. Cambridge, MA: Harvard University Press, 2000.
- Dyzenhaus, David. "Austin, Hobbes and Dicey." *Canadian Journal of Law and Jurisprudence* 24 no. 2 (2011): 409–30.
- Dyzenhaus, David. "Carl Schmitt in America." In *State of Exception in American History*, edited by Gary Gerstle and Joel Isaac. Chicago, IL: University of Chicago Press, 2020.
- Dyzenhaus, David. *Legality and Legitimacy: Carl Schmitt, Hans Kelsen and Herman Heller in Weimar*. Oxford: Clarendon Press, 1997.
- Dyzenhaus, David. "Schmitt in the USA." *Verfassungsblog* (blog), 2020. <https://verfassungsblog.de/schmitt-in-the-usa>. Accessed January 6, 2022.
- Eckholm, Cara. "Hungary's Identity Crisis Fought in Concrete and Bronze." *Failed Architecture* (blog), May 14, 2014. <https://failedarchitecture.com/budapest-freedom-square/>
- Edinburgh Magazine, "View of Society and Manners in America, During the Years 1818, 1819, and 1820." *The Edinburgh Magazine, and Literary Miscellany* 89 (1822): 719–28.
- Editors' Introduction. "Democracy in the World: Tocqueville Reconsidered." *Journal of Democracy* 11, no. 1 (2000): 5–10.
- Edling, Max. "A More Perfect Union: The Framing and Ratification of the Constitution." In *The Oxford Handbook of the American Revolution*, edited by Jane Kamensky and Edward G. Gray. Oxford and New York: Oxford University Press, 2012.

- Edling, Max. "Peace Pact and Nation: An International Interpretation of the Constitution of the United States." *Past and Present* 240, no. 1 (2018): 267–303.
- Edling, Max. "United States Expansion and Incorporation in the Long Nineteenth Century." *Journal of Imperial and Commonwealth History* 49, no. 3 (2021): 431–58.
- Edwards, Bob, Michael Folley, and Mario Diani, eds. *Beyond Tocqueville: Civil Society and Social Capital Debate in Comparative Perspective*. Boston, MA: Tufts University Press, 2001.
- Elder, Laurel, and Steven Greene. "The Myth of 'Security Moms' and 'NASCAR Dads': Parenthood, Political Stereotypes, and the 2004 Election." *Social Science Quarterly* 88, no. 1 (2007): 1–19.
- Ellis, Richard J., and Stephen Kirk. "Presidential Mandates in the Nineteenth Century: Conceptual Change and Institutional Development." *Studies in American Political Development* 9, no. 1 (1995): 117–86.
- Ely, John Hart. *Democracy and Distrust*. Cambridge, MA: Harvard University Press, 1980.
- Engels, Friedrich. *Anti-Dühring*. Translated by Austin Lewis. Chicago, IL: Charles H. Kerr, 1907.
- Epstein, James. "Rethinking the Categories of Working-Class History." *Labour/Le Travail* 18 (1986): 195–208.
- Epstein, Joseph. *Alexis de Tocqueville: Democracy's Guide*. New York: Harper Collins, 2009.
- Espejo, Paulina Ochoa. "Paradoxes of Popular Sovereignty: A View from Spanish America." *The Journal of Politics* 74, no. 4 (2012): 1053–65.
- Espejo, Paulina Ochoa. *The Time of Popular Sovereignty: Process and the Democratic State*. University Park, PA: The Pennsylvania State University Press, 2011.
- Estlund, David. "Why Not Epistocracy?" In *Desire, Identity and Existence: Essays in Honor of T. M. Penner*. Edited by Naomi Reshotko, 53–69. Kelowna, BC: Academic Printing and Publishing, 2003.
- Euben, J. Peter. *The Tragedy of Political Theory*. Princeton, NJ: Princeton University Press, 1990.
- EURACTIV. "Controversial Monument Divides Hungarians, Angers Jewish Community." *www.Euractiv.Com* (blog), July 23, 2014. www.euractiv.com/section/central-europe/news/controversial-monument-divides-hungarians-angers-jewish-community/
- Evans, Eric J. *Parliamentary Reform in Britain, c. 1770–1918*. London: Routledge, 2000.
- Evrigenis, Ioannis D. *Fear of Enemies and Collective Action*. Cambridge: Cambridge University Press, 2009.
- Evrigenis, Ioannis D. *Images of Anarchy: The Rhetoric and Science in Hobbes's State of Nature*. Cambridge: Cambridge University Press, 2014.
- Evrigenis, Ioannis D. "Sovereignty, Rebellion, and Golden Age: Hesiod's Legacy." In *The Brill Companion to the Legacy of Greek Political Thought*, edited by David Matthew Carter, Rachel Foxley, and Liz Sawyer. Leiden: Brill, in press.
- Ezrahi, Yaron. *Imagined Democracies: Necessary Political Fictions*. Cambridge: Cambridge University Press, 2012.
- Fallon, Richard J., Jr. "Judicially Manageable Standards and Constitutional Meaning." *Harvard Law Review* 119 (2006): 1275–332.
- Fanon, Frantz. *The Wretched of the Earth*. New York, NY: Grove Press, 2005.
- Farrand, Max. *Records of the Federal Convention of 1787*. New Haven, CT: Yale University Press, 1923.

- Farrelly, Maura Jane. *Anti-Catholicism in America, 1620–1860*. New York: Cambridge University Press, 2018.
- Fehrenbacher, Don E. *The Dred Scott Case: Its Significance in American Law and Politics*. New York: Oxford University Press, 1978.
- Fehrenbacher, Don E. *The Slaveholding Republic: An Account of the United States Government's Relations to Slavery*. New York: Oxford University Press, 2001.
- Fernandez-Armesto, Felipe. *The Americas: The History of a Hemisphere*. London: Weidenfeld and Nicolson, 2003.
- Ferrari, G. R. F. "Plato the Writer." *Epoché* 19, no. 2 (2015): 191–203.
- Filmer, Sir Robert. "Observations Concerning the Originall of Government, Etc." In *Patriarcha and Other Political Writings*, edited by Johann P. Sommerville. Cambridge: Cambridge University Press, 1991.
- Finocchiaro, Maurice. *Beyond Right and Left: Democratic Elitism in Mosca and Gramsci*. New Haven, CT: Yale University Press, 1999.
- Fischer, David Hackett. *The Revolution of American Conservatism*. New York, NY: Harper & Row, 1965.
- Fisher, Max, and Amanda Taub. "A Second Brexit Vote Could Worsen the Chaos Created by the First." *The New York Times*. January 22, 2019, sec. World. www.nytimes.com/2019/01/22/world/europe/brexit-referendum.html
- Fitz, Caitlin. *Our Sister Republics: The United States in an Age of American Revolutions*. New York: Liveright, 2016.
- Fitz, Caitlin. "The People Who Profited Off the Trail of Tears." *The Atlantic*. May 2020: www.theatlantic.com/magazine/archive/2020/05/claudio-sant-unworthy-republic-trail-of-tears/609097/
- Flathman, Richard. *Thomas Hobbes: Skepticism, Individuality, and Chastened Politics*. Lanham, MD: Rowman & Littlefield, 2002.
- Fleck, Robert K., and F. Andrew Hanssen. "How Tyranny Paved the Way to Democracy: The Democratic Transition in Ancient Greece." *The Journal of Law & Economics* 56, no. 2 (2013): 389–416.
- Foa, Robert, and Yascha Mounk. "Are Americans Losing Faith in Democracy." *Vox*. December 8, 2015. www.vox.com/polyarchy/2015/12/18/9360663/is-democracy-in-trouble
- Føllesdal, Andreas, and Simon Hix. "Why There Is a Democratic Deficit in the EU: A Response to Majone and Moravcsik." *JCMS: Journal of Common Market Studies* 44, no. 3 (2006): 533–62.
- Foreman, Grant. *Indian Removal: The Emigration of the Five Civilized Tribes of Indians*. Norman, OK: University of Oklahoma Press, 1932.
- Ford, Robert, and Will Jennings. "The Changing Cleavage Politics of Western Europe." *Annual Review of Political Science* 23, no. 1 (2020): 295–314.
- Forgery, Quint. "Trump Immigration Official Offers Rewrite Statue of Liberty Poem." *Politico*, August 2019. www.politico.com/story/2019/08/13/statue-of-liberty-poem-immigration-ken-cuccinelli-1459824
- Frank, Jason. *Constituent Moments: Enacting the People in Postrevolutionary America*. Durham, NC: Duke University Press, 2010.
- Frank, Jason. "Populism and Praxis." In *The Oxford Handbook of Populism*, edited by Cristóbal Rovira Kaltwasser, Paul Taggart, Paulina Ochoa Espejo, and Pierre Ostiguy, 629–43. Oxford: Oxford University Press, 2017.

- Frank, Stephanie. "Political Idolatry: The Relation of Schmitt's Two Claims in *Political Theology*." In *Sovereignty in Action*, edited by Bas Leijssenaar and Neil Walker, 207–26. Cambridge: Cambridge University Press, 2019.
- Franklin, Benjamin. "Observations Concerning the Increase of Mankind, 1751," n.d. National Archives. <https://founders.archives.gov/documents/Franklin/01-04-02-0080>
- Frede, Michael. "Plato's Arguments and the Dialogue Form." In *Supplemental Volume of the Oxford Studies in Ancient Philosophy*, edited by J. Annas, 201–19. Oxford: Oxford University Press, 1992.
- Freelon, Deen, Charlton D. McIlwain, and Meredith D. Clark. "Beyond the Hashtags: #Ferguson, #Blacklivesmatter, and the Online Struggle for Offline Justice." Washington, DC: Center for Media and Social Impact, 2016. https://cmsimpact.org/wp-content/uploads/2016/03/beyond_the_hashtags_2016.pdf
- Freelon, Deen, Charlton D. McIlwain, and Meredith D. Clark. "Quantifying the Power and Consequences of Social Media Protest." *New Media and Society* 20, no. 3 (2016): 990–1011.
- Friedman, Barry. "The Birth of an Academic Obsession: The History of the Countermajoritarian Difficulty, Part V." *Yale Law Journal* 112, no. 2 (2002): 153–259.
- Fukuyama, Francis. "The End of History?" *The National Interest* 16 (1989): 3–18.
- Fukuyama, Francis. *Identity: The Demand for Dignity and the Politics of Resentment*. New York: Farrar, Straus and Giroux, 2018.
- Fukuyama, Francis. *Liberalism and Its Discontents*. New York: Farrar, Straus and Giroux, 2022.
- Furet, François. "Jacobinism." In *A Critical Dictionary of the French Revolution*, edited by François Furet and Mona Ozouf. Translated by Arthur Goldhammer, 705–12. Cambridge, MA: Harvard University Press, 1989.
- Furet, François. *The Workshop of History*. Chicago, IL: University of Chicago Press, 1984.
- Furstenberg, François. "Beyond Freedom and Slavery: Autonomy, Virtue, and Resistance in Early American Political Discourse." *Journal of American History* 89 (2003): 1295–330.
- Gallup. "Americans' Confidence in Major Institutions." Accessed April 19, 2022. <https://news.gallup.com/poll/352316/americans-confidence-major-institutions-dips.aspx>
- Gallup. "Confidence in Institutions." Accessed June 11, 2020. <https://news.gallup.com/poll/1597/confidence-institutions.aspx>
- Galston, William A. "The 2016 U.S. Election: The Populist Moment." *Journal of Democracy* 28, no. 2 (2017): 21–33.
- Galston, William A. *Anti-Pluralism: The Populist Threat to Liberal Democracy*. New Haven, CT: Yale University Press, 2020.
- Galston, William A. "The Populist Challenge to Liberal Democracy." *Journal of Democracy* 29, no. 2 (2018): 5–19. <https://doi.org/10.1353/jod.2018.0020>
- Gamble, Katrina L. "Black Political Representation: An Examination of Legislative Activity within U. S. House Committees." *Legislative Studies Quarterly* 32, no. 3 (2007): 421–47.
- Ganz, Marshall. "Leading Change: Leadership, Organization, and Social Movements." In *Handbook of Leadership Theory and Practice*, edited by Nitin Nohria and Rakesh Khurana, 509–50. Cambridge, MA: Harvard Business School Press, 2010.
- Garza, Alicia. "A Herstory of the #BlackLivesMatter Movement." *The Feminist Wire* (blog), 2014. <https://thefeministwire.com/2014/10/blacklivesmatter-2/>

- Gay, Claudine. "Putting Race in Context: Identifying the Environmental Determinants of Black Racial Attitudes." *American Political Science Review* 98, no. 4 (2004): 547–62.
- Gay, Claudine, Jennifer Hochschild, and Ariel White. "Americans' Belief in Linked Fate: Does the Measure Capture the Concept?" *Journal of Race, Ethnicity and Politics* 1, no. 1 (2016): 117–44.
- Gellner, Ernest. *Nations and Nationalism*. Ithaca, NY: Cornell University Press, 1983.
- Gerbaudo, Paolo, and Francesco Screti. "Reclaiming Popular Sovereignty: The Vision of the State in the Discourse of Podemos and the Movimiento 5 Stelle." *Javnost – The Public* 24, no. 4 (2017): 320–35.
- Gerring, John. *Party Ideologies in America, 1828–1996*. Cambridge: Cambridge University Press, 1998.
- Geuss, Raymond. *Philosophy and Real Politics*. Princeton, NJ: Princeton University Press, 2008.
- Gierke, Otto. *Political Theories of the Middle Age*. Translated by F. W. Maitland. Cambridge: Cambridge University Press, 1951.
- Gilhooley, Simon J. *The Antebellum Origins of the Modern Constitution: Slavery and the Spirit of the American Founding*. Cambridge: Cambridge University Press, 2020.
- Gilliam, Franklin D. "Black America: Divided by Class?" *Public Opinion* 8 (1986): 53–57.
- Ginsburg, Tom. *Judicial Review in New Democracies: Constitutional Courts in Asian Cases*. Cambridge: Cambridge University Press, 2003.
- Ginsburg, Tom, and Aziz Z. Huq. *How to Save a Constitutional Democracy*. Chicago, IL: University of Chicago Press, 2018.
- Golshan, Tara. "Trump Keeps Highlighting 'Angel Moms' to Make the Case for His Immigration Agenda." *Vox*, 2019. www.vox.com/2019/2/5/18213132/trump-angel-moms
- Goodin, Robert E. "Enfranchising All Affected Interests, and Its Alternatives." *Philosophy & Public Affairs* 25, no. 1 (2007).
- Goodley, Dan, and Rebecca Lawthom. "Critical Disability Studies, Brexit, and Trump: A Time of Neoliberal-Abelism." *Rethinking History: The Journal of Theory and Practice* 23, no. 2 (2019): 233–51.
- Gorup, Michael. "The Strange Fruit of the Tree of Liberty: Lynch Law and Popular Sovereignty in the United States." *Perspectives on Politics* 18, no. 3 (2020): 819–34.
- Graber, Mark. *Dred Scott and the Problem of Constitutional Evil*. New York: Cambridge University Press, 2006.
- Graber, Mark. "The Non-Majoritarian Difficulty: Legislative Deference to the Judiciary." *Studies in American Political Development* 7, no. 1 (1993): 35–73.
- Graber, Mark, Sanford V. Levinson, and Mark Tushnet, eds. *Constitutional Democracy in Crisis?* Oxford: Oxford University Press, 2018.
- Grayling, A. C. *Democracy and Its Crisis*. London: Oneworld Publications, 2018.
- Greene, Jack. *Peripheries and Center: Constitutional Development in the Extended Politics of the British Empire and the United States, 1607–17*. Athens, GA: University of Georgia Press, 1986.
- Greenstone, J. David. *The Lincoln Persuasion: Remaking American Liberalism*. Princeton, NJ: Princeton University Press, 1993.
- Greiman, Jennifer. *Democracy's Spectacle: Sovereignty and Public Life in Antebellum American Writing*. New York: Fordham University Press, 2011.

- Grimm, Dieter. "The Various Faces of Fundamental Rights." In *The Double-Facing Constitution*, edited by Jacco Bomhoff, David Dyzenhaus, and Thomas Poole. Cambridge: Cambridge University Press, 2020.
- Griswold, Charles. *Platonic Writings/Platonic Readings*. New York and London: Routledge, 1988.
- Groenhout, Fiona. "The History of the Indian Princely States: Bringing the Puppets Back onto Centre Stage." *History Compass* 4, no. 4 (2006): 629–44.
- Grose, Christian R. *Congress in Black and White: Race and Representation in Washington and at Home*. New York: Cambridge University Press, 2011.
- Grossman, Lawrence. *The Democratic Party and the Negro: National and Northern Politics, 1868–92*. Urbana, IL: University of Illinois Press, 1976.
- Grossmann, Matt, and David A. Hopkins. "Placing Media in Conservative Culture." In *UT Austin New Agendas Conference*. Austin, TX, 2018.
- Groth, Michael. *Slavery and Freedom in the Mid-Hudson Valley*. Albany: SUNY Press, 2017.
- Grzymala-Busse, Anna. "Foreword." In *When Democracy Trumps Populism*, edited by Kurt Weyland and Raúl L. Madrid, xv–xxiv. Cambridge: Cambridge University Press, 2019.
- Grzymala-Busse, Anna. "How Populists Rule: The Consequences for Democratic Governance." *Polity* 51, no. 4 (2019): 707–17.
- Grzymala-Busse, Anna. "Introduction to a Forum on Global Populisms." *Slavic Review* 76, no. 1 (2017).
- Gustini, Ray. "The Today Show Gives Donald Trump a Birther Platform." *The Atlantic*, April 2011. www.theatlantic.com/culture/archive/2011/04/today-show-gives-donald-trump-birther-platform/349410/
- Guyatt, Nicholas. *Bind Us Apart: How Enlightened Americans Invented Racial Segregation*. Oxford: Oxford University Press, 2016.
- Habermas, Jurgen. 1996. *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*. Cambridge, MA: MIT Press.
- Hacker, J. David. "A Census-Based Count of the Civil War Dead." *Civil War History* 57 (2011): 307–48.
- Hacker, J. David. "The Human Cost of War: White Population in the United States, 1850–1880." *Journal of Economic History* 61 (2001): 486–89.
- Haidt, Jonathan. "When and Why Nationalism Beats Globalism." *American Interest*, July 2016. www.the-american-interest.com/2016/07/10/when-and-why-nationalism-beats-globalism/
- Hailbronner, Michaela, and David Landau. *Introduction: Constitutional Courts and Populism.* A Mini Symposium, 2017. www.icconnectblog.com/2017/04/introduction-constitutional-courts-and-populism/
- Hajnal, Zoltan L. "Black Class Exceptionalism: Insights from Direct Democracy on the Race Versus Class Debate." *Public Opinion Quarterly* 71, no. 4 (2007): 560–87.
- Hall, Kermit. *The Magic Mirror: Law in American History*. Oxford: Oxford University Press, 1989.
- Hamilton, A., J. Madison, and J. Jay, *The Federalist Papers*. Edited by C. Rossiter. New York, NY: Signet Classics, 2003.
- Hamilton, Alexander. "Federalist 24." In *The Federalist: A Commentary on the Constitution of the United States*. Alexander Hamilton, John Jay, and James Madison. New York: The Modern Library, 2001.

- Hamilton, Alexander. *The Political Writings of Alexander Hamilton. Volume I, 1769–1789*. Edited by Carson Holloway and Bradford P. Wilson. Cambridge: Cambridge University Press, 2017.
- Hammond, J. Craig. “‘The High Road to a Slave Empire’: Conflict and the Growth and Expansion of Slavery in the North American Continent.” In *The World of the Revolutionary American Republic: Land, Labor, and the Conflict for a Continent*, edited by Andrew Shankman. New York: Routledge, 2014.
- Han, Hahrie, Andrea Campbell, and Elizabeth McKenna. “Civic Feedbacks: Linking Collective Action, Organizational Strategy, and Influence over Public Policy.” *Perspectives on Politics*. <https://doi.org/10.1017/S1537592722000986>.
- Han, Hahrie, Elizabeth McKenna, and Michelle Oyakawa. *Prisms of the People: Power & Organizing in Twenty-First-Century America*. Chicago, IL: University of Chicago Press, 2021.
- Hancock, Ange-Marie. “Contemporary Welfare Reform and the Public Identity of the ‘Welfare Queen.’” *Race, Gender, & Class* 10, no. 1 (2003): 31–59.
- Hancock, Ange-Marie. *The Politics of Disgust: The Public Identity of the Welfare Queen*. New York, NY: New York University Press, 2004.
- Hansard’s Parliamentary Debates*. 3rd series, multiple volumes. London: T.C. Hansard.
- Hansen, Mogens Herman. *The Athenian Democracy in the Age of Demosthenes: Structure, Principles, and Ideology*. Translated by J. A. Cook. Norman, OK: University of Oklahoma Press, 1999.
- Harari, Yuval Noah. *Sapiens: A Brief History of Humankind*. New York: Harper Perennial, 2015.
- Hardt, Michael, and Antonio Negri. *Empire*. Cambridge: Harvard University Press, 2001.
- Hardt, Michael, and Antonio Negri. *Multitude: War and Democracy in the Age of Empire*. New York: Penguin, 2005.
- Harris, Frederick C. “The Next Civil Rights Movement?” *Dissent* 62, no. 3 (2015): 34–40.
- Harrison, Brian. “Teetotal Chartism.” *History* 58, no. 193 (1973): 193–217.
- Hartz, Louis. *The Liberal Tradition in America: An Interpretation of American Political Thought since the Revolution*. Houghton Mifflin Harcourt, 1955.
- Hartz, Louis. “A Theory of the Development of the New Societies.” In *The Founding of New Societies: Studies in the History of the United States*, edited by Louis Hartz. New York: Harcourt, Brace, Jovanovich, 1964.
- Havercroft, Jonathan. *Captives of Sovereignty*. New York: Cambridge University Press, 2011.
- Hawkins, Kirk, Madeline Read, and Teun Pauwels. “Populism and Its Causes.” In *The Oxford Handbook of Populism*, edited by Cristóbal Rovira Kaltwasser, Paul Taggart, Paulina Ochoa Espejo, and Pierre Ostiguy, 267–86. Oxford: Oxford University Press, 2017.
- Heller, Karen. “He Once Told Philadelphia to ‘Vote White.’ Now the Protests Have Brought His Statue Down.” *The Washington Post*. June 4, 2020. www.washingtonpost.com/lifestyle/style/statue-frank-rizzo-philadelphia-confederate-protests/2020/06/03/f948ce5c-a5a6-11ea-bb20-ebf0921f3bbd_story.html
- Herzog, Lisa, and Bernardo Zacka. “Fieldwork in Political Theory: Five Arguments for an Ethnographic Sensibility.” *British Journal of Political Science* 49, no. 2 (2017): 763–84.

