
Race in Democracy

On Tocqueville and the Social Death of Black America

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It is all too common to begin these types of reflections with the simple phrase: it takes a village. I swore I would avoid it, and now, having completed my own thesis, I can't seem to find another way to say I owe a lot of people a lot of thanks for the time, resources, and energy they have poured into me throughout this process and my time at Yale. Despite the many, many (many) hours spent reading, typing, and thinking alone, this project would not have been possible without my own little village. To my advisor, Prof. Giulia Oskian, I thank you for introducing me to the idea of reading Tocqueville 'behind the veil,' and for your advice and feedback. To my Yale instructors, classmates, and friends, I thank you for the time and energy you have poured into me over these last four years as I've matured intellectually, emotionally, and spiritually. And finally, to my mother, without whom my success would be impossible—thank you could never adequately express the depth of my gratitude and appreciation.

I. Introduction

ON Monday, March 27, 2023, in Nashville, Tennessee, a shooter entered the Covenant School, a small Christian academy, and killed six people, including three children.¹ As with previous instances of mass gun violence, protests quickly erupted aimed at securing stricter gun safety legislation. In conservative Tennessee, however, where the NRA reigns unchallenged and the Second Amendment is akin to the commandment, the state's Republican-controlled legislature proved recalcitrant on the issue.

As a result, protestors and gun-safety advocates adopted a more confrontational stance. Three days after the shooting with hundreds of protestors occupying the galleries of the House of Representatives, three Democratic lawmakers disrupted regular legislative proceedings, chanting “[n]o action, no peace” from the House floor to signal solidarity with the demonstrators and a shared frustration over Republican apathy.² In response, Republicans led by Tennessee Speaker Cameron Sexton moved to expel the members, alleging that they “did knowingly and intentionally bring disorder and dishonor to the House of Representatives” in violation of the House's Permanent Rules of Order.³ What began as a protest against recurrent gun violence thus became symbolic of the much broader issue of multiracial democracy.

On April 6, a week after the protest on the floor, the House proceeded with the expulsion vote. Representatives Justin Jones of Nashville and Justin Pearson of Memphis—both young,

¹ Adeel Hassan and Emily Cochrane, “What We Know About the Nashville School Shooting,” *The New York Times*, April 12, 2023, sec. U.S., <https://www.nytimes.com/article/nashville-school-shooting.html>.

² Eliza Fawcett and Emily Cochrane, “Tennessee House Expulsions: What You Need to Know,” *The New York Times*, April 13, 2023, sec. U.S., <https://www.nytimes.com/article/tennessee-house-democrats-expulsion-shooting-gun-control.html>.

³ 113th Tennessee General Assembly, House of Representatives, *House Resolution 65*, <https://www.capitol.tn.gov/Bills/113/Bill/HR0065.pdf>. The language for the expulsions of Representatives Pearson and Johnson was similar.

Black, newly-elected members of the House—were expelled by a vote of 72-25 and 69-26, respectively; Representative Gloria Johnson of Knoxville—a white woman serving in the legislature since 2012⁴—survived the vote (65-30) with Republicans falling one vote shy of the required two-thirds majority.⁵ The political significance of these votes—targeted, as they were, towards the representatives of Tennessee’s three largest cities—was immediately apparent. As Representative Jones explained while reflecting on his actions and the ensuing charges, “We called on you to ban assault weapons, and you [House Republicans] responded with an assault on our democracy.”⁶ “Since you’re trying to put us on trial,” he continued, “I’ll say what you’re really putting on trial is the State of Tennessee. What you’re showing for the world is holding up a mirror to a state that is going back to some dark, dark root—a state in which the Klu Klux Klan was founded is now attempting another power grab by silencing the two youngest Black representatives and one of the only women—Democratic women—in this body. That’s what this is about.”

As a young Black man born and raised in Tennessee, I felt the same. And these feelings were not unique to me, the expelled members, and the members of the legislature more broadly. The racial undertones, the anti-democratic undertones—all of this was laid bare in full public view. As conservative political commentator and Tennessee resident David French saw it, Republicans’ actions followed directly from “Trumpism,” a term he uses to describe the

⁴ Gloria Johnson, “Vote Gloria Johnson - State House District 90,” accessed April 24, 2023, <https://www.votegloriajohnson.com/>.

⁵ Melissa Brown, “GOP Expels Democratic Reps. Justin Jones, Justin Pearson from House over Gun-Control Protest,” *The Tennessean*, April 6, 2023, sec. Politics, <https://www.tennessean.com/story/news/politics/2023/04/06/tennessee-expulsion-vote-democrats-justin-jones-gloria-johnson-justin-pearson/70079929007/>.

⁶ Justin Jones, “House Floor Session - 21st Legislative Day,” *Tennessee General Assembly Record* (2023), accessed April 24, 2023, https://tnga.granicus.com/player/clip/28268?view_id=705&redirect=true&h=a87adae9ae76bdd84cbe8f00d5491b6f.

increasingly populist, nationalistic politics characterizing the modern conservative movement under former President Donald Trump.⁷ “While Trumpism is a complex phenomenon,” French wrote in the wake of the vote, “there are three ideas or principles that are consistently present: First, that before Trump the G.O.P. was a political doormat... Second, that we live in a state of *cultural* [emphasis added] emergency... And third, that in this state of emergency, all conservatives must rally together. There can be no enemies to the right.” French’s analysis was not without basis.

This ideological framework—the perceived political, social, and cultural crisis within American society—echoed the rhetoric of several prominent Tennessee Republicans. In a leaked recording of a House Republican caucus meeting days after the expulsion vote, Republican representatives could be heard discussing the fallout. Speaking to Representative Jody Barrett, who voted to expel Jones and Pearson but not Johnson, Representative Jason Zachary said: “This would’ve been bad anyway but good God we were called... You brought the racism into it because you didn’t stay with us.”⁸ “The Left wants Tennessee so bad,” Representative Scott Cepicky later continued, “because if they get us, the Southeast falls, and it’s game over for the Republic. This is not a neighborhood social gathering. We are fighting for the Republic of our country right now, and the world is staring at us—are we going to stand our ground?”⁹ The Republican representatives mentioned here were, of course, all white.

As described by both sides, Tennessee's democracy was in crisis. For Jones and his Democratic colleagues, the issue stemmed from unresponsive government and the dramatic,

⁷ David French, “Opinion | How Tennessee Illustrates the Three Rules of MAGA,” *The New York Times*, April 13, 2023, sec. Opinion,

<https://www.nytimes.com/2023/04/13/opinion/tennessee-trump-maga-justin-jones-pearson.html>.

⁸ Justin Kanew, “LEAKED AUDIO: TN House GOP Caucus Infighting Over TN 3 Votes,” *THE TENNESSEE HOLLER* (blog), April 13, 2023,

<https://tnholler.com/2023/04/leaked-audio-tn-house-gop-caucus-infighting-over-tn-3-votes/>.

⁹ Kanew, “LEAKED AUDIO.”

racialized disenfranchisement of Tennessee's two largest cities. For Cepicky and his Republican colleagues, the problem was much deeper: the beginnings of a kind of sociocultural sea change had taken hold of Tennessee politics, and it threatened to shift the face of democracy. Race, politics, and democracy collided.

The tensions between race and democracy have perennially challenged American politics and its institutions. In the same way that the proposed expulsions of the Tennessee Three hinged on the racial identity and progressive advocacy, American history is replete with (and perhaps defined by) examples of the appeals of racial minorities to be fully incorporated on an equal basis into the democratic body politic. This history is also replete with examples of the express denial of such egalitarianism. Parsing out the tensions between race and democracy thus becomes particularly relevant as an historical project *and* as a means of situating present difficulties like those in Tennessee within a workable theoretical frame.

In this essay, I seek to do just that: to analyze democracy as a theoretical ideal and its relationship with race to understand why racial inclusion presents a perennial, seemingly intractable issue in American politics today. To do this, I engage both the original text and secondary literature on Alexis de Tocqueville's *Democracy in America* to develop a conception of American democracy and understand the ways in which race informs the theory of the democratic community. Throughout, I argue that in contrast to traditional egalitarian theories of American democracy, an accurate reading of the text reveals that American democracy actually serves to replicate and preserve racial inequality.¹⁰ Indeed, as I will argue, the democratic principle of universal equality does not—and, perhaps, cannot—extend across all groups.

¹⁰ It bears noting that my analysis is focused tightly on the particularities of American history and society. I leave it for subsequent scholars to parse out whether the relationship between race and democracy that I develop here applies equally in other cases of stratified, racialized democratic societies.

My argument proceeds in three parts. I first situate *Democracy in America* within the subsequent theoretical analysis that has made it critical to understanding American democratic theory. I then turn to analyze Tocqueville's conception of democracy. Third, I complicate this vision of democracy by examining it in the context of the Tocquevillian conception of race in American society. Finally, I offer some thoughts about the prospects and requisites for a truly egalitarian multiracial democracy.

II. Framing Democracy and Race in the Context of Tocqueville

Sing a song full of the faith that the dark past has taught us,
Sing a song full of the hope that the present has brought us;
Facing the rising sun of our new day begun,
Let us march on 'til victory is won.
– *Lift Every Voice and Sing*

This paper examines the tensions inherent to American liberal democratic theory concerning race through the lens of Alexis de Tocqueville's *Democracy in America*. First published in 1835, *Democracy in America* provides a seminal account of American democratic development from the founding period through to the Jackson Administration while also offering an enriching theoretical account of the nascent idea of republican democracy that has since spread globally. On Tocqueville's approach to political philosophy, theorist Sheldon Wolin writes, "In the course of formulating the first comprehensive theory of democracy, Tocqueville would free the discussion of democracy from the framework of constitutionalism and from the contractualist tradition customarily used to interpret it."¹¹ In this way, Tocqueville's work pushed the study of political society beyond its foundations in the works of Thomas Hobbes, John Locke, and Jean-Jacques Rousseau to look specifically at the requisite institutions and traditions

¹¹ Sheldon S. Wolin, *Tocqueville Between Two Worlds: The Making of a Political and Theoretical Life* (Princeton: Princeton University Press, 2003), <http://ebookcentral.proquest.com/lib/yale-ebooks/detail.action?docID=445576>, 171.

that could sustain universal political equality and government based on popular participation. In contrast to the works of James Madison and Alexander Hamilton,¹² then, who restricted their analysis to institutions alone, *Democracy in America* was novel in its concern for “the moral and religious influences that had produced a new type of political being.” This being, as Wolin conceives of it, was a “democrat who was able to exercise power with skill and...moderation,” thereby enabling the type of free society that sustains individualism and collective self-rule.

Subsequent theorists have built on this foundation a robust vision of the fundamental egalitarianism inherent to the American democratic project. Tracing these developments, political scientist Rogers Smith writes:

Since the nation’s inception, analysts have described the American political culture as the preeminent example of modern liberal democracy, of government by popular consent with respect for the equal rights of all. They have portrayed American political development as the working out of liberal democratic or republican principles, via both “liberalizing” and “democratizing” socioeconomic changes and political efforts to cope with tensions inherent in these principles. Illiberal, undemocratic beliefs and practices have usually been seen only as expressions of ignorance and prejudice, destined to marginality by their lack of rational defenses.¹³

Foremost among these scholars were Gunnar Myrdal and Louis Hartz, both of whom expanded Tocqueville’s initial thesis and solidified the liberal democratic conception of American society. In Myrdal’s case, rampant racism throughout the twentieth century could be explained as an illogical departure from the “ideals of the essential dignity of the individual human being, of the fundamental equality of all men” embedded within the sociopolitical fabric of the “American Creed” as the “ideological foundation of national morale.”¹⁴ Hartz, for his part, paralleled

¹² See, for example, *The Federalist Papers*, ed. Clinton Rossiter (New York: Signet Classics, 2003).

¹³ Rogers M. Smith, “Beyond Tocqueville, Myrdal, and Hartz: The Multiple Traditions in America,” *American Political Science Review* 87, no. 3 (September 1993): 549–66, <https://doi.org/10.2307/2938735>, 549.

¹⁴ Gunnar Myrdal, *An American Dilemma: The Negro Problem and Modern Democracy* (New York: Harper & Brothers Publishers, 1944), 4.

Tocqueville's analysis in his description of the liberal basis of American society and its political economy.¹⁵ In this way, as a matter of emphasis more than inaccuracy, subsequent theorists have underestimated the relationship between democracy and inequality by frequently writing “in unqualified terms about America's supposedly egalitarian conditions.”¹⁶

It is important to remember, however, that Tocqueville's own analysis is not totally blind to the profound inequalities that shaped the period and structured American society.¹⁷ Moreover, this fundamental democratic tension—that is, the juxtaposition of America's history of slavery, racism, and the legacy of systemic inequality against the egalitarian promise of the Declaration of Independence and constitutional regime—has, in Smith's view, raised a series of normative and interpretive questions for scholars of Tocqueville and democratic theory.

More recently, Tocqueville's work has produced a growing body of contemporary scholarship that seeks to repurpose *Democracy in America* toward more critical ends. Citing “the affinities between Tocqueville's racial thought and the arguments about racial difference and race relations made by critical race theorists,” political scientist Alvin Tillery, for example, finds evidence to situate Tocqueville within contemporary critical pedagogies of the American political-legal system.¹⁸ In particular, he says, “Tocqueville's belief in the social construction thesis made him unique among white commentators on the subject of racial difference in the nineteenth century...Tocqueville's view that culture and the law were the primary sites where

¹⁵ Louis Hartz, *The Liberal Tradition in America: An Interpretation of American Political Thought Since the Revolution* (New York: Harcourt, Brace and Company, 1955). For more on his arguments concerning the lack of any substantive alternatives to Lockian liberalism in the American mind as a direct result of the American political economy and the absence of certain feudal classes, see especially his chapter “The Concept of Liberal Society.”

