

# **RADICAL CHALLENGES TO LIBERAL DEMOCRACY\***

by

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History's dodo germinates future failures in the euphoric celebration of recent triumphs. Thus did Athens squander in Syracuse what she won in Greece. Thus did Rome despoil at home what she had gained in Carthage and Europe. Thus did American statesmen welcome the greatest military victory in human history – the victory of the United States over the Soviet Union – with the invocation of a New World Order predicated upon economic determinism: free markets make free men. The special insouciance of this blind reliance upon capitalism is its notable failure to recognize the opportunity to convert a merely military victory into a moral triumph. The world, therefore, joined the United States in easy assumption that the fall of Soviet-directed communism and parties of the left in Europe, Africa, and Latin America had disproved rather than merely disapproved of socialism. No one paused to inquire whether the soul of socialism had crept so nearly into the core of western liberal democracies, including the United States, that only the parasite's host had fallen, while the parasite had successfully migrated to fatter kine.

We reason correctly, when we argue that the most significant practical challenge to liberal democracy was socialist sponsored totalitarianism. Before we close the door on the history of radical challenges to liberal democracy, however, we ought to take stock of the foundations on which those challenges emerged, the merits of their positions, and the reasons they at length failed. Such a project would exceed by a considerable space the occasion afforded me to launch this inquiry here. I can, however, frame the question suitably to later investigation. To that end I recapture the origins of radical challenges to liberal democracy, as reflected in Tocqueville and Marx, in order to demonstrate that we have not yet responded to the weightiest doubts regarding the moral sufficiency of this form of life.

Among radical challenges to liberal democracy I distinguish three that are separate and distinct: the moral, the political, and the intellectual. I would wish to demonstrate – but here can only suggest—that there are just these three and no more. To put the matter most succinctly: Liberal democracy fails insofar as, morally, it diminishes the weight and authority of moral principle in the lives of ordinary people; insofar as, politically, it entrusts the safety and prosperity of society to the hands of the foolish rather than the prudent; and insofar as, intellectually, it destroys the habit of deference to reason in regulating practical conduct.

The argument in favor of liberal democracy must be strong indeed to command the assent of respectable intelligences in the face of such an arraignment. While I focus on the long perceived weaknesses of liberal democracy (in order to provide a better understanding of perceived cultural defects in the contemporary era), I also point out that liberal democracy emerged in its best form against a back-drop of similar reflections.

Remember that constitutionalism anciently won acclaim as a good, while democ-

racy anciently won scorn as an ill. At the advent of the modern era, the two terms converged such that democracy became the only substantive content for the process called constitutionalism. This altered perspective did not merely evolve but was rather ushered forth through serious argument and long reflection on the part of thinkers and statesmen who eventually abandoned the ancient distinctions and came to view democracy as necessary at minimum and potentially even good. What we now call liberal democracy results from this process as much as any other, boasting modern architects schooled in the ideas of classical political philosophy right up through Machiavelli. Simultaneously and correlatively with altered moral and political perspectives the process engendered diverging conceptions of the nature of political and social study – political science. In these divergences we can locate the radical challenges to liberal democracy at the same time as we discover how constitutionalism and democracy came effectively to be synonymous. Indeed, it were far rather to be wished that United States policy, in the aftermath of the fifty year war with the Soviet Union, had trumpeted constitutionalism and democracy rather than capitalism and democracy. It trumpeted capitalism and democracy, however, because radical challenges to liberal democracy still live.

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We begin by taking John Locke seriously, rather than to dismiss him simply because we are the children of Rousseau. We grapple with the same problem Locke grappled with, the same problem Montesquieu grappled with. The problem is to know how to generate liberalism, which is that form of society in which the individuals count for themselves as well as for their relationships. Political power there is exercised within limits that must respect that individualism, that individual liberty. Moreover, that liberty must be compatible with efforts toward acquisition of material goods. Thus, liberalism grew from an argument that holds that everyone has a right to defend his life, his liberty, and his property.

To be sure, equality was not less implicated in the founding of liberalism. However, the very fact that Rousseau diverged from the individualism of Locke and others demonstrates that equality was a contested and often misunderstood component of liberalism. This divergence, indeed, ultimately became the foundation for the radical challenges to liberalism which emerged in full throat in the nineteenth century, and which Tocqueville and Marx make clear not only for that century but for all time since. Because it was pre-nineteenth century liberalism that eventuated in the liberal democracy of the United States, that is the background we need in order to assess the implications and the propriety of the subsequent challenges.

E. S. Corwin wrote earlier in this century of *The Higher Law Background of American Constitutional Law* and thereby situated the founding in the context of debates that still prevailed in the eighteenth century.<sup>1</sup> Those debates preserved an awareness of various forms of law beyond positive law, including divine, natural, and customary. Moreover, the idea of various forms of law descending from the Latin *lex* and *jus* entails an inherent distinction between the mere command of law (*lex*) and right inhering in law (*jus*). At its origins, then, liberalism enjoyed a vocabulary that has largely been lost to us now.

The question for Locke was the same as it had been for others. He speaks of law

in the sixth paragraph of his *Second Treatise*, where he defines the law of nature, as reason.<sup>2</sup> The various forms of law depict the means by which human beings have sought to set limits on their engagements in the world or the terms of their organized pursuits. Law posits a quest for order against the threat of the arbitrary or chaos. Locke started humankind in the state of nature and introduced war right there in the state of nature. But raising the notion of law right there and at the same time suggests an inherent if not realized order in human life. When Locke identified reason as that law, he specified it rather as potential than enjoyed. Nature in some fashion prescribes to human beings certain ordered relationships in order to the attainment of certain specified ends. Those ends, though, are pitifully few, mainly turning around self-preservation. All of the terms Locke derived from this observation refer to things that exist in the way that they exist because of an order pre-existing or inhering in the constitution of humanity.

Locke then began with laws by definition distinguished from laws that human beings impose upon themselves – positive laws. Whether his definitions differ from customary law, and perhaps divine law, raises a separate but not trivial question. The more we entertain such quandaries, the more we veer away from the goal we imagined. Beginning with what appear to be necessary relations, we quickly meet with an assertion that a particular command is, say, divine law. Then the question becomes what is one's relationship to the law based on its source. That is a fundamental question – the human being's relationship to the law relative to the source of the law. Does one have more or less an option regarding laws depending on the source of the law? Is the law that derives from nature more exiguous than a law that derives from another human being or less exiguous than one coming from God? Is a law of greater import when written? Is it of greater import when evolved, as in the common law? Corwin places these questions in a perspective that serves as a form of shorthand to situate our conversations about liberalism in the entire flow of political philosophy in the western world.

We read in the first book of Montesquieu's *Esprit des Lois*, which is entitled, "About Laws in General," that "the laws in the broadest meaning are the necessary relationships that derive from the nature of things. In this sense, all beings have their laws; the divinity has its laws; the material world has its laws; intelligences superior to man have their laws; the beasts have their laws; man has his laws."<sup>3</sup> That statement and the following argument produce more problems than clarity, since the notion that everything that is has a law fails to rise above the banal. Without some distance between the way things are and the laws that are appropriate to things, or that govern the conduct or the behavior of things, no leverage over human action can be obtained.