- Hill, Christopher. *God's Englishman: Oliver Cromwell and the English Revolution*. New York, NY: Harper & Row, 1970.
- Hirschl, Ran. *Towards Juristocracy: The Origins and Consequences of the New Constitutionalism*. Cambridge, MA: Harvard University Press, 2004.
- Hobbes, Thomas. *On the Citizen*. Edited and translated by Richard Tuck and Michael Silverthorne. Cambridge: Cambridge University Press, 1998.
- Hobbes, Thomas. *Leviathan*. Edited by Edwin Curley. Indianapolis, IN: Hackett Publishing, 1994.
- Hobbes, Thomas. *Leviathan, or, the Matter, Forme, and Power of a Common-wealth Ecclesiasticall and Civill*. London: Andrew Crooke, 1651.
- Hobsbawm, Eric. *Nations and Nationalism Since 1780: Programme, Myth, Reality*. Cambridge: Cambridge University Press, 1990.
- Hobsbawm, Eric, and Terence Ranger, eds. *The Invention of Tradition*. Cambridge: Cambridge University Press, 1983.
- Hochschild, Arlie Russel. *Strangers in Their Own Land*. New York, NY: The New Press, 2016.
- Hochschild, Jennifer L. *Facing Up to the American Dream: Race, Class, and the Soul of the Nation*. Princeton, NJ: Princeton University Press, 1995.
- Hockin, Sara M., and Rod K. Brunson. "The Revolution Might Not Be Televised (But It Will Be Lived Streamed) Future Directions for Research on Police–Minority Relations." *Race and Justice* 8, no. 3 (2016): 199–215.
- Hoekstra, Kinch. "Athenian Democracy and Popular Tyranny." In *Popular Sovereignty in Historical Perspective*. Cambridge: Cambridge University Press, 2016.
- Hofstadter, Richard. *America at 1750: A Social Portrait*. New York, NY: Random House, 1973.
- Homer, *The Odyssey*. Translated by Emily Wilson. New York: W. W. Norton & Co., 2018.
- Hopkins, Daniel J. *The Increasingly United States: How and Why American Political Behavior Nationalized*. Chicago, IL: University of Chicago Press, 2018.
- Hopkins, David A. *Red Fighting Blue: How Geography and Electoral Rules Polarize American Politics*. Cambridge: Cambridge University Press, 2017.
- Horowitz, Juliana, and Gretchen Livingston. "How Americans View the Black Lives Matter Movement." Washington, DC: Pew Research Center Fact Tank, 2016. www.pewresearch.org/fact-tank/2016/07/08/how-americans-view-the-black-lives-matter-movement/
- Huckfeldt, Robert, and Carol Weitzel Kohfeld. *Race and the Decline of Class in American Politics*. Chicago, IL: University of Illinois Press, 1989.
- Hume, David. "Of the First Principles of Government." In *Essays and Treatises on Several Subjects*, edited by Edmund S. Morgan. New York: W. W. Norton & Co., 1988.
- Huntington, Samuel P. *Political Order in Changing Societies*. New Haven: Yale University Press, 1968.
- Hussain, Shahla. *Kashmir in the Aftermath of Partition*. Cambridge: Cambridge University Press, 2021.
- Hutson, James H. *Church and State in America: The First Two Centuries*. New York: Cambridge University Press, 2008.
- Hutson, James H., and Leonard Rappaport. *Supplement to Max Farrand's Records of the Federal Convention of 1787*. New Haven, CT: Yale University Press, 1987.

- Hyde, Edward. *A Brief View and Survey of the Dangerous and Pernicious Errors to Church and State, in Mr. Hobbes's Book, Entitled Leviathan by Edward Earl of Clarendon*. Oxford, 1676.
- Ignazi, Piero. "The Silent Counter-Revolution: Hypotheses on the Emergence of Extreme Right-Wing Parties in Europe." *European Journal of Political Research* 22, no. 1 (1992): 3–34. <https://doi.org/10.1111/j.1475-6765.1992.tb00303.x>
- Ince, Jelani, Fabio Rojas, and Clayton Davis. "The Social Media Response to Black Lives Matter: How Twitter Users Interact with Black Lives Matter through Hashtag Use." *Ethnic and Racial Studies* 40, no. 11 (2017): 1814–30.
- Ingraham, Christopher. "Here Are the First 10 Members of Trump's Voting Commission." *The Washington Post*. www.washingtonpost.com/news/wonk/wp/2017/07/06/here-are-the-first-10-members-of-trumps-voter-fraud-commission/?utm_term=.abadedb44f38, July 6, 2016.
- Ingram, Helen, and Anne Schneider. "Social Construction: Response." *American Political Science Review* 89, no. 2 (1995): 441–46.
- Internal Revenue Service, Department of Treasury, and Health and Human Services. "Moral Exemptions and Accommodations for Coverage of Certain Preventive Services under the Affordable Care Act." <https://s3.amazonaws.com/public-inspection.federalregister.gov/2017-21852.pdf>, October 7, 2017
- Ionescu, Ghita, and Ernest Gellner, eds. *Populism: Its Meaning and National Characteristics*. New York: Macmillan, 1969.
- Irvine, William. "Fascism in France: the Strange Case of the Croix de Feu." *Journal of Modern History* 63 (1991).
- Isaac, Jeffrey C. "Is There Illiberal Democracy?: A Problem with No Semantic Solution." *Public Seminar*, July 12, 2017. <https://publicseminar.org/2017/07/is-there-illiberal-democracy/>
- Israel, Jonathan. *The Expanding Blaze: How the American Revolution Ignited the World. 1775 to 1948*. Princeton, NJ: Princeton University Press, 2017.
- Israel: Basic Law of 1994, Freedom of Occupation, March 10, 1994. www.refworld.org/docid/3ae6b52610.html. Accessed October 15, 2022.
- Jackson, Sarah J., and Brooke Foucault Welles. "#Ferguson Is Everywhere: Initiators in Emerging Counterpublic Networks." *Information, Communication & Society* 19, no. 3 (2015): 397–418.
- Jacobs, Jaap and L. H. Roper, eds. *The Worlds of the Seventeenth-Century Hudson Valley*. Albany: SUNY Press, 2014.
- Jamaledine, Ziad. "Hagia Sophia Past and Future." *Places Journal*, August 11, 2020. <https://doi.org/10.22269/200811>
- James VI of Scotland. The True Lawe of Free Monarchies. In *Political Writings*, edited by Johann P. Sommerville. Cambridge: Cambridge University Press, 1994.
- Jayal, Niraja Gopal. *Citizenship and Its Discontents: An Indian History*. New Delhi: Permanent Black, 2015.
- Jefferson, Thomas. *Political Writings*. New York: Cambridge University Press, 1999.
- Jefferson, Thomas. "To James Madison," December 20, 1787. postscript. <https://founders.archives.gov/documents/>
- Jeffrey, Robin, ed. *People, Princes and Paramount Power. Society and Politics in the Indian Princely States*. Delhi: Oxford University Press, 1978.
- Jensen, Merrill. "The Articles of Confederation: A Re-Interpretation." *Pacific Historical Review* 6, no. 2 (1937): 121–40.

- Jóhannesson, Sveinn “‘Securing the State’: James Madison, Federal Emergency Powers, and the Rise of the Liberal State in Postrevolutionary America.” *Journal of American History* 104 (2017): 363–85.
- John of Salisbury, *Policraticus*. Edited and translated by Cary J. Nederman. Cambridge: Cambridge University Press, 1990.
- Jones, Colin, and Richard Cobb, eds. *The French Revolution: Voices from a Momentous Epoch*. Simon & Schuster, 1988.
- Jones, Martha S. *Birthing Citizens: A History of Race and Rights in Antebellum America*. New York: Cambridge University Press, 2018.
- Kahan, Alan S. *Liberalism in Nineteenth-Century Europe: The Political Culture of Limited Suffrage*. New York, NY: Palgrave Macmillan, 2003.
- Kahan, Alan S. *Tocqueville, Religion, and Democracy: Checks and Balances for Democratic Souls*. Oxford: Oxford University Press, 2015.
- Kaiser Family Foundation. June 8–14, 2020. “Health Tracking Poll.”
- Kalmo, Hent, and Quentin Skinner. *Sovereignty in Fragments: The Past, Present and Future of a Contested Concept*. Cambridge: Cambridge University Press, 2010.
- Kaltwasser, Cristóbal Rovira. “The Ambivalence of Populism: Threat and Corrective for Democracy.” *Democratization* 19, no. 2 (2012): 184–208.
- Kaltwasser, Cristóbal Rovira, Paul Taggart, Paulina Ochoa Espejo, and Pierre Ostiguy, eds. *The Oxford Handbook of Populism*. Oxford: Oxford University Press, 2017.
- Kalyvas, Andreas. “Constituent Power.” In *Political Concepts: A Critical Lexicon*, edited by Adi Ophir and Ann Laura Stoler. New York: Fordham University Press, 2018.
- Kalyvas, Andreas. “Popular Sovereignty, Democracy, and the Constituent Power.” *Constellations* 12, no. 2 (2005): 223–44.
- Kalyvas, Andreas, and Ira Katznelson, *Liberal Beginnings: Making a Republic for the Moderns*. New York: Cambridge University Press, 2008.
- Kam, Cindy D., and Donald R. Kinder. “Ethnocentrism as a Short-Term Force in the 2008 American Presidential Election.” *American Journal of Political Science* 56, no. 2 (2012): 326–40.
- Kant, Immanuel. “Idea for a Universal History with a Cosmopolitan Intent.” In *Perpetual Peace and Other Essays*, edited by Ted Humphrey. Indianapolis, IN: Hackett Publishing Company, 1983.
- Kantorowitz, Ernst H. *The King’s Two Bodies: A Study in Medieval Political Theology*. Princeton, NJ: Princeton University Press, 1957.
- Kazin, Michael. *The Populist Persuasion: An American History*. Ithaca, NY: Cornell University Press, 1995.
- Keck, Thomas M. *The Most Activist Supreme Court in History: The Road to Modern Judicial Conservatism*. Chicago, IL: University of Chicago Press, 2004.
- Keenan, Alan. *Democracy in Question: Democratic Openness in a Time of Political Closure*. Stanford, CA: Stanford University Press, 2003.
- Kelemen, R. Daniel. “Europe’s Other Democratic Deficit: National Authoritarianism in Europe’s Democratic Union.” *Government and Opposition* 52, no. 2 (2017): 211–38.
- Kelley, Florence “Aims and Principles of the Consumers’ League.” *American Journal of Sociology* 5, no. 3 (1899): 289–304.
- Kelly, Duncan. “Populism and the History of Popular Sovereignty.” In *The Oxford Handbook of Populism*, edited by Cristóbal Rovira Kaltwasser, Paul Taggart, Paulina Ochoa Espejo, and Pierre Ostiguy, 511–34. Oxford: Oxford University Press, 2017.

- Kennedy, Ellen "Introduction: *Parlamentarismus* in Its Historical Context." In *The Crisis of Parliamentary Democracy*, Carl Schmitt. Cambridge, MA: MIT Press, 1988.
- Key Jr, V. O. *Public Opinion and American Democracy*. Chapel Hill, NC: University of North Carolina Press, 1961.
- Keyes, Elizabeth. "Defining American: The Dream Act, Immigration Reform, and Citizenship." *Nevada Law Journal* 14, no. 1 (2013): 101–55.
- Keyssar, Alexander. *The Right to Vote: The Contested History of Democracy in the United States*. New York, NY: Basic Books, 2000.
- Kilberg, Andrew G. I. "We the People: The Original Meaning of Popular Sovereignty." *Virginia Law Review* 100 (2014): 1072.
- Kinder, Donald R., and Allison Dale-Riddle. *The End of Race? Obama, 2008, and Racial Politics in America*. New Haven, CT: Yale University Press, 2012.
- King, Desmond S. *In the Name of Liberalism: Illiberal Social Policy in the USA and Britain*. Oxford: Oxford University Press, 1999.
- Kitschelt, Herbert P., with Anthony J. McGann. *The Radical Right in Europe: A Comparative Analysis*. Ann Arbor: University of Michigan Press, 1997.
- Klagge, James C., and Nicholas D. Smith. *Methods of Interpreting Plato and His Dialogues*. Oxford: Clarendon, 1992.
- Klarman, Michael J. "Rethinking the Civil Rights and Civil Liberties Revolutions." *Virginia Law Review* 82, no. 1 (1996): 1–68.
- Klein, Ezra. "The Snake." *Vox*, 2017. www.vox.com/policy-and-politics/2017/1/30/14427228/donald-trump-snake-story-refugees
- Klinghard, Daniel P. "Grover Cleveland. "William McKinley, and the Emergence of the President as Party Leader." *Presidential Studies Quarterly* 35, no. 4 (2005): 736–60.
- Koelle, Peter Brampton. "Recep Tayyip Erdogan's Use of Symbols in Reclaiming the Hagia Sophia as an Imperial Mosque." *International Policy Digest* (blog), October 22, 2020. <https://intpolicydigest.org/2020/10/22/recep-tayyip-erdogan-s-use-of-symbols-in-reclaiming-the-hagia-sophia-as-an-imperial-mosque/>
- Kohn, Hans. *Nationalism: Its Meaning and History*. Malabar, FL: Krieger Publishing Company, 1982.
- Kotkin, Stephen, and Larry D. Kramer. "A Layman's Document, Not a Lawyer's Contract: The Continuing Struggle for Popular Constitutionalism." In *Kramer, The People Themselves: Popular Constitutionalism and Judicial Review*. Oxford, UK: Oxford University Press, 2005.
- Kramer, Larry D. *The People Themselves: Popular Constitutionalism and Judicial Review*. New York: Oxford University Press, 2004.
- Krastev, Ivan, and Stephen Holmes. *The Light That Failed: A Reckoning*. London: Penguin, 2019.
- Kubal, Timothy. *Cultural Movements and Collective Memory: Christopher Columbus and the Rewriting of the National Origin Myth*. New York: Palgrave Macmillan, 2008.
- Kurylo, Bohdana. "Russia and Carl Schmitt: The Hybridity of Resistance in the Globalised World." *Palgrave Communications* 2, 16096 (2016).
- Lamont, Michele. "Addressing Recognition Gaps: Destigmatization and the Reduction of Inequality." *American Sociological Review* 83, no. 3 (2018): 419–44.
- Lamont, Michele, Bo Yum Park, and Elena Ayala-Hurtado. "Trump's Electoral Speeches and His Appeal to the American White Working Class." *British Journal of Sociology* 68, no. 1 (2017): 153–80.

- Landauer, Matthew. *Dangerous Counsel: Accountability and Advice in Ancient Greece*. Chicago, IL: University of Chicago Press, 2019.
- Lane, Melissa. "Popular Sovereignty as Control of Office-Holders." In *Popular Sovereignty in Historical Perspective*, edited by Richard Bourke and Quentin Skinner, 52–72. Cambridge: Cambridge University Press, 2016.
- Laski, Harold. *Authority in the Modern State*. New Haven, CT: Yale University Press, 1919.
- Laski, Harold. *Studies in the Problems of Sovereignty*. New Haven, CT: Yale University Press, 1917.
- Laski, Harold. "Theory of Popular Sovereignty." *Michigan Law Review* 17, no. 3 (1919): 201–15.
- Lattimore, Owen. *Inner Asian Frontiers of China*. Hong Kong: Oxford University Press, 1988.
- Lavin, Lucianne, ed. *Dutch and Indigenous Communities in Seventeenth-Century Northeast America*. Albany: SUNY Press, 2021.
- Lebron, Christopher J. *The Making of Black Lives Matter: A Brief History of an Idea*. Oxford: Oxford University Press, 2017.
- Lee, Frances E., and Nolan McCarty. *Can America Govern Itself?* Cambridge: Cambridge University Press, 2019.
- Lee, Daniel. *Popular Sovereignty in Early Constitutional Thought*. New York: Oxford University Press, 2016.
- Lee, Robert. "Accounting for Conquest: The Price of the Louisiana Purchase of Indian Country." *Journal of American History*, 103 (2017).
- Leggiere, Philip. "Beyond the One-Way Alert." *Homeland Security Today* (blog), March 2012.
- Leijssenaar, Bas, and Neil Walker. *Sovereignty in Action*. Cambridge: Cambridge University Press, 2019.
- Leonhardt, David, and Ian Prasad Philbrick, "Donald Trump's Racism: The Definitive List," *The New York Times*, January 15, 2018. www.nytimes.com/interactive/2018/01/15/opinion/leonhardt-trump-racist.html
- Lepore, Jill. *This America: The Case for the Nation*. New York: W. W. Norton & Co., 2019.
- Levine, Peter. *What Should We Do? A Theory of Civic Life*. Oxford: Oxford University Press, 2022.
- Levinson, Sanford V. *Our Undemocratic Constitution*. New York, NY: Oxford University Press, 2006.
- Levitsky, Steven, and Daniel Ziblatt. *How Democracies Die*. New York, NY: Crown Publishing, 2018.
- Levy, Jacob T. *Rationalism, Pluralism and Freedom*. Oxford: Oxford University Press, 2014.
- Liao, Rebecca. "Tocqueville in China." *Dissent*, May 22, 2013. www.dissentmagazine.org/online_articles/tocqueville-in-china. Accessed January 6, 2022.
- Lieberman, Robert. "The Freedmen's Bureau and the Politics of Institutional Structure." *Social Science History* 18, no. 3 (1994): 405–37.
- Lieberman, Robert, Suzanne Mettler, and Kenneth M. Roberts. *Democratic Resilience: Can the United States Withstand Rising Polarization*. Cambridge: Cambridge University Press, 2021.
- Lieberman, Robert, Suzanne Mettler, Thomas B. Pepinsky, Kenneth M. Roberts, and Richard Valelly. "Trumpism and American Democracy: History, Comparison, and

- the Predicament of Liberal Democracy in the United States.” Working paper. papers.ssrn.com/sol3/papers.cfm?abstract_id=3028990, 2017.
- Liebeschütz, H. “John of Salisbury and Pseudo-Plutarch.” *Journal of the Warburg and Courtauld Institutes* 6 (1943): 33–39.
- Limbaugh, Rush. “We’ve Been Played on Immigration.” 2013. www.rushlimbaugh.com/daily/2013/06/13/we_ve_been_played_on_immigration/
- Lincoln, Abraham “Letter to Joshua Speed.” August 24, 1855. www.abrahamlincolnonline.org/lincoln/speeches/speed.htm
- Lindsey, Treva B. “Post-Ferguson: A ‘Herstorical’ Approach to Black Violability.” *Feminist Studies* 41, no. 1 (2015): 232–37.
- Lipman, Andrew. *The Saltwater Frontier: Indians and the Contest for the American Coast*. New Haven: Yale University Press, 2015.
- Lippmann, Walter. *Essays on the Public Philosophy*. Boston, MA: Little, Brown and Company, 1955.
- Lippmann, Walter. *The Phantom Public*. New Brunswick, NJ: Transaction Publishers, 1925.
- Locke, John. *A Letter Concerning Toleration*. Indianapolis, IN: Hackett Publishing, 1983.
- Locke, John. *Second Treatise of Government*. New York, NY: Macmillan, 1952.
- Locke, John. *Second Treatise of Government*. Indianapolis, IN: Hackett, 1980.
- Locke, John. *Two Treatises of Government*, edited by Peter Laslett. Cambridge: Cambridge University Press, 1990.
- Locke, John. *Two Treatises of Government*, edited by Peter Laslett. Cambridge: Cambridge University Press, 2014.
- Longo, Matthew. *The Politics of Borders: Sovereignty, Security, and the Citizen after 9/11*. Cambridge, UK: Cambridge University Press, 2018.
- Longo, Matthew, and Bernardo Zacka. “Political Theory in an Ethnographic Key.” *American Political Science* 113, no. 4 (2019): 1066–70.
- Loughlin, Martin. *Political Jurisprudence*. Oxford: Oxford University Press, 2017.
- Loughlin, Martin, and Neil Walker. *The Paradox of Constitutionalism: Constituent Power and Constitutional Form*. Oxford: Oxford University Press, 2007.
- Lowi, Theodore. “The Public Philosophy: Interest Group Liberalism.” *American Political Science Review* 61, no. 1 (1967): 5–24.
- Lowndes, Joseph. “From Founding Violence to Political Hegemony: The Conservative Populism of George Wallace.” In *Populism and the Mirror of Democracy*, edited by Francisco Panizza and Benjamin Arditi. New York, NY: Verso Books, 2005.
- Lupel, Adam. *Globalization and Popular Sovereignty: Democracy’s Transnational Dilemma*. New York: Routledge, 2009.
- Luttwak, Edward N. *The Grand Strategy of the Roman Empire: From the First Century A.D. to the Third*. Baltimore, MD: Johns Hopkins University Press, 1979.
- Machiavelli, Niccolò. *Discourses on Livy*. Translated by Harvey C. Mansfield and Nathan Tarcov. Chicago, IL: University of Chicago Press, 1996.
- Macpherson, C. B. *The Political Theory of Possessive Individualism: Hobbes to Locke*. Oxford: Clarendon, 1962.
- Madison, James. “No. 51: The Structure of the Government Must Furnish the Proper Checks and Balances between the Different Departments.” In *The Federalist Papers*, edited by Clinton Rossiter. New York: Signet Classics, 2003.
- Madison, James. “Debate in the Virginia Convention, June 17, 1788.” In *Debates and Other Proceedings of the Convention of Virginia*. 2nd Edition. Richmond: Ritchie & Worsley and Augustine Davis, 1805.