¹⁶ Smith, “Beyond Tocqueville,” 553.

¹⁷ See especially Smith, “Beyond Tocqueville,” 553.

¹⁸ Alvin B. Tillery, “Tocqueville as Critical Race Theorist: Whiteness as Property, Interest Convergence, and the Limits of Jacksonian Democracy,” *Political Research Quarterly* 62, no. 4 (December 1, 2009): 639–52, <https://doi.org/10.1177/1065912908322412>, 639.

racial differences were constructed in Jacksonian America augers the critical race theory approach.”¹⁹ In this way, we see a dualistic narrative: one prioritizing Tocqueville’s emphasis on egalitarian social conditions and dearth of concern for the *theoretical* impediments to minority exclusion, and the other counterbalancing the author’s egalitarian hopes against the real cynicism for social integration depicted in sections like his famous chapter on “The Three Races.”

Others have attempted to push the literature beyond this basic dichotomy. Theorist Christine Henderson, for example, most recently elevated “the less-noted connections between the persistence of racial prejudice and tyrannical majoritarianism in Tocqueville’s own thought,” thereby integrating dynamics of social exclusion into politics as well as formal political and legal institutions.²⁰ “Consideration of the Tocquevillian perspective,” she concludes, “thus emphasizes a dimension to the problem that has been underappreciated by [contemporary democratic theorists] in their respective efforts to address domination and inequality via institutional reform or more robust deliberative opportunities...” Taking this point seriously pushes us to question contemporary normative ideals, like that of political scientist Robert Dahl, who famously described democracy as a type of regime in which “ordinary citizens exert a relatively high degree of control over leaders”²¹ as well as other descriptive approaches from which empirical political science often proceeds. Whether democracy can be narrowly conceived of as a “system in which rulers are selected by competitive elections”²² or as a system that values individual freedom and equality with robust political institutions designed to both promote collective

¹⁹ Tillery, “Tocqueville as Critical Race Theorist,” 643.

²⁰ Christine Dunn Henderson, “Beyond the ‘Formidable Circle’: Race and the Limits of Democratic Inclusion in Tocqueville’s Democracy in America*,” *Journal of Political Philosophy* 30, no. 1 (2022): 94–115, <https://doi.org/10.1111/jopp.12260>, 95.

²¹ Robert Dahl, *A Preface to Democratic Theory: Expanded Edition* (Chicago: The University of Chicago Press, 2006), 3.

²² Adam Przeworski, “Minimalist Conception of Democracy: A Defense,” In *Democracy’s Value*, ed. by Ian Shapiro (New York: Cambridge University Press, 1999), 23.

self-rule and check its excesses²³ has very little bearing on fundamental social and psychological factors that influences citizens' capacity to exercise political power. Democratic procedures and institutions certainly influence society, but they do not themselves construct the social context on which they act.

In what follows, I hope to extend the work of contemporary scholars in connecting the Tocquevillian perspective into the broader dialectic on democracy and race today. Understanding this relationship, I contend, is crucial as we continue to grapple with the seeming intractability of racial inequality today in spite of the serious gains achieved since the 1960s. Conceptualizing this challenge requires a much deeper theoretical conception of both liberal democratic theory and the origins of racialized inequality within it. The work of Alexis de Tocqueville provides the perfect locus for such theorizing, for as this paper will show, what matters (both for this inquiry and for the Tocquevillian perspective) is not definitional boundary but material content: What does rule of the people mean? Who counts among them? Do they count equally? How is this achieved? Answering these questions requires us to peel back certain assumptions of democratic theory—chiefly its self-congratulatory posture as the miracle political system, which political scientist Adam Przeworski describes this way:

If one begins with a vision of a basic harmony of interests, a common good to be discovered and agreed to by rational deliberation, and to be represented as the view of the informed majority, the fact that rulers are elected is of no particular significance. Voting is just a time-saving expedient and majority rule is just a technically convenient way of identifying what everyone would or should have agreed to. Yet if the point of departure is that in any society there are conflicts, of values and of interests, electing rulers appears nothing short of miraculous.²⁴

²³ Gerardo L. Munck, "What Is Democracy? A Reconceptualization of the Quality of Democracy," *Democratization* 23, no. 1 (January 2, 2016): 1–26, <https://doi.org/10.1080/13510347.2014.918104>, 2.

²⁴ Przeworski, "Minimalist Conception of Democracy," 44.

It is precisely the fact that contemporary electoral systems appear so miraculous as means of managing conflict in the academy and yet simultaneously seem so woefully unprepared to seriously address questions of diversity, inclusion, and incorporation in practice—as exemplified in Tennessee—that interests me and motivates this paper. To return, for a moment, to Christine Henderson: “What remains to be seen, however, is whether the Tocquevillian analysis offers any insight for combatting race-based exclusions and widening the circle of democratic inclusion.”²⁵ As a premise, I take this as my theoretical point of departure.

It is not lost on me, however, that examining the possibility for more inclusive governance within a Tocquevillean framework requires a much deeper analysis of the democratic theory underlying his view. This is precisely what *Democracy in America* has to offer. Thus, in peeling back the years of theorizing and returning to the original text, what I offer is a critique of contemporary liberal democracy rooted in a deep anxiety about its promise compared to its often overlooked shortcomings as viewed from the Tocquevillian perspective. In so doing, I aim to recast questions of racial inclusion as central questions of democratic theory itself. Secondarily, by integrating an interdisciplinary array of sources in both traditional political theory as well as political science, history, sociology, and Africana studies, I hope to contribute in some sense to a more general diversification of the canon, which I view as both normatively desirable in its own right and theoretically valuable as a means of more richly theorizing contemporary political society and its challenges.

All of this said, I now turn to explore the nature of democracy as expounded in Alexis de Tocqueville’s *Democracy in America*.

²⁵ Henderson, “Beyond the ‘Formidable Circle,’” 105.

III. Towards a Tocquevillian Democratic Theory

What, to the American slave, is your 4th of July? I answer; a day that reveals to him, more than all other days in the year, the gross injustice and cruelty to which he is the constant victim. To him, your celebration is a sham; your boasted liberty, an unholy license; your national greatness, swelling vanity... There is not a nation on the earth guilty of practices more shocking and bloody than are the people of the United States, at this very hour.

– Frederick Douglass, “The Meaning of July Fourth for the Negro”

In 1831, Alexis de Tocqueville and his friend Gustave de Beaumont departed France under commission by the French National Assembly to study the American penitentiary system. What started as a survey of prisons quickly expanded over the course of the yearlong sojourn. Indeed, by the end of his journey, Tocqueville left the United States with something else entirely: the beginnings of a massive tome to be titled *De la Démocratie en Amérique*, or *Democracy in America*. The book—a sweeping analysis of American society and its political institutions—proved timely and influential. Historian George Pierson writes in his seminal account of the Frenchman’s voyage, *Tocqueville in America*:

Distinguished alike for its lucid descriptions of the American political system and for its thoughtful philosophical comment—to Americans a great text, to Englishmen a storehouse of wisdom, to Frenchmen a bible of political precepts and a prophecy of change—*De la Démocratie en Amérique* in the course of time became known to men the world over.²⁶

As American democracy transitioned from its infant state during the Founding Period to a more mature form under President Jackson, Tocqueville in essence captured the period’s ethos, its political zeitgeist, in a way that was both legible and engaging across the Atlantic world. This transnational appeal aided *Democracy in America*, and it excelled largely because it provided a theoretical link between several democratic traditions as well as a concise statement of the

²⁶ George Wilson Pierson, *Tocqueville in America* (Baltimore: Johns Hopkins University Press, 1996), 9.

political philosophies undergirding these developments. For this reason alone, we might consider *Democracy in America* as instructive today as it was when Tocqueville first published it in 1835.

In this part, I explore Tocqueville's political theory in order to reconstruct his conception of democracy. This proves insightful as a theoretical foundation for Part IV, which uses the following analysis to situate race as a fundamental political concept and demonstrate certain conflicts between it and democracy itself. I argue that democracy depends equally on conditions of political and *social* equality, and that it is this concept of social equality that precludes the genuine realization of an egalitarian democratic ideal. Further, I contend that this concept illuminates inherent tensions between freedom and equality within liberal democratic theory, a contention that carries dramatic implications for democracy's capacity to sustain certain forms of inequality.

I first offer a brief reflection on the Tocquevillian perspective in general before proceeding to *Democracy in America* itself, wherein I reconstruct Tocqueville's vision of democracy at the individual, state, and national levels. I conclude by briefly raising a connection between the Tocquevillian democratic theory and racial exclusion, a point which I adopt as the subject of the next part of this essay.

A. Tocqueville and the Question of Political Subjectivity

Describing the nature of his project, Tocqueville wrote in an 1831 letter to his father: "One of the things which most particularly attracts my attention in the United States is the internal administration of each State, and after that of the entire Union."²⁷ "Each fact," he continued, "is without particular physiognomy for me," owing in large part to the fact that his education and experience up until that point were wholly dependent on his understanding of

²⁷ Alexis de Tocqueville quoted in Pierson, *Tocqueville in America*, 404.

France. Despite these epistemic deficits, as Pierson describes, Tocqueville appeared “essentially ‘binocular;’ he seemed to have the power to bring two widely separated objects into one field of vision... In effect, he was analysing the whole of modern civilization, yet trying to explain it all by the development of one great idea.”²⁸ From a decidedly comparative perspective, Tocqueville saw in the United States the “gradual development” of democracy as a “providential fact,” evident in both the political thought of the American Revolution and institutional arrangements produced by subsequent constitutional debates. This prophetic vision, to borrow Pierson’s phrase, directed both his analysis and the lessons he thought he could extract to guide domestic reform in France.²⁹ In this way, *Democracy in America* was deeply subjective: Tocqueville presented an abstraction—and one filtered through an uninitiated, unscientific, and at times contradictory point of view.³⁰ However opaque and reductionist, this viewpoint nevertheless proves useful as a matter of theory.

Because the study of American society was for Tocqueville much less about descriptive utility than it was about general principle, the distortionary impact of his perspective tilts his conclusions toward a more coherent, theoretically rigorous understanding of American politics and society than can be seen through a strict reconstruction of history. From him we inherit an idealized view of the American political system built on a mixed sociological, philosophical, and political scientific method of inquiry. The value in studying Tocqueville, then, comes not from the veracity of his claims, *per se*, but from the subsequent influence of this methodological synthesis on the self-perception of American democracy as an historical inevitability—an ideological project dedicated to the creation of “a more perfect Union.” Put another way,

²⁸ Pierson, *Tocqueville in America*, 758.

²⁹ Alexis de Tocqueville, *Democracy in America*, ed. Eduardo Nolla, trans. James T. Schleifer, (Indianapolis: Liberty Fund, 2010), 10. This edition is hereafter referred to as *DA*.

³⁰ See Pierson, *Tocqueville in America*, 755–757.

understanding the United States from Tocqueville's perspective centers the liberal democratic theory over historical reality in the same way a model generalizes from a particular circumstance.

B. Individual Equality as a Source of Tyranny

While exploring *Democracy in America*, it is important to situate Tocqueville's analysis of democratic institutions within his broader analysis of political society. For him, political structure follows from communal organization. "Democracy," he writes, "constitutes the social state; the dogma of the sovereignty of the people, the political law."³¹ By social state, he means "society's way of being"—its mores, prejudices, and normative assumptions governing individual and group behavior. Democracy, as with alternative systems of government, consequently adopts a unique, quantifiable character defined by the relative "equality or inequality of conditions."³² From the Tocquevillian perspective, then, it is not sufficient to simply define democracy as a kind of political procedure in which members of a polity participate in its governance. Instead, for Tocqueville at least, the political arrangement of a particular society—the political law, he calls it—is *consequent to* that society rather than *constitutive of* it. That is to say, social mores and prejudices precede political society and provide the broad contours for it. In reconstructing Tocqueville's democratic theory, it is therefore necessary to begin with social principles before explaining the role of political institutions.

For democratic societies, the principle equality of conditions structures all other arrangements. Equality in this sense refers not only to political rights and privileges but also the overall structure of society both economically and socially. Exploring the origins of this equality reveals much about the nature of democracy.

³¹ *DA*, 76.

³² See *DA*, 76, footnote g.

As we have seen, the United States was interesting to Tocqueville as a point of comparison, and his analysis of the American class structure reflects this. In his view, American laws and customs concerning the inheritance of wealth preclude the kind of *generational* social segmentation that characterized aristocratic Europe.³³ “[I]t was the law of inheritance,” he says, “that pushed equality to its last stage.”³⁴ Thus, as he describes, the relative equality of wealth ultimately served as the basis of democratic society in the United States—not because it meant wealth was distributed equally among all members of society, but because it meant no individual or class of individuals legitimately stood above the rest. Thus, “wealth circulates there with incredible rapidity, and experience teaches that it is rare to see two generations reap the rewards of wealth.” As Pierson points out, however, Tocqueville also recognized that such analysis discounted both the regional differences between Northern commercial and South plantation societies as well as the role westward expansion played in sustaining economic equality (at least for white Americans).³⁵ In general, though, we see that Tocqueville attributes a sizable share of the democratic nature of American society to a fundamental sense of equality.