Consider the implications of the difference between the terms, "behavior" and "conduct." These words do not refer to the same things, even if parents will occasionally speak loosely to children when admonishing or praising them. Characteristically, we speak of the behavior of inanimate matter – a passive recipient of forces existing in a Newtonian universe of equal and opposite actions and reactions. On the other hand, the word "conduct" invokes the notion that the being that moves moves as if it conducts itself. It might move this way or that way upon election, upon choice. Hence, when we speak of humans our tendency, if we want to blame them for what they have done, is to speak of their conduct – their bad conduct. If we want to praise them as noble, we also speak of conduct. If we speak of their behavior we do one of two things. We address

ourselves to children, whom we conceive not to know what they are doing, or we adopt the modes of social scientists, who have reduced human things to things that are subhuman, as if we were only inanimate matter or at best beasts.

Montesquieu's opening sentence forces us to ask whether we must make a distinction between things passive and active when speaking of laws. Is all the world constructed of things passive – of equal and opposite actions and reactions? Or, is there some part of the world that is not passive, but active, and therefore sets motion in being rather than merely receiving motion from others?

Montesquieu opens with a fairly Newtonian view of the world, but he quickly goes through his first book to show a more complicated picture. He wrote of “intelligent beings,” in particular. He means primarily human beings and he realizes the implication of the title of the work, the “spirit” of the laws [which we may take to mean the mind or intelligence of the laws], by focusing on the laws of human community. He affirmed that “individual intelligent beings” have laws that they have made and laws that they have not made, meaning that they are subject to both kinds of law – subject to being acted upon and capable of acting. It is important to discern, therefore, which spheres rely upon which of the varying kinds of law.

Montesquieu followed this introduction by making the claim that “relationships of equity” exist prior to positive law. This very special term derives from our law books – especially Anglo-American law books. Equity is the principle by which a judge may look at a particular case and decide it on the basis of what is right for the case rather than the literal terms of the law. This occurs for the reason that laws themselves are always general, and general language does not always address specific facts in the manner that lawmakers would wish. Judgment in equity may say of a case in which the law requires “x” that the facts of the case make “y” more appropriate. In order to have a judgment in equity based on fairness or what is right in the case, the one thing needful is manifestly a standard of right. Reason may disclose such a standard; something else may do so; but there must by all means be one.

Thus emerges the question of the relationship of human beings to the principle behind the law. That is also the relevance of Corwin's discussion of the “higher law background” of American law. The claim is that there exists beyond lawmakers, beyond constitutions, and beyond organized society a principle that animates all human law. Moreover, human beings have access to that principle even when they do not enjoy consensus around that principle. It has become in our time a hotly contested issue whether natural law – or any higher law principle – ought ever to enter the minds of the judges and others involved in the judicial process. On the other side, the point is urged that it is difficult to discern the source of law's authority absent some principle of right that establishes it. Advocates of civil disobedience, in the absence of an appeal to higher principle, stand nakedly on an insistence upon their own interest. Critics who arraign unjust law point to an emptiness where there exists no justice apart from the law's command. No one may judge the law apart from the law itself when positive law is the highest thing to which human beings can appeal.

The significance of this debate is what it reveals about our opinions regarding the current character of our political regime – what we think the Constitution is and what we

think are our claims under that Constitution. Related to this problematic is the word most prominent, ultimately, in Locke's political philosophy, the word that anchors the claim that every man has a "right to life, liberty, and property." Locke introduced "right" in a different context than has characterized our discussion of the right behind the law. This right does not derive from a standard of justice, per se. For justice is invoked necessarily in judging differences between individuals. Locke's "right," by contrast, is applied to an individual without respect to any other particular individual.<sup>4</sup>

Take the right to life. In Locke's argument it is a "right" to life because it is a course of action required of the being and from which the individual cannot desist. One cannot fail to act on the basis of this principle of self-preservation. It is inherent in one's being. What one does, and what makes one what he is, is precisely to preserve one's life. Thus it becomes a right to life. The corollary is the "right" to liberty, because the action that preserves one's life presupposes the liberty to act for the purpose of preserving one's life. The "right" to property similarly becomes a right because property constitutes those things that one obtains with the end in view of preserving one's life. In the end it all comes back to the imperious necessity that we feed, shelter, and defend ourselves. Hence it is a right that no one can take from one, and it is a right that one cannot give away. Naturally, Locke is aware of suicide and self-sacrifice. He maintains, however, that in such cases people suffer from some disorder. For they cannot and have no right to take their lives. Thus, far from requiring judgment in the cases of conflict between individuals, a right is turned squarely on the individual himself.

Thinking through Locke's argument, we can discern the problem he aimed to resolve. That problem is not merely how to generate human society. That is the ultimate goal – what we may call state building. But the problem is to know the foundations, to know why it is men do not simply live idly in what he called the state of nature. The principal reason he gave is that, in the state of nature they would be constantly in a state of war. It would be dangerous and insecure. Men would not be happy, and they would not live long. They leave the state of nature to preserve their lives.

But Locke is also mindful of locating the motivation of human action. He seeks a comprehensive, universal, scientific explanation. He seeks to eliminate external influences in order to identify the sameness that underlies the apparent differences in beings. He seeks that source of motivation, that source of human conduct, that is the same everywhere. At the first level he identified that as self-preservation, and at the next level he observed that this motive drives man straight into society. In that society they create governments, governments subject to certain rules, certain limitations on power. This results from the initial impulse, driving men into government, which defines the limits of governmental power. No one would join this club if it meant sacrificing the right to life. Thus the government must be such that it cannot arbitrarily deprive one of life, liberty, or property. This fosters a relationship between contracting citizens and a government limited by the contract.

Of course this argument suffers the defect of jumping from the initial impulse to society (self-preservation) to the consummation of individual desires (happiness) without so much as pausing amidst the disorderly facts of human relationships and mutual dependencies. The Declaration of Independence's "pursuit of happiness" is perfectly Lockean – and more succinctly so – in that regard. Human life lives itself out, and con-

duct is more determinative, not where ultimate motivations or enjoyments prevail, however. Rather, the messy state of classes and orders, ranks and positions, families and priests sets the measures that both inspire one's motives and set the limits to one's enjoyments. Hence, it matters to know whether a theory of individualism can provide prudent guidance through messiness.

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To turn to our chroniclers, I want to focus ultimately on Tocqueville's personal reminiscences of revolutionary France in 1848, paving the way by revisiting his work on the revolution of 1789, (which he wrote in the same atmosphere in which he wrote his reminiscences). Afterwards I introduce reactions to the same events and from a slight distance by Karl Marx (who lived in London at the time of the troubles in France). It will be important to recall that the ferment in 1848 was not exclusive to France. Much if not all of Europe experienced radical ferment – Italy and Hungary prominently. Monarchy had been under pressure since the time of the first revolution in France, and democracy would undergo continual pressure after the revolutions of 1848. Tocqueville, then, provides a starting point for thinking about the issues involved in 19<sup>th</sup> century radicalism.

We know Tocqueville as the author of *Democracy in America*, a great critic-analyst of democracy.<sup>5</sup> He was philosophically learned and also something of a historian to boot. Moreover he was a politician, one whom in 1848 we meet as a participant-observer in the various assemblies and struggles of political parties as France underwent popular rebellion and reaction time after time. Tocqueville ended a minister in government under Louis Napoleon – that great non-democratic “voice of the people” of mid-nineteenth century France.