- Madison, James. "Federalist No. 10." In *The Federalist Papers*, edited by Ian Shapiro. New Haven: Yale University Press, 2009.
- Madison, James. "General Defense of the Constitution." June 6, 1788 at Virginia's ratifying convention: <https://founders.archives.gov/documents/Madison/01-11-02-0062>
- Majone, Giandomenico. "Europe's 'Democratic Deficit': The Question of Standards." *European Law Journal* 4, no. 1 (1998): 5–28.
- Malcolm, Noel. *Aspects of Hobbes*. Oxford: Clarendon, 2002.
- Malcolm, Noel. "Thomas Hobbes: Liberal Illiberal." *Journal of the British Academy* 4 (2016): 113–36.
- Maletz, Donald J. "Tocqueville on Mores and the Preservation of Republics." *American Journal of Political Science* 49, no. 1 (2005): 1–15.
- Malvin, John. *The Autobiography of John Malvin: A Narrative*. Cleveland, OH: Leader Printing Co., 1879.
- Manent, Pierre. *Tocqueville and the Nature of Democracy*. Translated by John Wagoner. Lanham, MD: Rowman & Littlefield, 1996.
- Mann, Barbara Alice. *George Washington's War on Native America*. Westport, CT: Praeger, 2005.
- Mansfield, Harvey and Delba Winthrop. "Tocqueville's New Political Science." In *Cambridge Companion to Tocqueville*, edited by Cheryl B. Welch, 81–107. Cambridge, MA: Cambridge University Press, 2006.
- Mantena, Karuna. "Popular Sovereignty and Anti-Colonialism." In *Popular Sovereignty in Historical Perspective*, 297–319. R. Burke and Q. Skinner. Cambridge, UK: Cambridge University Press, 2017.
- Marable, Manning. "Beyond Racial Identity Politics: Towards a Liberation Theory for Multicultural Democracy." *Race and Class* 35, no. 1 (1993): 113–30.
- Marietta, Morgan. "Roberts Rules." *The Conversation*, July 8, 2016. <https://theconversation.com/roberts-rules-the-2-most-important-supreme-court-decisions-this-year-were-about-fair-elections-and-the-chief-justice-119708>
- Markell, Parchen. "The Rule of the People: Arendt, Archê, and Democracy." *The American Political Science Review* 100, no. 1 (2006): 1–14.
- Markovits, Elizabeth. *The Politics of Sincerity: Plato, Frank Speech, and Democratic Judgment*. University Park, PA: Pennsylvania State University Press, 2008.
- Marks, Arthur S. "The Statue of King George III in New York and the Iconography of Regicide." *The American Art Journal* 13, no. 3 (1981): 61–82.
- Marx, Karl. "On the Jewish Question." In *The Marx-Engels Reader*, edited by Robert C. Tucker. New York: W. W. Norton & Co., 1978.
- Mason, Lillian. *Uncivil Agreement: How Politics Became Our Identity*. Chicago, IL: University of Chicago Press, 2018.
- Mason, Robert. *Richard Nixon and the Quest for a New Republican Majority*. Chapel Hill, NC: University of North Carolina Press, 2008.
- McCarter, Mickey. "287(G) Vital to Immigration Reform: Ex-Chief of ICE Calls for More Flexibility to Enforce Law." *Homeland Security Today* (blog), November 12, 2009.
- McCarter, Mickey. "Napolitano Outlines DHS Priorities for 2010: At Top: Aviation, Borders, Information Sharing, Immigration Reform." *Homeland Security Today* (blog), January 27, 2010.
- McClain, Paula, and Joseph Stewart, Jr. *Can We All Get Along? Racial and Ethnic Minorities in American Politics*. 6th Edition. New York, NY: Routledge, 2013.

- McClelland, Keith. "England's Greatness, the Working Man." In *Defining the Victorian Nation: Class, Race, Gender and the British Reform Act of 1867*, edited by Catherine Hall, Keith McClelland, and Jane Randall. Cambridge: Cambridge University Press, 2000.
- McCormick, John. *Carl Schmitt's Critique of Liberalism: Against Politics as Technology*. Cambridge: Cambridge University Press, 1997.
- McCormick, John. "The Dilemmas of Dictatorship: Carl Schmitt and Constitutional Emergency Powers." In *Law as Politics: Carl Schmitt's Critique of Liberalism*, edited by D. Dyzenhaus, 236–37. Durham, NC: Duke University Press, 1998.
- McGlew, James F. "The Comic Pericles." In *Ancient Tyranny*, edited by Sian Lewis, 164. Edinburgh: Edinburgh University Press, 2006.
- McGlew, James F. *Tyranny and Political Culture in Ancient Greece*. Ithaca, NY: Cornell University Press, 1993.
- McKevitt, Gerald. "Christopher Columbus as a Civic Saint: Angelo Noce and Italian American Assimilation." *California History* 71, no. 4 (1992): 516–33.
- McNeill, David N. *An Image of the Soul in Speech: Plato and the Problem of Socrates*. University Park, PA: Pennsylvania State University Press, 2010.
- McPherson, James M. "Abolitionists and the Civil Rights Act of 1875." *Journal of American History* 52, no. 3 (1965): 493–510.
- Mehta, Uday. "Liberal Strategies of Exclusion." *Politics & Society* 18, no. 4 (1990): 427–54.
- Meier, Heinrich. *The Lesson of Carl Schmitt: Four Chapters on the Distinction between Political Theology and Political Philosophy*. Chicago, IL: University of Chicago Press, 2011.
- Mellow, Nicole. *The State of Disunion: Regional Sources of Modern American Partisanship*. Baltimore, MD: Johns Hopkins University Press, 2008.
- Menon, V. P. *The Story of the Integration of the Indian States*. 2nd ed. Bombay: Orient Longmans, 1961.
- Mettler, Suzanne. "The Stratification of Social Citizenship: Gender and Federalism in the Formation of Old Age Insurance and Aid to Dependent Children." *Journal of Policy History* 11, no. 1 (1999): 31–58.
- Mettler, Suzanne, and Jeffrey Stonecash. "Government Program Usage and Political Voice." *Social Science Quarterly* 89, no. 2 (2008): 273–93.
- Milanovic, Branko. *Global Inequality: A New Approach for the Age of Globalization*. Cambridge, MA: Harvard University Press, 2016.
- Mill, John Stuart. *J. S. Mill: "On Liberty" and Other Writings*. Cambridge, UK: Cambridge University Press, 1989.
- Milza, Pierre. *Fascisme Français – Passé et Présent*. Paris: Flammarion, 1987.
- Milza, Pierre. "Ultra-Droite Des Années Trente." In *Histoire de l'extrême Droite En France*. Paris: Editions deSeuil, 1993.
- Minta, Michael D. *Oversight: Representing Black and Latino Interests in Congress*. Princeton, NJ: Princeton University Press, 2011.
- Minta, Michael D., and Nadia E. Brown. "Intersecting Interests: Gender, Race, and Congressional Attention to Women's Issues." *Du Bois Review: Social Science Research on Race* 11, no. 2 (2014): 253–72.
- Minta, Michael D., and Valeria Sinclair-Chapman. "Diversity in Political Institutions and Congressional Responsiveness to Minority Interests." *Political Research Quarterly* 66, no. 1 (2013): 127–40.

- Miranda, Luis. "Get the Facts on the DREAM Act." 2010. <https://obamawhitehouse.archives.gov/blog/2010/12/01/get-facts-dream-act>
- Mitchell, Joshua. "Hobbes and the Equality of All under the One." *Political Theory* 21, no. 1 (1993): 78–100.
- Mitchell, Lynette. "Tyrannical Oligarchs at Athens." In *Ancient Tyranny*, edited by Sian Lewis. Edinburgh: Edinburgh University Press, 2006.
- Moore, Robin J. *Sir Charles Wood's Indian Policy, 1853–66*. Manchester: Manchester University Press, 1966.
- Moravcsik, Andrew. "Is There a 'Democratic Deficit' in World Politics? A Framework for Analysis." *Government and Opposition* 39, no. 2 (2004): 336–63.
- Moravcsik, Andrew. "Reassessing Legitimacy in the European Union." *JCMS: Journal of Common Market Studies* 40, no. 4 (2002): 603–24.
- Morgan, Edmund S. *Inventing the People: The Rise of Popular Sovereignty in England and America*. New York, NY: W. W. Norton & Co., 1988.
- Morgan, Edmund S. "The Problem of Popular Sovereignty." In *Aspects of American Liberty, 95–113*. Philadelphia: The American Philosophical Society, 1977.
- Morgan, Kathryn A., ed. "Introduction." In *Popular Tyranny*, edited by Kathryn A. Morgan. Austin: University of Texas Press, 2003.
- Morgan, Kathryn A., ed. *Popular Tyranny*. Austin, TX: University of Texas Press, 2003.
- Morley, John. *The Life of Ewart Gladstone*. Vol. 3. New York, NY: The Macmillan Company, 1903.
- Morris, Sarah. "Imaginary Kings: Alternatives to Monarchy in Early Greece." In *Popular Tyranny*, edited by Kathryn A. Morgan. Austin, TX: University of Texas Press, 2003.
- Mosca, Gaetano. *The Ruling Class*. New York, NY: McGraw Hill, 1939.
- Mouffe, Chantal. "Carl Schmitt and the Paradox of Liberal Democracy." In *Law as Politics: Carl Schmitt's Critique of Liberalism*, edited by David Dyzenhaus. Durham, NC: Duke University Press, 1998.
- Mouffe, Chantal. "The Controversy over Left-Wing Populism." *Le Monde diplomatique*, 2020. <https://mondediplo.com/2020/05/14populism>
- Mouffe, Chantal. *The Democratic Paradox*. London: Verso, 2000.
- Mouffe, Chantal. *For a Left Populism*. London: Verso Books, 2018.
- Mounk, Yascha. *The People vs. Democracy: Why Our Freedom Is in Danger and How to Save It*. Cambridge, MA: Harvard University Press, 2018.
- Moyn, Samuel. *Not Enough: Human Rights in an Unequal World*. Cambridge, MA: Harvard University Press, 2018.
- Mudde, Cas. "Populism in the Twenty-First Century: An Illiberal Democratic Response to Undemocratic Liberalism." Blog. The Andrea Mitchell Center for the Study of Democracy, 2018. <https://amc.sas.upenn.edu/cas-mudde-populism-twenty-first-century>
- Mudde, Cas. "Populism: An Ideational Approach." In *The Oxford Handbook of Populism*, edited by Cristobal Rovira Kaltwasser, Paul Taggart, Paulina Ochoa Espejo, and Pierre Ostiguy. New York, NY: Oxford University Press, 2013.
- Mudde, Cas. *Populist Radical Right Parties in Europe*. Vol. 22. Cambridge: Cambridge University Press, 2007.
- Mudde, Cas. "The Populist Zeitgeist." *Government and Opposition* 39, no. 4 (2004): 542–63.
- Mudde, Cas, and Cristobal Rovira Kaltwasser. *Populism: A Very Short Introduction*. Oxford: Oxford University Press, 2017.

- Mudde, Cas, and Cristobal Rovira Kaltwasser. "Studying Populism in Comparative Perspective: Reflections on the Contemporary and Future Research Agenda." *Comparative Political Studies* 51, no. 13 (2018): 1667–93.
- Müller, Jan-Werner. *A Dangerous Mind Carl Schmitt in Post-War European Thought*. New Haven, CT: Yale University Press, 2003.
- Müller, Jan-Werner. "The Problem With 'Illiberal Democracy.'" *Project Syndicate*, January 21, 2016. www.project-syndicate.org/commentary/the-problem-with-illiberal-democracy-by-jan-werner-mueller-2016-01
- Müller, Jan-Werner. *What Is Populism?* Philadelphia, PA: University of Pennsylvania Press, 2016.
- Muller, Hannah Weiss. "Bonds of Belonging: Subjecthood and the British Empire." *Journal of British Studies* 53 (2014): 29–58.
- Nabors, Forrest. *From Oligarchy to Republicanism: The Great Task of Reconstruction*. Columbia, MO: University of Missouri Press, 2017.
- Nackenoff, Carol. "Constitutionalizing Terms of Inclusion and Citizenship for Native Americans, 1880s–1930s." In *The Supreme Court and American Political Development*, edited by Ronald Kahn and Ken I. Kersch, 366–413. Lawrence, KS: University Press of Kansas, 2006.
- Nackenoff, Carol, and Abigail Diebold. "Rucho v. Common Cause on Partisan Gerrymandering and the Political Questions Doctrine." In *SCOTUS 2019: Major Decisions and Developments in the US Supreme Court*, edited by D. Klein and M. Marietta, 111–21. Cham, Switzerland: Palgrave Macmillan, 2020.
- Nackenoff, Carol, and Julie Novkov. "Building the Administrative State: Courts and the Admission of Chinese Persons to the United States, 1870s–1920s." In *Stating the Family: New Directions in the Study of American Politics*, edited by Julie Novkov and Carol Nackenoff, 197–239. Lawrence, KS: University Press of Kansas, 2020.
- Nackenoff, Carol and Natasha Markov-Riss. "McGirt v. Oklahoma on Native Rights." In *SCOTUS 2020: Major Decisions and Developments of the U.S. Supreme Court*, edited by M. Marietta. Cham, Switzerland: Palgrave Macmillan, 2021.
- Nash, Gary *The Unknown American Revolution: The Unruly Birth of Democracy and the Struggle to Create America*. New York: Penguin, 2006.
- Neal, Samantha. "Views of Racism as a Major Problem Increase Sharply, Especially among Democrats." *Pew Research Fact Tank* (2017). www.pewresearch.org/fact-tank/2017/08/29/views-of-racism-as-a-major-problem-increase-sharply-especially-among-democrats/. Accessed December 15, 2017
- Neblo, Michael A. and Emily Ann Israelson. "A Humble Form of Government: Democracy as the Politics of Collective Experience." In *The Routledge Handbook of Philosophy of Humility*. New York: Routledge, 2021.
- Neem, Johann N. "Taking Modernity's Wager: Tocqueville, Social Capital, and the American Civil War." *Journal of Interdisciplinary History* 41, no. 4 (2011): 591–618.
- Nehru, Moti Lal. *Report of the All Parties Conference (Together with a Summary of the Proceedings of the Conference Held at Lucknow)*. Allahabad: All India Congress Committee, 1928.
- Nelson, Eric. *The Royalist Revolution: Monarchy and the American Founding*. Cambridge, MA: Belknap Press, 2017.
- Neustadt, Richard E. *Presidential Power and the Modern Presidents: The Politics of Leadership from Roosevelt to Reagan*. Revised Edition. New York: Free Press, 1991.

- Nicholls, Walter. *The DREAMers: How the Undocumented Youth Movement Transformed the Immigrant Rights Debate*. Palo Alto: Stanford University Press, 2013.
- Nicholson, Linda. *Identity before Identity Politics*. Cambridge Cultural Social Studies. Cambridge: Cambridge University Press, 2008.
- Norris, Pippa. *Democratic Deficit: Critical Citizens Revisited*. Cambridge: Cambridge University Press, 2011.
- Nowrasteh, Alex, and Patrick G. Eddington. "How Effective Is Border Security?" *Cato Institute Online* (blog), March 19, 2016. www.cato.org/publications/commentary/how-effective-border-security
- Nyquist, Mary. *Arbitrary Rule: Slavery, Tyranny, and the Power of Life and Death*. Chicago, IL: University of Chicago Press, 2015.
- Oakeshott, Michael. *Hobbes on Civil Association*. Berkeley, CA: University of California Press, 1975.
- Ober, Josiah. *Demopolis: Democracy before Liberalism in Theory and Practice*. Cambridge: Cambridge University Press, 2018.
- Ober, Josiah. "Tyrant Killing As Therapeutic Stasis: A Political Debate in Images And Texts." In *Popular Tyranny*, edited by Kathryn A. Morgan. Austin, TX: University of Texas Press, 2003.
- Odio, Catalina. "Latinx Populations and Jus Nexi Claims: A Renegotiation of U.S. Citizenship and Identity." 2018. Kenyon College, Undergraduate honors thesis.
- Oliver, Eric J., and Wendy M. Rahn. "Rise of the Trumpenvolk: Populism in the 2016 Election." *The ANNALS of the American Academy of Political and Social Science* 667, no. 1 (2016): 189–206.
- Olmsted, Frederick Law. *A Journey in the Seaboard Slave States in the Years 1853–1854*. New York: J.P. Putnam's Sons, 1904 [1856].
- Olson, Joel. "Whiteness and the Polarization of American Politics." *Political Research Quarterly* 61, no. 4 (2008): 704–18.
- Opal, J. M. "General Jackson's Passports: Natural Rights and Sovereign Citizens in the Political Thought of Andrew Jackson, 1780s–1820s." *Studies in American Political Development* 27 (2013).
- "Oregon Humanities." Accessed May 26, 2020. <https://oregonhumanities.org/>
- Orloff, Ann Shola. "Gender and the Social Rights of Citizenship: The Comparative Analysis of Gender Relations and Welfare States." *American Sociological Review* 58, no. 3 (1993): 303–28.
- Ostwald, Martin. "The Athenian Legislation against Tyranny and Subversion." In *Transactions and Proceedings of the American Philological Association* 86 (1955): 103–28.
- Padilla, Sonia. *Investing in Proven Technologies: Integrated Fixed Towers and Mobile Surveillance Systems*. El Paso, TX: Border Management Conference & Technology Expo, 2012.
- Palmer, R. R. *The Age of the Democratic Revolution: A Political History of Europe and America, 1760–1800 – Updated Edition*. Princeton, NJ: Princeton University Press, 2014.
- Pangle Wilford, Heather. "Like a God on Earth: Popular Sovereignty in Tocqueville's Democracy in America." In *People Power: Popular Sovereignty from Machiavelli to Modernity*, edited by Robert G. Ingram and Christopher Barker, 160–81. Manchester: Manchester University Press, 2022.

- Panizza, Francisco. *Populism and the Mirror of Democracy*. London: Verso, 2005.
- Parent, Wayne, and Paul Steckler. "The Political Implications of Economic Stratification in the Black Community." *Western Political Quarterly* 38, no. 4 (1985): 521–38.
- Parker, Victor. "Τύραννος. The Semantics of a Political Concept from Archilochus to Aristotle." *Hermes* 126, no. 2 (1998): 154.
- Parkinson, Robert G. *Common Cause: Creating Race and Nation in the American Revolution*. Chapel Hill, NC: University of North Carolina Press, 2016.
- Parry, Jonathan. *The Rise and Fall of Liberal Government in Victorian Britain*. New Haven: Yale University Press, 1993.
- Pasquino, Pasquale. "Popular Sovereignty: The People's Two Bodies." In *Sovereignty in Action*, edited by Bas Leijssenaar and Neil Walker, 144–58. Cambridge: Cambridge University Press, 2019.
- Passmore, Kevin. "The Construction of Crisis in Interwar France." In *France in the Era of Fascism: Essay on the French Authoritarian Right*, edited by Brian Jenkins. New York: Berghahn Books, 2005.
- Pateman, Carole. *The Disorder of Women: Democracy, Feminism and Political Theory*. Stanford, CA: Stanford University Press, 1989.
- Pestana, Carla Gardina. *Protestant Empire: Religion and the Making of the British Atlantic World*. Philadelphia, PA: University of Pennsylvania Press, 2009.
- Piketty, Thomas. *Capital and Ideology*. Cambridge: Harvard University Press, 2020.
- Plato. *The Republic of Plato*. Translated by Allan Bloom. New York, NY: Basic Books, 1991.
- Plattner, Marc. "Illiberal Democracy and the Struggle on the Right." *Journal of Democracy* 30, no. 1 (2019): 5–19.
- Plotica, Luke Philip. "The Return of the 'Forgotten Man': Refurbishing Symbols of the Gilded Age." *Public Seminar*, November 2017. www.publicseminar.org/2017/11/the-return-of-the-forgotten-man/
- Polanyi, Karl. *The Great Transformation: The Political and Economic Origins of Our Time*. Boston, MA: Beacon Press, 2001.
- Pollvogt, Susannah W. Thought Experiment: What If Justice Kennedy Had Approached *Romer v. Evans* the Way He Approached *Schuetz v. BAMM?*, 2014. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2436616
- Pope, Maurice. "Addressing Oedipus." *Greece & Rome* 38, no. 2 (1991): 157.
- Popper, Karl R. *The Open Society and Its Enemies*. London: Routledge, 1945.
- Posen, Adam S. "The End of Globalization? What Russia's War in Ukraine Means for the World Economy." *Foreign Affairs*, March 2022. www.foreignaffairs.com/articles/world/2022-03-17/end-globalization
- Posner, Eric. *The Twilight of Human Rights Law*. Oxford: Oxford University Press, 2014.
- Postel, Charles. *The Populist Vision*. Oxford: Oxford University Press, 2007.
- Press, Gerald A. *Who Speaks for Plato?* Lanham, MD: Rowman and Littlefield, 2000.
- Prucha, Francis Paul. *American Indian Policy in the Formative Years: The Indian Trade and Intercourse Acts, 1780–1834*. Cambridge, MA: Harvard University Press, 1962.
- Raghavan, Srinath. *War and Peace in Modern India*. Basingstoke: Palgrave Macmillan, 2010.
- Ramusack, Barbara. *The Indian Princes and Their States*. Cambridge: Cambridge University Press, 2004.
- Ransby, Barbara. "The Class Politics of Black Lives Matter." *Dissent* 62, no. 4 (2015): 31–34.
- Rao, B. Shiva. *The Framing of India's Constitution*. New Delhi: Government of India Press, 1968.

- Rastogi, S., T. D. Johnson, E. M. Hoeffel, and M. P. Drewery Jr. *The Black Population: 2010*. Washington, DC: US Census Bureau, 2011.
- Rawls, John *Political Liberalism: Expanded Edition*. New York: Columbia University Press, 2005.
- Raymond, Laurel “Trump Administration Eliminates Funding for Group Countering White Nationalism.” *ThinkProgress*, <https://thinkprogress.org/white-nationalism-group-funding-f1d35fb5604e/>, June 23, 2017.
- RECONYX. “Wireless Remote Trigger & Illuminator.” Advertisement, 2012.
- Remini, Robert. *The Life of Andrew Jackson*. New York: Harper Perennial Modern Classics, 2010.
- “Rendre a La France Sa Souverainete Nationale. Vers Une Europe Des Nations Independantes, Au Service Des Peuples,” n.d. www.rassemblementnational.com
- Richardson, Heather Cox. *The Death of Reconstruction: Race, Labor, and Politics in the Post-Civil War North, 1865–1901*. Cambridge, MA: Harvard University Press, 2001.
- Rickford, Russell. “Black Lives Matter: Toward a Modern Practice of Mass Struggle.” *New Labor Forum* 25, no. 1 (2016): 34–42.
- Riofrancos, Thea. “Populism Without the People.” N+I (blog), 2018. <https://nplusonemag.com/online-only/online-only/populism-without-the-people/>
- Riofrancos, Thea. “Reclaiming Populism: The View from Latin America.” *Boston Review*, 2020. <http://bostonreview.net/forum/reclaiming-populism/thea-riofrancos-view-latin-america>
- Ritter, Gretchen. *The Constitution as Social Design: Gender and Civic Membership in the American Constitutional Order*. Stanford, CA: Stanford University Press, 2006.
- Roberts, Kenneth M. “Neoliberalism and the Transformation of Populism in Latin America: The Peruvian Case.” *World Politics* 48, no. 1 (1995): 82–116.
- Robinson, James A., and Daron Acemoglu. “Democratization or Repression?” *European Economic Review* 44 (2000): 683–93.
- Robinson, Russell K. “Unequal Protection.” *Stanford Law Review* 68, no. 1 (2016): 151–233.
- Rodrik, Dani. “The Past, Present, and Future of Economic Growth.” In *Towards a Better Global Economy: Policy Implications for Citizens Worldwide in the 21st Century*, edited by Franklin Allen, Jere R. Berhman, Nancy Birdsall, Shahrokh Fardoust, Dani Rodrik, Andrew Steer, and Arvind Subramanian, 70–119. Oxford: Oxford University Press, 2014.
- Rogers, Melvin. “Democracy Is a Habit: Practice It.” *Boston Review*, 2018. <https://bostonreview.net/politics/melvin-rogers-democracy-habit-practice-it>
- Roochnik, David. *The Tragedy of Reason: Towards a Platonic Conception of Logos*. New York: Routledge, 1990.
- Roosevelt, Franklin D. “Commonwealth Club Address.” In *American Political Thought: Readings and Materials*, edited by Keith E. Whittington, 510. New York: Oxford University Press, 2017.
- Rosanvallon, Pierre. “Inaugural Lecture, Collège de France.” In *Democracy Past and Future*, edited by Samuel Moyn. New York: Columbia University Press, 2006.
- Rosanvallon, Pierre. *Le Siècle Du Populisme: Histoire, Théorie, Critique*. Paris: Seuil, 2020.
- Rosenbluth, Frances McCall and Ian Shapiro, *Responsible Parties: Saving Democracy from Itself* (New Haven, CT: Yale University Press, 2018).
- Rosenfeld, Sam. *The Polarizers: Postwar Architects of Our Partisan Era*. Chicago, IL: University of Chicago Press, 2018.