In terms of the social implications for the equality of conditions, Tocqueville’s view is most easily discerned through his analysis of education in the United States. Tocqueville writes:

Nearly all Americans live comfortably; so they can easily gain the primary elements of human knowledge.

In America, there are few rich [\neq and the rich do not form a class apart. The consequences of this fact in relation to education are of several kinds. \neq]; nearly all Americans need to have an occupation. Now, every occupation requires an apprenticeship. So Americans can devote only the first years of life to general cultivation of the mind; at fifteen, they begin a career; most often, therefore, their education concludes when ours begins. If pursued further, it is directed only toward a specialized and lucrative field; they study a field of knowledge in the

³³ See *DA*, 76–85.

³⁴ *DA*, 78.

³⁵ Pierson, *Tocqueville in America*, 369.

way they prepare for a trade; and they take only the applications recognized to have immediate utility.³⁶

Despite this oversimplification, taking education as a proxy for socioeconomic status sustains the theoretical value of the analysis and reveals certain implications for American politics. As Tocqueville describes, the American approach to education incentivizes those “who have the taste for study” to forego intellectual development in favor of work, resulting in a society in which “no class exists that honors intellectual work and in which the penchant for intellectual pleasures is handed down with affluence and hereditary leisure.”³⁷ American attitudes toward education serve a similar purpose to customs around inherited wealth: “not only fortunes are equal in America,” Tocqueville writes; “to a certain degree, equality extends to the minds themselves.”³⁸ In this way, relative economic and intellectual equality define the American social state; they also carry dramatic implications for the meaning of democracy as well. In subsequent chapters, Tocqueville defines the American “democratic republic” as nothing but the natural consequences of the “equality of conditions and intellectual equality” applied across classes, regions, and political dispositions.³⁹ And as we have seen, this means a society with relatively equal levels of economic opportunity and educational attainment. In contrast to contemporary theories of democracy, however, it is not the case for Tocqueville that this equality represents an intrinsic good. Instead, equality produces “a certain middling level of human knowledge” and wealth that contrasts with the extreme disparities in aristocratic Europe. Thus, in the United States equality “in fortune and in mind” renders each American “more equal in strength than they are in any other country in the world...”⁴⁰ by a process of leveling.

³⁶ *DA*, 87. Note that bracketed inequalities signify portions of text Tocqueville himself ultimately excluded from the published manuscript but were present in earlier drafts.

³⁷ *DA*, 87.

³⁸ *DA*, 87.

³⁹ *DA*, 455.

⁴⁰ *DA*, 88.

The consequences of this leveling are several—particularly as they relate to the legitimate exercise of political agency in democratic societies. In the second volume of *Democracy in America*, Tocqueville explains:

As conditions become equal, a greater number of individuals will be found who, no longer rich enough or powerful enough to exercise a great influence over the fate of their fellows, have nonetheless acquired or preserved enough enlightenment and wealth to be able to be sufficient for themselves. The latter owe nothing to anyone, they expect nothing so to speak from anyone; they are always accustomed to consider themselves in isolation, and they readily imagine that their entire destiny is in their hands.⁴¹

This self-reliance—perhaps more accurately termed self-isolation—serves as the basis of individualism. By individualism, I mean to describe the tendency to consider oneself in isolation and consequently act without regard for the interests of the group. Indeed, as theorist Doris Goldstein observed in her analysis of the nature of citizenship in Tocqueville’s work, individualism “leads men to think of themselves as isolated atoms, without ties to society at large.”⁴² This emphasis on self-interest, she continues, caused in Tocqueville’s view the “gradual extinction of public virtue and its replacement by apathy, by a state of utter indifference to the general well-being.”⁴³ For in a society premised on the need to be and be seen as self-sufficient, dependence actively undermines a claim to equality.

In subsequent chapters, Tocqueville further develops his distinction between aristocratic and democratic societies. Central to this difference is the role that social dependency plays in political action. He writes:

In aristocratic societies, men do not need to unite in order to act, because they are held tightly together.

⁴¹ *DA*, 884.

⁴² Doris S. Goldstein, “Alexis de Tocqueville’s Concept of Citizenship,” *Proceedings of the American Philosophical Society* 108, no. 1 (1964), 41.

⁴³ Goldstein, “Tocqueville’s Concept of Citizenship,” 41.

There, each citizen, rich and powerful, is like the head of a permanent and compulsory association that is composed of all those who are dependent on him and who are made to cooperate in the execution of his plans.

Among democratic peoples, on the contrary, all citizens are independent and weak; they can hardly do anything by themselves, and no one among them can compel his fellows to lend him their help. So they all fall into impotence if they do not learn to help each other freely.⁴⁴

Thus, as a direct corollary of the democratic social state, no one individual in democratic societies stands out from the great body of individuals. It is not, however, the case that the equality of conditions eliminates group interest altogether; instead, the fundamental equality of the democratic social state places the atomized individual in tension with society at-large, and consequently requires that they form *voluntary* associations to remedy the deficits of the democratic social. In short, political action in democratic societies requires collective action to remedy individual weakness.

In this light, the distinguishing feature between aristocratic and democratic societies is related to political agency. Equality, as we have seen, levels the field. Thus, in order to construct a political authority—that is, a public will capable of directing politics—citizens in democratic societies (that is, atomized individuals) must organize collectively as a means of aggregating strength. In this way, equality of conditions serves as the basis for the political equality that undergirds democratic politics because it blunts the disparities between rich and poor such that neither group dominates the other; the consequence, however, is that the individual political actor has a significantly weaker capacity to affect change.

In democracies, then, political change comes not from an abstract public interest but the collective pursuit of self-interest. “Thus the most democratic country on earth,” Tocqueville writes, “is, out of all, the one where men today have most perfected the art of pursuing in

⁴⁴ *DA*, 898.

common the object of their common desires.”⁴⁵ The common pursuit of common desires requires some sort of mechanism to facilitate that project. Associations, taken here to mean organized interest groups, provide the vehicle by which these common interests are realized. As Tocqueville describes them, associations “consist[] only of the public support that a certain number of individuals give to such and such doctrines” or public programs.⁴⁶ Thus, these associations (what we might today call special interest groups) are not simply political parties; instead, they run the gamut of political organization and institutions that structure civic society and mediate the relationship between the individual and the state.

The role of the association in the mediation of public life is particularly important. Throughout *Democracy in America*, Tocqueville attributes to associations a clarifying function within the context of democratic politics. He writes, “[w]hen an opinion is represented by an association, it is forced to take a clearer and more precise form.”⁴⁷ In this way, associations serve not only to aggregate the interests of associated individuals but to represent them to the public, transforming a set of discrete interests into a politically legible, shared interest of the whole. They are, in essence, *public* extensions of the body of individuals. Given the relationship between the individual and the public as mediated by political associations, it becomes clear, as Tocqueville declares, that “the right of association seems almost as inalienable by nature as individual liberty.”⁴⁸ Associations become necessary components of politics as a means of rationalizing disparate, unintelligible interests in democratic societies in the same way that wealth and political privilege endow certain groups in aristocratic societies with the resources and intellectual capacities to direct public affairs as individuals. It should become quickly

⁴⁵ *DA*, 897.

⁴⁶ *DA*, 303.

⁴⁷ *DA*, 304.

⁴⁸ *DA*, 309.

apparent that the comparison between associations and aristocrats carries dramatic implications for political sovereignty, which we shall consider in the next section.

In sum, the equality of conditions generates individualism as a necessary product of social leveling; competition first orients attention inward and then serves to undermine a universal conception of the public interest. Consequently, various aggregations of interests—represented by political associations—displace the public interest and become the primary drivers of political society. Political participation, then, is mediated by the capacity to associate, and associations become indispensable aspects of the democratic social state. Associations, in other words, enable large-scale political participation in democratic societies and are consequently the basis of politics under conditions of equality.

C. Political Associations and the Dominion of the Majority

If associations form the basis of democratic political participation, we might ask by what process these interests are sorted and translated into political action. Indeed, the link between the individual and popular sovereignty, though deeply immersed in contemporary democratic theory, bears analyzing to disentangle the precise role of individuals in democratic politics from their role as understood through and mediated by political institutions. For in the same way that Tocqueville describes the origins of associations in the recognition of mutual interests among atomized individuals, he applies this logic to the concept of political sovereignty. He writes, for example, in the first volume of *Democracy in America* that “In America, citizens who form the minority join together, first, to determine their number,” thereby enabling them to assess the relative strength of their interests in comparison to the interests of other groups.⁴⁹ Atomized individuals thus organize together as a means of amalgamating interests and coalescing power to act on those interests; they associate as a means of translating interest into action.

⁴⁹ *DA*, 309.

The political dialectic between the majority and minority is familiar to both the academy and lay circles. And, as we have already seen in the material quoted above, there exists a seeming similarity between the idea of political associations broadly and the concept of the minority in the abstract. Of particular interest for our inquiry, then, is the political psychology of the majority-minority relationship as explored by Tocqueville in *Democracy in America*.

The specific dynamics between the majority and minority are curiously framed as a moralistic discourse throughout the text. Tocqueville describes the minority's function as one designed to "weaken the moral dominion of the majority."⁵⁰ From the perspective of the individual, then, the minority exists to "discover the arguments most suitable for making an impression on the majority" so as to "attract" the support of the body politic support.⁵¹ They aim "to convince and not to compel" the body politic to implement a particular course of action—in large part, as we have seen, because the minority by definition lacks the numerical strength of the majority. This difference in power, we should note, is intimately tied to the concept of 'moral dominion.'

To analyze the relationship between power and morality, we might begin by reconstructing the majority's role in politics. In short, the majority forms the operative power of democratic politics. "The very essence of democratic governments," Tocqueville writes, "is that the dominion of the majority be absolute; for, in democracies, nothing outside of the majority can offer resistance."⁵² The majority, then, provides a source of authority both numerically and morally because it is inconceivable that a counterbalancing force could exist without itself either constituting a new majority or resorting to violence and the dissolution of the political community. "The moral dominion of the majority," he continues, "is based in part on the idea

⁵⁰ *DA*, 309.

⁵¹ *DA*, 309.

⁵² *DA*, 409.

that there is more enlightenment and wisdom in many men combined than in one man alone...It is the theory of equality applied to minds.”⁵³ Thus, just as we saw the equality of conditions incentivize atomized individuals to engage in collective action as a consequence of their individual weakness, we see here the majority’s psychological hold over the body politic rooted in the assumption that, all else equal, the majority is necessarily more intelligent, more moral, and ultimately more legitimate. The strength of the majority becomes “irresistible” because, in Tocqueville’s view, the democratic social state—defined, as we have seen, by the equality of conditions—destroys the *individual* capacity to resist.

As will become apparent, the Tocquevillian majority-minority dialectic quickly assumes certain oppressive tendencies. As Tocqueville describes, the majority acquires its power and status through habit; it must “last in order to seem legitimate,” as “only after living under its laws for a long time do you [that is, the individual citizen] begin to respect it.”⁵⁴ Thus only after having acquired general acceptance and legitimacy do the views of the majority become stand-ins for societal views.

The same can also be said of the majority’s prejudices. To describe the more pernicious nature of majoritarian power, Tocqueville develops two related concepts: the omnipotence and despotism of the majority. Omnipotence here refers back to the irresistibility of the majority’s all-encompassing power, particularly as it relates to moral and intellectual development of political society. Despotism refers to the ways this omnipotence emulates monarchical power under the theory of the divine-rights of kings.

The root of the omnipotence of the majority is its capacity to structure and police political debates. Exploring the phenomenon, Tocqueville explains that the majority has “an immense

⁵³ *DA*, 404.

⁵⁴ *DA*, 405.

power in fact and power of opinion” precisely because “all parties are ready to recognize the rights of the majority, because all hope one day to be able to exercise those rights to their profit.”⁵⁵ The majority thus determines the contours of political acceptability because appealing to its virtues and vices is the substance of democratic contestation. Put another way, the majority draws those outside its auspices towards its view because it is only through it that a minority can hope to direct politics. And as the operative will, it admits little opposition: “Once the majority has formed on a question,” Tocqueville writes, “there is, so to speak, no obstacle that can...slow its course and leave time for the majority to hear the cries of those whom it crushes as it goes.”⁵⁶ Thus, we might properly characterize the majority as the line of demarcation between social and political acceptability and ostracization; indeed, it is the ultimate boundary of exclusion.

In the same way that the omnipotence of the majority comes to define the politically operative will, the despotism of the majority comes to define this exclusionary dynamic. Describing the nature of this psychological boundary, Tocqueville writes, “So what is a majority taken as a whole, if not an individual who has opinions and, most often, interests contrary to another individual called the minority.”⁵⁷ This parallels our earlier description of associations as representations of collective wills. A distinguishing factor, however, is the presumed universality of the majority’s views. As we have seen, habit inculcates the majority’s view with political legitimacy while the desire for power inclines minorities to temper their views so as to appeal to the majority; this relationship forms the substance of majoritarian omnipotence. Despotism follows from this realization: that even as the majority presents itself and is perceived by society to represent the society, it only ever represents a particular segment. In other words, just as the

⁵⁵ *DA*, 407.

⁵⁶ *DA*, 407.