Bearing in mind this history of Tocqueville, we can more readily comprehend his commentary on the original revolution, and there is no better place to begin our search than with the passage in his *Recollections* in which he discusses an episode with his manservant, Eugène [pp. 156-157]. Tocqueville retired to his room, exhausted from ongoing battles and deliberations in the city of Paris. He tried to fall asleep, when he heard a knock at his door. It was Eugène, who had looked in “to see if I had returned, and if I did not require his services.” Eugène had left the bivouac that he had joined wearing a national guard uniform and carrying a good musket borrowed from Tocqueville.

This man was no socialist, either by temperament or in theory. He was not even touched to a slight degree by that most usual sickness of the times, a restless mind, and one should have had trouble to find even in any other era than ours, one more quiet in his station and without any regrets whatsoever. Always very pleased with himself and tolerably pleased with others, he ordinarily desired only what was within his reach, and he pretty nearly got, believed he had gotten, everything he desired. In this manner all by himself he followed the precepts philosophers teach but seldom observe, and he enjoyed as a gift of nature that happy balance between powers and wants that alone brings the happiness promised by philosophy.

Well, Eugène, I asked him, when he came in that morning, how are things going? “Very well, sir, perfectly well.” “How do you mean very well, when I can still hear gunfire?” “Yes, they are still fighting. But everyone is saying that it

will end very well.” As he said that, he took off his uniform, cleaned my boots and brushed my clothes, and then, putting on his uniform again, said, “If you do not need anything else, sir, with your permission, I will go back to the battle.”<sup>6</sup>

This is a particularly touching exchange between man – the aristocrat (Tocqueville was born an aristocrat, though in the politics of the day he was a republican) – and man – the servant. Both were then wrapped up in the great democratic turmoil of the insurgency of the people against their rulers and the bourgeoisie in May and June of 1848. The book opened in February amidst the first great overthrow, when the monarchy was overthrown directly by popular revolt. Tocqueville described this as the first time the people had actually rebelled and overthrown a government, as opposed to being led in that kind of activity by intellectuals or aristocrats or someone from the bourgeoisie.

To understand the significance of what happened in 1848 it is important to recapture a sense of what happened originally in France. The very first words in the first chapter of Tocqueville’s book on the “old regime” are the words:

Nothing more fitly reminds philosophers and statesmen to be modest than the history of our Revolution. For never were so great events, carried so far and better prepared, and so little foreseen.<sup>7</sup>

This presents what for Tocqueville constitutes the paradox of the French Revolution: that it was not in every decisive respect save one an innovation. All that had happened was in fact laid out in a chain of cause and effect stretching back several centuries. It was really the story of the undoing of the French monarchy or feudal monarchy (since it happened all over Europe save England). The undoing of the feudal monarchy was at the hands of feudal monarchs.

The *Old Regime* tells the story of how the monarchs set about to destroy for purposes of political order what, in a Burkean sense, is best called the social order. There had existed a society of balanced classes – peasants, lords, noblemen, kings, councilors, – with everything in its place, the clergy naturally playing a major role. Over time, through internecine struggles at the level of the ruling class, they discovered the art of playing the people off against one another. And through the course of time they completely undid that balanced constitution for the sake of expediency.

That is the story of the old regime. Tocqueville is French, though, and he did not write about France in the manner that he wrote about America. He visited America in the early 1830s, and many describe the writings that resulted as more about France than America. 1832 marked the beginning of the French monarchy that was overthrown in 1848. In 1832 the French enjoyed a breathing space, having undergone since 1789 several revolutions – a constitutional revolution replaced by a radical state, replaced by Robespierre and a Directory, replaced by Bonaparte, replaced by a constitutional monarchy, replaced by another constitutional monarchy, replaced by another despotism, and finally replaced by the constitutional monarchy of 1832. The aristocrat in America provided a natural connection between the two events. Thus, he traveled to the United States to inquire why they had not undergone the same turmoil the French had undergone. What in the way of France’s enjoying democracy distinguishes it?

Tocqueville’s writing about the events of 1848 and 1789 not only described what

happened in France but from the point of view of someone seeking a useful perspective on those events. Nonetheless the details of the stories he told focus largely on speculation, the part speculation plays in driving political events. He identified the role of eighteenth century enlightenment in shaping all the political events which occurred at the end of that century, meaning the American and French revolutions, and which proceeded to reshape the human moral and political landscape. We may throw in the economic landscape as well, for we see very shortly thereafter that notions derived from economists – particularly those of the Scottish philosophers – became completely wound up in the broader notions of enlightenment and liberal democracy.

We may divide enlightenment philosophy into two lines of thought. Tocqueville observed that,

We rightly judge eighteenth century philosophy as one of the main causes of the Revolution, and it is moreover true that that philosophy is profoundly irreligious. But one should pay careful attention to two parts of it, which are at once distinct and separable.

In one gathered all the new or renovated opinions concerning the condition of societies and the principles of civil and political law – such, for example, as the natural equality of men, the abolition of all privileges of caste, class, and of professions – that are a consequence of it – i.e., the sovereignty of the people, the omnipotence of the social power, the uniformity of rules...

All these doctrines are not only the cause of the French Revolution, but constitute thus its substance, so to speak. They are what is most fundamental, most lasting, and most true throughout time in the work of the Revolution.

In the second part of their doctrines eighteenth century philosophers attacked the church with a kind of fury. They attacked its clergy, its hierarchy, its institutions, and its dogmas; and in order to be able to overthrow them, they sought to tear out even the fundamentals of Christianity.<sup>8</sup>

The two lines of development are clearly stated. One is the general argument about humanity and the rights of man (and it is important here to use the French Revolution language – “rights of man” – as opposed to the language which still echoes the classical world, “natural rights” – because a transformation has taken place. There is no longer from this vantage point natural law or natural rights. The single, most important dimension of human relations becomes power. Further, the principle used to organize and guide power is the principle of the rights of man as enunciated in the French *Declaration of the Rights of Man* in 1789.

The 1789 Declaration is a different tool than the *Declaration of Independence* in the United States; where it remains possible to speak of natural law; where it is still possible to speak of God as somehow the Creator of human rights; and where God is somehow the Creator of principles of association that are discerned to be inalienable as they apply to human beings. There is a gulf between that kind of reasoning and the claims that prevailed through the French Revolution. The gulf forms along the line that what one is concerned about is the question, what are the activities human beings can ordinarily pursue and from which they cannot reasonably desist.

The profoundest implication of this change is that efforts directed toward self-preservation come to be seen in another light. Men derived certain notions from this proposition that came increasingly to focus on the more material aspects of humanity, those things having to do with the immediate care and succor of our bodies. That came to be addressed as the rights of man, where the rights defined a certain kind of power. This led ultimately to a view that the failures of human beings to do the things they try to do constitute deprivations rather than failures relating to any intrinsic talents or abilities. The language of Rousseau rose to the fore: "Man is born free, but everywhere we see him in chains."<sup>9</sup> All inequalities began to be seen, not as the consequences of any individual conduct but as relationships of oppression. The assumption is that, if a human being cannot fail to act to acquire what is good for himself, to secure such material substance as will render him comfortable in this world, then the failure cannot lie to his account but must be attributed to some intrusion, some obstruction. It is a social disorder parallel to the individual disorder in the case of suicide. On these grounds men began to speak of poverty in a different way than they would when informed by previous conceptions.