- Ross, William. *A Muted Fury: Populists, Progressives, and Labor Confront the Court, 1890–1937*. Princeton, NJ: Princeton University Press, 1994.
- Rostow, Eugene V. “The Democratic Character of Judicial Review.” *Harvard Law Review* 66, no. 2 (1952): 193–224.
- Rousseau, Jean-Jacques. “Abstract and Judgment of Saint-Pierre’s Project.” In *Rousseau on International Relations*, edited by Stanley Hoffman and David P. Fidler, 94. Oxford: The Clarendon Press, 1991.
- Rousseau, Jean-Jacques. *The Basic Political Writings*. Edited by Peter Gay and translated by Donald A. Cress. Indianapolis, IN: Hackett Publishing, 1987.
- Rousseau, Jean-Jacques. “Discourse on Political Economy.” In *The Social Contract and Other Later Political Writings*, edited by Victor Gourevitch, 212. Cambridge: Cambridge University Press, 1997.
- Rousseau, Jean-Jacques. “Discourse on the Origins of Inequality.” In *The First and Second Discourses*, edited by Judith R. Masters and translated by Roger D. Masters and Judith R. Masters, 132. New York, NY: St. Martin’s, 1964.
- Rousseau, Jean-Jacques. *Emile or On Education*. Edited by Alan Bloom. Vol. IV. New York, NY: Basic Books, 1996.
- Rousseau, Jean-Jacques. “Geneva Manuscript.” In *The Social Contract and Other Later Political Writings*, edited by Victor Gourevitch. Cambridge: Cambridge University Press, 1996.
- Rousseau, Jean-Jacques. *The Government of Poland*. Edited by Willmoore Kendall. Indianapolis, IN: Hackett Publishing, 1985.
- Rousseau, Jean-Jacques. “Of the Social Contract.” In *The Social Contract and Other Later Political Writings*. Edited by Victor Gourevitch. Cambridge: Cambridge University Press, 1997.
- Rousseau, Jean-Jacques. “The Social Contract.” In *The Major Political Writings of Jean-Jacques Rousseau*, edited by John T. Scott, II, 8:194–95. Chicago, IL: University of Chicago Press, 2012.
- Russel, Robert R. “The Issues in the Congressional Struggle over the Kansas-Nebraska Bill.” 29 (1963): 187–210.
- Russel, Robert R. “What Was the Compromise of 1850?” *Journal of Southern History* 22 (1956): 292–309.
- Ryan, Mary P. *Civic Wars: Democracy and Public Life in the American City during the Nineteenth Century*. Berkeley, CA: University of California Press, 1997.
- Sahlins, Peter. *Boundaries: The Making of France and Spain in the Pyrenees*. Berkeley, CA: University of California Press, 1991.
- Sarkar, Sumit. “Indian Democracy: The Historical Inheritance.” In *The Success of India’s Democracy*, edited by Atul Kohli, 29–30. Cambridge: Cambridge University Press, 2001.
- Sassen, Saskia. *Losing Control?: Sovereignty in the Age of Globalization*. New York: Columbia University Press, 1996.
- Saunt, Claudio. *Unworthy Republic: The Dispossession of Native Americans and the Road to Indian Territory*. New York: W. W. Norton & Co., 2020.
- Savage, Charlie. “Justice Dept. to Take on Affirmative Action in College Admissions.” *The New York Times*, August 2, 2017, A1.
- Saville, John. *1848: The British State and the Chartist Movement*. Cambridge, UK: Cambridge University Press, 1990.
- Saxonhouse, Arlene W. “The Tyranny of Reason in the World of the Polis.” *The American Political Science Review* 82, no. 4 (1988): 1261–75.

- Schatz, Edward. "Ethnographic Immersion and the Study of Politics." In *Political Ethnography: What Immersion Contributes to the Study of Power*, edited by Edward Schatz, 1–22. Chicago, IL: University of Chicago Press, 2009.
- Schlesinger, Arthur Meier. "The American Revolution Reconsidered." *Political Science Quarterly* 34 (1919): 61–78.
- Schmidt, Ethan A. *Native Americans in the American Revolution*. Westport, CT: Praeger, 2014.
- Schmitt, Carl. *The Concept of the Political*. Translated and edited by George Schwab. Chicago, IL: University of Chicago Press, 1996.
- Schmitt, Carl. *Constitutional Theory*. Translated and edited by Jeffrey Seitzer. Durham, NC: Duke University Press, 2008.
- Schmitt, Carl. *The Crisis of Parliamentary Democracy*. Translated and edited by Ellen Kennedy. Cambridge, MA: MIT Press, 1988.
- Schmitt, Carl. "Historiographia in Nuce: Alexis de Tocqueville." In *Ex Captivitate Salus*, edited by Andreas Kalyvas and Federico Finchelstein, 25–31. Cambridge: Polity Press, 2017.
- Schmitt, Carl. *The Leviathan in the State Theory of Thomas Hobbes*. Translated and edited by George Schwab. Chicago, IL: University of Chicago Press, 2008.
- Schmitt, Carl. *Political Theology: Four Chapters on the Concept of Sovereignty*. Translated and edited by George Schwab. Chicago, IL: The University of Chicago Press, 2005.
- Schneider, Anne, and Helen Ingram. "Social Construction of Target Populations: Implications for Politics and Policy." *American Political Science Review* 87, no. 2 (1993): 334–47.
- Schmitter, Philipp C. and T. L. Karl. "What Democracy Is ... and Is Not." *Journal of Democracy* 2, no. 3 (1991): 75–88.
- Schroedel, Jean R. *Voting in Indian Country: The View from the Trenches*. Philadelphia, PA: University of Pennsylvania Press, 2020.
- Scott, James C. *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed*. New Haven, CT: Yale University Press, 1998.
- Segal, Jeffrey. "Why We Have the Most Polarized Supreme Court in History." *The Conversation*, March 14, 2016. <https://theconversation.com/why-we-have-the-most-polarized-supreme-court-in-history-55015>
- Selby, David. *Tocqueville, Jansenism, and the Necessity of the Political in a Democratic Age*. Amsterdam: Amsterdam University Press, 2015
- Selby, David. "Towards a Political Theology of Republicanism: The Contours of a Natural Contrast between Carl Schmitt and Alexis de Tocqueville." *History of Political Thought* 39, no. 4 (2018): 749–74.
- Senstar. "Senstar: The Trusted Choice for Perimeter Security Technology & Products." Advertisement, 2011.
- Shani, Ornit. *How India Became Democratic: Citizenship and the Making of the Universal Franchise*. Cambridge: Cambridge University Press, 2018.
- Sherman, Taylor C. *Muslim Belonging in Secular India. Negotiating Citizenship in Postcolonial Hyderabad*. Cambridge: Cambridge University Press, 2015.
- Shklar, Judith N. *Legalism: Law, Morals, and Political Trials*. Cambridge, MA: Harvard University Press, 1964.
- Shklar, Judith N. *American Citizenship: The Quest for Inclusion*. Cambridge, MA: Harvard University Press, 1991.

- Sides, John, Michael Tesler, and Lynn Vavreck. *Identity Crisis: The 2016 Presidential Campaign and the Battle for the Meaning of America*. Princeton, NJ: Princeton University Press, 2018.
- Sieyès, Abbé. "What Is the Third Estate." In *The French Revolution and Human Rights: A Brief Documentary History*, edited and translated by Lynn Hunt, 63–70. London: Bedford Books of St. Martin's Press, 1789.
- Silver, Nate. "'Real' America Looks Different to Palin, Obama." *FiveThirtyEight* (blog), 2008. <https://fivethirtyeight.com/features/real-america-looks-different-to-palin/>
- Sinha, Manisha. *The Slave's Cause: A History of Abolition*. New Haven, CT: Yale University Press, 2016.
- Singh, Robert. *The Congressional Black Caucus: Racial Politics in the US Congress*. Thousand Oaks, CA: SAGE Publications, 1998.
- Sirriyeh, Ala. "'Felons Are Also Our Family': Citizenship and Solidarity in the Undocumented Youth Movement in the United States." *Journal of Ethnic and Migration Studies* 45, no. 1 (2019): 133–50.
- Skinner, Gwynne. "Misunderstood, Misconstrued, and Now Clearly Dead: The 'Political Questions Doctrine' as a Justiciability Doctrine." *Journal of Law and Politics* 29, no. 427 (2014).
- Skocpol, Theda. *Diminished Democracy: From Membership to Management in American Civic Life*. Norman, OK: University of Oklahoma Press, 2004.
- Skocpol, Theda. *Protecting Soldiers and Mothers: The Political Origins of Social Policy in the United States*. Cambridge, MA: Harvard University Press, 1995.
- Skocpol, Theda, Ariane Liazos, and Marshall Ganz. *What a Mighty Power We Can Be: African American Fraternal Groups and the Struggle for Racial Equality*. Princeton, NJ: Princeton University Press, 2006.
- Skocpol, Theda, Marshall Ganz, and Ziad Munson. "A Nation of Organizers: The Institutional Origins of Civic Voluntarism in the United States." *American Political Science Review* 94, no. 3 (2000): 527–46.
- Smith, Anna Marie. *Welfare Reform and Sexual Regulation*. New York: Cambridge University Press, 2007.
- Smith, Anthony D. *The Ethnic Origins of Nations*. Oxford: Blackwell, 1986.
- Smith, Robert C. *We Have No Leaders: African Americans in the Post-Civil Rights Era*. Albany: SUNY Press, 1996.
- Smith, Rogers M. *Civic Ideals: Conflicting Visions of Citizenship in US History*. New Haven: Yale University Press, 1997.
- Smith, Rogers M. "Judicial Power and Democracy: A Machiavellian View." In *The Supreme Court and the Idea of Constitutionalism*, edited by Steven Kautz, Arthur Melzer, Jerry Weinberger, and M. Richard Zinman, 199–220. Philadelphia, PA: University of Pennsylvania Press, 2009.
- Smith, Rogers M. "Lincoln and Obama: Two Visions of American Civic Union." In *Representing Citizenship*, edited by Richard Marback, 17–51. Detroit, MI: Wayne State University Press, 2016.
- Smith, Rogers M. *Political Peoplehood*. Chicago, IL: University of Chicago Press, 2015.
- Smith, Rogers M. *Stories of Peoplehood: The Politics and Morals of Political Membership*. Cambridge: Cambridge University Press, 2003.
- Smith, Rogers M. *That Is Not Who We Are!: Populism and Peoplehood*. New Haven, CT: Yale University Press, 2020.
- Smith, Steven B. *Modernity and Its Discontents*. New Haven, CT: Yale University Press, 2016.

- Sorel, Georges. *Reflections on Violence*. Cambridge: Cambridge University Press, 1999.
- Soss, Joe. "Lessons of Welfare: Policy Design, Political Learning, and Political Action." *American Political Science Review* 93, no. 2 (1999): 363–80.
- Soss, Joe, Richard C. Fording, and Sanford F. Schram. *Disciplining the Poor: Neoliberal Paternalism and the Persistent Power of Race*. Chicago, IL: The University of Chicago Press, 2011.
- Soucy, Robert. *French Fascism: The First Wave, 1924–1933*. New Haven, CT: Yale University Press, 1986.
- Soucy, Robert. *French Fascism: The Second Wave, 1933–1939*. New Haven, CT: Yale University Press, 1995.
- South Carolina. *Constitution of the Commonwealth of South Carolina: Ratified April 16, 1868: Together with the Constitution of the United States of America*. Charleston, SC: C. A. Calvo, 1883.
- Southwest Microwave. "Integrated Perimeter Security Solutions." Advertisement, 2012.
- Spectator. "The Old Parish Constables and the New Rural Police." *The Spectator*. (April 9, 1842): 14.
- Sperber, Joseph. *Europe 1850–1914: Progress, Participation, and Apprehension*. London: Routledge, 2009.
- Squire, Peverill. *The Evolution of American Legislatures: Colonies, Territories, and States, 1619–2009*. Ann Arbor, MI: University of Michigan Press, 2012.
- Squire, Peverill. *The Right of Instruction and Representation in American Legislatures, 1778–1900*. Ann Arbor, MI: University of Michigan Press, 2021.
- Stankov, Petar. *The Political Economy of Populism: An Introduction*. New York: Taylor & Francis, 2021.
- Stavrakakis, Yannis, Giorgos Katsambekis, Nikos Nikisianis, Alexandros Kioupkliolis, and Thomas Siomos. "Extreme Right-Wing Populism in Europe: Revisiting a Reified Association." *Critical Discourse Studies* 14, no. 4 (2017): 420–39.
- Stephanopoulos, Nicholas. "The Case for the Legislative Override." *UCLA Journal of International Law and Foreign Affairs* 10 (2005): 250–95.
- Stewart, James Brewer. *Holy Warriors: The Abolitionists and American Slavery*. New York: Farrar, Straus and Giroux, 1997.
- Strauss, David A. "Modernization and Representation Reinforcement: An Essay in Memory of John Hart Ely." *Stanford Law Review* 57 (2004): 761–78.
- Strauss, Leo. *The City and Man*. Chicago, IL: University of Chicago Press, 1964.
- Strauss, Leo. *The Political Philosophy of Hobbes: Its Basis and Genesis*. Chicago, IL: University of Chicago Press, 1996.
- Strong, Tracy B. "Forward." In *Political Theology*, vii–xxxv. Carl Schmitt. Chicago, IL: University of Chicago Press, 2005.
- Sunstein, Cass R. *One Case at a Time: Judicial Minimalism on the Supreme Court*. Cambridge, MA: Harvard University Press, 1999.
- Sultan, N. "Self-Rule and the Problem of Peoplehood in Colonial India." *American Political Science Review* 114, no. 1 (2020): 81–94.
- Swain, Carol M. *Black Faces, Black Interests: The Representation of African Americans in Congress*. Cambridge, MA: Harvard University Press, 1993.
- Swift, R. E. "Policing Chartism, 1839–1848: The Role of the 'Specials' Reconsidered." *The English Historical Review* CXXII, no. 497 (2007): 669–99.
- Tarleton, Charles D. "The Despotical Doctrine of Hobbes, Part I: The Liberalization of Leviathan." *History of Political Thought* 22 (Winter 2001): 587–618.

- Tate, Katherine. *Black Faces in the Mirror: African Americans and Their Representatives in the US Congress*. Princeton, NJ: Princeton University Press, 2003.
- Tate, Katherine. *Concordance: Black Lawmaking in the U.S. Congress from Carter to Obama*. Ann Arbor, MI: University of Michigan Press, 2014.
- Tate, Katherine. *From Protest to Politics: The New Black Voters in American Elections*. Boston, MA: Harvard University Press, 1993.
- Taylor, Charles. "Identity and Democracy." *Iyyun: The Jerusalem Philosophical Quarterly / עיון: רבעון פילוסופי* 11 (2010): 11–23.
- Taylor, Charles. "The Dynamics of Democratic Exclusion." *Journal of Democracy* 9, no. 4 (1998): 143–56.
- Taylor, Keeanga-Yamahtta. *From #BlackLivesMatter to Black Liberation*. Chicago, IL: Haymarket Books, 2016.
- Taylor, Miles. "Rethinking the Chartists: Searching for Synthesis in the Historiography of Chartism." *The Historical Journal* 39, no. 2 (1996): 479–95.
- Tesler, Michael. *Post-Racial or Most Racial? Race and Politics in the Obama Era*. Chicago, IL: University of Chicago Press, 2016.
- Thayer, James Bradley. "A People without Law." *Atlantic Monthly*, October 1891.
- "The People's Petition, 1838." *Modern History Sourcebook*. <https://sourcebooks.fordham.edu/mod/1838chartism.asp>
- Thucydides. *Historiae*. Edited by Henry Stuart Jones. Vol. II. Oxford: The Clarendon Press, 1900.
- Tillery, Alvin B. "Foreign Policy Activism and Power in the House of Representatives: Black Members of Congress and South Africa, 1968–1986." *Studies in American Political Development* 20, no. 1 (2006): 88–103.
- Tillery, Alvin B. "How African American See the Black Lives Matter Movement. Center for the Study of Diversity and Democracy Poll." Evanston, IL: Northwestern University, 2017. www.csdd.northwestern.edu/research/
- Tillery, Alvin B. "Reading Tocqueville Behind the Veil: African American Receptions of Democracy in America, 1835–1900." *American Political Thought* 7, no. 1 (2018): 1–25.
- Tillery, Alvin B. "Tocqueville as Critical Race Theorist: Whiteness as Property, Interest Convergence, and the Limits of Jacksonian Democracy." *Political Research Quarterly* 62, no. 4 (2009): 639–52.
- Tillery, Alvin B. "What Kind of Movement Is Black Lives Matter? The View from Twitter." *Journal of Race, Ethnicity and Politics* 4, no. 2 (2019): 297–323.
- Tocqueville, Alexis. *Democracy in America: Historical – Critical Edition*. Edited by Eduardo Nolla and translated by James T. Schleifer. Indianapolis: Liberty Fund, 2010.
- Tocqueville, Alexis. *Democracy in America*. Translated by Arthur Goldhammer. New York: Library of America, 2004.
- Tocqueville, Alexis. *Democracy in America*. Translated by Harvey C. Mansfield and Delba Winthrop. Chicago, IL: University of Chicago Press, 2000.
- Tommissen, Piet. *Schmittiana: Beiträge Zu Leben Und Werk Carl Schmitts*. Vol. 7, 6. Berlin: Duncker und Humblot Verlag, 2003.
- Truett, Samuel. "Settler Colonialism and the Borderlands of Early America." *William and Mary Quarterly* 76, no. 3 (2019): 435–42.
- Tuck, Richard. *The Sleeping Sovereign: The Invention of Modern Democracy*. Cambridge University Press, 2016.
- Tudor, Maya, and Dan Slater. "The Content of Democracy: Nationalist Parties and Inclusive Ideologies in India and Indonesia." In *Parties, Movements, and Democracy*

- in *the Developing World*, edited by Nancy Bermeo and Deborah J. Yashar, 28–60. Cambridge: Cambridge University Press, 2016.
- Tushnet, Mark. “The Rise of Weak-Form Judicial Review.” In *Comparative Constitutional Law*, edited by Tom Ginsburg and Rosalind Dixon, 321, 331–32. Northampton, MA: Edward Elgar, 2011.
- Tushnet, Mark. *Weak Courts, Strong Rights: Judicial Review and Social Welfare Rights in Comparative Constitutional Law*. Princeton, NJ: Princeton University Press, 2008.
- Tushnet, Mark. “New Forms of Judicial Review and the Persistence of Rights – And Democracy-Based Worries.” *Wake Forest Law Review* 38, no. 2 (2003): 813–38, 818.
- Tushnet, Mark. *Taking the Constitution Away from the Courts*. Princeton, NJ: Princeton University Press, 1999.
- Tycko, Sonia. “Captured Consent: Bound Service and Freedom of Contract in Early Modern England and English America.” PhD dissertation, Department of History, Harvard University, 2020.
- United States House of Representatives. “House Judiciary Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law.” *Testimony on the Future of Undocumented Immigration Students*, 110th Cong (2007). www.aila.org/File/Related/07072463d.pdf
- Valelly, Richard M. “Party, Coercion, and Inclusion: The Reconstruction of the South’s Electoral Politics.” *Politics & Society* 21, no. 1 (1993): 37–67.
- Valelly, Richard M. “Slavery, Emancipation, and the Civil War Transformation of the US State.” *Perspectives on Politics* 12, no. 1 (2014): 145–52.
- Valelly, Richard M. *The Two Reconstructions: The Struggle for Black Enfranchisement*. Chicago, IL: University of Chicago Press, 2004.
- Valelly, Rick. “Two Political Sciences or One? Liberal Arts Political Science as a Disciplinary Partner.” *Polity* 46, no. 1 (2014): 150–56.
- Vernant, J.-P., and Page DuBois. “Ambiguity and Reversal: On the Enigmatic Structure of Oedipus Rex.” *New Literary History* 9, no. 3 (1978): 475–501.
- Vernant, J.-P., and Page DuBois. “From Oedipus to Periander: Lameness, Tyranny, Incest in Legend and History.” *Arethusa* 15, no. 1/2 (1982): 19–38.
- Vidal, Xavier Medina. “Immigration Politics in the 2016 Election.” *PS: Political Science and Politics* 51, no. 2 (2018): 304–8.
- Vinx, Lars. “Carl Schmitt’s Defense of Sovereignty.” In *Law Liberty, and State: Oakeshott, Hayek, and Schmitt on the Rule of Law*, edited by David Dyzenhaus and Thomas Poole. Cambridge: Cambridge University Press, 2015.
- Vormann, Boris, and Micheal Weinman, eds. *Emergence of Illiberalism*. London: Routledge, 2020.
- Wallach, John R. “Sovereignty: New and Old.” *Political Theory* 46, no. 4 (2017): 659–68.
- Walzer, Michael. *Interpretation and Social Criticism*. Cambridge, MA: Harvard University Press, 1993.
- Weber, Eugen. *Peasants into Frenchmen: The Modernization of Rural France, 1870–1914*. Stanford, CA: Stanford University Press, 1976.
- Weber, Max. “Politics as a Vocation.” In *From Max Weber: Essays in Sociology*, edited by H. H. Gerth and C. Wright Mills. New York: Oxford University Press, 1958.
- Weber, Max. *The Theory of Social and Economic Organization*. Translated by Talcott Parsons. New York: Free Press, 1947.
- Weiler, J. H. H., Ulrich R. Haltern, and Franz C. Mayer. “European Democracy and Its Critique.” *West European Politics* 18, no. 3 (1995): 4–39.