⁵⁷ *DA*, 411.

fundamental equality of people leads to a disdain for those who fail to conform, the power of the majority leads to disregard for those outside its consensus.

This, in essence, is the root of the tyranny of the majority. Indeed, Tocqueville draws an explicitly comparison between monarchy and the democratic social state, writing that as a king “has only physical power that acts on deeds and cannot reach wills,” the majority has “a strength simultaneously physical and moral, which acts on the will as well as on actions.”⁵⁸ The consequence of this is that democracies produce “less independence of mind and true freedom” because they encourage conformity and shun those who are unwilling or unable to conform. It is indeed this blending of physical and social control that makes democracy more despotic than the autocracy, as the desire to be in power in essence serves to destroy the possibility of dissent, or, as Tocqueville calls it, democracy’s “irresistible strength” and “slight guarantee against tyranny.”⁵⁹ Moreover, as public opinion “forms the majority,” as the legislature “represents the majority and blindly obeys it,” as the president “serves it as a passive interest,” those outside the majority are without recourse.⁶⁰ For the same reasons majority opinion dominates democratic societies, then, it also decimates freedom: for as the “social power superior to all others” finds its locus in majority opinion, it threatens liberty “when this power encounters no obstacle that can check its course.”⁶¹ It overruns democratic checks, institutional constraints, and constitutional guarantees, enabling the majority to act in whatever capacity it desires, however it desires.

To summarize, the Tocquevillian perspective offers three lessons about democracy as a social state: first, that it depends on a fundamental equality between individuals; second, that the atomized individual is left comparatively weak and dependent on collective action for political

⁵⁸ *DA*, 417. 417.

⁵⁹ *DA*, 413–414.

⁶⁰ *DA*, 414.

⁶¹ *DA*, 412.

power as a consequence of the equality of conditions; and third, that the majority-minority dialectic renders majority opinion inherently tyrannical. Absent from this analysis is a conception of the role institutions play in democratic politics. As the next section explicates, the Tocquevillian perspective does offer an institutional account of democracy.

D. Institutional Expressions of the Democratic Impulse

If, as the proceeding analysis suggests, democracy is not primarily about political participation as mediated by elections (as many contemporary democratic theorists would suggest), but instead about a much broader conception of individual and collective agency, we may wonder where institutions, political rights, and constitutions factor into the democratic calculus. In his analysis of Tocqueville's political thought, Sheldon Wolin summarizes the Tocquevillian democratic theory as such:

Toqueville would identify equality in America not as a simple value but as a driving passion toward uniformity, a force that threatened to overwhelm social differences and distinctions. To contain it Tocqueville would call upon mores, traditions, habits, and especially religious beliefs and invest them with the power of controlling and blunting the drive toward equality.⁶²

Wolin then goes on to explain the connections between Tocqueville's own theory of democracy and that of Montesquieu and the American founders as explained in the *Federalist Papers*. In this, Wolin firmly situates Tocqueville within the body of liberal theorists. This analysis further parallels that of political theorist John Gray, who describes Tocqueville's concern over the effects of equality as one rooted in the question of how to preserve individual liberty in light of the power the majority exercises over the individual.⁶³ In this section, I explore Tocqueville's views on democracy as practiced at the local level to understand how institutions fit into the larger social picture.

⁶² Wolin, *Tocqueville Between Two Worlds*, 182.

⁶³ John Gray, *Liberalism*, Second (Minneapolis: University of Minnesota Press, 1995), 22.

As we saw at the beginning of Part I of this essay, Tocqueville draws a clear distinction between democracy as a social state and democracy as a political law. Subsequent to this assertion, the Frenchman remarks that “the principle of the sovereignty of the people” presents “a legal and omnipotent fact that rules the entire society” in the United States.⁶⁴ By legal and omnipotent fact, he refers most directly to actual mechanisms of governance; that is to say, the Tocquevillian analysis of institutions begins with the principle of popular sovereignty in the same way analysis of the democratic social state begins with the equality of conditions. In this light, institutions, constitutions, and political rights promote, embody, and effectuate the sovereignty of the people. This logic is best explained as applied to Tocqueville’s analysis of local government.

Tocqueville’s analysis of American political institutions famously centers his description of the New England township as the originators of democracy. Describing the role of these towns, Tocqueville writes that they are “to liberty what primary schools are to knowledge,” for they ingratiate a kind of habit of self-governance—“a taste of its peaceful practice”—and teach citizens to respect individual liberty.⁶⁵ Abstract principles of civic virtue—which, as Goldstein argues, Tocqueville takes to mean public spiritedness and political participation⁶⁶—become reality, and, in this way, become markers of group membership—which is to say, citizenship. The New England township as an institution thus performs a critical function: the production of the citizen, a term I use to describe the perhaps paradoxically publicly-oriented, individualistic member of the body politic.

This seeming paradox between the democratic individual (as was explored in the previous sections) and the public citizen bears further elaboration. If, as we have seen, the

⁶⁴ *DA*, 91–92.

⁶⁵ *DA*, 102.

⁶⁶ See Goldstein, “Tocqueville’s Concept of Citizenship,” 53.

equality of conditions inclines individuals to consider themselves in isolation and to associate only as a means of attaining certain political ends, how is it that the township rejects these fundamental social dynamics to produce *public* citizens? More fundamentally, how is democratic governance even possible in the context of the democratic social state, given that Tocqueville takes this state to mean the dissolution of involuntary social ties?

The remedy may in fact lie in the question itself. As we have explored, the democratic social state eradicates the compulsory associations of aristocracies and replaces them with interest-based alternatives. In a certain light, then, the town itself provides a kind of locus for the realization of mutual self-interest. For Tocqueville, because the sovereignty of the people—taken to mean a political relationship in which “each individual forms an equal portion of the sovereign power”—forms the basis of the political law, the atomized individual is incentivized to participate in society on a *voluntary* basis. The individual, Tocqueville writes, “obeys society, not all because he is inferior to those who direct it or less capable than another man of governing himself; he obeys society because union with his fellows seems useful to him...”⁶⁷ He continues:

So in all that concerns the mutual duties of citizens, he has become a subject. In all that concerns only himself, he has remained the master; he is free and is accountable for his actions only to God. Thus this maxim, that the individual is the best as well as the only judge of his particular interest and that society has the right to direct his actions only when it feels harmed by them, or when it needs to call for his support.⁶⁸

Society augments the individual, allowing them to achieve and attain more than they would as discrete individuals. Mutual self-interest incentivizes cooperation in society in the same way that the recognition of individual weakness encourages associations among individuals.

The cultivation of civic virtue—that is, a sort of public spirit—is intimately related to this Tocquevillian social contract as well. “It is in the town,” Tocqueville argues, “that the desire for

⁶⁷ *DA*, 108.

⁶⁸ *DA*, 108.

esteem, the need for real interests, the taste for power and notice are focused.”⁶⁹ He further explains that

The inhabitant of New England is attached to his town, because it is strong and independent; he is interested in it, because he participates in its leadership...He becomes accustomed to the forms without which liberty proceeds only by revolutions...and finally gathers clear and practical ideas about the nature of his duties as well as the extent of his rights.⁷⁰

For Tocqueville, then, public spirit stems both from society’s unique capacity to remedy public issues (i.e., issues affecting the public) and from the psychological benefits individuals enjoy as political agents (i.e., people capable of directing public affairs) and members of the body politic (by which I mean to refer to the esteem one derives from group membership). To summarize, democracy as the political law of society is the embodiment of popular sovereignty insofar as it represents the continuance of certain associative relationships between atomized individuals. Thus, it preserves the concept of citizenship by transforming the collection of individuals into the politically legible concept we might call the People.

Translating democracy as the sovereignty of the people from the local to the national level is on the one hand simply the expansion of the local community to encompass a national identity; the issues become larger, and the interests more diverse, but the fundamental relationship of voluntary, utility-based associations between atomized individuals remains the same. “The dogma of the sovereignty of the people,” Tocqueville explains, “emerged from the town and took over government,” shaping the American approach to democratic governance by ingraining it with a set of inherited principles from the New England township.⁷¹ Individualism,

⁶⁹ *DA*, 112.

⁷⁰ *DA*, 112.

⁷¹ *DA*, 92.

the desire for public esteem, and the custom of self-governance in this way constitute democracy in America.

On the other hand, there are distinctions between the two levels of governance, however, and it is important to briefly consider them. Indeed, despite what Tocqueville describes as a “marvelous accord” between the Constitution and the “fortune and human efforts” that constructed American democracy, national political institutions serve a dualistic purpose: to promote as well as *refine* the sovereignty of the people.⁷² Adopting a comparative perspective reveals the veracity of this claim. Compared to the monarchies of Europe, for example, Tocqueville describes the American presidency as “weak and dependent,” subject to the popular will as expressed through Congress and the Electoral College for its power and authority, respectively.⁷³ Similarly, popular sovereignty controls Congress: “The Americans,” he says, “have wanted the members of the legislature to be named *directly* by the people and for a *very short* term, in order to force them to submit not only to the general views, but also to the daily passions of their constituents.”⁷⁴ In this way, the people direct both executive and legislative action at the federal level.

The federal judiciary, and the power of judges more broadly, however, serves to constrain popular sovereignty. The courts, Tocqueville observed, were conceived as an unelected branch of national government and thus served as an institutional intermediary. He writes, “To them [the judiciary], the executive power appeals in order to resist the encroachments of the legislative body; the legislature to defend itself against...the executive power; the Union, to make the states obey; the states, to repulse the exaggerated pretensions of the Union.”⁷⁵ Beyond interbranch

⁷² *DA*, 219.

⁷³ *DA*, 219.

⁷⁴ *DA*, 403.

⁷⁵ *DA*, 245.

disputes Tocqueville sees a role for the courts in the mediation of societal disputes broadly. Judges balance “public interest against private interest,” and in this way “the spirit of conservation against democratic instability.”⁷⁶ Lifetime appointments, education, and general political disposition—each serve to develop in the individual judge a “personal interest in society remaining immobile,” and thereby imbue the judiciary with an inherent conservatism that Tocqueville sees as “singularly aristocratic.”⁷⁷ Thus, he concludes:

When you visit the Americans and study their laws, you see that the authority that they have given to jurists and the influence that the Americans have allowed them to take in government form today the most powerful barrier to the errors of democracy.⁷⁸

As we have seen, the errors Tocqueville references pertain to the moral, social, and psychological power of the majority—specifically, its capacity to overrun opposition and eliminate dissent. The conservative disposition of judicial institutions, then, theoretically serves to arrest the passions (and prejudices) of the people and preserve individual liberty.

In this institutional analysis, we might compare Tocqueville’s views to that of the Constitution’s framers who also embraced a theory of institutional constraint on majoritarian government. In *Federalist No. 51*, for example, James Madison describes the separation of powers as an “auxiliary precaution[.]” to supplement the people’s role in checking democratic excesses.⁷⁹ The division of authority across three branches, he concludes, *in theory* serves to set “opposite and rival interests” against the other. The Tocquevillian perspective, by contrast, is premised on the realization that the shared basis of executive and legislative authority in popular approval *in practice* renders both insufficient checks on the majorities that constitute them. The emphasis on the inherent conservatism of the judiciary, then—and, in particular, its strict

⁷⁶ *DA*, 245.

⁷⁷ *DA*, 431.

⁷⁸ *DA*, 431.

⁷⁹ James Madison, “Federalist No. 51,” in *The Federalist Papers*, ed. Clinton Rossiter (New York: Signet Classics, 2003), 319.

adherence to the customs of individual liberty—regulates majority opinion by conforming it to the precepts of the democratic political law. It is important to note, however, that in the American political system, judges are themselves products of majoritarian influences (they are, of course, nominated by the president and confirmed by the Senate). As we earlier observed, democracy as the political law is *consequent to* democracy as the social state of society, Thus judges as the final arbiters of the political law are only modest protections against majoritarian tyranny at best and at worst active participants.

E. Democracy in Tocqueville's America

To summarize, then, under the Tocquevillian perspective democracy presents two related forms: as the social state of society and as society's political law. Democracy as a social state is premised on a fundamental equality of conditions that produces a society of atomized individuals. Understood to be comparatively weak, these individuals form political associations and communities to pursue mutual self-interest. In pursuit of these interests, certain coalitions predominate, introducing the majority-minority dialectic and serving as the basis for majoritarian tyranny. Democracy as the political law transforms these social dynamics into political institutions, converting the atomized individual into the democratic citizen. Institutions thus provide a locus of political theorization, but one that crucially remains secondary to the particularities of the democratic social state.

This theoretical insight is critical to understanding the persistence of racial domination in the United States today. As Part II shows, democracy as a social state situates the atomized individual as the defining political ontology. In Part III, I argue that race itself should constitute a political ontology in democratic theory. I further contend that the failure to consider race as such—which is often typical of liberal democratic theory—limits our conception of the political

subject and consequently introduces an epistemic deficit to democratic theory that embeds it with an inherently racist tendency. This argumentation is built on a synthesis of the works of several Black political theorists. I extend this scholarship by connecting it to the Tocquevillian analysis of race and its relationship to American democracy.

IV. Race in the Democratic Social State

But these men are your brothers, your lost younger brothers, and if the word “integration” means anything, this is what it means, that we with love shall force our brothers to see themselves as they are, to cease fleeing from reality and begin to change it, for this is your home, my friend. Do not be driven from it. Great men have done great things here and will again and we can make America what America must become.