Tocqueville claimed that this transition was part and parcel of an enlightenment philosophy that not only generated a general picture of humanity but also a ferocious attack on religion rooted in an older language. The notion of the higher law, which we know to play a role in the American constitutional tradition, was completely cut off from this new line of analysis that gave birth to the French Revolution and rendered an entirely different kind of revolution than that in the United States. How do they differ? In the first place the French Revolution was a revolution against society far more fundamentally than it was a revolution against government. The *Old Regime* explained that, when the revolution was accomplished, the French returned to the old powers of government. They tossed the social order upside down; they beheaded queens and princes, and they putatively enthroned the people. But they still had an all powerful, centralized state. The real objective was to overturn social relationships, the orders of society, insofar as men perceived in those orders the immediate cause of social disparity. Social disparity became the directest evidence of denial of rights, with rights now interpreted as the power to acquire comfort in this world.

Tocqueville described politics as well as philosophy in the *Old Regime*. In fact, he argued that the philosophers (or the literary men, as he called them), who generated the ideas for the revolution (so much so that the revolution was carried out more in the language of literature than that of politics), had no political experience and little political judgment. The politicians, on the other hand, were totally oblivious to the consequences of their own choices and their own judgments. The kings themselves adopted the language of the rights of man. The power holders themselves insinuated the very ideas that would flower in the outburst of the revolution. He maintained that we witnessed rulers that "strive within their realms to destroy immunities and abolish privileges. They confuse the orders of society, equalize social conditions, and replace the aristocracy with a bureaucracy, local regimes with centralized or uniform regulations, and the multiplicity of diverse powers with a unity of government. They undertake this revolutionary work with constant industry; and if they encounter some obstacle they adopt the procedures and maxims of the Revolution. They frequently adopt the expedient of playing poor against rich, commoner against nobleman, peasant against lord."<sup>10</sup>

By contrast, *Federalist* number ten identified the most constant source of faction as the “various and unequal distribution of property,” but as a prelude to an argument about managing rather than eradicating the difference.<sup>11</sup> James Madison’s argument held that this was essential in political life, and that the point of political thinking is to generate arrangements to deal with rather than eradicate a phenomenon intrinsic to our humanity. Thus, when projects begin that seek to eradicate the causes of inequality, one of the consequences is to watch bold and frightening initiatives that have no capacity to improve human life but extraordinary potential to destroy the order of society. Tocqueville, by discovering that it was not the philosophers or revolutionaries but the rulers themselves who made the crucial contribution by adopting the defective mode of reasoning, describes an intersection of politics and philosophy that returns in 1848 with devastating clarity.

*The Old Regime* constitutes a model of historical sleuthing. In it Tocqueville returned to all the old documents from the regional governments and municipalities in order to demonstrate systematically how a society of aristocrats and peasants used to have an organic connection. They were co-dependent and could each call upon the other for support, in much the manner of the interaction of Tocqueville and Eugène. This order was disestablished because monarchs, starting with Louis XIV, had decided that they needed to increase their power over the aristocrats. The aristocrats were like independent power centers in this era of the birth of the nation-state. They needed to be reduced, and one means of accomplishing that was to detach them from the peasants. By the time the monarchs consummated the work, however, what France had were millions of isolated peasants who had no one to turn to. Aristocrats and peasants became natural enemies to each other rather than people organically connected in a single society.

The philosophy of the era, then, holds that there are no justifications for the distinctions that we see in the social order. Parallel to the philosophy we find a politics in the era, in which those who are charged with preserving the social order sacrifice it for their own immediate political advantage. A third factor enters in the third chapter, and that is the observation that the French Revolution was “world wide.” The revolution was not carried out in the name of this tribe, the French, but in the name of humanity. The revolution in the United States, by contrast, had an impact that was world-wide (and, as Lincoln correctly observed, the example of the United States continues to do so), principally by structuring peoples’ expectations of political decency. Although the *Declaration of Independence* appeals to the “candid” judgment of the world, and the first *Federalist*, holds that the American founding settles a question for mankind and not just for the United States, this revolution was not directed outside the immediate political sphere of the United States. Americans required to justify themselves to the world, because the standard of reason was their standard, which in turn was attached to natural law. Thus, they created a particular society, although no longer determined by blood, in the context of a general conception of humanity. The French revolution lacked such modesty; it was projected to declare illegitimate every foundation of social order in political society but those mirroring the events that transpired in France and the principles that underlay those events.

This produced a harmful consequence. Where one refuses to identify the French nation as having a peculiar title to these revolutionary claims, and where one would, be-

sides, urge the imminent necessity of all humans acting accordingly, one ends by separating human beings rather than uniting them. The reason is that on these terms a Frenchman is no longer a Frenchman, strictly speaking. A Frenchman is merely a human being, who has no greater reason to find intimacy with someone next door than with someone a thousand leagues away. There is no intrinsic principle by which one can argue that neighbors ought to sustain an immediate relationship, apart from going through the task of establishing a social contract and constitution and committing themselves to a specific political (not social) order, whose laws are binding with all the strength that Rousseau's "general will" called for. That also means an exaggeration of homogeneity among men. The existing social order that came under attack was not merely illegitimate, but all those who hold places within it become illegitimate – deserving punishment. Hence, attacks upon the church and churchmen followed in France.

Tocqueville's argument means that the political dynamic of the revolution in France is largely a question of political ideas without political judgment creating a movement that gets out of control. That creates in turn a situation in which the only control that can be established is despotic. This became the story of France for the sixty years between 1789 and 1848. He described a process that eventuated in a situation in which there was no longer an authority to which ordinary citizens would subordinate themselves, their urges, their desires, their inclinations – their rights. It had ceased to be a question of bringing the people into a common framework. A common framework can barely contain their appetites. In the *Recollections* Tocqueville focused earliest and most powerfully on envy and resentment. These are the feelings that come to the fore in the aftermath of destructive revolution.

Arguably, there is no more powerful argument against liberal democracy than that it invariably leads to France – namely, it sets in motion leveling influences that destroy the respect human beings have for particular excellences. Thus it leaves human beings with nothing more to motivate their conduct than their own self-concern, which expresses itself most powerfully in envy and resentment at all superior endowments. It is a flattening of social distinction simultaneously with a heightening of "every the least difference" among men.<sup>12</sup> We learn in this form of society to hate those who are unlike ourselves, which affection paradoxically subtends most if not all of the conversation regarding diversity, racism, and multiculturalism in the late twentieth century. Nor does this imitate the ancient world, in which people saw themselves as belonging to an *ethnos* – a tribe, a family, a nation – and therefore unlike any outside. Those differences were important precisely because they were not individual differences. The differences that led some to call themselves civilized and others barbarians were differences those men ascribed to themselves in a corporate posture, as part of a collectivity. It was a question of belonging and cultivation. That is not the soul of the conversation in the modern world, where, instead, the true spirit is that every the least difference rankles. It becomes for us something that we cannot tolerate in proportion as we are imbued with the democratic ethos, in proportion as we believe that nothing apart from equality is acceptable and insofar as we can make no distinction between moral inequality and other forms of inequality. Tocqueville has shown us how these ideas came to be rooted in the mind of the modern west (from which they have spread largely throughout the world), and the process notably precedes the intrusion of organized socialism. These ideas reduce to an accentuated regard for equality coupled with a heightened intolerance for apparent difference (materially and

morally).