- Welch, Susan, and Michael W. Combs. "Intra-Racial Differences in Attitudes of Blacks: Class Cleavages or Consensus?" *Phylon* 46, no. 2 (1985): 91–97.
- Weyl, Walter E. *The New Democracy: An Essay on Certain Economic and Political Tendencies in the United States*. New York: Macmillan, 1912.
- Weyland, Kurt. "Neoliberal Populism in Latin America and Eastern Europe." *Comparative Politics* 31, no. 4 (1999): 379–401.
- Weyland, Kurt, and Raúl L. Madrid. *When Democracy Trumps Populism*. Cambridge: Cambridge University Press, 2019.
- Whelan, Frederick G. "Democratic Theory and the Boundary Problem." In *Liberal Democracy*, edited by J. R. Pennock and J. W. Chapman, 13–47. New York, NY: New York University Press, 1983.
- Whelan, Frederick G. "Prologue: Democratic Theory and the Boundary Problem." *Nomos* 25 (1983): 13–47.
- Whitby, Kenny J. *The Color of Representation: Congressional Behavior and Black Constituents*. Ann Arbor, MI: University of Michigan Press, 1997.
- Whitling, Frederick. "Damnatio Memoriae and the Power of Remembrance: Reflections on Memory and History." In *A European Memory? Contested Histories and Politics of Remembrance*, edited by Malgorzata Pakier and Bo Stråth. New York: Berghahn Books, 2010.
- Whitman, Walt, and Justin Kaplan. "Democratic Vistas." In *Walt Whitman: Complete Poetry and Collected Prose*. New York, NY: Library of America, 1982.
- Whittington, Keith. *Constitutional Construction: Divided Powers and Constitutional Meaning*. Cambridge: Harvard University Press, 1999.
- Whittington, Keith. "'Interpose Your Friendly Hand': Political Supports for the Exercise of Judicial Review by the United States Supreme Court." *American Political Science Review* 99, no. 4 (2005): 583–96.
- Whittington, Keith. *Political Foundations of Judicial Supremacy*. Princeton, NJ: Princeton University Press, 2009.
- Whittington, Keith. *Repugnant Laws: Judicial Review of Acts of Congress from the Founding to the Present*. Lawrence, KS: University Press of Kansas, 2019.
- Whittington, Keith. "Revisiting Tocqueville's America." In *Beyond Tocqueville: Civil Society and Social Capital Debate in Comparative Perspective*, edited by Bob Edwards, Michael Folley and Mario Diani. Hanover, NH: University Press of New England, 2001.
- Whittington, Keith E., and Amanda Rinderle. "Making a Mountain Out of a Molehill? Marbury and the Construction of the Constitutional Canon." *Hastings Constitutional Law Quarterly* 39, no. 4 (2012): 823–60.
- Wiecek, William M. *The Sources of Antislavery Constitutionalism in America, 1769–1860*. Cornell University Press, 1977.
- Wilentz, Sean. *Chants Democratic: New York City and the Rise of the American Working Class, 1788–1850*. New York: Oxford University Press, 2004.
- Williams, Bernard. *In the Beginning Was the Deed: Realism and Moralism in Political Argument*. Princeton, NJ: Princeton University Press, 2005.
- Williams, Joan C. *White Working Class: Overcoming Class Cluelessness in America*. Boston, MA: Harvard Business Review Press, 2017.
- Williams, R. Hal. *Realigning America: McKinley, Bryan, and the Remarkable Election of 1896*. Lawrence, KS: University Press of Kansas, 2010.

- Wills, Garry. *Lincoln at Gettysburg: The Words that Remade America*. New York: Simon & Schuster, 1992.
- Wilson, William Julius. *The Declining Significance of Race: Blacks and Changing American Institutions*. Chicago, IL: University of Chicago Press, 1980.
- Wilson, William Julius. *The Truly Disadvantaged: The Inner City, the Underclass, and Public Policy*. Chicago, IL: University of Chicago Press, 1987.
- Wohl, Victoria. *Love among the Ruins: The Erotics of Democracy in Classical Athens*. Princeton, NJ: Princeton University Press, 2002.
- Wolin, Sheldon. *Democracy Incorporated: Managed Democracy and the Specter of Inverted Totalitarianism*. Princeton, NJ: Princeton University Press, 2008.
- Wolin, Sheldon. "Fugitive Democracy." In *Democracy and Difference: Contesting the Boundaries of the Political*, edited by Seyla Benhabib, 31–45. Princeton, NJ: Princeton University Press, 1996.
- Wolin, Sheldon. "Fugitive Democracy." *Constellations* 1, no. 1 (1994): 11–25.
- Wolin, Sheldon. *Thomas Hobbes and the Culture of Despotism*. Edited by Mary Dietz. Lawrence, KS: University Press of Kansas, 1990.
- Wood, Gordon. *The Creation of the American Republic, 1776–1787*. Vol. 262 New York, NY: W. W. Norton & Co., 1969.
- Woods, Michael E. "The Compromise of 1850 and the Search for a Usable Past." *Journal of the Civil War Era* 9, no. 3 (2019): 438–56.
- Woods, Michael E. "What Twenty-First-Century Historians Have Said about the Causes of Disunion: A Civil War Sesquicentennial Review of the Recent Literature." *Journal of American History* 99, no. 2 (2012): 415–39.
- Woods, Michael E. *Bleeding Kansas: Slavery, Sectionalism, and Civil War on the Missouri-Kansas Border*. New York: Routledge, 2017.
- Woodward-Burns, Robinson. *Hidden Laws: How State Constitutions Stabilize American Politics*. New Haven, CT: Yale University Press, 2021.
- Wright, Gordon. *France in Modern Times*. New York, NY: W. W. Norton & Co., 1995.
- Yack, Bernard. "Popular Sovereignty and Nationalism." *Political Theory* 29, no. 4 (2001): 517–36.
- Yates, Robert. "Brutus #11, January 31, 1788." In *The Antifederalists*, edited by Cecelia M. Kenyon. Boston, MA: Northeastern Press, 1985.
- Young, Dannagal Goldthwaite. *Irony and Outrage: The Polarized Landscape of Rage, Fear, and Laughter in the United States*. New York: Oxford University Press, 2019.
- Young, Iris Marion. *Justice and the Politics of Difference*. Princeton, NJ: Princeton University Press, 1990.
- Zacka, Bernardo, Brooke Ackerly, Jacob Elster, Signy Gutnick-Allen, Humeira Iqtidar, Matthew Longo, and Paul Sagar. "Political Theory with an Ethnographic Sensibility." *Contemporary Political Theory (Critical Exchange)*. 20, no. 2 (2021): 385–418.
- Zagarri, Rosemarie. "The American Revolution and a New National Politics." In *The Oxford Handbook of the American Revolution*, edited by Jane Kamensky and Edward G. Gray. New York: Oxford University Press, 2012.
- Zagarri, Rosemarie. *The Politics of Size: Representation in the United States, 1776–1850*. Ithaca, NY: Cornell University Press, 1987.
- Zald, M. N. "Looking Backward to Look Forward." In *Frontiers in Social Movement Theory*, edited by Aldon D. Morris and Carol McClurg, 326–49. New Haven, CT: Yale University Press, 1992.

- Zeisberg, Mariah. *War Powers: The Politics of Constitutional Authority*. Oxford: Oxford University Press, 2013.
- Željka. “Erect a Memorial – Erase the Past. The Memorial to the Victims of the German Occupation in Budapest and the Controversy around It.” *EUSTORY History Campus* (blog), May 26, 2015. <https://historycampus.org/2015/erect-a-memorial-erase-the-past-the-memorial-to-the-victims-of-the-german-occupation-in-budapest-and-the-controversy-around-it/>
- Zolberg, Aristide R. “Moments of Madness.” *Politics and Society* 2, no. 2 (1972): 182–207.
- Zolberg, Aristide R. *A Nation by Design: Immigration Policy in the Fashioning of America*. New York: Russell Sage Foundation and Cambridge: Harvard University Press, 2006.
- Zuckert, Catherine H. *Plato’s Philosophers: The Coherence of the Dialogues*. Chicago, IL: University of Chicago Press, 2009.
- Zuckert, Michael P. “On Social State.” In *Tocqueville’s Defense of Human Liberty*, edited by Joseph Alulis and Peter Lawler, 3–19. New York, NY: Garland Publishers, 1993.
- Zuckert, Michael P. “Populism and Our Political Institutions.” *National Affairs* (2020). www.nationalaffairs.com/publications/detail/populism-and-our-political-institutions
- Zweifel, Thomas D. “... Who Is without Sin Cast the First Stone: The EU’s Democratic Deficit in Comparison.” *Journal of European Public Policy* 9, no. 5 (2002): 812–40.

SPEECHES

- Bonner, Robert C. “Terrorism and Transnational Criminal Organizations: Growing Confluence.” Remarks by Robert C. Bonner, Former Commissioner, CBP; Former Administrator, DEA; and Former US District Judge for California’s Central District. Presented at the Border Security Expo, Phoenix, AZ, March 13, 2013.
- Bonner, Robert C. “Perspectives on Border Security: Past, Present, Future.” Remarks by Robert C. Bonner, C.B.P. Commissioner, D.E.A. Former Administrator, and Former US. Presented at the Border Security Expo, Phoenix, AZ, March 13, 2013.
- Bryan, William Jennings. “Democratic National Convention Address.” July 8, 1896. www.americanrhetoric.com/speeches/williamjenningsbryan1896dnc.htm
- Bush, George W. “Remarks at a Leadership Forum in Atlanta.” Atlanta, GA, March 1, 2001. www.presidency.ucsb.edu/documents/remarks-leadership-forum-atlanta
- Bush, George W. “Remarks at Fernbank Museum of Natural History.” Atlanta, GA, March 1, 2020. www.presidency.ucsb.edu/documents/remarks-fernbank-museum-natural-history-atlanta-georgia
- Bush, George W. “Remarks at North Dakota State University.” Fargo, ND, March 8, 2001. <https://georgewbush-whitehouse.archives.gov/news/releases/2001/03/20010308-22.html>
- Bush, George W. “Remarks in Omaha, Nebraska.” February 28, 2001. www.presidency.ucsb.edu/documents/remarks-omaha-nebraska-2
- Bush, George W. “Remarks in Sioux Falls, North Dakota.” March 9, 2001. www.presidency.ucsb.edu/documents/remarks-sioux-falls-south-dakota-2
- Chavez, Felix. “2012–2016 Border Patrol Strategic Plan.” Remarks by Chavez, Deputy Chief, Operations Division, Office of Border Patrol. Border Management Conference & Technology Expo, El Paso, Texas, October 16, 2012.
- Clinton, Hillary Rodham. “Remarks at Broward College’s North Campus, Coconut Creek, Florida.” October 25, 2016. www.presidency.ucsb.edu/documents/remarks-broward-colleges-north-campus-coconut-creek-florida

- Clinton, Hillary Rodham. "Remarks at Wake Forest University. Winston-Salem, North Carolina." October 27, 2016. <https://awpc.cattcenter.iastate.edu/2017/03/21/remarks-in-winston-salem-north-carolina-oct-27-2016/>
- Clinton, Hillary Rodham. "Remarks at the Dickerson Community Center. Daytona Beach, Florida." October 29, 2016. www.presidency.ucsb.edu/documents/remarks-the-dickerson-community-center-daytona-beach-florida
- Fisher, Michael. "Securing Ports of Entry." Presented at the Border Security Expo 2012, Phoenix, AZ, March 7, 2012.
- Fisher, Michael. "Testimony of Michael J. Fisher, Chief, U.S. Border Patrol, U.S. Customs and Border Protection, Department of Homeland Security." § House Committee on Homeland Security, Subcommittee on Border and Maritime Security (2012).
- Gilbert, Robert. "Cooperative Efforts between Mexico, Canada and the U.S. in Law Enforcement and Prosecution." Presented at the Border Security Expo, Phoenix, AZ, 2012. www.tvworldwide.com/events/bordersecurityexpo/120306/default.cfm?id=14378&type=flv&test=0&live=0
- King, Mike. "Filling a Need: How IDENTISEIS Was Born." Presented at the Border Management Conference & Technology Expo, El Paso, TX, October 17, 2012.
- Obama, Barack. "Remarks at a Democratic Hope Fund Dinner." Los Angeles, CA, 2016. <https://obamawhitehouse.archives.gov/the-press-office/2016/02/12/remarks-president-la-democratic-hope-fund-dinner>
- Obama, Barack. "Remarks at a Democratic National Committee Fundraiser." Los Angeles, CA, October 10, 2015.
- Obama, Barack. "Remarks at a Democratic National Committee Fundraiser in Chicago, Illinois." October 27, 2015. www.presidency.ucsb.edu/documents/remarks-democratic-national-committee-fundraiser-chicago-illinois-2
- Obama, Barack. "Remarks at a Fundraiser for Senator Patricia Murray." Seattle, WA, October 9, 2015. www.presidency.ucsb.edu/documents/remarks-fundraiser-for-senator-patricia-l-murray-seattle-washington
- Obama, Barack. "Remarks on Immigration Reform and an Exchange with Reporters." 2012. <https://obamawhitehouse.archives.gov/the-press-office/2012/06/15/remarks-president-immigration>
- Obama, Barack. "Obama 2004 Democratic National Convention Keynote Address." www.americanrhetoric.com/speeches/convention2004/barackobama2004dnc.htm
- Sanders, Bernie. "Remarks at Georgetown University." November 19, 2015. www.presidency.ucsb.edu/documents/remarks-georgetown-university-washington-dc
- Sanders, Bernie. "Remarks at the Iowa Jefferson-Jackson Day Dinner." Des Moines, Iowa. October 24, 2015. www.presidency.ucsb.edu/documents/remarks-the-iowa-democratic-party-jefferson-jackson-dinner-des-moines
- Shiffman, Gary M. "Patrolling the Border: The New National Strategy." Presented at the Counter Terror Expo Conference, Washington DC, May 16, 2012.
- Trump, Donald. "Remarks on Supporting the Passage of the U.S.-Mexico-Canada Agreement." Speech, 2019. www.whitehouse.gov/briefings-statements/remarks-president-trump-supporting-passage-u-s-mexico-canada-agreement-milwaukee-wi/
- Trump, Donald. "Remarks at the Conservative Political Action Conference in Oxon Hill, Maryland." Speech, 2018. www.presidency.ucsb.edu/documents/remarks-the-conservative-political-action-conference-oxon-hill-maryland

- Trump, Donald. "Remarks at a Make America Great Again Rally in Harrisburg, Pennsylvania." April 29, 2017. www.presidency.ucsb.edu/documents/remarks-make-america-great-again-rally-harrisburg-pennsylvania
- Trump, Donald. "Remarks on Signing Executive Orders on Trade in Harrisburg." Harrisburg, PA, April 29, 2017.
- Trump, Donald. "Remarks on the 250th Anniversary of the Birth of Andrew Jackson in Nashville, Tennessee." March 15, 2017. www.presidency.ucsb.edu/documents/remarks-the-250th-anniversary-the-birth-andrew-jackson-nashville-tennessee
- Trump, Donald. "Remarks at the American Center for Mobility." Ypsilanti, MI, March 15, 2017. www.whitehouse.gov/briefings-statements/remarks-president-trump-american-center-mobility-detroit-mi/
- Trump, Donald. "Remarks at the Boeing Company Manufacturing Facility in North Charleston, South Carolina." February 17, 2017. www.presidency.ucsb.edu/documents/remarks-the-boeing-company-manufacturing-facility-north-charleston-south-carolina
- Trump, Donald. "Remarks on Buy American, Hire American Executive Order." Speech, 2017. www.whitehouse.gov/briefings-statements/remarks-president-trump-buy-american-hire-american-executive-order/
- Trump, Donald. "The Inaugural Address." Speech, 2017. www.whitehouse.gov/briefings-statements/the-inaugural-address/
- Trump, Donald. "Donald Trump's Inauguration Speech—Full Speech as Delivered." Speech 2017. www.youtube.com/watch?v=FFH7QMZ5N1k
- Trump, Donald. "Transcript of Donald Trump's Immigration Speech." Speech, 2016. www.nytimes.com/2016/09/02/us/politics/transcript-trump-immigration-speech.html
- Trump, Donald. "Remarks on Proposals for the First 100 Days in Office at the Eisenhower Complex in Gettysburg." Gettysburg, PA, October 22, 2016. www.presidency.ucsb.edu/documents/remarks-proposals-for-the-first-100-days-office-the-eisenhower-complex-gettysburg
- Trump, Donald. "Remarks at the KI Convention Center in Green Bay, WI." October 17, 2016. www.presidency.ucsb.edu/documents/remarks-the-ki-convention-center-green-bay-wisconsin
- Trump, Donald. "Remarks at the Norris-Penrose Event Center in Colorado Springs, Colorado." October 18, 2016. www.presidency.ucsb.edu/documents/remarks-the-norris-penrose-event-center-colorado-springs-colorado
- Trump, Donald. "Donald Trump 2016 RNC Draft Speech Transcript." Speech, 2016. <https://politico.com/story/2016/07/full-transcript-donald-trump-nomination-acceptance-speech-at-rnc-225974>
- Trump, Donald. "Full Transcript: Remarks at the Summit Sports and Ice Complex in Dimondale, Michigan." Speech, 2016. www.presidency.ucsb.edu/documents/remarks-the-summit-sports-and-ice-complex-dimondale-michigan
- Trump, Donald. "Remarks at Erie Insurance Arena in Erie Pennsylvania." Speech, 2016. www.presidency.ucsb.edu/documents/remarks-erie-insurance-arena-erie-pennsylvania
- Trump, Donald. "Transcript: Donald Trump Announces His Presidential Candidacy." Speech, 2015. cbsnews.com/transcript-donald-trump-announces-his-presidential-candidacy/
- Washington, George. "Fifth Annual Address to Congress." December 1793. www.presidency.ucsb.edu/documents/fifth-annual-address-congress

Index

INTRODUCTORY NOTE

References such as ‘178–79’ indicate (not necessarily continuous) discussion of a topic across a range of pages. Wherever possible in the case of topics with many references, these have either been divided into sub-topics or only the most significant discussions of the topic are listed. Because the entire work is about ‘popular sovereignty’, the use of this term (and certain others which occur constantly throughout the book) as an entry point has been restricted. Information will be found under the corresponding detailed topics.

- ability, 53, 143, 147, 233, 269–70, 326–27, 331, 332
 - equality of, 78, 80
- abolitionists, 128, 142, 152–57
 - political, 153
- abortion rights, 299
- absolute power, 43, 49, 94
- abstract ideals, 41, 56
- accountability, 94, 312, 328–30
- activists
 - core, 206, 215
 - New Deal, 283
 - political, 137, 227
 - Tea Party, 226
- actors
 - political, 52, 55, 121, 235–36, 278, 306
 - state, 266, 273
- Adams, John Quincy, 129
- Adeimantus, 29–30, 32, 38
- administration, 103, 180, 193, 228, 231, 239, 246
- adult franchise, 178, 182, 185
 - universal, 182
- affirmative action, 266, 271–73, 282
- African Americans, 205–16, 219, 221, 266, 268, 287
- affluent, 211
- Black consciousness, 213, 216
- Black public opinion, 204–16
- downtrodden, 206, 215
- interests, 209
- middle-class, 215
- of color, 144, 153
- agency, 4, 40, 61, 102, 190, 197, 322, 324–25
 - political, 98, 108
- agents, 58, 59, 70, 94, 182, 198
 - of authorization, 176, 183, 188
 - of sovereignty, 185–87
- Alabama, 2, 132, 241, 268
- Alexander, Michelle, 206
- All India States Peoples’ Conference (AISPC), 177
- allegiance, 7, 72, 108, 150, 192, 225, 277, 278
 - broad-based, 95
 - political, 90, 135, 162
 - total, 282, 290

- Allen, Danielle, 304, 318, 321, 324
 allies, 155, 216, 251, 302
 ambivalence, 10, 12, 46, 150, 172, 237, 253
 amendments, 154, 219, 226, 258, 265,
 267–69, 271–73
 Civil War, 268, 288
 Colorado, 271
 constitutional, 265, 271, 273
 First, 247
 Fourteenth, 232
 Johnson, 290
 America, 1, 13, 58, 71, 94, 96–97, 105,
 114–16, 118–19, 121, 123, 125, 128,
 130, 136, 208, 216, 231, 245, 281, 283,
 284, 287, 291, 305, 314, 325, 333, *see*
 also United States; individual states
 political landscape, 237–38
 southern States, 2, 154, 221
America at 1750, 119
 “America First,” 231, 281–82, 287, 291
 American citizenship, 128, 135, 150, 224, 282
American Creed, 57
 American democracy, 92, 96–97, 137, 268,
 285, 297–98, 302
 American experience, 107, 115, 293
 American identity, 124, 224, 227, 229, 284–85
 American people, 113, 120, 123, 125, 133–34,
 227–29, 231
 American peoplehood, 16, 97, 151
 competing stories, 281–91
 American Philosophical Society, 113
 American populism, 235–36, 240, 242, 245,
 253
 American Revolution, 116, 134
 American self-governance, 257–74
 American society, 17, 95, 106, 208, 291
 American story, 57, 137, 285, 288
 American workers, 227, 231, 281
 Americans, white, 116, 121, 227, 266
 anger, 165, 170, 241, 255
 Anglicans, 119–20, 152
 antagonism, 17, 99, 234, 243, 248, 251–52,
 260
 political, 105
 populist, 249, 250–51
 antagonistic rhetoric, 234–35, 240, 248
 antebellum United States, 107–109, 138, 142,
 152
 anti-tyranny ideology, 44, 46, 48
 anti-Washington rhetoric, 248, 250–51, 252
 Appiah, Anthony, 58
 apprenticeship to liberty, 144–49
 Archilochus, 44
 Arendt, Hannah, 200
 aristocracy, 45, 93, 121–22
 aristocrats, 73, 144
 Aristotle, 80, 314
 Arizona, 201, 246, 270, 272
 Arneil, Barbara, 125
 Arnold, Matthew, 146
 artificial persons, 76, 78, 83
 ascriptive characteristics, 6, 189, 231–32
 aspirations, 7–8, 15, 33, 34, 40–41, 47, 153,
 157
 associational rights, 267, 270
 associations, 99, 107, 174, 177, 277, 280,
 307–309
 assumptions, 45, 53, 57, 159, 161, 293, 295,
 324–25
 Athenians, 42, 44, 46, 48, 63
 self-conception, 46
 Athens, 32, 41–48, 55–56, 63, 71, 95
 attainment, educational, 211–15
 authorization, agents of, 176, 183, 188
 authoritarian outcomes, 326, 329
 authoritarian populisms, 16, 19, 108, 282, 291
 authoritarianism, 4, 40, 164, 208, 273, 326,
 330
 authoritarians, right-wing, 275, 293
 authority, 9–10, 13–14, 40–43, 56, 190–91,
 196–98, 200–201
 final, 40, 45, 52, 178
 illegitimate, 14
 legitimate, 30, 41, 47, 56, 186
 political, 10, 19, 26, 27, 35–36, 40, 41, 139
 sovereign, 7, 43, 143, 200
 ultimate, 41, 43, 49, 51–52, 56
 unaccountable, 16, 43, 47
 authorization, 10, 40, 66, 122
 political, 10, 164
 popular, 74, 140, 152, 156
 authorship, uniform *see* uniform authorship
 Bancroft, George, 114–18, 121, 126, 136
 barriers, 58, 79, 116, 272, 289, 316, 318
 basic democracy, 27, 37
 basic rights, 286–89
basileus, 44, 48, 49–50
 beliefs, 24–25, 35–36, 53–58, 137, 146–47,
 213–15, 315–16
 dominant, 310
 Bhopal, 178, 185
 Bickel, Alexander, 263
 Biden, Joe, 1–2, 252, 283, 285–87, 289