– James Baldwin, “A Letter to My Nephew”

The story of race in America is a familiar one. Brought about by European colonial expansion, the African slave trade and system of racialized chattel slavery fundamentally shaped our politics and institutions. As revealed by the origins of the Article 1’s Three-Fifths Clause, which specifies that slaves should count as three-fifths a person for purposes of congressional representation, even the Constitution was marred by the nation’s original sin. With the passing of the Civil War and the accompanying Thirteenth, Fourteenth, and Fifteenth Amendments, the nation sought to redefine itself, to cast off the shackles of the past and embrace an egalitarian future. In his seminal work describing ante- and postbellum American society, *Black Reconstruction in America*, the famed sociologist and political historian W. E. B. Du Bois writes:

The true significance of slavery in the United States to the whole social development of America lay in the ultimate relation of slaves to democracy... Was the rule of the mass of Americans to be unlimited, and the right to rule extended to all men regardless of race and color, or if not, what power of dictatorship and control; and how would property and privilege be protected?⁸⁰

⁸⁰ W. E. B. Du Bois, *Black Reconstruction in America, 1860-1880* (New York: The Free Press, 1935), 13.

This question continued to trouble Americans well after Du Bois first posed it. If indeed democracy was to mean a “government of the people, by the people, for the people,”⁸¹ American history post-Reconstruction demonstrated with near surgical precision that the American perception of personhood was premised on its express denial to the newly freed Black masses. Indeed, whether in hotels, inns, or Louisiana streetcars, the emancipatory potential of the Reconstruction Amendments was quickly stripped away, rendering what Civil War historian Eric Foner calls the nation’s “second founding” all but null and void.⁸² By the 1960s, however, sustained organizing by Black civil rights activists successfully shifted public opinion and yielded the Civil Rights Act of 1964 and Voting Rights Act of 1965. Moreover, as professor of African American Studies Carol Anderson demonstrates in her analysis of voter suppression today, *One Person, No Vote*, these gains were short-lived as contemporary conservatives movements continue to unravel the gains of the civil rights movement.⁸³

The story of race in America, then, is a paradoxical one—defined both by the promise and disappointments of egalitarian democracy. Traditional accounts of racial progress, however, tend to emphasize the former, focusing on legal and/or institutional change and framing reactionary turns as departures from an otherwise fundamentally egalitarian logic. As the Reverend Dr. Martin Luther King, Jr., declared on the steps of the Lincoln Memorial,

When the architects of our republic wrote the magnificent words of the Constitution and the Declaration of Independence, they were signing a promissory note to which every American was to fall heir. This note was a promise that all

⁸¹ *For the most famous iteration of this phrase, see Abraham Lincoln, “Gettysburg Address Delivered at Gettysburg Pa. Nov. 19th, 1863. [n. p. n. d.],”* Library of Congress, Washington, D.C., accessed April 25, 2023, <https://www.loc.gov/resource/rbpe.24404500/?st=text>.

⁸² See Eric Foner, *The Second Founding: How the Civil War and Reconstruction Remade the Constitution* (New York: W. W. Norton & Company, 2019). In particular, see his chapter “Justice and Jurisprudence” for a discussion of the conservative reaction to the Reconstruction Amendments.

⁸³ See Carol Anderson, *One Person, No Vote: How Voter Suppression Is Destroying Our Democracy* (New York: Bloomsbury Publishing, 2018).

men—yes, Black men as well as white men—would be guaranteed the unalienable rights of life, liberty, and the pursuit of happiness.

It is obvious today that America has defaulted on this promissory note insofar as her citizens of color are concerned. Instead of honoring this sacred obligation, America has given the Negro people a bad check, a check which has come back marked insufficient funds.⁸⁴

In this part, I contend that Dr. King as presented in this speech had it wrong; I contend that rather than issue a bad check, American democracy has upheld the terms of its contract in full. Indeed, I argue that those terms should be understood not as specifying equality and justice for all but unequal citizenship and partial inclusion on the basis of race. In this way, I maintain that the persistence of inequality we see throughout history into today—despite formal legal, civic, and political gains—can be explained by applying the Tocquevillian analysis of democracy to race. In line with prior scholarship, I argue that the Tocquevillian perspective reveals that racial exclusion is an inherent aspect of American democracy.

My argument proceeds first by reconstructing Tocqueville’s analysis of race and connecting it to a broader literature on race in America. I then connect the racial analysis to the Tocquevillian perspective on democratic theory, before finally expounding on the intractability of racial exclusion itself.

A. Refining the Tocquevillian Perspective

Tocqueville’s views on democracy and race are well-established in isolation; what follows, then, is a more nuanced view on Tocqueville’s views of race in democracy as the political implications this relationship holds for a multiracial, egalitarian society. Through the lens of *Democracy in America*, Rogers Smith, for example, argues that a proper conception of the Tocquevillian perspective should lead us to view “empirically

⁸⁴ Martin Luther King, Jr., “Read Martin Luther King Jr.’s ‘I Have a Dream’ Speech in Its Entirety,” *NPR*, January 14, 2022, sec. Race, <https://www.npr.org/2010/01/18/122701268/i-have-a-dream-speech-in-its-entirety>.

differentiated forms of citizenship [as] inevitable” given the ubiquity of identity-based domination and discrimination historically and in modern politics.^{85,86} “Crude Tocquevillian accounts,” Smith continues, “argue that the relative equality of conditions with which the US began launched it on a trajectory towards formally equal, uniform laws of citizenship.”⁸⁷ Understanding the ways in which the premise obscures the reality of the United States at the time of Tocqueville’s travels and well into the present day, as Smith rightly argues,⁸⁸ is therefore critical to developing a more theoretically rigorous and useful perspective on American politics. Indeed, a more accurate rendition of the Tocquevillian perspective takes the democratic theory as expounded in Part II and uses it as a lens with which we can parse out the political tensions within Tocqueville’s analysis of American race relations—a task which we shall adopt in the following sections.

To begin, though, it bears returning ourselves to the comparative perspective; for it is in this modality that the Frenchman opens the last chapter of *Democracy in America*’s first volume, writing: “You experience in America something more than an immense and complete democracy; the people who inhabit the New World can be seen from more than one point of view.”⁸⁹ “These topics,” Tocqueville continues, “touch on my subject, but do not enter into it; they are American without being democratic...”⁹⁰ The author intends here to draw a clear line of demarcation between the status of Black and Indigenous peoples within American society and the overarching theory of American democracy, in general. His subsequent analysis, however,

⁸⁵Rogers M. Smith, “Equality and Differentiated Citizenship: A Modern Democratic Dilemma in Tocquevillian Perspective,” in *Anxieties of Democracy: Tocquevillian Reflections on India and the United States*, ed. Partha Chatterjee and Ira Katznelson (Oxford University Press, 2012), <https://doi.org/10.1093/acprof:oso/9780198077473.003.0004>.

⁸⁶In support of this historical assertion, see the analysis provided in the introduction to this part.

⁸⁷Smith, “Equality and Differentiated Citizenship.”

⁸⁸Smith, “Equality and Differentiated Citizenship.”

⁸⁹*DA*, 515.

⁹⁰*DA*, 516.

reveals deep-seeded, fundamental connections between the earlier discussed majority-minority dialectic and the racial domination of Black slaves, in particular.⁹¹

B. Blackness as Social Death

As we saw in Part II of this paper, the majority-minority dialectic plays on democracy as a social state. In leveling the intellectual development of the mass of individuals, the equality of conditions subjects each individual to the moral, intellectual, and psychological dominion of the majority. This is, as we saw, the basis of the tyranny of the majority. Just as these dynamics apply to discrete societal interests, they also apply to discrete identity groups. Thus the democratic social state, specifically by means of majoritarian tyranny, facilitates racial domination by the majority group.

We can better understand this connection by reconstructing Tocqueville's arguments concerning the nature and impact of slavery. For him, American chattel slavery represented a kind of total personal, social, and psychological destruction of the individual. "Oppression," he says, "deprived the descendents of the Africans at a stroke of nearly all the privileges of humanity," including their country, language, religion, and cultural mores; they had no family and no practical social connection except the master-slave relationship.⁹² Isolated from others, the slave "scarcely feels his misfortune" because "the practice of servitude has given him the thoughts and ambitions of a slave; he admires his tyrants even more than he hates them, and finds his joy and his pride in servile imitation of those who oppress him. His intelligence has fallen to the level of his soul."⁹³ Thus, in Tocqueville's view, enslaved Black Americans "enter[]

⁹¹ The ensuing analysis focuses specifically on the condition of Black slaves and their descendents in the United States. There are, however, important connections to be drawn between the oppression of Black people as a consequence of American democracy and the oppression of other groups, like Indigenous peoples or immigrants. For clarity of argument, such analysis is left by this author to other scholars.

⁹² *DA*, 517.

⁹³ *DA*, 517.

into servitude and into life at the same time” and are consequently shaped by their demeaned status. Stripped of social bonds, authentic psychological expression, and intellectual development, slavery is defined by a basic denial of the vestiges of humanity. In this way, the individual slave loses what Tocqueville calls “ownership of his person” in the deepest sense possible.

The sociological impacts of slavery were significant as well. Comparing slavery as practiced in antiquity and the chattel system that emerged from European colonization, Tocqueville argues that while “evils produced by slavery [in both cases] were nearly the same,” the “consequences of these evils were different” as a result of the latter’s dependence on race.⁹⁴ As Tocqueville describes, “[t]he modern slave differs from the master not only in liberty, but also in origins...[thus] he remains in the position of a stranger vis-à-vis the European.”⁹⁵ In this way, slavery not only becomes a system of individual domination but also one of socialized prejudice. Thus even “after abolishing slavery,” Tocqueville writes, “modern peoples still have to destroy three prejudices...the prejudice of the master, the prejudice of race, and finally the prejudice of the white.”⁹⁶ Enduring relationships of dominance and subordination, built on the immutable difference of skin color, thus serve to construct a culture of racial domination, premised on the socially-constructed superiority of white and inferiority of Black. Tocqueville summarizes (and it is worth quoting here at length):

Among the ancients the slave belonged to the same race as his master, and often he was superior to him in education and enlightenment. Liberty alone separated them; once liberty was granted, they easily blended.

So the ancients had a very simple means to rid themselves of slavery and its consequences; this means was emancipation, and as soon as they used it in a general way, they succeeded...

⁹⁴ *DA*, 550.

⁹⁵ *DA*, 551.

⁹⁶ *DA*, 552. 552.

There is a natural prejudice that leads man to scorn the one who has been his inferior, long after he has become his equal; real inequality produced by fortune or law is always followed by an imaginary inequality that has its roots in mores; but among the ancients this secondary effect of slavery came to an end. The emancipated man so strongly resembled the men who were born free that it soon became impossible to distinguish him from them.

What was more difficult among the ancients was to change the law; what is more difficult among modern peoples is to change mores, and for us the real difficulty begins where in antiquity it ended.

This happens because among modern peoples the non-material and transitory fact of slavery is combined in the most fatal way with the material and permanent fact of the difference of race. The memory of slavery dishonors the race, and race perpetuates the memory of slavery.⁹⁷

In this description of the personal and social impacts of slavery, there exists a remarkable similarity between the Tocquevillian perspective and the perspective of more contemporary Black sociologists and political theorists. In “The Constituent Elements of Slavery,” Orlando Patterson, for example, describes slavery as a kind of “social death.”⁹⁸ In line with Tocqueville, he abstracts from the coercive, isolating, and exclusionary nature of bondage a picture of slavery as a *relation* to domination. As a definition, specifically, he writes: “*Slavery is the permanent, violent domination of natively alienated and generally dishonored persons.*”⁹⁹

This tripartite conception of slavery as social death connects to Tocqueville’s own views. Gratuitous violence served to transform the slave from person to property. Patterson explains:

The worker who is fired remains a worker, to be hired elsewhere. The slave who was freed was no longer a slave. Thus it was necessary continually to repeat the original, violent act of transforming free man into slave.¹⁰⁰

This act of transformation occurred both literally (in the actual violent capture of slaves) and metaphysically/psychologically (in instances of extreme brutality and torture that continually

⁹⁷ *DA*, 551. 551.

⁹⁸ Orlando Patterson, *Slavery and Social Death: A Comparative Study* (Cambridge, Massachusetts: Harvard University Press, 1982), 8.

⁹⁹ Patterson, *Slavery and Social Death*, 13.

¹⁰⁰ Patterson, *Slavery and Social Death*, 3.

reinforced existing racial hierarchies well after emancipation¹⁰¹). Whereas the violence of slavery served to induce a kind of psychological domination, natal alienation constituted a form of social domination by denying the slave a cultural context outside that of the master-slave relationship. Thus, as Patterson describes it, “[b]ecause the slave had no socially recognized existence outside of his master, he became a social nonperson” in the eyes of (white) society, if not to his own community.¹⁰² Finally, the generally dishonored status of slaves, in Patterson’s view, calcified the division between privately dominated, socially degraded, and publicly illegible slaves. He writes “the origin of [the slave’s] status, the indignity and all-pervasiveness of his indebtedness, his absence of any independent social existence, but most of all because he was without power except through another” leaves him essentially as the sociopolitical inverse of the publicly-minded, atomized individual citizen.¹⁰³ On these three points—the violent domination, natal alienation, and general dishonor of slaves— Patterson parallels Tocqueville’s description of the total personal, social, and psychological destruction of the slave.