Why did this happen? In the third book of *The Old Regime* Tocqueville returned to the philosophers, to show how they introduced such chaos:

They ceaselessly busied themselves with thoughts concerning government; basically, that was their vocation. Folk daily listened to them discoursing on the origins of societies and on their primitive forms, on the primordial rights of citizens and those in authority, on the natural and artificial relations among men, the error or legitimacy of custom, and even on the fundamental principles of the laws. Thus prying apart each day the very foundations of the constitution of their day, they examined its structure with curiosity and critiqued its overall design.<sup>13</sup>

We may assume that earlier thinkers were led to raise these questions for the same reasons that we raise them so naturally and that they are intrinsic to our idea of progress.

In fact, however, contemporary man acquired a taste for such inquiry. So far is ancient man from identifying an evolutionary necessity with regard to change in human nature or human conduct, that he required first, and before raising a moral question about conduct or the origins of fundamental principles, to observe that such questions presuppose that he does not know already the answers. Human beings, however, do not commence empty and then fill themselves up bit by bit. They improve on the efficiency of mechanisms to pursue instrumental means – to make axes, hatchets, and slingshots; – they do not become progressively certain of convictions that they should defend their lives, defend their families, raise their children, and live at peace with their neighbors. The latter are not, I would say, natural questions for man. Rather, one must be taught to ask such questions. Else he never would, for it is unnatural to look for the roots of conduct.

To assume otherwise is to presuppose that human beings evolve morally. Tocqueville, however, asked precisely why one would take apart the foundations of society. For to do so implies that one already expects to be able to do something to improve it. The precondition of such a question is already an inclination towards change. To ask what is the foundation of a given social order is to think that it might, or perhaps ought to, be different. That is the perspective that Tocqueville argues to be unnatural. The natural instinct is to defend what is one's own, to defend what one has and what is. One must learn to desire to be different from what one is; one must acquire a belief in evolution or progress.

Typically, human beings in the ancient world believed that what was old, what was accomplished, was better. In some distant golden age the forefathers were near-gods and the contemporary descendants but pale shadows of the distant gods. All that descendants do undermines their forefathers' greatness, and the most they can do is try very hard not to undermine it too much by securing themselves faithfully within piety to their fathers' memory.

Human society characteristically organized itself thus, but a different form of organization in the modern world has inverted the order. Now we say that everything old is inferior. We must evolve, for we will never be good enough unless we become better than they were. We prefer change to stability, for change is always for the better – never

the worse. That is the modern attitude, and it is sponsored by the disposition that entered the French Revolution. There you do not find talk about the higher law, or a nice concern to separate natural law from positive law, customary law, or constitutional law. Everything reduces to positive law – the expression of contemporary will.

Since man drives the process of change, the single most important element is the contemporary expression of his will<sup>14</sup>. That becomes law, and all attempts to organize society are attempts to organize that expression of will – to make it as clear and resounding as possible. Viewing political debates from this perspective makes clear that the principal point of dispute is how one acts to bring people together in such a way as to silence discord and produce as near as possible a clear and coherent expression of will. Governments are deemed better as they approximate that and worse in proportion as they do not. For that reason, twentieth century social scientists have frequently rejected as a system of “deadlock,” in the words of James MacGregor Burns, the elaborate mechanism described by James Madison.<sup>15</sup> The system is not designed to surface a single voice; its multiple interests and voices, variously checking and balancing, produce confusion. It does not satisfy the ambition to change man.

Whether and how we should change ourselves is a subject that generates a good many differences of view. The first thing that derives from the habit described by Tocqueville is the invention of political systems of all kinds – each now predicated on obtaining a certain goal, which is to turn the new political systems first identified as liberal democracies into the coherent expression of public will. But every new turn on that system becomes more and more eccentric, as if it were some wild trial and error experimentation. Moreover, frustration increases upon each iteration of the process, the inventors become more and more inventive and less intuitive. Their systems speak less directly to moral principles in a language that we would easily recognize and that we could easily adopt.

Tocqueville believed that what was wanted was to replace the complex of traditional customs governing the social order of the day by simple, elementary rules deriving from the exercise of human reason and the natural law. That was the starting point that, over time, became infinitely more complex. Looking closely into it, Tocqueville observed:

Looking closely at it, one sees that what may be called the political philosophy of the eighteen-century properly speaking consists in this single notion. Such a thought was not new: it ebbed and flowed ceaselessly through three thousand years without being able solidly to establish itself in human imagination. How on this occasion did it succeed in conquering the intelligences of every writer? Why, instead of expiring as it had so often done before in the brain of this or that philosopher, did it drop all the way to the mob and there acquire the consistency and heat of a political passion – so greatly that one might o serve general and abstract theories on the nature of society becoming the topic of daily intercourse for the idle and even firing the imaginations of women and peasants?<sup>16</sup>

The argument is quite straightforward. Ordinary people today talk as though they were philosophers. They use abstractions and handle terms like “rights” as if they knew what they meant. They do not speak in terms of intimate relationship and the easy identifications and distinctions that one makes through mere familiarity. That was a change in the world, according to Tocqueville.

Now, does the fact that everyone speaks like a philosopher make everyone a philosopher – including so-called professors of philosophy? Is that what enlightenment comes to, to invent new vocabulary that, as it is used more widely, structures our experience and brings everyone to live like philosophers? We do tend to say today that everyone has a philosophy, do we not? Is it sufficient to use the language of philosophy to be able to philosophize?

In the political context, the question – Tocqueville’s question – is how these abstract theories and generalizations regarding the nature of government were able to produce confidence in ordinary citizens. Consider religion in contrast. If we observed that ordinary citizens came to believe and use the language of the synoptic gospels, would it be appropriate to consider them divines? We need to inquire why we do not grant the same kind of authority to the common language of Christianity and religion in general that we grant to philosophy. Interestingly, we can trace the progress of religious language. We find people learning from missionaries and proselytizers, learning in Sunday schools regularly and tirelessly, repeating and memorizing the language. That is how we get this language worked into the soul of the believers, and not merely speaking and writing some books. It was a long and serious enterprise that took considerable effort and a long time to work its way even into the illiterate classes.

The revolution in France was different. Without having special schools set up for the purpose, the language of rights and abstract generalization, the language of humanity in place of nationality, became pervasive. Ordinary people came to use this language in the same way they use to quote gospel verses. How could it have happened?

Tocqueville does not answer the question phrased in that way. But he does suggest an answer. After noting that the literary people became bolder and bolder and contemptuous of the wisdom of the ages, he argued,

It was the [writers’] very ignorance [about politics] that won the ear and the heart of the mob.<sup>17</sup>

People, he meant, had been isolated from one another, so that the discourse of community was no longer clearly structured. There remained the underlying discourse of religion, but there was no conscious and open discourse of community that defined their circumstances. They were vulnerable to the first argument that came along.