- Bikaner, 178, 181
 Black community, 17, 204, 211, 213, 216, 220
 Black Lives Matter (BLM), 17, 204–17
 BLM *see* Black Lives Matter
 “Blood-Stained Banner,” 1–2
 Blum, Leon, 168–69
 Bodin, Jean, 42–43, 60, 121, 191
 body politic, 59, 61, 63–66, 70–71, 82, 88, 99, 119
 Bolshevism, 100, 165
 bonds, 64, 69, 145, 215
 social, 6, 116
 border areas, 194–96
 border communities, 190, 197–99
 border control, 197, 226
 Border Patrol, 194–99
 border security, 194, 197, 203, 225, 226
 borderlands, 131, 132, 189–203
 citizens/dwellers, 189–90, 196, 202–203
 boundaries, 7–9, 40–41, 52–53, 56, 150–51, 192–93, 322–25
 conceptual, 49, 238
 universal, 41, 56
 boundary problem, 189, 218–19
 bounds of power, 47–52
 Boyd, Richard, 13–14, 16, 73, 235
 Brennan, Jason, 36
 Breyer, Stephen, 274
 Bridging Oregon, 310, 312–14, 319
 British India, 173–74, 176–77
 brothers, 48, 62
 Brubaker, Rogers, 8
 Bryan, William Jennings, 241
 Buchanan, James, 135
Buckley, 266
 Bush, George W., 243, 248–51, 253, 262
 Butler, Judith, 141

cabiers de doléance, 160–61
 Calhoun, John C., 117, 128–29, 132–36, 138
 California, 243, 249, 268, 324
 campaigns, 193, 199, 227, 229, 246, 249, 250, 327–28
 nomination, 242–46
 rhetoric, 227, 247, 248
 Campbell, Andrea, 326
 Canada, 231, 258
 candidates, 227, 233, 241–43, 252, 260, 268–70
 presidential, 235, 238–40, 249, 253
 selection processes, 283, 289
 Canovan, Margaret, 35, 236

 Capitol, 2, 4, 303
 Catholics, 101, 119, 124, 144, 147
 CBP (Customs and Border Protection), 195–97, 199, 202
 Center for the Study of Diversity and Democracy (CSDD) *see* CSDD survey
 challenges, 96, 279, 292, 297, 298, 302, 307–308, 322–23
 Chamber of Princes, 174, 178
 Charlottesville, 282
 Chartists, 146–48
 checkpoints, 195, 196
 checks and balances, 18
 Cherokee, 132
 Chicago, 216, 243
 Chickasaw, 132
 children, 47–48, 50, 53, 55, 223–26, 228, 249–50
 China, 4, 192, 230
 Choctaw, 132
 chorus, 50, 52, 53, 71
 Christianity, 69, 81, 145
 church, 63, 124, 307–308, 325
 Churchill, Winston, 3
 Cincinnati, 327–28
 citizens, 4–5, 36–37, 62–63, 162, 189–90, 192–93, 201–203, 219–20
 fellow, 47, 61–62, 94, 221, 293
 hypothetical, 32, 34
 local, 196, 201
 peripheral, 16, 190–91, 199
 citizenship, 15, 133, 151, 180–81, 219–20, 224–26, 233, 318–19
 American, 128, 135, 150, 224, 282
 democratic, 16, 200, 202, 295, 303, 319
 new trust-generating, 304, 318
 status, 220
 city council, 324, 327–28
 city-in-speech, 27, 36, 60–61
 city-states, 70–71, 118
 civic dignity, 37
 civic education, 37, 56
 civic engagement, 11, 316
 civic feedbacks, 326–28
 civic participation, 108, 330
 civic status, 150, 222
 civil religion, 67–69, 82, 90
 civil rights, 67, 144, 155, 219, 286
 civil society, 18, 75, 77–78, 81, 107, 109, 123, 137
 thick, 326
 civil war, 64, 107, 122, 132, 268, 288

- Civil War Amendments, 268, 288
- civilization, 81, 128, 136, 145, 148–49
- homogeneity of, 107
- claims
- for inclusion, 219, 224, 233
 - knowledge, 30, 37
- class conflict, 206, 208
- classes, 140, 142, 152–55, 292–93, 295–97, 300–303
- middle, 144, 146, 206, 241
 - working, 144, 147–49, 227, 230–31
- Clay, Henry, 134
- Clay, William, 139–40, 147
- clergy, 161
- Clinton, Hillary, 221, 245–48, 252
- clubs, political, 160, 162–63, 172
- coalitions, 129, 144, 148, 151, 229, 252, 263, 270
- Cochin, 178, 181, 184–85
- coercion, 35, 68, 147, 149, 153–55, 276
- Cohen, Elizabeth, 219, 285
- Cohen, Joshua, 192
- Cold War, 4, 19–23, 285
- collective action, 58, 159, 172, 326–27, 331
- collective identity, 6, 85, 107, 186, 277
- Colonus, 48
- Colorado, 246, 271–72
- Colston, Edward, 3
- Columbus, Christopher, 3
- comity clause, 125
- commitments, 209, 211, 278, 298–301, 313–14, 322–23, 325
- liberal, 20, 149, 299
 - shared, 208, 304
- common people, 16, 121, 208, 275, 281
- commonwealth, 63–66, 82, 85–86, 121–22
- Communists, 167, *see also* Marx, Karl
- communities, 73–74, 87–88, 198–99, 276–77, 304–305, 307–15, 325
- black, 206
 - border, 190, 197–99
 - democratic, 157, 299, 305
 - diverse, 120, 281–82, 288
 - imagined, 88, 150
 - political, 81–82, 85–90, 99–100, 218–21, 223, 231–32, 235, 276–77
- community engagement, 198–99
- community organizations, 311, 317
- comparative history, 19, 142
- comparative politics, 236, 237, 251
- complaints, 184, 218, 245–46, 248
- complexity, 167, 235, 240, 293
- compromise, 109, 130, 134
- comradeship, 317–18, 319
- conceptual boundaries, 49, 238
- Confederacy, 1–2, 117, *see also* civil war
- conflicts, 17, 20, 42, 43, 150–51, 161, 163, 313–14
- class, 206, 208
 - political, 244, 247, 260, 297
- Congress, 133–34, 209, 243–44, 249–50, 259–61, 264, 266, 285–86
- Congressional Black Caucus, 208, 209
- congressional legislation, 134, 270
- Connecticut, 120
- Connolly, William, 189
- conquest, 89, 128, 131, 189
- consensus, 20, 101, 104, 208, 210, 237, 311, 313
- consent, 13, 25, 34, 76, 80, 115, 123, 128
- popular, 56, 94, 103, 191
 - principle of, 32, 35
 - tacit, 58
- conservative populist rhetoric, 248–51
- constituencies, 146–47, 244, 328, 329
- Constituent Assembly, 174–75, 178–85, 187–88
- Secretariat, 182–83
- constitutional amendments *see* amendments
- constitutional courts, 123, 257–74, *see also* Supreme Court
- American support, 260–63
- constitutional democracy, 15, 293
- constitutional design, 264, 292, 296, 298, 301
- constitutional orders, 20, 91, 107, 284
- constitutionalism, 18, 115, 118, 265, 287
- liberal, 4, 91, 103
- constitutions, 179–82, 186–87, 257–59, 261–62, 266–70, 273–74, 286–88
- kinds, 180, 186
 - new, 163, 176, 182, 185, 257, 292, 299
 - state, 122, 144, 150–51, 179, 186, 270, 296
- constitutive themes, 277, 280, 281, 286
- constraints, 35, 49, 123, 141, 191, 301
- constructions, social, 222, 224
- consumers and producers democracy, 283
- contestation, democratic, 107–108, 298
- Conti, Gregory, 142
- continental expansion, 131, 138
- contracts, 56, 60, 66, 67, 232
- social, 15, 69, 76, 119, 191, 203, 232, 299
- control, 40, 52, 71, 190, 192, 196, 199, 202
- democratic, 191, 199, 298
 - local, 249–50, 253

- convention, 44–45, 52, 55, 80, 176, 192, 241
 Conversation Project, 310–312, 313
 core activists, 206, 215
 core-periphery rhetoric, 253
 corporations, 242, 247–48, 265, 290
 medieval, 73
 corrupt elite, 208, 234, 238, 239
 Corsica, 70
 costs, 117, 171, 199, 266, 289, 326
 courts, constitutional, 123, 257–60, 263, 265,
 267, 273–74
 covenants, 41, 60, 64–66, 77, 82, 90, 119
 Crawford, William H., 131
 Creek Indians, 132
 Creon, 48, 50, 53
 crimes, 55, 141, 227, 251, 264, 281
 crises, 4, 92, 100, 104, 149, 167, 331, 333
 of liberal democracy, 4, 331
 Croix de Feu, 166
 crowds, 1–2, 149, 238
 CSDD survey, 211–12
 cultural homogeneity, 75, 90
 culture, 88, 101, 209, 227, 277, 297, 298
 national, 160–61, 163
 Customs and Border Protection *see* CBP
- dangers, 38, 41, 52, 54, 66, 96–97, 124, 263
 de Saint-Pierre, Abbé, 70
 Dear Stranger, 310, 313
 Declaration of Independence, 60, 124, 153,
 283
 story, 286–91
 deference, 84, 261–62, 270
 deliberative democracy, 192, 287
 democracy, 18–25, 36–41, 92–94, 97–102,
 139–43, 235–37, 297–99, 329–30
 American, 92, 96–97, 137, 268, 285,
 297–98, 302
 and liberalism, 18–20, 100–102, 140, 142,
 151, 157, 236, 320
 and Schmitt, 98–102
 and Tocqueville, 93–98
 as moral ideal, 316, 317
 basic, 27, 37
 constitutional, 15, 293
 consumers and producers, 283
 deliberative, 192, 287
 exclusions, 143–44
 free, 95–96, 106
 healthy, 301, 309, 316
 illiberal, 18, 96, 139
 liberal *see* liberal democracy
- mass, 104–106, 154
 modern, 36, 67, 70–71, 93, 102–103, 105,
 108
 parliamentary, 87, 104, 165
 plural, 34, 35
 representative, 115, 267
Democracy in America, 13, 58, 93, 96, 97,
 105, 114
 democratic citizenship, 16, 200, 202, 295,
 303, 319
 democratic communities, 157, 299, 305
 democratic contestation, 107–108, 298
 democratic control, 191, 199, 298
 democratic equality, 16, 46, 91, 98–99, 104,
 259
 democratic freedom, 18, 46, 94, 97, 108–109
 democratic government, 2, 23, 26, 28, 95, 97
 democratic institutions, 10, 18, 25, 95, 152,
 248, 289
 democratic knowledge, 27, 51
 as boundary, 52–54
 democratic legitimacy, 26
 democratic norms, 46, 56
 democratic order, 17, 19, 137, 187
 Democratic Party, 154, 206, 208–209, 241,
 243, 247, 252
 democratic peoplehood, 103, 105, 108
 democratic politics, 8, 9, 11, 17, 18, 295, 296,
 298
 democratic principles, 4, 141, 143, 180, 301
 democratic process, 84, 194, 200–201, 219,
 220, 270, 273–75, 330–31
 democratic regimes, 17, 35, 38, 91, 96
 democratic rule, 5, 17, 24, 170, 221
 democratic self-governance, 270
 democratic societies, 72, 268, 318
 democratic sovereignty, 105, 107
 democratic stability, 107, 109
 democratic states, 26, 39, 220, 307
 liberal, 139–57
 democratic stories of peoplehood, 109,
 283–85
 democratic theory, 15, 123, 186–90, 218,
 236, 292, 295
 democratization, 4, 93, 139, 142, 146–47,
 149, 155, 260
 Democrats, 130, 134, 241, 243–45, 249, 262
 demographic diversity, 276, 278
 demonstrations, 168, 196
 demos, 37, 41–43, 45, 47, 49, 52, 55–56
 Department of Homeland Security (DHS),
 196, 197, 199

- dependent nations, domestic, 132
 deservingness, 222–25
 Dewey, John, 26, 283, 284, 307–310, 316–19
 DHS (Department of Homeland Security), 196, 197, 199
 dialogue, 13, 24, 28–30, 32–34, 37–39, 142, 316–17
 dictatorships, 92, 102, 103, 106, 108, 141
 dignity, 17, 81, 109, 230, 276, 279, 325
 civic, 37
 direct elections, 267, 283
 disciplinary education, 153, 155
 discretion, police, 200–201
 discrimination, 6, 184, 189, 266
 racial, 269, 272, 282
 sexual orientation, 272
 unconstitutional, 269
 discussion leaders, 305, 311, 313
 disparity, 16, 118, 181
 dispersion, geographical, 189, 192
 distinctions, odious, 149–54
 distinctive peoples, 73–74, 86, 90
 distinctiveness, 14, 88, 90, 225, 238
 districts, electoral, 268–69
 distrust, 80, 253, 266, 310, 313, 318–19
 diversity, 34–35, 38, 103, 272, 283, 285, 291–92, 322–23
 demographic, 276, 278
 institutional, 97
 racial, 96, 266
 divine right, 60
 dogma, 33, 69, 136, 156
 domestic dependent nations, 132
 Douglass, Frederick, 135, 286–87
 DREAM Act, 223–24, 226
 DREAMers, 219, 223–28
 duties, 64, 69, 72, 94, 137, 169, 181, 257

 early America, 14, 19, 113–38, 188
 economic elites, 234, 246, 252
 economic equality, 6–7
 economic globalization, 6, 108, 289
 economic inequality, 6, 71, 207, 276, 283
 economic policies, 278, 286, 298
 economic populism, 241, 243, 245–48
 rhetoric, 245, 247
 economics, liberal, 145–47, 149, 155–56
 Edling, Max, 133
 education, 25, 26, 30–31, 38–39, 61–62, 149, 292, 294
 civic, 37, 56
 disciplinary, 153, 155
 political, 101, 193
 educational attainment, 211–15
 effectiveness, 212–15, 266
 elected leaders, 49, 208, 270
 elected representatives, 179, 191, 259, 265, 283
 election cycles, 172, 221, 245
 elections, 2, 169–70, 182, 184–85, 188, 237–38, 253, 267–68
 direct, 267, 283
 electoral chances, 246, 270
 Electoral College, 2, 123, 125, 179, 253, 267
 electoral districts, 268–69
 electoral maps, 241, 249, 252
 electoral processes, 273, 317
 electoral rolls, 176, 182
 preparation, 182–85, 187
 electoral systems, 144, 188, 265–66, 269
 electorates, 129, 139, 145–46, 251, 267
 electors, 178, 267–68
 elites, 8–9, 17, 18, 20, 242, 244, 251–53, 260
 conspiring, 16, 276, 281
 corrupt, 208, 234, 238, 239
 economic, 234, 246, 252
 liberal, 142, 151, 155, 294
 political, 151, 206, 229–31, 246, 260
 Ely, John Hart, 266
 emancipation, 117, 153–54
 political, 70
 employment, 240, 271–72, 278, 289, 299
 engagement, 95, 245, 269
 civic, 11, 316
 community, 198–99
 epistocracy, 27–29, 31–33, 36–37
 equal concern, fiction, 191, 199, 202–203
 equal individuals, 176, 186, 187
 equal protection, 267, 269–72, 273
 equal representation, 268, 292, 299
 equal rights, 93, 145, 153
 equal value, 79, 83, 85
 equality, 34–35, 78–79, 81–83, 92–94, 98–99, 189–90, 191–92
 as uniformity, 78–82
 democratic, 16, 46, 91, 98–99, 104, 259
 economic, 6–7
 formal, 90, 288
 general human, 99
 Hobbes's definition, 79, 83
 human, 78, 81, 83, 100, 115, 287
 moral, 78, 81, 93–94
 natural, 80

- of ability, 78, 80
- political, 35, 37, 97–98, 299
- racial, 17, 152, 272
- social, 93, 157, 191
- equality-as-similitude, 81, 82
- establishment, political, 18, 246, 248, 250, 253
- Estates General, 160–61
- ethnicity, 86, 189, 232, 277
- European Union, 5, 59, 158, 170
- excesses, 51, 83, 126, 141, 227, 237, 258
- exclusions, 98–99, 143–46, 151, 152, 190, 231–32
- exemptions, 280, 290
- expansion, 61, 131, 145, 149, 164, 210, 283
 - continental, 131, 138
 - westward, 126, 129, 135
- expertise, 25, 27, 274, 294
- experts, 14, 27, 37, 242, 246, 253
- Ezrahi, Yaron, 176

- Fair Housing Act, 282
- faith, 51–53, 56, 60, 116–17, 266, 270, 325
- families, 2, 9, 58, 86, 145, 149, 329, 333
 - political, 115
- fascists, 162, 165–69
- fathers, 50, 53, 55, 64, 114, 286
- federal government, 130, 197, 199, 239, 263–66, 268–69
 - powers, 133
- Federalist*, 71, 119, 124, 257, 297
- feedback, 222, 328
 - civic, 326–28
 - effects, 222, 326–27, 328
 - positive, 327
- fellow citizens, 47, 61–62, 94, 221, 293
- fictions, 11, 12, 15–16, 41–42, 56–57, 73–76, 332–33
 - acceptance, 1, 57, 332
 - fact of, 57–72
 - of equal concern, 191, 199, 202–203
 - of popular sovereignty, 189–203
 - of self-governance, 332
 - of uniform authorship, 191, 200–201
- Filmer, Sir Robert, 60, 67
- final authority, 40, 45, 52, 178
- First Amendment, 124, 247
- first responders, 197, 199
- Florida, 246, 249, 252
- Floyd, George, 216
- formal equality, 90, 288
- founding myths, 63, 70

- fractals, 321–22, 331, 333–34
- France, 55, 92, 114, 124, 127, 136, 148, 188
 - Estates General, 160–61
 - French Revolution *see* French Revolution
 - gilets jaunes*, 158, 170–71, 172
 - history, 158–72
 - interwar years, 165–69
 - National Front, 158, 170
 - Revolution to Third Republic, 164–65
 - revolutionary, 14
 - sovereignty, 159, 162
 - Third Republic, 159, 164, 165–67
- franchise, 143, 146, 180, 184, 267, 268, 283, 287
 - adult, 178, 182, 185
 - universal, 70, 175–77, 180, 182, 186, 188
- Franklin, Benjamin, 120
- Frede, Michael, 29
- free democracy, 95–96, 97, 106
- free societies, 96, 281
- freedom, 34–35, 38–39, 42, 44–47, 52–53, 55–56, 92–94
 - democratic, 18, 46, 94, 97, 108–109
 - political, 37, 40
 - temporal, 52, 55
- French Revolution, 70, 96, 158–59, 164, 172, 188
 - symbol, deed and legacy, 159–64
- friendship, 128, 318, 319
 - political, 318–19
- fugitive slaves, 125, 130
- fundamental principles, 2, 11, 117, 186

- gays, 271–72
- gender, 81, 188, 189, 205, 210, 213, 216, 232
 - identity, 212
- Geneva, 71, 87
- geographical dispersion, 189, 192
- geography, 123, 199, 252, 306
 - political, 240, 249, 251, 252
- Germany, 92, 165
 - Weimar, 104, 109
- gerrymandering, partisan, 267–70, 272
- Gettysburg, 117–18
 - Address, 306
- Geuss, Raymond, 51
- gilets jaunes*, 158, 170–71, 172
- Gladstone, William, 146
- Glaucon, 29, 31–32, 34, 38, 61, 62
- globalization, 5–10, 72, 170, 230, 276, 308
 - economic, 6, 108, 289
 - neoliberal, 6, 10

- globalized neoliberalism, 7, 10
- God, 60, 62, 66–68, 81–82, 97, 122, 325
voice of, 1, 115, 307
- Gomillion*, 268
- good faith, 27, 128
- good life, 38–39, 232
- governance, 27, 43, 55, 86, 191, 292, 295, 296
- government, 71, 121–22, 160–61, 163–66,
177–78, 186–87, 191, 316–17
democratic, 2, 23, 26, 28, 95, 97
national, 5, 133, 147, 240, 253
popular, 174–75, 178, 186, 307
representative, 163, 169, 174
responsible, 173, 177, 179
- governmental institutions, 71, 274
- Gramsci, Antonio, 276
- grassroots organizations, 204, 240, 320, 328
- Greene, Jack, 121
- Greenstone, J. David, 115
- grievances, 211, 238–39, 278
notebooks of, 160–61
- Grotius, 42, 121
- Grzymala-Busse, Anna, 236
- Guadalupe Hidalgo Treaty, 134
- Guim*, 268
- Gujarat, 3
- guns, 304–305, 314, 319
- Gwalior, 177
- habits, 11, 95, 305, 315, 318–19
- Hamilton, Alexander, 123–24, 257, 307
- Han, Hahrie, 12, 320–34
- happiness, 69, 98, 287, 289–90, 291
pursuit of, 289, 291
- Harris, Frederick C., 205–208, 210
- Harrisburg, 251
- Hatch, Orrin, 224–25
- health, 64, 137, 228, 265, 270, 273–74, 293,
302
- Herodotus, 44, 51
- Hesiod, 60
- heterogeneity, 36, 82, 87, 105, 151, 190,
195–98
international, 75
- hierarchies, 62, 86, 93, 115, 155
- High Desert Partnership, 316
- Hill, Christopher, 141
- Hispanic heritage, 213
- history, 3, 52, 53, 56, 153, 156, 238–39,
283–84
comparative, 19, 142
shared, 108, 315
- History of the United States*, 115
- Hobbes, Thomas, 14, 15, 41, 60–61, 64–67,
70, 119, 121–25, 191
and making of popular sovereignty, 73–90
Leviathan, 14, 63–64, 75, 76, 78, 81–83,
87, 90, 191
state of nature, 75, 77, 85, 89, 123
- Hofstadter, Richard, 119
- Homer, 54, 60, 113
- homogeneity, 75, 79, 82, 86–90, 100,
105–106, 107
cultural, 75, 90
national, 75, 86
of civilization, 107
- House of Commons, 145, 147
- House of Representatives, 125, 209–10, 226,
258
- House of the People, 182, 184–85
- housing, 222, 227, 271, 282
- hubris, 49, 51–54
- human beings, 30–32, 60, 69, 74, 78–79,
81–82, 232–33
- human equality, 78, 81, 83, 100, 115, 287
- human nature, 56, 71, 232
- human rights, 277–79, 279, 283, 286
- humanities, 11, 316
- Hume, David, 57, 66, 71
- Hungary, 3, 236
- Huntington, Samuel, 130
- hypothesized state of nature, 75, 78
- ideals, 27, 159–60, 163, 169, 232, 235, 295,
318
abstract, 41, 56
of popular sovereignty, 164, 170, 295
political, 102, 120
- identities, 2, 3, 74–76, 98–99, 104–105,
224–25, 278–79
American, 124, 224, 227, 229, 284–85
collective, 6, 85, 107, 186, 277
gender, 212
Latino, 212, 217
national, 106, 202, 275, 278
political, 98, 100, 102, 223, 232
popular, 15, 17, 108, 109
public, 220, 221–22
shared, 104, 120, 278
- identity politics, 9
- ideologies, 167, 169, 205, 208, 236, 237, 277,
281
anti-tyranny, 44, 46, 48
thin-centered, 16, 208, 237, 275