It is crucial to recognize that the Tocquevillian perspective on slavery—which I take at this point to mean slavery as social death—is itself a theoretical construct. That is to say, it is most reflective of white racial sentiment as could be discerned from the white prejudice that inculcated social interactions, legal practices, and political institutions. I say white prejudice because white dominance of society was then (and in many ways still is) ubiquitous. Thus, as we saw in Part II, specifically in the role the majority plays in constructing society’s prejudices, the Tocquevillian perspective demonstrates how a society dominated by white interests and

¹⁰¹ For a discussion of these practices and their psychological impacts in the United States pre- and, especially, post-emancipation, see Ida B. Wells-Barnett’s seminal, if understudied, account of lynchings and other forms of racialized violence in *The Red Record*. Ida B. Wells-Barnett, *The Red Record: Tabulated Statistics and Alleged Cause of Lynching in the United States*, ed. Suzanne Shell and Melissa Er-Raqabi, The Project Gutenberg EBook (Project Gutenberg, 2005).

¹⁰² Patterson, *Slavery and Social Death*, 5.

¹⁰³ Patterson, *Slavery and Social Death*, 10.

prejudices is necessarily structured by the omnipotence of the white majority. This conclusion contrasts with the antebellum historiography of Black political thought. As political scientist Alvin B. Tillery reveals in his analysis of the Black counterpublic's initial reception of *Democracy in America*, Black intellectuals of the period often rejected Tocqueville's analysis, seeing "much of Tocqueville's reasoning about the distinct conditions of the black and white races as reifying arguments that had been deployed against them during their bondage."¹⁰⁴ Yet as Tillery details, a profound shift in views occurred among Black intellectuals after the Compromise of 1877, which formally ended federal efforts to enforce the provisions of Reconstruction. Indeed, after the withdrawal of federal troops and resurgence of extreme racial violence and *de jure* as well as *de facto* discrimination, "Tocqueville's claims about the dilemmas that the 'prejudice of the white' caused for race relations in the United States," Tillery explains, "perfectly encapsulated the sentiments of the black intelligentsia during the nadir period."¹⁰⁵ The systematic dismantling of Reconstruction by white prejudice revealed the fundamental truth of the Tocquevillian perspective.

For both Black and white audiences, then, slavery meant a kind of social death that simultaneously subordinated Blacks, reinforced white prejudice, and transcended time. In this way, slavery as social death forms the basis for our understanding of race as a fundamental construct for democratic politics. By fundamental construct, I mean to describe the ways that a particular concept structures politics and, in particular, the individual's capacity to participate in it. Thus, in asserting race as a fundamental construct for democratic politics, I mean to suggest that race itself fundamentally structures the capacity of racialized individuals' political capacities

¹⁰⁴Alvin B. Tillery, "Reading Tocqueville behind the Veil: African American Receptions of *Democracy in America*, 1835–1900," *American Political Thought* 7, no. 1 (January 2018): 1–25, <https://doi.org/10.1086/695643>, 5.

¹⁰⁵ Tillery, "Reading Tocqueville behind the Veil," 5.

in an intrinsic way. This idea is built on certain arguments of Frank B. Wilderson, professor of African American studies and Drama at the University of California, Irvine, who stated in an interview:

What Orlando Patterson does [in *Slavery and Social Death*] is shows that what slavery really is, is social death. In other words, social death *defines* [emphasis added] the relation between the slave and all others. Forced labor is an example of the *experience* that slaves might have... If you take that move [of redefining slavery as social death] and you take out property relations—someone who's owned by someone else—you take that out of the definition of slavery and you take out forced labor, and if you replace that with social death and those three constituent elements, what you have is a continuum of slavery subjugation that Black people exist in and 1865 is a blip on the screen. It is not a paradigmatic moment, it is an experiential moment, which is to say that the technology of enslavement simply morphs and shape shifts—it doesn't end with that.¹⁰⁶

Put another way, this says that while the experience of slavery as forced labor is itself transient, the underlying condition of social death is not; as a consequence of the total domination of the Black individual by slavery itself and its vestiges (in the form of sharecropping, extreme racial violence, *de facto* discrimination, etc.), Black existence becomes paradigmatic of social death, such that its logics structure both the meaning of Blackness and its relationship to political society.

A maximalist conception of this argument might then assert that Blackness, structured as it is by social death, represents a kind of forever enslavement without the possibility of freedom: the idea, in essence, that Black people in America can never be free.¹⁰⁷ It is not, however, my aim to wholly embrace this ideological construct. In teasing out the similarities between the Tocquevillian perspective and certain strains of the Afro-pessimist worldview, I instead invoke the theory as conceptual shorthand in order to reiterate the fundamental connection between the

¹⁰⁶ Frank B. Wilderson, III, “Blacks and the Master/Slave Relation,” in *Afro-Pessimism: An Introduction* (Minneapolis: Racked & Dispatched, 2017), 18.

¹⁰⁷ *Afro-Pessimism: An Introduction* (Minneapolis: Racked & Dispatched, 2017). For a lengthier discussion of both the substance and evolution of this idea, including the various offshoots of what is now considered Afro-pessimist thought, see this volume in its entirety.

democratic social state and racial exclusion, which we might now understand as a social death in the eyes of the wider political community. In this way, we might understand slavery and the persistent racial inequality that followed as the application of the logic of slavery as social death to subsequent conditions of Black Americans.

Slavery as social death carries a number of implications for understanding political society in the context of race. If indeed, as the Tocquevillian perspective suggests, democratic societies are premised on a fundamental equality between individuals, how is it that a subset of those individuals are so totally dominated as to become socially dead in the eyes of the majority?

C. Whiteness as Aristocratic Citizenship and the Resolution of the Racial Paradox

In his chapter “Tocqueville’s Reflections on a Democratic Paradox,” theorist Jean-Louis Benoît underscores the seeming paradox between democracy as a social state and slavery as a state of social death, which he describes as fundamentally “incompatible” with the “man’s equality as a cardinal principle [and] the foundation of all modern democracies.”¹⁰⁸ “[T]hus, the existence of both of these things in America,” he concludes, “can be considered a veritable democratic paradox, an antinomy.” This paradox, however, is quickly explained by exploring the logic of white racial prejudice.

If, as the previous section demonstrates, the Tocquevillian perspective on race enables us to reconstruct the essence of Blackness as a form of social death, Tocqueville himself offers very little characterization of the conceptual mirror—that is, whiteness as a fundamental political construct. Indeed, to the extent Tocqueville analyzes American racial dynamics from a white perspective, the impacts are less specific to the individual and more particular to the individual’s position in society.

¹⁰⁸ Jean-Louis Benoît, “Tocqueville’s Reflections on a Democratic Paradox,” in *Tocqueville’s Voyages: The Evolution of His Ideas and Their Journey Beyond His Time*, ed. Christine Dunn Henderson (Indianapolis: Liberty Fund, 2015), 278.

This can be seen through Tocqueville’s analysis of the sociological and psychological differences of whites in the North and South. Describing these, Tocqueville sees white Americans of the North as “obliged to live by [their] own efforts” and contrasts this with a perceived laziness among those living in the South; the Southerners, he says, “scorn[] not only work, but all the enterprises that work brings to success... So slavery not only prevents whites [in the South] from making a fortune, it turns them away from wanting to do so.”¹⁰⁹ Focusing specifically on Southern society, Tocqueville’s analysis was scathing: “There [in the South],” he wrote in his travel journal, “work is not only painful: it’s shameful, and you degrade yourself in submitting yourself to it. To ride, to hunt, to smoke like a Turk in the sunshine: there is the destiny of the white. To do any kind of manual labour is to act like a slave.”¹¹⁰

This idea—that manual labor itself degrades one to the *status* of the slave—is critical for understanding majoritarian tyranny manifested as racial exclusion. In the introduction to her book *American Citizenship*, political theorist Judith Shklar describes “citizenship as standing,” arguing that throughout American history “[t]he value of citizenship was derived primarily from its denial to slaves, to some white men, and to all women.”¹¹¹ She continues:

In the four great expansions of the suffrage [i.e., after the American Revolution, Reconstruction, and the passage of the 19th amendment], slavery was always a presence in the language of political argument...it is necessarily a threat. To be less than a full citizen is at the very least to approach the dreaded condition of a slave. To be a second-class citizen is to suffer derogation and the loss of respectable standing.¹¹²

We have thus far considered slavery as a kind of social death of Black Americans at the conceptual level, and shown its implications on the development of Black identity. Shklar’s

¹⁰⁹ *DA*, 560.

¹¹⁰ Tocqueville quoted in Pierson, *Tocqueville in America*, 582.

¹¹¹ Judith Shklar, *American Citizenship: The Quest for Inclusion* (Cambridge, Massachusetts: Harvard University Press, 1991), 16.

¹¹² Shklar, *American Citizenship*, 16–17.

historiography then shows the real political implications of Black social death on white political psychology: that its function, beyond the mere sustenance racial domination and chattel slavery, was to define citizenship by means of social antagonism. To be a member of the body politic meant not to be a slave, and not to be a slave meant not to be Black. Thus, Black became a proxy for non-personhood just as white became a proxy for full membership.

Whiteness as citizenship is a somewhat underdeveloped theme in *Democracy in America* itself. In his personal notes, Tocqueville describes whiteness as a form of “aristocracy, which, like the others, combines many prejudices with high sentiments and instincts.”¹¹³ These prejudices, we are left to surmise, amount to a perceived inferiority of Black people—morally, intellectually, socially, politically, etc.—and in turn cultivate an instinctive revulsion. This is apparent in *Democracy in America*, where Tocqueville identifies the visibility of racial difference (that is, the mere fact of different skin tones) as the source of discrimination. Founded, as it were, on the “visible and imperishable signs” of race, Tocqueville consequently predicts great difficulty in overcoming the sociopolitical stratification of American society—even in the absence of slavery as was the case in Northern states—as a result of the aristocratic privilege of race and subsequent racial prejudice.¹¹⁴ He continues:

A despot coming to join the Americans and their former slaves under the same yoke would perhaps succeed in mixing them together; as long as the American *democracy* [emphasis added] remains at the head of affairs, no one will dare to attempt such an undertaking, and you can anticipate that, the more the whites of the United States are free, the more they will seek to separate themselves.¹¹⁵

Implicitly, then, Tocqueville recognizes the theoretical link between democracy and the persistence of racial prejudice even beyond formal emancipation. As political theorist Laura Janara describes it, however, the Frenchman ultimately fails to apply the logic of majoritarian

¹¹³ Tocqueville quoted in Pierson, *Tocqueville in America*, 582.

¹¹⁴ *DA*, 552.

¹¹⁵ *DA*, 572.

tyranny to racial exclusion. In her comparison of racial analyses present in Tocqueville's *Democracy in America* and Gustave de Beaumont's *Marie, or, Slavery in the United States*, she writes:

So both Tocqueville and Beaumont explain racism in the U.S. democratic North in terms of public opinion's prejudice against the "indelible" mark of color, tied as it is to American slavery. But the point of Beaumont's story about Marie is that color is *not* an indelible mark. His novel illustrates a dimension of U.S. racism that his and Tocqueville's racialism misses: how the idea of racial difference-as-hierarchy is posited by the institution of racial slavery and subsequently sustained *culturally* [emphasis added] by public and majority opinion...¹¹⁶

Extending the logic of majoritarian tyranny to dynamics of racial exclusion reveals that racial exclusion itself is not so much a democratic paradox as it is a constitutive part of democratic politics. Racial exclusion—or, more specifically, Black social death—delineates the boundary of full citizenship. It establishes whiteness as a kind of sociopolitical privilege—an entitlement to full equality. Thus, in exploring the problem of racial exclusion in democratic societies, it becomes necessary to incorporate not only the total personal, social, and psychological destruction of the individual, as explored in section B of this part, but also the ways that racialized conceptions of citizenship therefore structures the majority-minority dialectic and establishes inherent power imbalances that serve as the basis for (white) majoritarian tyranny. In sum, as our analysis of white society demonstrates, race forms a constitutive boundary of the democratic social state—an issue we will explore more explicitly in the next section.

¹¹⁶ Laura Janara, "Brothers and Others: Tocqueville and Beaumont, U.S. Genealogy, Democracy, and Racism," *Political Theory* 32, no. 6 (2004): 773–800, <https://www.jstor.org/stable/4148145>, 789.

D. Excavating the Boundaries of the Democratic Circle

Conceiving of race as a constitutive boundary of the democratic social state may on its face seem profoundly unintuitive. Democracy is—in the popular imagination, at least—government of, for, and by the people. And with the added context of liberalism, we might say that democracy, properly conceived, is in reality a rights-based regime of fundamental equality for all—including, and perhaps especially, for minorities. The Thirteenth, Fourteenth, and Fifteenth Amendments, the Civil Rights Act of 1964 and subsequent Voting Rights Act of 1965, and affirmative action—each of these features, designed explicitly to promote racial equality, have become cornerstones of the progressive vision of American society. To say the United States today has not fundamentally changed its perspective on race when compared to the past discounts these gains and ignores the work of the reformers, both Black and white, who achieved them. Understanding the persistence of racial exclusion in spite of these formal, institutional gains builds on the fundamental intuition with which this paper began: that democracy as a *social* dynamic precedes democracy as the political law of society.