The first argument to come along was a powerful appeal to their emotion. To identify the emotion, Tocqueville pointed out that in the twenty years prior to 1789 France enjoyed enormous prosperity. Louis XVI had presided over a recovery from the great depression that characterized the reign of Louis XV. In the attitude and atmosphere of great prosperity much of the imprudent language of class division was used. The emotion that was appealed to was greed, and in a circumstance in which people had no particular reason to be ashamed of being greedy. The social bonds that otherwise would have restrained had already been dissolved. They were left ripe for the picking. Tocqueville called this the debacle of freedom. In it the one freedom which overshadowed all others was “philosophizing without limit on the origins of societies, the essential nature of government, and the primordial rights of humankind... and the writers, assuming control of public opinion, also assumed momentarily the place that party leaders ordinarily occupy in free countries.”<sup>18</sup>

France was not free but there was free discussion among people isolated from one another. They were alienated – not in the sense modern sociology employs but in a kind of political disarticulation. Tocqueville contrasts the American Revolution with the French Revolution.

[The American Revolution] effectively had great influence on the French Revolution, but owed it less to what was done at the time in the United States than to what folk were thinking at the same time in France. While for the rest of Europe the American Revolution was still nothing but a singular and novel fact, in France it reinforced more strikingly and palpably what folk already knew. Elsewhere it was surprising; in France it was convincing proof. The Americans seemed only to perform what our writers had conceived; they gave the reality of substance to things we were dreaming about.<sup>19</sup>

Thus, French thinkers were bolstered first by getting ordinary people to adopt their opinions, and then they were bolstered by the view that history was on their side. Things were moving their way.

Again, the problem is to know what it takes to make people want to change a political system. The key is to believe that making a change does not expose one to much peril or what is the same, not believing that it is better to remain the same than to risk a change. People gain that confidence, it seems, especially from resentment, deep resentment. In place of the hope of something better one can install a powerful hatred of what is. That plays a large role in modern revolutions. Tocqueville noted that, in America, there was a resistance to such a development, in the form of its religion.

Every American I meet, whether in his country or elsewhere, I ask whether he believes religion is useful for the stability of the laws and the good order of society. Without hesitating he responds that a civilized society, and above all a free society, can not survive without religion. Respect for religion, in his eyes, is the greatest guarantee of the state's stability and the safety of individuals. The person least instructed in the science of government knows that much. Yet, there is in the world no country where the boldest political doctrines of eighteenth century philosophers could be more rigorously instituted than America. Their anti-religious doctrines exclusively have never been able to see the light of day in America, even on behalf of the unlimited liberty of the press.<sup>20</sup>

The statement is extraordinary. Tocqueville described the origins of liberal democracy and how it operates in different arenas. Liberal democracy comes from the boldest theories of eighteenth century philosophers, effectively put into practice in the United States, but with a condition attached. The condition is the expression of confidence in religion in addition to those theories to produce stability. But the philosophers attacked religion ferociously. Thus, Tocqueville means that the Americans adopted these theories up to a point but stopped, whereas the French did not stop.

While religion is the topic here, the underlying subject is the need for principles of relationship independent of politics in order to make a liberal democracy work. It is a conversation about the reason one requires social principles beyond political principles in order to make liberal democracy work. The idea is that if one tries to make politics the totality of the human experience, and organizes that politics on the grounds of liberal de-

mocracy, one will produce moral chaos. One will leave people who require social and moral guidance without any restraint or guidance. They will see politics as the only instrument suited to the pursuit of desire or ambition. They will turn all of their relationships and their differences into moments of political contest and struggle. Every political judgment will become a judgment of persons, positions, and status. Therefore, unless one can give people beyond politics all of those elements of person, position, and status, and at the same time preserve some moral leverage over them, one cannot prevent the harmful effects of the regime of equality, which is liberal democracy, from destroying the society.

Tocqueville observed in his *Recollections* that he had “sometimes thought that, though the mores of different societies varied, the morality of the politicians in charge of affairs was the same everywhere.” He added in this context that “I often glide between good and evil with a soft indulgence that borders on weakness, and my quickness to forget grievances seems more like a lack of spirit than an inability to suffer the memory of an affront rather than any virtuous effort to efface such an impression.” These statements show Tocqueville’s struggle with the spirit of revolution in France. The real question in all of his writings – one that he addresses directly only in *Democracy in America*, so far as I know – is to know why we cannot have in the modern times someone who can exert an authority like the authority of founders in the ancient times. Why cannot we have a Moses or a Lycurgus? That question contains the further question whether there is any way out of chaos, once the march of liberal democracy has begun and has spun into the disorder manifested in 1848. The answer seems to be no. Although he commends ways in which men may mitigate the disorders with which they live, he does not seem to believe that it is possible to turn back modern principles. In that Tocqueville the critic poses the most powerful intellectual challenge to liberal democracy. He sees no way that it can be made safe for human beings, which is a far more important question than whether the world can be made safe for it.

The principle threat to liberal democracy, and for human beings, is its consistent tendency to surrender to radical challengers, the most potent political example of which has been socialism. Tocqueville correctly identified that as the underlying question of 1848 (as did Marx, though with different affection), and for more than a hundred years thereafter it grew in significance to become the overriding question. Little wonder, then, that as the world seemed finally to defeat socialism, many imagined that it had defeated the arguments against liberal democracy. When we look more closely at 1848 through the eyes of Tocqueville and Marx, however, we discover reasons to doubt the wisdom of the prevailing view.

Tocqueville (in the *Recollections*) and Marx (in the *Eighteenth Brumaire*) discuss the same issues. First, does society originate in justice or injustice? Second, do the institutions of society operate in such a way as to improve human life? Third, is there any prospect to realize the ambition referred to as universal suffrage when we talk only in institutional terms but which, morally and culturally, means something richer than just voting? The proposition of universal suffrage must be based on the idea that human beings can come to be altogether capable of reasoning together about the things of human life and the common good. Human beings altogether (or to so wide an extent that the omissions are trivial) must come to be capable of moderation, self-government, and moral

sense in order to justify confidence in universal suffrage.

Anyone who thought that people only acted out of callous self-interest should have trouble defending universal suffrage. This, then, was the question of revolution in France – the oscillation between centralized power and revolts of the people. After February 1848, and the great popular rebellion in the name of universal suffrage, one finds in 1849 universal suffrage itself taken away by the republican government, under the fear that the people will abuse the power.

Is it true that the people will abuse power in general; ought power to be reserved only to those who have moral strength and understanding sufficient to exercise it? Or is there yet another basis for political life? One wants more to know how Tocqueville stands on this question than on the mere question of political affections.

Tocqueville is no simple democrat. He is skeptical about democracy. He does regard it as the irresistible wave of the future, but he does not think it a very good idea. For it delivers power to people who do not know what to do with it – people who will act out of envy rather than wisdom, who will be more concerned to level from their passion for equality than concerned to establish their particular city or country safely. Such a people will override a range of questions that statesmen need to handle, driven by their relative status vis-à-vis others in the community. The first volume of *Democracy in America* had already signaled this [p. 178]. Tocqueville described the disappearance of aristocracy in the United States, where even natural aristocrats go into hiding:

Nowadays, one may say that the wealthy social classes in the United States are almost entirely outside the political arena. Moreover, wealth – far from being a right – there is a real cause of disfavor and an obstacle to reaching power...