- ignorance, individual, 26, 39, 306
- illegal immigration, 197, 199
- illegitimacy, 25, 32, 41, 45, 47, 49, 330
- illegitimate authority, 14
- illiberal democracy, 18, 96, 139
- illiberal populisms, 7, 10, 17, 19, 109, 141
- illiberal regimes, 6, 137
- illiberalism, 6, 8, 37, 98, 152
- Illinois, 134–35, 243
- imaginary, political, 176, 186
- imagined communities, 88, 150
- immigrants, 225–26, 228–29, 233, 282, 289, 297, 311
- groups, 228, 233, 291
- model, 224–25
- undocumented, 223, 228
- immigration, 108, 197, 219, 225–29, 251, 281, 289
- debate, 223, 227, 228
- illegal, 197, 199
- inclusion, 98–99, 127, 143, 146, 223, 225, 231–32, 333
- claims for, 219, 224, 233
- incomes, 213–15, 216, 226
- lower, 211, 215
- incorporations, 142, 198, 205, 208, 210
- independence, 117, 120, 124, 127–28, 150, 173–75, 286–88
- India, 15
- Bhopal, 178, 185
- Bikaner, 178, 181
- British, 173–74, 176–77
- Chamber of Princes, 174, 178
- Cochin, 178, 181, 184–85
- Constituent Assembly, 174–75, 178–85, 187–88
- Secretariat, 182–83
- Constitution, 173, 179–81, 183–86
- contested sovereignties, 177–82
- founding, 173–88
- Gujarat, 3
- Gwalior, 177
- House of the People, 182, 184–85
- Indian Union, 176–79, 181, 183
- Kolhapur, 178, 183
- Manipur, 178, 181, 185
- Mysore, 178–81, 185, 187
- Patna, 173, 178
- Princely States, 173–74, 177–79, 181–82, 186
- Travancore, 178, 181, 182, 184–85
- will of the people, 182–86, 208
- Indian lands, 128, 130, 132
- Indian removal, 129–32
- Indian Territory, 131, 135
- Indians, native *see* Native Americans
- individualism, 92, 94, 106, 285
- liberal, 101–102
- individuality, 74, 84, 180
- individuals, 61, 62, 64–66, 71–72, 219–22, 232, 290
- equal, 176, 186, 187
- inequality, 6–10, 80–81, 98–99, 170, 189, 289, 290, 330
- economic, 6, 71, 207, 276, 283
- natural, 79–80, 191
- information, 53, 197–99, 225, 294, 296, 315
- injustice, 31, 61, 78, 135, 224, 289
- insecurity, 124, 126, 131, 198
- physical, 119
- instability, 10, 46, 59, 113, 165, 167
- institutions, 17–18, 107, 236–37, 241–43, 250–52, 280–81, 293–95, 301–302
- critiques of, 234, 245
- democratic, 10, 18, 25, 95, 152, 248, 289
- governmental, 71, 274
- liberal, 7, 41, 43, 101, 103, 140, 259, 318
- parliamentary, 100, 104
- political, 94, 153, 234, 257, 285
- representative, 174, 177, 235
- instructors, 293–95, 299, 302
- insular minorities, 266–67
- integration, 96, 176, 182, 183, 187, 196–97, 208, 241
- economic, 5
- international relations, 87, 99, 128
- Iowa, 243, 246, 249, 252
- irregularity, 75, 82, 88, 113
- Jackson, Andrew, 128–34, 136, 138, 251
- James VI and I, King, 60, 63
- Jay, John, 119
- Jefferson, Thomas, 3, 55, 124, 258
- Jeunesses Patriotes, 165–66
- Jews, 119, 124, 145, 167
- jobs, 31, 62, 63, 227, 230–31, 251, 281, 289
- journalists, 247, 279, 296, 301
- judgments, 37, 43, 68, 76, 126, 129, 301
- moral, 43, 138
- judicial review, 19, 258, 260–62, 266
- judiciary, 237, 258–60, 266, 270, 292
- justice, 41, 47, 61, 101, 137, 266, 271, 333
- racial, 204, 325, 328
- justification, 24, 33, 56, 78, 116, 142–43
- philosophic, 23, 26, 28, 37, 143

- King, Martin Luther, 41, 220
- kings, 28–29, 44, 45, 47–50, 59, 73, 121–22
- knowledge, 24–28, 30–39, 49, 51, 53–55, 137
- claims, 30, 37
 - democratic, 27, 51–52
 - requisite, 33, 37
 - status of, 26, 32
- Kolhapur, 178, 183
- Korematsu*, 267
- Kramer, Larry, 115
- La Rocque, François, 166
- labels, 207, 221, 239, 242, 251
- labourers, Tamilian, 184–85
- Laius, 50, 54–55
- Landauer, Matt, 42
- language, 119, 121, 159, 224–25, 240, 242–43, 245, 253
- of popular sovereignty, 159, 176
- Laski, Harold, 23–28, 33, 37
- Latino identity, 212, 217
- law enforcement, 190, 197–98, 201, 206
- local, 196, 202
- lawgivers, 68
- lawmakers, 140, 290, 298, 300, 303
- laws of nature, 55, 78, 80–81, 85
- Le Faisceau, 165–66
- Le Francisme, 166
- Le Pen, Marine, 170
- leaders, 16, 18, 137, 148, 172, 208, 210, 301
- discussion, 305, 311, 313
 - elected, 49, 208, 270
 - political, 117, 121, 221–22, 276
- leadership, 48, 109, 137, 166, 208
- leagues, 165–69, 172
- populist, 165, 168
 - rightist, 165, 167, 169
- Leahy, Patrick, 224
- left populism, 240–41, 284
- legacies, 3, 152, 159–60, 163–64, 268
- legal status, 223, 224–25
- legislation, 68, 71, 219, 223, 225, 249–50, 258, 262
- congressional, 134, 270
- legislators, 151, 273, 290, 296
- legislatures, 179, 183, 258–60, 262, 270, 272, 280
- state, 184, 185
- legitimacy, 13–14, 25–26, 32–33, 37, 40–41, 51–52, 160, 330
- democratic, 26
 - of popular sovereignty, 25, 26, 54
 - political, 25, 73, 158
- legitimate authority, 30, 41, 47, 56, 186
- legitimizing myths, 36, 96
- legitimizing principles, 14, 93, 103, 140, 150, 267
- Leninism, 165
- Leopold II, King, 3
- Lepore, Jill, 109
- Levee, 129
- Levellers, 118
- Leviathan*, 14, 63–64, 75, 76, 78, 81–83, 191, *see also* Hobbes, Thomas
- Levitsky, Steven, 18, 293
- Levy, Jacob, 87
- LGBTQ, 205, 271–72, 286, 290
- liberal arts colleges, 294, 296
- liberal commitments, 20, 149, 299
- liberal constitutionalism, 4, 91, 103
- liberal democracy, 4, 6–7, 11–12, 19, 24, 91, 234–36, 293–94
- crises, 4, 331
 - healthy, 12, 237
 - Western-style, 4, 24
- liberal democratic state, 139–57
- liberal economics, 145, 146–47, 149, 155–56
- liberal elites, 142, 151, 155, 294
- liberal individualism, 101–102
- liberal institutions, 7, 41, 43, 101, 103, 140, 259, 318
- liberal norms, 91, 94, 101, 103, 105–106
- liberal policies, 142, 147, 209
- liberal principles, 115, 145, 146–49, 152, 153, 223, 231
- and popular principles, 139–42
- liberal recovery, 18, 109
- liberal rights, 100–101, 154, 299, 303
- liberal state, 87, 100, 232
- liberal values, 156, 301
- liberalism, 37, 91–93, 98–102, 139–43, 146–47, 149, 155–56, 231–32
- and democracy, 18–20, 100–102, 140, 142, 151, 157, 236, 320
 - synthesis, 154, 156–57
 - and Schmitt, 98–102
 - and Tocqueville, 93–98
- English/Anglo-American, 102, 144, 153, 156
- exclusions, 143–44
- racial, 152, 153
- liberals, 140, 142–43, 145–49, 154–56, 217, 271
- British, 142, 153, 155

- liberty, 136, 154–55, 162, 286–87
 apprenticeship to, 144–49
 religious, 124, 147
 white, 128
- Limbaugh, Rush, 226
- Lincoln, Abraham, 96–97, 117, 126, 133,
 134–35, 283, 286–87, 294, 308, 317
- linked fate, 213, 217
- Lippmann, Walter, 26, 306–307, 309–10,
 317
- listening, 229, 246, 310–12, 314, 316, 318
- lists of voters, 183, 185, 187
- literature, 8, 190, 207–10, 222, 236, 240
- local communities, 7, 198–99
- local control, 249–50, 253
- Locke, John, 15, 67, 85, 89, 119, 121–25,
 191, 200
- Louis XVI, 160, 162
- Louisiana Purchase, 127, 134
- Louis-Napoleon, 141, 148
- Lowe, Robert, 148–49
- loyalty, 148, 181, 190, 194, 202, 276, 282
- Machiavelli, 68
- Macron, Emmanuel, 158, 161, 170
- Madison, James, 71, 116, 123–26, 258,
 283–84
- Maharajas, 173, 177–80
- mainstream politics, 240, 245, 246, 253
- majoritarianism, popular sovereignty as,
 82–86
- majorities, 83–86, 105–107, 177, 257–59,
 264, 266, 303
 national, 107, 265, 266, 271, 273
 popular, 152, 258, 263–65, 271, 320
- majority rule, 67, 75, 83, 90, 108
- majority tyranny, 43, 97
- Manipur, 178, 181, 185
- Martin, Trayvon, 204
- Martin-Quinn scores, 262
- Marx, Karl, 101, 105, 334
- Marxism, 167
- Mason, Lilliana, 239
- Mason–Dixon line, 134
- mass democracy, 104–106, 154
- Massachusetts, 114, 118, 249, 286
- masses, 26, 59, 101, 137, 160, 161, 169,
 172
 disempowered, 152
 undifferentiated, 221
- Mayflower Compact, 118–19
- McGirt, 264
- McGlew, James, 46, 47
- McKenna, Elizabeth, 326
- media, 204, 205, 238, 242, 244–48, 251–52,
 293
 news, 237, 239, 244, 248–49, 253
 outlets, 313
 social, 172, 213, 296
- membership, 59, 118, 167, 218–20, 232, 277
 political, 90, 107, 219, 221, 232
- men, vs. persons, 74, 75–78
- Mexico, 131, 134, 227, 230–31
- miasma, 47, 53, 55
- Michigan, 230, 246, 249, 266, 271, 272
 voters, 271–73
- middle classes, 144, 146, 206, 241
- middle-class African Americans, 215
- Midwest, 249, 251, 252, 291
- military power, 193, 281
- minorities, 58, 63, 106, 109, 270–71, 273–74,
 284, 289–90
 conservative, 270
 insular, 266–67
 protection, 295, 300
 racial, 242, 272, 290
 rights, 270–73
- Missouri Compromise, 134–35
- model immigrants, 224–25
- modern democracy, 36, 67, 70–71, 93,
 102–103, 105, 108
- modern politics, 23, 25–26, 92, 130
- Modi, Narendra, 3
- monarchs, 43–44, 59, 103
- monarchy, 44, 58, 66, 70, 103, 114, 121–22,
 159–60
 absolute, 74
- Montana, 131, 249, 251
- moral equality, 78, 81, 93–94
- moral ideal, democracy as, 316, 317
- moral judgments, 43, 138
- Moravians, 120
- mores, 87, 94, 96–97, 115, 121
- Morgan, Edmund, 1, 11, 15, 57, 71, 73, 90,
 113–14, 136–38, 332
- mothers, 51, 53, 58, 62, 222
- Mouffe, Chantal, 284
- movements, 151–52, 172, 205–206, 321–23,
 325, 328–29, 332–33
 political, 91, 320
 popular, 109, 160, 216, 235, 237, 278
 populist, 17, 172, 208, 236, 240, 252, 276,
 278
 social, 12, 205–206, 208, 215, 333

- Müller, Jan-Werner, 236, 293
 Murray, Patty, 244
 Mysore, 178–81, 185, 187
 Constituent Assembly, 179, 181, 187
 myths, 15, 25, 36, 46, 54, 57, 307–308
 founding, 63, 70
 legitimizing, 36, 96
- Napoleonic rule, 164
 national culture, 160–61, 163
 National Front, 158, 170
 national government, 5, 133, 147, 240, 253
 national homogeneity, 75
 and popular sovereignty, 86–88
 national identities, 106, 202, 275, 278
 national majorities, 107, 265, 266, 271, 273
 national particularity, 100, 108
 national stories, 109, 275, 284
 nationalism, 8, 57, 70, 90, 164, 169, 277, 293
 nationality, 133, 180, 185, 278, 288
 nation-states, 5–7, 87–88, 105, 170, 189–90, 194, 203, 331
 native Americans/peoples/tribes, 119, 124, 126–28, 130–32, 263–64, 272
 natural equality, 80
 natural inequalities, 79–80, 191
 natural law, 42, 51, 56, 122
 natural persons, 76, 77
 natural rights, 74
 nature
 laws of, 55, 78, 80–81, 85
 state of *see* state of nature
- Nebraska, 131, 135, 249
 negotiations, 127, 134, 174, 181, 186, 300, 323–25
 neighbors, 69, 70, 202, 310, 317, 324
 neoliberal policies, 6, 284
 neoliberalism, 6–8, 327
 globalized, 7, 10
 Nevada, 246
 New Deal, 241, 283, 284–85
 activists, 283
New Jim Crow, 206
 New York, 119–20, 129, 166, 216, 246, 249
 news media, 237, 239, 244, 248–49, 253
 newspapers, 152, 160, 163, 178, 183, 247
 Nixon, Richard, 229
 nobility, 56, 115, 161
 noble lie, 15, 41, 61–63
 nomination campaign (2015–2016), 242–46
 non-slave states, 125
- norms, 2, 17, 56, 103, 107, 108, 272, 278
 democratic, 46, 56
 legal, 104
 political, 44
 social, 123
- North Carolina, 246–47, 249, 252
 North Dakota, 131, 249–51
 Northampton, 114–15, 118
 Northwest Ordinance, 127
 Northwest Territory, 128
- Obama, Barack, 206, 220, 222, 223, 225–27, 243–48, 250, 262, 282–83, 285–87
 Ober, Josiah, 27, 37
Obergefell, 266, 271–72
 obligations, 31, 55, 69, 135
 moral, 285
 political, 90
- Occupancy Movement, 205, 206–207
 odious distinctions, 149–54
Odyssey, 113
Oedipus, 14, 40–56
 and bounds of power, 47–52
 officeholders, 37, 140, 315, 317
 Ohio, 246, 252, 325
 oligarchies, 48, 236
 oligarchs, 45–46, 293
 Olson, Joel, 242
 openness, 125, 136, 280
 oppression, 35, 40, 116, 220, 283
 Urban, Victor, 3, 102, 260
 Oregon, 3, 304–305, 309, 311–12, 314, 316
 Oregon Humanities, 310, 314, 316, 320
 organizations, 17, 125, 163, 165, 305, 310–13, 316
 community, 311, 317
 grassroots, 204, 240, 320, 328
 political, 32, 36
 social, 96, 120
- outsider status, 9, 240
- Palin, Sarah, 249
 paradoxes, 14, 35, 77, 122, 218
 parents, 53–54, 223–24, 226
 Paris, 162, 168, 171
 Parish Constables Act, 147
 Parliament, 3, 73, 121, 139, 144, 147, 165, 167
 parliamentary democracy, 87, 104, 165
 parliamentary institutions, 100, 104
 parliamentary politics, 104–105, 166
 parliamentary sovereignty, 114, 121–22

- participation, 11, 106–107, 266, 273, 326–30, 333
 civic, 108, 330
 popular, 95–97, 136
 particularity, national, 100, 108
 parties, 64–66, 130, 165, 169–70, 207–208, 239, 266–67, 269–70, *see also individual parties*
 far-right, 207, 236
 populist, 236, 241, 293
 partisan gerrymandering, 267–70, 272
 party politics, 165, 169, 237, 247
 passions, 76, 82, 93, 94, 96, 108, 302
 Passmore, Kevin, 167
 Patel, Sardar, 3, 180, 187
 Patna, 173, 178
 peace, 63–64, 67, 86, 136, 145
 pedagogy, 292, 294, 296–302
 Peisistratos, 44, 45, 49
 Pelops, King, 54
 Pence, Mike, 2
 Pennsylvania, 2, 117, 119–20, 127, 229, 246
 people
 American, 113, 120, 123, 125, 133–34, 227–29, 231
 and the state, 113–38
 distinctive, 73–74, 86, 90
 sovereign, 19, 129, 139–57, 219
 peoplehood, 6–7, 14–15, 85–86, 89–90, 275–83, 291, 324
 American, 16, 97, 151, 281, 283, 285, 287
 democratic, 103, 105, 108
 stories of, 16, 36, 221, 275–91
 Pericles, 63
 peripheral citizens/subjects, 16, 190–91, 199, 202–3
 periphery, 8, 16, 189–90, 192–93, 202–203, 234–53
 politics of, 243, 249, 251, 252–53
 personal experiences, 195, 315
 Personal Responsibility Agreement, 223
 personation, 76–77, 83
 persons
 vs. men, 74, 75–78
 persuasion, 25, 34, 153, 300, 309
Phantom Public, 306–307
 Philadelphia, 2, 124, 126, 253, 257
 philosophers, 25, 28–32, 39, 80, 99, 160, 334
 true, 30, 31, 34
 philosophic justification, 23, 26, 28, 37, 143
 philosophy, 29–31, 80, 114
 political, 27, 28, 38, 75
 public, 140, 142, 145, 148, 150, 153, 154
 Plato, 23–39, 44, 51, 61, 63
 Republic, 14, 24, 27, 32–39, 45, 61, 63
 pluralism, 12, 15, 19, 41, 86, 100, 103, 236
 plurality, 14, 35, 38, 99, 107–109, 175–77, 188, 284
 Poincaré, Raymond, 166
 Polanyi, Karl, 6
 polarization, 107, 168, 237, 244–45, 261, 270, 326, 331
 Poles, 86–87
 police, 197, 199
 discretion, 200–201
 reform, 204, 216
 policies, 131–32, 219, 222–23, 231, 280, 287–91, 303
 design, 222, 224, 326
 economic, 278, 286, 298
 liberal, 142, 147, 209
 neoliberal, 6, 284
 preferences, 298–99, 302–303
 public, 9, 209, 222, 259, 290
 redistributive, 15, 219
 reticulated, 289–90
 security, 199, 202–3
 social, 278
 substantive, 286, 298
 policymaking, 4, 138, 210, 221–23, 229
 polis, 43, 45–47, 314
 political activists, 137, 227
 political actors, 52, 55, 121, 235–36, 278, 306
 political agency, 98, 108
 political allegiance, 90, 135, 162
 political authority, 10, 19, 26, 27, 35–36, 40, 41, 139
 political authorization, 10, 164
 political clubs, 160, 162–63, 172
 political communities, 81–82, 85–90, 99–100, 218–21, 223, 231–32, 235, 276–77
 political conflicts, 244, 247, 260, 297
 political context, 44, 47, 137, 223, 305
 political economy, 87, 147, 155–56
 political education, 101, 193
 political elites, 151, 206, 229–31, 246, 260
 political emancipation, 70
 political equality, 35, 37, 97–98, 299
 political establishment, 18, 246, 248, 250, 253
 political freedom, 37, 40
 political friendship, 318–19
 political geography, 240, 249, 251, 252
 political good, 38

- political identities, 98, 100, 102, 223, 232
 political ideologies, 167, 212
 political imaginary, 176, 186
 political institutions, 94, 153, 234, 257, 285
 political landscape, 237–38
 political leaders, 117, 121, 221–22, 276
 political legitimacy, 25, 73, 158
 political life, 12, 13, 18, 43–44, 106, 108,
 114, 220–21
 political membership, 90, 107, 219, 221, 232
 political movements, 91, 320
 political order, 99, 113, 136, 161
 political parties *see* parties
 political philosophy, 27, 28, 38, 75
 political power, 28–30, 56, 277, 281, 283,
 286, 287
 political process, 107, 266–67, 269–70, 272
 political representation, 85, 101, 123
 political rhetoric, 15, 219, 221, 223, 231, 246,
 253
 political rights, 47, 104, 145, 155, 219, 221,
 268
 political scientists, 115, 130, 137, 237
 political sovereignty, 41, 103
 political spectrum, 108, 159, 160, 164–65,
 167, 169
 political status, 80, 219
 political systems, 107, 109, 234, 245–48, 250,
 252, 333
 political theory, 26, 52, 74–75, 90, 189, 192,
 193, 200
 political unity, 75, 77, 97, 104
 “political, the,” 102–108
 politicians, 71, 221, 227, 242–44, 247–48,
 250, 252
 professional, 130, 239
 politics, 9, 17–18, 36–37, 106–107, 162–63,
 167–68, 208, 239–40
 comparative, 236, 237, 251
 democratic, 8, 9, 11, 17, 18, 295, 296, 298
 identity, 9
 mainstream, 240, 245, 246, 253
 modern, 23, 25–26, 92, 130
 of periphery, 243, 249, 251–53
 parliamentary, 104–105, 166
 party, 165, 169, 237, 247
 populist, 4, 17, 215, 252, 293
 problems, 23–39
 respectability, 205, 208
 politics, 16, 42, 107, 109, 189–90, 298–301
 democratic, 219, 296
 modern, 14, 102, 106
 polls, 171, 244, 282, 286, 310
 Pope, Maurice, 51
 Popper, Karl, 28
 popular authorization, 74, 140, 152, 156
 popular consent, 56, 94, 103, 191
 Popular Front, 165, 167–69
 popular governments, 174–75, 178, 186, 307
 popular identity, 15, 17, 108, 109
 popular majorities, 152, 258, 263–65, 271, 320
 popular movements, 109, 160, 216, 235, 237,
 278
 popular participation, 95–97, 136
 popular principles, 95–96, 139–42
 popular protests, 159, 170, 171
 popular reforms, 174, 177
 popular rule, 12, 14, 25, 73, 96–97, 123, 129,
 135
 principle, 2, 36
 popular self-rule, 7, 11–14, 16, 25, 35, 38
 principle, 13, 26
 popular sovereignty, 9–16, 19–25, 72–75,
 93–96, 113–18, 133–38, 156–61,
 188–93, *see also* *Introductory Note*
 and challenges to democracy, 5–10
 and constitutional courts, 257–74
 and Hobbes, 73–90
 and India, 173–88
 and national homogeneity, 86–88
 and populism, 235–37
 and recognition, 218–33
 and the political, 102–108
 as belief and reality, 57–72
 as majoritarianism, 82–86
 claims to, 159, 162, 165, 167, 172
 development, 8, 89
 fact and fiction mixed, 69–72
 fictions in the borderlands, 189–203
 ideals, 164, 170, 295
 in French history, 158–72
 in Trump era, 292–303
 institutionalization, 175, 187
 language, 159, 176
 legitimacy, 25, 26, 54
 limits, 117, 294
 logic of, 4, 75
 making of, 73–90
 modern conception, 61, 74, 88
 on trial, 91–109
 practice of, 141, 172, 295, 300
 practices, 141, 172, 295, 300
 principle, 20, 27, 32, 35, 59, 97
 revisited, 191–94