As we explored in the preceding sections of this part, understanding racial exclusion as a kind of social death helps to develop this baseline intuition. This was built on a sociological conception of both race and the vestiges of slavery that contribute to its construction. In her article “Beyond the ‘Formidable Circle,’” theorist Christine Henderson places this analysis firmly within the realm of democratic theory, exploring the theoretical basis for recontextualizing racial exclusion as a fundamentally social rather than institutional or procedural question. As she explains, in a political sense, Tocqueville’s analysis of racial exclusion

presents tyrannical majoritarianism in a starker light, insofar as the issue is less an institutional or procedural problem of how to moderate the power a majority is wielding against a minority in its midst, and more a question of how to change majority opinion that permits citizenship to a race but, because it views that race

as sub-human, excludes it from the circle of decision-making and, thus, from meaningful membership in the polity itself.¹¹⁷

As applied to modern political society, then, social death does more than codify a total domination or delineate the boundary of full citizenship status in a sociological sense: it produces a unique category of political being that exists beyond the formal boundaries of political belonging. That is to say, in line with the preceding assertion of Black social death as a fundamental political construct, that the practical consequence of this social death is the preclusion of the *Black* political actor as a form of the atomized individual as conceived in Part II D of this paper. This insight suggests that the fundamental problem—particularly in modern society—is not that Black Americans cannot *literally* participate, but that the prejudices structuring the larger political psyche render Black interests and Black Americans as individual political actors illegible to formal political institutions.

The relationship between Black Americans and the larger American society follows from Tocquevillian perspective on democratic contestation in the form of political associations. Recall that Tocqueville himself considered associations as fundamental to an egalitarian conception of democratic politics because they provide avenues for organizing to shift majority opinion. Contemporary racialized political exclusion—whether formalized as *de jure* discrimination or implicitly constructed through patterns of *de facto* segregation, implicit bias, and hostile attitudes to Black political interests—is in reality an express denial to racial minorities of the associational means for democratic remediation of majoritarian tyranny. Henderson aptly explains that “the potency of [white racial] mores and the psychology of equality” as expounded by Tocqueville shows us that racialized exclusion acts on “those whose voices count neither in the majority nor the minority, [but whose] otherness places them outside the democratic process itself.”¹¹⁸ Put

¹¹⁷ Henderson, “Beyond the ‘Formidable Circle,’” 108.

¹¹⁸ Henderson, “Beyond the ‘Formidable Circle,’” 100–101.

another way, she writes, “Tocqueville’s analysis reveals that, because race-based exclusions are both color-coded and rooted in (white) majoritarian mores, they are categorically different from other modalities of exclusion and not responsive to the same solutions.”¹¹⁹ Thus, racial minorities are, in a sense, rendered to be *permanent* minorities whose status precludes them from democratic redress.

We have already examined certain mores of white racial prejudice in the preceding section, but it bears reiterating them in an explicitly political (as opposed to sociological) context. Differentiated status—both in the sense of citizenship and in the sense of quasi-aristocratic privilege—define white perceptions of race according to Tocqueville. This differentiation exists in tandem with the fundamental equality of conditions that defines the democratic social state—without contradiction for white Americans. As Henderson summarizes, though, this inconsistency is, in reality, the substance of white prejudice then and now, and demonstrates that

the passion for equality [inherent to the Tocquevillian view of democracy] applies only to members within a given group, and that it can translate pathologically into a desire to elevate one group—whose members all enjoy equal moral status—above another group as a confirmation of in-group identity and solidarity. Equality, then, is expressed as group solidarity in opposition to an identifiable group of non-equals.¹²⁰

In this way, Henderson shows that white racial prejudice as described by Tocqueville is not simply an irrational departure from the democratic ideal, but, in fact, a constitutive part of democratic politics. Just as joint economic and intellectual equality define the equality of conditions within the democratic social state, the capacity to exclude racialized minorities (or, really, any social out-group) defines political equality for the majority (that is, the racialized in-group) itself. Responding to claims that more representative institutions and deliberative

¹¹⁹ Henderson, “Beyond the ‘Formidable Circle,’” 100.

¹²⁰ Henderson, “Beyond the ‘Formidable Circle,’” 103.

procedures will eliminate this issue, Henderson writes: “Tocqueville’s conceptualization of race-based exclusions highlights...that certain forms of exclusion pertain to the exercise of deliberative citizenship itself.”¹²¹ Whether the table is sufficiently large and whether it has enough chairs has virtually no impact on whether the voices of historically excluded groups are actually heard by the wider assembly; the former is, per the Tocquevillian perspective, a separate and subordinate issue to the larger question of social inclusion.

In excavating the boundaries of “the circle of democratic voice,”¹²² then, we should remember that the means of translating public opinion into an authoritative democratic will has very little bearing on the constitution, strength, and immutability of that public’s preexisting prejudices. “Democratic institutions,” Henderson describes, “cannot be transformed via engagement of a heterodox public, as long as membership in the democratic public itself remains confined to a homogenous (white) majority.”¹²³ Yet, even if *membership* itself expands (as it has in the United States over the last century), so long as the white majority remains the operative voice within the political body, its dictates will forever remain in the interests of that majority. This conclusion parallels recent work by philosopher Charles Taylor, who describes democracy itself as a source of exclusion. In “A Tension in Modern Democracy,” he writes:

[W]hat makes democracy inclusive is that it is the government of *all* the people; what makes for exclusion is that it is the *government* of all the people. The exclusion is a by-product of something else: the need, in self-governing societies, for a high degree of cohesion. Democratic states need something like a common identity.¹²⁴

¹²¹ Henderson, “Beyond the ‘Formidable Circle,’” 107.

¹²² Henderson, “Beyond the ‘Formidable Circle,’” 107.

¹²³ Henderson, “Beyond the ‘Formidable Circle,’” 108.

¹²⁴ Charles Taylor, “A Tension in Modern Democracy,” in *Democracy and Vision: Sheldon Wolin and the Vicissitudes of the Political*, eds. William E. Connolly and Aryeh Botwinick (Princeton University Press, 2018), 79.

We explored in Part II D popular sovereignty as the fundamental political law of democracy; but, what Taylor does is problematize the *popular* aspects of this definition, asking, essentially, who *exactly* counts among any given conception of the people. “Now for the people to be sovereign,” Taylor writes, “it is necessary to form an entity and to have a personality.”¹²⁵ This entity, from the Tocquevillian perspective, is of course the majority, and its views and interests direct society. For this arrangement to be legitimate, it must be based on consensus, or at least the tacit, continuing approval of alternative interest-based minorities.¹²⁶ In this way, Taylor describes, “[d]emocracy obliges us to show much more solidarity and much more commitment to one another in our joint political project...”¹²⁷ Certain identity-based groups, however, like racial minorities or ethnic immigrants, challenge this logic on a fundamental level—straining both the idea of the nation and the content of citizenship. He summarizes the nature of democratic exclusion this way:

We might describe it as a temptation to exclude, beyond that which people may feel because of narrow sympathies or historic prejudice—a temptation that arises from the requirement of democratic rule itself for a high degree of mutual understanding, trust, and commitment. This can make it hard to integrate outsiders and can tempt us to draw a line around the original community. But it can also tempt us to what I have called “inner exclusion,” the creation of a common identity around a rigid formula of politics and citizenship, which refuses to accommodate any alternatives and imperiously demands the subordination of other aspects of citizens’ identities.¹²⁸

This relationship between political consensus and communal diversity, I contend, is paradigmatic of the issue of racialized democratic exclusion. In the first sense of democratic exclusion, *de jure* segregation in the form of Jim Crow reflected the complete and total exclusion of Black Americans; the continuance of *de facto* segregation, of urban poverty and overpolicing—in other words, of systemic barriers to full incorporation—moreover, underscores

¹²⁵ Taylor, “A Tension in Modern Democracy,” 80.

¹²⁶ Taylor, “A Tension in Modern Democracy,” 80-81.

¹²⁷ Taylor, “A Tension in Modern Democracy,” 81.

¹²⁸ Taylor, “A Tension in Modern Democracy,” 84–85.

the ways in which the persistence of exclusion is, in the second sense, premised on the illegibility of the Black experience as a legitimate political experience to American society generally. In other words, it is precisely the rigidity of white sociopolitical mores—manifest, for example, as suburban white flight, property-tax based education funding, and “tough on crime” political rhetoric—that contributes to the degraded condition of Black neighborhoods and the continued domination of Blacks writ-large politically, economically, and *literally* (as shown by wealth of recorded police killings of unarmed Black individuals). As Taylor shows, the political culture of the majority acts as the dominant political culture in democratic societies, and the consequence of that arrangement is the public delegitimization and particularization of the views, interests, and culture of the minority.

E. (Briefly) Addressing Racialized Democratic Exclusion

This description of racialized democratic exclusion—even as applied Black Americans existing outside of slavery—applies as equally to Henderson’s arguments concerning the boundaries of the democratic circle as it does to Tocqueville’s own analysis of American society. Indeed, he describes the condition of Black freedmen this way:

Thus the Negro is free, but he is not able to share either the rights or the pleasures or the labors or the pains or even the tomb of the one whose equal he has been declared to be; he cannot meet him anywhere, either in life or death...
...In the North the white no longer distinctly sees the barrier that should separate him from a degraded race, and he withdraws with all the more care from the Negro because he fears that someday he will merge with him.¹²⁹

Race itself, as we have seen, becomes a barrier to full incorporation. But the Tocquevillian perspective also reveals that it is not the *contradiction* of Black and white interests or identities that enforces separation, but the mere fact that they are Black. Indeed, the closer Blacks come to white, the more equal in wealth, intellect, and political status, the more white prejudice seeks to

¹²⁹ *DA*, 555.

divide white as the sociopolitical in-group from the Black out-group precisely because Blackness occupies such a degraded status in the white psyche. In this way, we see a form of democratic exclusion that all but precludes genuine coexistence.

In fact, Tocqueville was famously bleak on the point of Black-white coexistence altogether. Further elaborating on the potential for a racially egalitarian society, he writes:

From the moment that you allow whites and emancipated Negroes to be placed on the same soil as peoples who are strangers to each other, you will understand without difficulty that there are only two possibilities in the future: Negroes and whites must either blend entirely or separate.¹³⁰

This is the case, Tocqueville continues, because though the individual may “stand outside of the prejudices of religion, of country, of race...[a]n entire people cannot so to speak rise above itself in this way.”¹³¹ What the Tocquevillian perspective, then, truly reveals concerning racial coexistence truly reveals, as Henderson describes, is that “*white* attitudes [at a societal level] are unjust and require transformation, and that having mixed-race children would force the white parent to confront and change their opinions.”¹³² It is not, however, clear that this prescription could actually achieve the expansion of the “majority’s sympathetic circles,” to borrow Henderson’s phrase, or that we should want it to: first, because it relies on an admittedly (in both Henderson and Tocqueville’s view) unrealistic premise¹³³ and, second, because it essentially relegates Blackness to non-existence, thereby destroying a valuable, beautiful culture all in the name of rooting out white prejudice against it—essentially blaming the victims for the original sin. The second solution—the gradual mitigation of white prejudice through art designed to elicit

¹³⁰ *DA*, 572.

¹³¹ *DA*, 572.

¹³² Henderson, “Beyond the ‘Formidable Circle,’” 110.

¹³³ Henderson, “Beyond the ‘Formidable Circle,’” 111.

empathy¹³⁴—has more promise, though it must still contend with an increasingly polarized society defined, in many ways, by views on race.

On the whole, then, addressing racialized democratic exclusion requires the complete reconstitution of the body politic. That is to say, it requires us to completely divorce race from political society altogether. As the proceeding analysis in both this and preceding sections demonstrates, however, race is in some sense intractable from contemporary political reality. In this light, imaging alternative theoretical arrangements first requires us to reimagine the theory from which our conception of political society proceeds.

An example of this would be to turn to the intellectual tradition of the social contract, a cornerstone of liberal democratic theory. In his book “The Racial Contract,” this is the project philosopher Charles Mills explicitly adopts. As he describes it, the racial contract borrows from the logic of the canonical contractarian approach to theory and recast race as a constitutive rather than omitted element.¹³⁵ In this way, Mills’s intervention serves to expose in graphic detail a critical element of modern society:

that racism...is *itself* a political system, a particular power structure of formal or informal rule, socioeconomic privilege, and norms for the differential distribution of material wealth and opportunities, benefits and burdens, rights and duties.¹³⁶

In a certain context, Mill’s theory of the Racial Contract is about understanding how the vestiges of Black social death structures political society. It is an explicitly recognition of the implicit inequities in society and the ways those inequities, as we have seen, serve to exclude certain categories of people from full incorporation into the body politic. It is, moreover, an insistence that those exclusionary tendencies are *inherent* to politics today because of the history from which power today originates.

¹³⁴ See Henderson, “Beyond the ‘Formidable Circle,’” 111–112.

¹³⁵ Charles W. Mills, *The Racial Contract* (Ithaca: Cornell University Press, 1997), 5.

¹³⁶ Mills, *The Racial Contract*, 3.