The rich surrender to this state of affairs as an irremediable evil, while he avoids with exquisite care showing how hurt he is... One hears him boast publicly of the benefits of republican government and the advantages of democratic forms. After all, what is more natural in men, after hating their enemies, than to flatter them?<sup>21</sup>

He suggests that real human distinction is an obstacle to gaining power in democracy. The death of aristocracy tells us something about the character of liberal democracy. We ask how we can originate the society without a principle of sociality, and how can we expect it to function if people are motivated solely by self-interest. The answer usually presented as a responding miracle is the supposed discovery that we do not need moral principles, and we can make society work by orchestrating the interactions of self-interest so as to create a social equilibrium from everyone pursuing his own goals and not caring about any one else's.

Critics have denied the miracle. The Antifederalists, for example, favored some sense of community, some homogeneity, something social to hold things together sufficiently to foster mutual reliance in order to make democratic politics work. The argument from rights (understood as mere interest), however, says nothing about participation in politics and political responsibility. It ultimately assumes an almost utopian balance of forces in which all of the classical historical problems of human life have disappeared. Men have become consumed with pursuing their own interests and satiating their own

passions.

Tocqueville urged that no such balance emerged in the revolution, for people were so bent on satiating their passions that they were almost resistless. One could not turn them back any time they had the idea that they could lay hands on someone else's goods. He described them:

Folk had assured these poor people that the property of the wealthy were somehow obtained by theft from them. Folk assured them that the inequality of fortunes was as contrary to morality and society as to nature. Many poor people believed it, assisted by needs and passions. That obscure and erroneous conception of right, which mated with brute force, imparted to this concept an energy, tenacity, and power that it never should have acquired singly.<sup>22</sup>

This is a portrait of the popular insurrection in June 1848. The "theories of socialism" held by the insurrectionists led them to believe they had a right to goods stolen from them on account of society's originating in injustice. They think the only way to recover their goods is to reach out and take them, because the inequalities they suffer are not only historically wrong but also a continuing moral injury to them.

The implication is that what began as an argument about individual rights veered off track, because it did not take into account the motivations of human beings. Men would see their own poverty, insofar as they experienced it, not as something momentary that they would overcome in due course as they enjoyed more and more of these rights, but as an injustice they had suffered. The only way to change those circumstances is to overthrow the regime and to take from others property wrongly owned. Tocqueville argues that a spirit of envy will undermine the supposed smooth operation of a system of entrepreneurial energy based on individual liberty.

Socialist theories in the shape of greedy, envious desires continued to spread among the people sowing the seeds of future revolutions, but the socialist party itself remained beaten and impotent. The Montagnards, who did not belong to that party, seemed to have been struck down beyond recall by the same blow that felled it. Even the moderate republicans were not slow to see that the victory that had saved them had left them on a slope sliding beyond a republic. They immediately made an effort to pull back but in vain.

Naturally enough, Marx thinks very differently about these events than does Tocqueville. Nonetheless, in light of the foregoing Tocqueville passage, the following passage from Marx is instructive:

If the overthrow of the parliamentary republic contains within itself the germ of the triumph of the proletarian revolution, its immediate and palpable result was *the victory of Bonaparte over Parliament, of the executive power over the legislative power, of force without phrases over the force of phrases.*<sup>23</sup>

In other words, Marx describes Bonaparte's coming to be the representative of the people, after continuing internecine struggles among the various classes intermediate between the people and the dictator. Thus, the popular will was to become the law of the nation not through the people ruling directly but through the force of the dictator. Marx continued:

In Parliament the nation made its general will the law; that is, it made the law of the ruling class its general will. Before the executive power it renounces all will of its own and submits to the superior commands of an alien will – to authority. The executive power in contrast to the legislative power expresses the heteronomy<sup>24</sup> of a nation in contrast to its autonomy. France, therefore, seems to have escaped the despotism of a class only to fall back beneath the despotism of an individual.<sup>25</sup>

Now, Tocqueville agrees with Marx. He also sees the emergence of Napoleon Bonaparte as fulfilling the popular revolution rather than a reaction to the revolution. Nonetheless, what Marx is saying, and what is important about it, is that what Tocqueville calls the people's "envy" has driven this process less than the self-interested behavior of the various classes (as he has identified them). In an earlier passage he even questioned whether we can regard those who are called the petty peasants a class. They have lost the sense of class; they are no longer in contact with one another; they are no longer in community; and yet they are the people who drive the popular uprising and bring Bonaparte to power in an alliance with the urban proletariat.

Thus, these isolated individuals – whether inspired by envy or political submission – drive the nation relentlessly toward a concentration of power in the pursuit of their goal, which is to strike down the differences between themselves and the classes they see but do not acknowledge as their superiors. Both Tocqueville and Marx make this argument.

In context, we ask what the rhetoric of republicanism is all about? If liberal democracy is the rhetoric of republicanism, what is it all about? Why do not people simply talk politics, in the way they used to do in the old world. Why do not the French speak of the Italians, the Germans, and the Belgians in terms of their lack of civilization and the reason they ought to be destroyed? Why does politics become a language primarily about domestic concerns, which is true all over the earth today, including here in the United States? People who declaim that this is the greatest country in the world seem not to be talking politics but to be living in la-la land. Of course, though, politics classically and traditionally distinguished one people from another. While for us politics is what distinguishes one interest from another. In these writers, also, politics distinguishes one interest from another.

The question is: how did communities come to be disintegrated such that nothing important could be said about politics other than fellow citizens' mutual hatreds and struggles? Is it ever possible in terms of this discourse to refer to communities again? May we refer to the French as a community? If we read Marx's account of their struggles – struggles that always end in some degree of bloodshed – we find a people who kill over theories. They do not kill outsiders; they kill one another over theories.

Marx and Tocqueville wrote after the revolutionary struggles of 1848 to 1851 (and Tocqueville actually participated in them). In fact, though, many of those same conversations continue to resonate through the same one hundred and forty years afterwards – first in many countries in Europe and then spreading to Latin America, Asia, and Africa. Ultimately it became a world conversation that came to be known as the "cold war," in which people debated perhaps the merits of their civilizations but always under

the guise of debating the relative merits of socialism and liberal democracy.

Is socialism really an alternative to liberal democracy?<sup>26</sup> If so, what is its chief argument against liberal democracy? Far ahead of the development of explicit theories that fueled political revolutions, there was a notion that one had to do more than talk about the prospects of material progress or comfort. One also had to convert the discussion of material progress into a discussion of social cohesion. Socialists seem to have argued that liberal democracy does not permit social cohesion.

Marx provided the explanation for this conclusion, namely that liberal democracy is predicated on the conflict of classes. This is the form of life in which by definition they fight and kill one another by historical necessity – because of material conditions. Rousseau’s discovery that society originates in the accidental discovery of property leads to Marx’s discovery that the influence of the accident does not end with the social contract and a legislator, but sets in motion a historical train of events.