- unified, 175–77, 182, 186
- united, 181, 186–88
- popularity, 17, 74, 85, 170
- populism, 7–10, 16–17, 207–8, 234–53, 275–78
 - American, 235–36, 240, 242, 245, 253
 - and popular sovereignty, 235–37
 - and stories of peoplehood, 275–91
 - authoritarian, 16, 19, 108, 282, 291
 - definition, 275
 - economic, 241, 243, 245–48
 - illiberal, 7, 10, 17, 19, 109, 141
 - left, 240–41, 284
 - right, 241–42
- populist antagonism, 249–51
- populist appeals, 17, 156, 234, 237–39, 242, 247
- populist ideas, 238, 246, 276
- populist leagues, 165, 168
- populist movements, 17, 172, 208, 236, 240, 252, 276, 278
- populist parties, 236, 241, 293
- Populist Party, 241
- populist politics, 4, 17, 215, 252, 293
- populist presidency, 238–40
- populist rhetoric, 234–38, 240–45, 248–50, 252–53
 - 21st century, 242–43
 - antagonistic, 240, 248
 - conservative, 248–51
- Portland, 3, 305, 316
- Postel, Charles, 236, 240
- power, 16–17, 40–44, 46–47, 49–53, 114–16, 140–42, 237–38, 323
 - absolute, 43, 49, 94
 - bounds of, 47–52
 - coercive, 147, 149
 - military, 193, 281
 - political, 28–30, 56, 277, 281, 283, 286, 287
 - presidential, 238, 293
 - sovereign, 42, 43, 47, 74, 115, 121, 174, 177
 - structures, 45, 207, 235
 - tyrannical, 47, 51–52
 - ultimate, 35, 47, 52, 56
 - unaccountable, 43, 74
 - unbounded, 41, 43, 51, 55
- practices, 17–18
 - democratic, 95, 293, 296, 301
 - democratic governance, 221
- preferences, 115, 121, 123, 137, 222, 283, 287, 299–300
- racial, 270–71
- prejudices, 45, 137–38, 151–52, 221, 231
 - white, 151, 153
- preparation of electoral rolls, 182–85, 187
- prepolitical state of nature, 78, 232
- preschool, universal, 327–28
- presidential candidates, 235, 238–40, 249, 253
- presidential hopefuls/aspirants, 237, 240, 242, 251
- presidential power, 238, 293
- presidents *see individual names*
- pressures, 107, 120, 134, 177–79, 188, 199, 279
- Princely States, 173, 177, 179, 182, 186
- principles
 - democratic, 4, 141, 143, 180, 301
 - fundamental, 2, 11, 117, 186
 - liberal, 139, 141–43, 145–49, 152, 231
 - popular, 95–96, 139–42
 - universal, 278
- privileges, 2, 116, 145, 150, 163, 219, 221, 225
 - special, 290–91
- property, 125, 146, 148–49, 155
- rights, 260, 286–87
- protection, 64, 125, 144, 190–91, 196, 202, 242, 258
 - equal, 267, 269–72, 273
 - minorities, 295, 300
- Protestantism, 145–46, 152
- protestors, 3, 158, 170–71, 248, 282
- protests, 3, 158, 162, 164, 170–72, 204, 216, 326
 - gilets jaunes*, 158, 171–72
 - popular, 159, 170, 171
- Prucha, Francis Paul, 127
- public identities, 220, 221–22
- public opinion, 103–105, 137, 160, 161, 210–12, 215, 216
 - Black, 204, 211
 - general, 23–24, 26
 - studies, 210–11, 216
- Public Opinion and American Democracy*, 137
- public philosophy, 140, 142, 145, 148, 150, 153, 154
- public policies, 9, 209, 222, 259, 290
- Puritans, Separatist, 119
- qualifications, 31, 76, 85, 184, 232, 280
- Qualtrics Panels, 207, 211
- race, 116, 118, 144, 145, 188, 266–69, 271–72
- racial discrimination, 269, 272, 282

- racial diversity, 96, 266
 racial equality, 17, 152, 272
 racial justice, 204, 325, 328
 racial liberalism, 152, 153
 racial minorities, 242, 272, 290
 racism, 2, 207, 304, 311
Rassemblement National see National Front
 Rawls, John, 121
 recognition and popular sovereignty, 218–33
 redistributive policies, 15, 219
 referenda, 59, 171, 265
 Reflective Discussion Facilitation Training, 310
 Reform Act, 146
 reformers, 284, 333
 progressive, 261, 264
 reforms, 144, 146, 148, 154, 242
 police, 204, 216
 popular, 174, 177
 Reid, Harry, 225
 relationships, 17, 18, 20–24, 234, 237, 322, 323, 327–29
 religion, 51–52, 56, 68–69, 86, 97, 119, 124–25, 145
 civil, 67–69, 82, 90
 religious groups, 290–91
 religious liberty, 124, 147
 representation, 76–77, 79, 83, 122–23, 207, 208, 210, 328–29
 equal, 268, 292, 299
 political, 85, 101, 123
 representative bodies, 83, 178, 296
 representative governments, 163, 169, 174
 representative institutions, 174, 177, 235
 representatives, 123, 125, 136–37, 162, 178–79, 209–10, 301, 305
 elected, 179, 191, 259, 265, 283
 selection, 284, 307
 repression, 147
Republic, Plato's, 14, 24, 27, 32–39, 45, 61, 63
 Republican Party, 135, 154, 226, 287
 republican self-governance, 287
 Republicans, 135, 154–55, 169, 207, 226, 230, 239–40, 244, 248–49, 252–53, 260–62, 286–88, 294
 research, 5, 211–12, 215, 243–44, 249, 295–96, 320, 323
 resonance, 7, 10, 279, 285
 resources, 33, 93, 109, 208, 226, 233, 308, 323–24
 respectability
 narratives, 206
 politics, 205, 208
 respondents, 29, 212–15, 261
 responsibility, 77, 137, 222, 312
 fiscal, 250
 individual, 16, 72
 responsible governments, 173, 177, 179
 reticulated policies, 289–90
 review, judicial, 19, 258, 260–61, 262, 266
 revolution, 116, 118, 150, 152, 158–65
Reynolds, 268, 269
 rhetoric, 138, 141, 228–29, 231, 234, 237, 238, 248–53
 antagonistic, 234–35, 240, 248
 anti-Washington, 248, 250–51, 252
 campaign, 227, 247, 248
 core-periphery, 253
 political, 15, 219, 221, 223, 231, 246, 253
 populist, 234–38, 240–45, 248–50, 252–53
 conservative, 248–51
 economic, 245, 247
 Trump, 228–31, 248, 253
 Rice, Condoleezza, 58
 right populism, 241–42
 rightist leagues, 165, 167, 169
 rights, 95–96, 150–51, 258, 266–69, 284, 286–90, 292
 abortion, 299
 associational, 267, 270
 basic, 286–89
 civil, 67, 144, 155, 219, 286
 equal, 93, 145, 153
 human, 277–79, 283, 286
 individual, 103, 107, 258, 288
 liberal, 100–101, 154, 299, 303
 minority, 43, 270–73
 natural, 74
 political, 47, 104, 145, 155, 219, 221, 268
 property, 260, 286–87
 universal, 94, 99
 voting, 148, 219, 266, 268
 rituals, 2, 9, 140, 158, 176, 319
 Rizzo, Frank, 2
 Robinson, Russell, 272
 Rogers, Melvin, 297
 rolls, preparation see electoral rolls, preparation
 Roman Catholics see Catholics
Romer, 270–72
 Roosevelt, Franklin, 283, 284
 Rousseau, Jean-Jacques, 15, 59, 61, 67–72, 80–81, 85, 87, 89, 121, 189, 191, 200, 202, 308
 RPI status, 225–26

- Rucho*, 266–67, 269–70, 272
 rule of law, 18, 43, 63, 123, 283
 rulers, 42, 44, 45, 48, 62, 173–74, 176–78, 180
 Rural Constabulary Act, 147
 Russell, Lord, 147
- Sanders, Bernie, 242–48, 251–52, 285
 sartorial expressions, 159, 160, 163, 167, 171
- Saxonhouse, Arlene, 44, 49, 52–54
 Schlesinger, Arthur Meier, 120
 Schmitt, Carl, 19, 87–89, 201
 and Tocqueville, 91–109
 democracy vs. liberalism, 98–102
 scholars, 11, 12, 206, 208, 237–38, 275–76, 329, 331
- Schuette*, 266, 270–73
 Scott, Dred, 135–36
 Scott, James C., 193
 scrutiny, 40, 80, 269, 272, 298
 strict, 271, 272
- Seattle, 243–45
 second-class status, 121, 219, 233
 security, 130, 132, 190, 194, 195, 200, 202–203
 border, 194–95, 197, 203, 225, 226
 policies, 199, 202–203
- Segal, Jeffrey, 262
- selection processes, candidate, 283, 289
- self-governance, 305, 310, 320–21, 323, 324, 326, 330, 332
 American, 257–74
 collective, 86
 democratic, 270
 fiction, 332
 popular, 11
 republican, 287
- self-government, 2, 16, 119, 121, 135, 317, 333
- self-rule, 14, 16, 104, 305–307, 309–10, 314–19
 collective, 11
 complete, 174
 popular, 7, 11–14, 16, 25, 35, 38
- self-understanding, 7, 9–10, 16, 95, 101, 305, 307
- Senate, 123, 125, 226, 258, 268
 Senators, 225, 226, 267–68, 283, *see also* individual names
- Seneca, 127
- Separatist Puritans, 119
- settlers, 118, 120, 127, 130–31, 135
- sexual orientation discrimination, 272
- shared history, 108, 315
- shared identities, 104, 120, 278
- shared understanding, 16, 51, 329
- Shays, Daniel, 258
- Shelby County*, 266
- Shklar, Judith, 51
- Sieyès, Abbé, 158, 161
- similitude, 75, 82, 85, 87, 88, 107–108
- skills, 27, 230, 314, 323
- slave states, 125, 135
- slavery, 116–17, 125–27, 129, 132–35, 136, 138, 142–46, 153, 286–88
 expansion, 129, 132, 134
 plantation, 132
- slaves, 44, 46, 115, 116, 118, 125, 145, 150
 black, 119–20, 131
 fugitive, 125, 130
- Smith v. Allwright*, 268
- Smith, Adam, 147
- social base, 93, 140, 144, 153–54
- social bonds, 6, 116
- social constructions, 222, 224
- social contract, 15, 69, 76, 119, 191, 203, 232, 299
- Social Contract*, Rousseau's, 59, 67, 70, 191
- social equality, 93, 157, 191
- social media, 172, 213, 296
- social movements, 12, 205–206, 208, 215, 333
- social organization, 96, 120
- social policies, 278
- social status, 211, 219
- socioeconomic status, 63, 211, 213, 215, 216
- Socrates, 15, 29–36, 38–39, 60–63, 71
- Solidarité Française, 166, 169
- solidarity, 7, 72, 75, 88, 108–109, 125, 167, 171
 deficits, 94
 multiracial, 333
 social, 16
 white, 125, 155
- Solon, 45, 68
- Sophocles, 40–56
- South Carolina, 120, 126, 129, 133, 136, 243, 251, 252, 268
- southern States, 2, 154, 221
- sovereign authority, 7, 43, 143, 200
- sovereign decisions, 59, 104, 201
- sovereign people, 19, 129, 141, 156–57, 219
 and liberal democratic state, 139–57

- sovereign power, 42, 43, 47, 74, 115, 121, 174, 177
- sovereigns and tyrants, 40–56
- sovereignty, 40–43, 58–59, 66–67, 73–75, 94–96, 102–105, 159–60, 169–70
- agents of, 185–87
- and tyranny, 42–43, 55
- resemblances, 41–43
- competing visions of, 177, 186
- democratic, 105, 107
- national, 170
- parliamentary, 114, 121–22
- political, 41, 103
- popular *see* popular sovereignty and *Introductory Note*
- suspensions, 59
- theological dimensions, 59–60
- Westphalian, 193, 202
- Soviet Union, 4
- Speeches, 29–30, 32, 228–29, 242–43, 246–51, *see also* rhetoric
- Sperber, Jonathan, 146
- Sphinx, 47–48, 50, 52–53
- Spooner, Lysander, 286
- stability, 42, 43, 135, 137
- democratic, 107, 109
- standards, 43, 69, 137, 269–70
- state actors, 266, 273
- state authorities, 191, 194, 198, 200, 201
- state constitutions, 122, 144, 150–51, 179, 186, 270, 296
- state governments, 95, 174, 178, 271
- state legislatures, 184, 185
- state of nature, 64, 67, 75, 77–79, 87–89, 123–25, 232
- Hobbes's, 75, 77, 85, 89, 123
- hypothesized, 75, 78
- prepolitical, 78, 232
- state power, 190, 193, 252
- state-building, 202–203
- states. *See also* *Introductory Note*
- democratic, 26, 39, 220, 307
- Indian, 173–74, 177–79, 181–82, 186
- nation, 5–7, 105, 170, 320, 331
- statues, 2–3
- status, 19, 83, 84, 93–94, 221, 224, 226, 231
- civic, 150, 222
- inequalities of, 81
- legal, 223–25
- of knowledge, 26, 32
- outsider, 9, 240
- political, 80, 219
- RPI, 225–26
- second-class, 121, 219, 233
- social, 211, 219
- socioeconomic, 63, 211, 213, 215, 216
- “Stop the Steal” movement, 2
- stories, 15–17, 45–46, 62–63, 109–13, 276–80, 284–85, 332–33
- national, 109, 275, 284
- of peoplehood, 16, 36, 221, 275–91
- competing stories of American peoplehood, 281–91
- three R's, 279–81
- toward good stories, 277–79
- storytelling, 15–16
- strangers, 2, 98, 145, 304, 313, 318
- students, 11, 12, 164, 167, 198, 292–303, 320–22
- subjects, 38, 81–83, 85–87, 89–90, 121–22, 178–79, 200–204
- peripheral, 16, 190–91, 199, 202–203
- suffrage *see* franchise
- Sullivan, General John, 127
- Sunstein, Cass, 262
- support, 146, 154–55, 157–58, 212, 246–47, 261, 291–92, 300–301
- supporters, 59, 129, 222, 229, 238–39, 302
- Supreme Court, 132, 135, 138, 260–73, 286, *see also* *individual case names*
- surveillance, 16, 190, 195–96, 202
- symbols, 158, 159–60, 162, 169, 172, 309
- syntheses, 19, 139–40, 142, 144, 153, 156
- Taittinger, Pierre, 165
- Tamilian labourers, 184–85
- tax, 160, 170–71, 281
- code, 250, 290
- Taylor, Breonna, 216
- Taylor, Charles, 13, 25, 206–208, 210
- Tea Party activists, 226
- teachers, 11, 38, 313, 322, 334
- technologies, 71, 195, 230, 276
- technology companies, 195–96
- temporal freedom, 52, 55
- Temporary Aid to Needy Families, 222
- Tennessee, 129, 251
- tensions, 10–11, 12, 19, 91–93, 107–108, 252, 301–302
- territories, 96, 116, 173–76, 182, 186–87, 192–93, 198, 203
- new, 127, 132, 135
- Texas, 132, 272, 325
- Thebes, 47, 49, 50, 53, 54

- theological dimensions of sovereignty, 59–60
thin-centered ideology, 16, 208, 237, 275
Third Estate, 158, 161
Third Republic, 159, 164, 165–67
threats, 39, 44, 45–47, 197, 202–203, 223, 227–28, 235
throne, 48–50, 53, 54, 181
Thucydides, 33, 45
time as binding, 54–56
Tocqueville, Alexis de, 13, 18–19, 24, 33, 58, 59, 91–98, 102–103, 105–109, 114, 116–17, 121, 124, 126–27, 131, 136, 152, 329
 liberalism and democracy, 93–98
 vs. Schmitt, 91–109
tools, 62, 153, 193, 197, 240, 270, 294–95, 314
trade, 70, 148, 248, 251, 281
trade-offs, 6, 140
traditions, 44, 169, 247, 279–80, 286
tragic reversals, 41, 43, 47, 49
training, 149, 311, 314
transitions, 103, 134, 159, 163, 187, 260
Travancore, 178, 181, 182, 184–85
treaties, 126, 131, 134, 165, 264
tribal relations, 128, 264
Trudeau, Pierre, 258
Truett, Samuel, 131
Trump, Donald, 3, 221, 223, 227–31, 238–40, 242–53, 260–61, 267, 281–82, 291, 302
 administration, 230, 238, 240, 290, 294
 America First vision, 282, 287
 and popular sovereignty, 292–303
 rhetoric, 228–31, 248, 253
 vs. Hilary Clinton, 246–48
trust, 70, 191, 250, 261, 313, 315, 317, 318
Tuck, Richard, 122
Tucker, St. George, 116
Tushnet, Mark, 262
Twitter, 204, 245
tyrannos, 43, 45, 48, 49–51
tyranny, 35, 38, 41–52, 55, 56
 ancient, 42–47, 56
 and sovereignty, 41–43, 55
 majority, 43, 97
tyrants, 40–56

ultimate authority, 41, 43, 49, 51–52, 56
ultimate power, 35, 47, 52, 56
unaccountable authority, 16, 43, 47
unaccountable power, 43, 74
unbounded power, 41, 43, 51, 55
uncertainty, 322, 329–31
unconstitutional discrimination, 269
undocumented immigrants, 223, 228
unified people, 83, 235, 242, 310
unified popular sovereignty, 175–77, 182, 186
uniform authorship, fiction, 191, 200–201
uniformity, 75, 84–86, 89–90, 180, 190, 280
 equality as, 78–82
United Kingdom, 3, 59, 143–44
 House of Commons, 145, 147
united popular sovereignty, 181, 186–88
United States, 1–4, 95–97, 114–15, 126–28, 130–34, 142–43, 151–52, 228–30, *see also* America; *individual states*
 antebellum, 107–9, 138, 142, 152
 Mexico borderlands, 190, 194, 196, 199, 203
 Supreme Court, 132, 135, 138, 260–73, 286
unity, 12, 14, 76–78, 81–82, 85, 90, 107, 285–86
 political, 75, 77, 97, 104
universal franchise, 70, 95, 147, 175–77, 180, 182, 186, 188
universal preschool, 327–28
universal principles, 278
universal rights, 94, 99
universal suffrage *see* universal franchise
universality, 98, 104, 232
US–Mexico borderlands, 190, 194, 196, 199, 203

validity, 62, 100, 123, 137, 153, 210
Valois, Georges, 165
values, liberal, 156, 301
Van Buren, Martin, 129
victims, 3, 78, 222, 228
vigilance, 190, 195, 198–99, 201
Vinx, Lars, 104
violence, 34, 41, 43, 128, 130, 167, 172, 193–94
Virginia, 2, 117–18, 124, 249
visions, 101, 103, 154, 157, 281–86, 297, 298
voice of God, 1, 115, 307
voices of the people, 304–34
vote, 2, 184–85, 188, 219, 221, 262, 266–68
voters, 182–87, 247, 248, 265, 266, 268–70
 lists of, 183, 185, 187
 registration, 182, 187
 white, 268, 272
voting, 130, 135, 170, 184, 209, 315, 329, 330
rights, 148, 219, 266, 268, *see also* franchise

- Wall Street, 205, 245–46
- Wallace, George, 241–42
- war, 78, 87–88, 123–24, 127, 136, 154, 165, 317, *see also individual wars*
- “Washington,” 246–47, 249, 251
- Washington, George, 3, 127, 128
- “We the People,” 107–108, 175, 219, 223, 225, 227–29, 232–33
- wealth, 49, 64, 81, 101, 277, 281, 289, 292
redistribution, 292, 299
- Weaver, James, 241
- Weber, Eugen, 88
- Weber, Max, 18, 130
- Weimar Germany, 104, 109
- Wellington, Duke of, 148
- Westphalian sovereignty, 193, 202
- Whigs, 134, 140
- White House, 129–30, 246, 248, 286
- white liberty, 128
- white prejudice, 151, 153
- white solidarity, 125, 155
- Whitman, Walt, 304, 314, 317–19
- Whittington, Keith, 265
- will of the people, 182–86, 186, 208
- Williams, Bernard, 51
- wills, 76, 77, 83–85, 87–88
- Wisconsin, 246, 249
- wisdom, 36, 46, 52, 68, 80, 83–84, 251
superior, 83–84
- Wohl, Victoria, 42
- Wolin, Sheldon, 55, 190
- wolves, 304–305, 319
- women, 47, 119, 162, 188, 219–20, 223, 228–30, 313
- Wood, Charles, 146
- Woodward-Burns, Robinson, 265
- workers, 230–31, 289
American, 227, 231, 281
- working classes, 144, 147, 148–49, 227, 230–31
- World War I, 23, 175, 200
- World War II, 264
- Wyoming, 131, 268
- xenophobia, 208
- Yick Wo*, 267–68
- Zeisberg, Mariah, 274
- Ziblatt, Daniel, 18, 293
- Zimmerman, George, 204
- Zolberg, Aristide, 120, 161