More generally, though, understanding racism as itself constituting a political system forces a much broader perspective on the issue of racialized democratic exclusion. Mills describes the contract not as a consensual agreement (as with traditional contractarian accounts of the origins of political society), but as “a contract between those categorized as white *over* the nonwhites, who are thus the objects rather than the subjects of the agreement.”¹³⁷ Mills continues:

*Thus in effect, on matters related to race, the Racial Contract prescribes for its signatories an inverted epistemology, an epistemology of ignorance, a particular pattern of localized and global cognitive dysfunctions (which are psychologically and socially functional), producing the ironic outcome that whites will in general be unable to understand the world they themselves have made.*¹³⁸

Similar to Taylor’s description of democratic exclusion as premised on the express denial of accommodation for identity-based difference, the racial contract is racialized precisely because it objectifies racial minorities, structuring politics and society in a way that fundamentally fails to seriously consider the existence of non-white identities. More profoundly, though, Mill’s concept of the Racial Contract forces us as a democratic society to re-examine how we know what we know about race itself in a way that Taylor’s conception of democratic exclusion as an expediency measure simply cannot. Mills continues, writing that

the Racial Contract establishes a racial polity, a racial state, and a racial judicial system, where the status of whites and nonwhites is clearly demarcated, whether by law or custom. And the purpose of this state, by contrast with the neutral state of classic contractarianism, is, *inter alia*, specifically to maintain and reproduce this racial order, securing the privileges and advantages of the full white citizens and maintaining the subordination of nonwhites.¹³⁹

Thus, taken together, the description of the Racial Contract—as both an implicit contract *over* nonwhites and the implicit foundation of the existent state—reveals the racialized political

¹³⁷ Mills, *The Racial Contract*, 11–12.

¹³⁸ Mills, *The Racial Contract*, 18. Emphasis in the original.

¹³⁹ Mills, *The Racial Contract*, 13–14.

society to be premised on a kind of noble lie—that is, premised on an assumed legitimacy that obscures the pernicious ways in which racial inequality is built on the logics of exclusion we explored in the preceding sections. I use implicit here to draw attention both to the idea that this contract describes a fundamental societal logic and the idea that that logic is assumed to proceed politics, rendering racial hierarchy a natural problem with political consequences rather than a political construct in its own right.

Understanding systemic racism in the context of racialized democracy, then, reveals the contemporary United States to suffer from a kind of epistemic blindness as it relates to the political construction of the social death of Black America. This assertion follows from the theoretical foundations laid by Columbia University professor Saidiya V. Hartman in her chapter “The Burdened Individuality of Freedom,” where she describes “[t]he fragile ‘as if equal’ of liberal discourse” as inadequate precisely because it fails to contend with the ways (as shown in the preceding sections of this part) that “freedom is laden with the vestiges of slavery, and abstract equality it utterly enmeshed in the narrative of black subjection...”¹⁴⁰ Addressing racialized democratic exclusion, then, is, as Hartman says, about “grappl[ing] with the changes wrought in the social fabric after the abolition of slavery and with the *nonevent* [emphasis added] of emancipation insinuated by the perpetuation of the plantation system and the *refiguration* [emphasis added] of subjection.”¹⁴¹ As she details throughout the chapter, this grappling means a serious reckoning not only with history but with the repeated recurrences of racial exclusion throughout American history.

Only through recognizing the role that Black social death plays in structuring institutions, the political economy, and the broader society can we actually seek to address these harms.

¹⁴⁰ Saidiya Hartman, *Scenes of Subjection: Terror, Slavery, and Self-Making in Nineteenth-Century America* (New York: Oxford University Press, 1997), 116.

¹⁴¹ Hartman, *Scenes of Subjection*, 116.

Moving on as if all else were equal is simply not an option because *all else is not equal, at this very moment, today*; developing sympathies and ultimately alliances within the white majority is *not possible* so long as that majority's complicity *today* in the continued oppression of Black Americans remains an unacknowledged fact of political reality.

Despite these interventions, however, white epistemic blindness concerning Black social death seems essential to politics today. As exemplified in *Parents Involved in Community Schools v. Seattle School District No. 1 et al.*, a case involving the allocation of places in certain Seattle schools based sometimes on racial classifications, American society may not be ready for this conclusion.¹⁴² Indeed, the Court rejected Seattle's claim, arguing that the lack of a substantive record of discrimination meant efforts to promote a broader sense of racial equality were unconstitutional. Emblematic of the concept of white ignorance, Chief Justice John Roberts famously wrote in the majority opinion: "The way to stop discrimination on the basis of race is to stop discriminating on the basis of race," even if such discrimination serves to promote racial equality generally.¹⁴³ Mills describes this phenomenon in his book *Black Rights/White Wrongs: The Critique of Racial Liberalism*, writing:

If previously whites were color-demarcated as biologically and/or culturally unequal and superior, now through strategic "color-blindness" they are assimilated as putative equals to the status and situation of nonwhites on terms that negate the need for measures to repair the inequities of the past.¹⁴⁴

Addressing racialized democratic exclusion requires reckoning with these logics—that is, reckoning with the fact that society imbeds democracy itself with certain racialized inequalities, and that those inequalities are themselves products of the interests of the white majority.

¹⁴² *Parents Involved in Community Schools v. Seattle School Dist. No. 1*, 551 U.S. 701 (2007).

¹⁴³ *Parents Involved in Community Schools v. Seattle School Dist. No. 1*, 551 U.S. 701 (2007), 748.

¹⁴⁴ Charles W. Mills, "White Ignorance," in *Black Rights/White Wrongs: The Critique of Racial Liberalism*, ed. Charles W. Mills (Oxford University Press, 2017), <https://doi.org/10.1093/acprof:oso/9780190245412.003.0004>, 64.

The failure as of yet to do so systematically can be ascribed to fundamental inability within American institutions and society writ-large to understand democracy's complicity in the construction and furtherance of racialized democratic exclusion. Thus, eliminating racialized democratic exclusion begins not with changing public opinion or developing interracial empathy, but with *accurately* conceptualizing the problem: that democracy itself serves to replicate and preserve racial inequality. This is not simply a shift in moral sympathies, because the former is premised on the *accommodation* of majority power while the latter is premised on changing minds and, ultimately, behavior through shock (and hopefully shame) at the reality of the world they (that is, white Americans) have constructed, and in this way centering the capacity of the oppressed to define their own realities rather than the sympathies of white audiences.¹⁴⁵

It remains, in my view, an open question as to whether such reflection is possible in the current political climate. In the final part of this essay, however, I hope to leave the reader with some reason for hope.

V. Conclusion

In these downbeat times, we need as much hope and courage as we do vision and analysis; we must accent the best of each other even as we point out the vicious effects of our racial divide and the pernicious consequences of our maldistribution of wealth and power.

– Cornel West, “Epilogue” to *Race Matters*

¹⁴⁵ This follows most directly from the logic of nonviolent civil resistance as practiced most prominently by civil rights activists in the 1950s. Martin Luther King, Jr., explains the theoretical foundations of this strategic posture: “It is rather courageous confrontation of evil by the power of love, in the faith that it is better to be the recipient of violence and bitterness in the universe... [that] may develop a sense of shame in the opponent, and thereby bring about a transformation and change the heart.” See Martin Luther King, Jr., *Stride Toward Freedom: The Montgomery Story* (New York: Harper & Brothers Publishers, 1958), 99.

Through *Democracy in America*, Tocqueville paints a lucid image of American society and its politics. Situating the equality of conditions as the theoretical cornerstone of the democratic social state, society itself then becomes a collection of atomized individuals who participate effectively in politics only through associations. Associations, in this way, become the operative loci of politics, and, recontextualized in a public sense, become the basis of political institutions as well. This can be seen in our analysis of the New England township as the institutional manifestation of the fundamental political law of the sovereignty of the people.

The relationships between atomized individuals in pursuit of their interests became particularly salient. Indeed, as we discovered, they form the basis of what I have called the majority-minority dialectic that describes the moral, social, and psychological dominance of the majority as an interest-based association in political society. Racial prejudice, as we saw, proceeds from this dialectic, specifically in the ways that the prejudices of the white majority confine Black existence in American democracy to a kind of tripartite social death. By Black social death, I describe an enduring condition of gratuitous violence directed toward Black people (seen today, for example, in the unjustified police killings of unarmed Black individuals), natal alienation of Black people from their cultural roots, and the general dishonor of Black existence in a white dominated society. In this way, American democracy itself constructs Black existence according to an unrecognized, implicit Racial Contract, to borrow Charles Mill's construct.

Addressing racialized democratic exclusion, I then concluded, requires recognizing that American democracy itself is premised on the social death of its Black citizens, and that the white majority directing American society is as of yet unprepared to deal with the implications of this claim. For this reason, strategies of amelioration rooted in the creation of empathetic

Black-white social ties will, on the whole, fail to fundamentally alter the situation. The solution is the reconstitution of the body politic along a more egalitarian basis. But what exactly does this mean?

I certainly do not have the answer—at least not as of yet. And by my reckoning, mainstream political theory hasn't quite found it either.¹⁴⁶ As a starting point, then, I would suggest that the theorists of tomorrow begin from the fundamental premise that the egalitarian basis of American democracy is a lie. As the Tocquevillian perspective shows, the modern United States never has been and never will be equal (at least in a sociopolitical sense) until we are able to disabuse our politics of what Saidiya Hartman calls the “‘as if equal’ of liberal discourse.” Our conception of Black Americans as political actors—and, perhaps, our conception of Black existence itself—must change. We cannot simply root Blackness in a framework that sees Blacks as disadvantaged *individuals* but morally, socially, and politically equal to everyone else in society on a fundamental level. This idea, we should now understand, is a normative claim built on a false premise; American society *should* of course be equal for people of all races, but the reality is quite the contrary. At both the practical and the theoretical level, American democracy has had and continues to have real systemic and epistemic barriers to the full incorporation of its Black citizens.

I imagine there are a fair number of critiques to my general conclusion—that a fundamental reconstitution of the American body politic is, in some sense, necessary to address the issue of racialized democratic exclusion. Some may find my views overly pessimistic. Such criticism may point to gains in Black wealth and formal political rights over the last century—to the fact that I am, at this point, an Ivy-League educated young Black man discussing the hostility

¹⁴⁶ *As a basis for this assertion, see, for example, Charles W. Mills, “Racial Liberalism,” PMLA* 123, no. 5 (2008): 1380–97. See especially 1383–1384.

of America's institutions of power to people like me while actively writing this thesis at one such institution. Other critics might, in line with modern critiques of the Afro-pessimist movement, reject my argument as a form of race essentialism that, first, unduly situates racism as *the* central form of political oppression today (ignoring, for example, domination on the basis of class or gender) and, second, crudely reduces the Black experience of race in America to one of unyielding, undifferentiated oppression (and therefore obscuring the impacts of intersectional class-based and gendered oppression *within* the Black community). A final critique could argue that situating racialized democratic exclusion as a constitutive element of American democracy denies to progressive movements the rhetoric of continual political improvement: that is, the idea that the United States can be shaped *on its own terms* into a more perfect union.

To the first point, I offer the following reflection: Have these gains eradicated the comparative disadvantage in Black communities; the disparate impact of policing and the criminal-legal system, more generally; and the instances of individual and systemic bias encountered throughout daily life?

To the second, I would respond by arguing that the premise of the critique is in fact more harmful than the argument it counters. Understanding the role of race in all its intricacies—whether political, social, psychological, theoretical, etc.—does not preclude the development of a more thorough appreciation of the systemic impacts of class or gender. Studying Mill's theory of the Racial Contract, for example, does not diminish the theoretical and practical utility of Marx's conclusions in *The Communist Manifesto* nor Betty's Friedan's *The Feminine Mystique*. More pointedly, theorizing Black domination as experienced in the United States does not deny the existence of other forms of identity-based oppression; it may in fact illuminate important logical connections that advance the cause of our collective liberation.

Instead, we should be wary of attempts to situate certain forms of oppression—whether experienced within or without the community—as more or less severe, harmful, or theoretically important and thus enervate an intersectional understanding of a *collective* liberation from our *particular* experiences of oppression under American racial capitalism.

Finally, if critiquing the premises, assumptions, and foundations of American democratic theory is considered too radical to promote sustainable political change, consider me too radical. Building a better future begins not by imaging the world as it *should* be but by understanding the world as it *is*, today, so as to structure advocacy, resources, rhetoric, and political organizing on changing the *fundamental* problem rather than its effects. If my arm were broken, I felt the pain and thus knew it to be so, why would I wait to *say* it was broken on the promise that all bones eventually heal? The same, I argue, is true of the United States today: the mechanisms are there—the tools, the resources, a growing coalition of young people who are sick and tired of being sick and tired—so why temper our analysis of American democracy to conservative political sentiments? This is precisely the type of action that sustains the moral, social, and psychological dominion of the majority.

It also bears remembering that, to the extent this essay criticizes American democracy, it is a criticism aimed much more stringently on the *American* aspect of that phrase—which is to say, the moral, social, and psychological prejudices of the national (read: white majority) community. As I hope you will now see, atomized, as-if-equal individualism and grievance politics cannot sustain an enduring political community. In practical terms, then, the reconstitution of the body politic is really a plea for a redefinition of who counts as American, both in an abstract and epistemic sense. American-ness defined not as fidelity to the ideals of the Declaration of Independence but to the larger ideals of humanity, for example, could in a very

real sense decenter the history of chattel slavery and white settler colonialism from the very valid ideals of liberty, equality, and justice for all.

What was, what is, and what will be are fortunately distinct. So if the task of the theorist today is to expose the United States and its democratic theory for what it is, the task of the theorist tomorrow is to show us what it can be. Indeed, it is in democracy's capacity to define itself—the continual give and take of the majority-minority dialectic—that should give us hope to imagine a majority prejudiced toward radical love, acceptance, and tolerance rather than whiteness, grievance, and racialized domination.

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