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While Tocqueville has the concluding word, Marx has special relevance in this inquiry, because his methodological materialism lies at the foundation of much modern opinion regarding the relationship of economics and freedom. We have returned to the *Eighteenth Brumaire* because it is one of the first and clearest elaborations of the theory of historical materialism, and almost the only work in which Marx accomplishes a full illustration of the theory. Readers have previously under emphasized Marx’s starting point as opposed to the end he envisioned, and in doing so they have obscured the implications of his teachings for all views of stratified, mediated, or complex communities.

Marx wrote clearly of the impossibility of community in general for all men who had lived until the time he wrote and for most if not all who ever would live. What makes community in general impossible is the view that what might be taken as the differentiated dynamics of a single community constitute in fact the inveterate antagonisms of true enemies and not potential friends. The theory runs thus:

Upon the different forms of property, upon the social conditions of existence, rises an entire superstructure of distinct and peculiarly formed sentiments, illusions, modes of thought and views of life. The entire class creates and forms them out of its material foundations and out of the corresponding social relations. The single individual, who derives them through tradition and upbringing, may imagine that they form the real motives and starting point of his activity.<sup>27</sup>

The beginning of the theory of Karl Marx – not the end, the utopianizing vision of a withering of the state – has the greatest relevance for continued theorizing about the state or society. That beginning is nothing less than a categorical refutation of the possibility of the *res publica* – i.e., the reality of a true public and a common good in any of the arenas in which we traditionally observe politics.

The description of politics in Marx is a description of continuous warfare, where the terms “classes” or “social orders” replace the terms “armies” and “command and control.” What this insight means for the present discussion is two-fold. First, the denial of the possibility of a public good for or within a liberal democracy is the most radical challenge to that regime (hence, Tocqueville was right). Second, all discussion of a restora-

tion or renaissance of a sense of civic culture must succeed first – before it can have an impact on the contemporary stage – to reclaim from Marx’s devastating attack a legitimate role for differential cultural actors – individually and in groups.

Every modestly informed observer will forgive my not eliciting a list of examples to illustrate the ways in which contemporary commentary echoes Marx in assumptions of interested behavior and inveterate oppositions of interests among social strata as the basis of society. Besides, it would be far simpler to enumerate the rare cases in which the socialist presumption does not contribute the starting point of inquiry.

If it is true, however, and as I maintain, that the socialist presumption (i.e., there is no common good under forms of the political organization of society) thoroughly reigns as orthodoxy across the spectrum of contemporary political opinions, then it must surely follow that socialism has rather been disapproved in practice than disproved in theory. What would follow from that is recognition of the need to respond to the radical challenges to liberal democracy as a pre-condition for undertaking the cultural strengthening of liberal democracy.

Here, too, we may lean on Marx:

Men make their own history, but they do not make it just as they please; they do not make it under circumstances chosen by themselves, but under circumstances directly encountered, given and transmitted from the past. The tradition of all the dead generations weights like a nightmare on the brain of the living.<sup>28</sup>

The pervasive circumstance constraining the makers of a new history today is the pervasive, deadly influence of socialism inherited from the past. Tocqueville recognized this process as it was just beginning. He saw in the revolutions of 1848 not just a re-ordering but a dissolution or fragmentation of society – one meant to be permanent.

This time, it was not merely a matter of the triumph of one party; people aspired to launch a social science, a philosophy, I could almost say a single religion that they could teach to all men and cause them to follow. That was the truly great departure from the old picture.<sup>29</sup>

Tocqueville stood among those who resisted the reduction of all human society to an abstract order. Indeed, they initially succeeded in branding socialism a sclerosis.

Marx foresaw that growing influence would follow the early defeats. But it was Tocqueville who explained why. Initially he explained how “socialist theories” penetrated the minds of the people “in the form of greedy and envious passions,” planting “seeds of future revolutions” despite the impotence of the socialist party.<sup>30</sup> More profoundly, though, he asked:

Will socialism remain buried in the scorn that so justly covered the socialists of 1848? I raise the question without answering it. I am certain that the fundamental laws of our modern society might be sharply modified in the fullness of time; they have already been so altered in several of their main parts. But shall it ever occur that folk will destroy and install others in their place? That seems impracticable to me. That’s all I can say, for to the extent that I study the ancient condition of the world more closely, and also see up close our own world today; whenever I weigh the immense diversity that one encounters between them, not only within

the laws but within the principles of the laws and the different forms that the right to land-holding have taken and retain, to this very day, no matter what folk say, I am tempted to believe that what folk call necessary institutions are often nothing but the institutions folk are used to. Regarding a social constitution the realm of possibility is so much vaster than the people living in any one society might imagine.<sup>31</sup>

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<sup>1</sup> E. S. Corwin, *The Higher Law Background of American Constitutional Law* (Ithaca, NY: Cornell University Press, 1965, c1929).

<sup>2</sup> John Locke, *Second Treatise on Civil Government*, para. 6.

<sup>3</sup> Charles de Montesquieu, *De l'esprit des lois*, Bk. I, ch. 1.

<sup>4</sup> op. cit., Locke,

<sup>5</sup> Alexis de Tocqueville, *Democracy in America*, (New York: Modern Library, 1981).

<sup>6</sup> Alexis de Tocqueville, *Souvenirs* (Paris: Gallimard, 1964), edited by J. P. Mayer and B. M. Wicks Boisson, Pt. II, Ch. 10, pp. 240-241. [Translation by author]

<sup>7</sup> Alexis de Tocqueville, *L'ancien régime et la révolution* (Paris: Gallimard, 1967), edited by J. P. Mayer, Ch. 1, p. 57.

<sup>8</sup> Ibid., p. 63.

<sup>9</sup> Jean-Jacques Rousseau, *Contrat social; ou principes du droit politique* (Geneva: Chez Marc-Michel Bosquet, 1766), I, i.

<sup>10</sup> Op. cit., Tocqueville, *L'ancien régime et la révolution*, pp. 66-67.

<sup>11</sup> Alexander Hamilton, James Madison, John Jay, *The Federalist* (New York: Mentor, 1961), essay number 10.

<sup>12</sup> Op. cit., Locke, para. 21[?].

<sup>13</sup> Op. cit., Tocqueville, *L'ancien régime et la révolution*, Liv. III, ch. 1, p. 230.

<sup>14</sup> "The earth belongs to the living," Thomas Jefferson exclaimed in a 1789 letter to James Madison. See *The Portable Thomas Jefferson*, edited by Merrill D. Peterson (New York: Viking Press, 1975).

<sup>15</sup> James MacGregor Burns, *The Deadlock of Democracy; four party politics in America*. With revisions. (Engelwood Cliffs, NJ: Prentice-Hall, 1963).

<sup>16</sup> Op. cit., Tocqueville, *L'ancien régime et la révolution*, Liv. III, ch. 1, p. 231.

<sup>17</sup> Ibid., p. 233.

<sup>18</sup> Ibid., pp. 233-34.

<sup>19</sup> Ibid., p. 234.

<sup>20</sup> Ibid., p. 248.

<sup>21</sup> Op. cit., *Democratie*, Vol. I, p. 262

<sup>22</sup> Tocqueville, *Souvenirs* Part II, ch. ix, p. 213.

<sup>23</sup> Karl Marx, *The 18<sup>th</sup> Brumaire of Louis Bonaparte* (New York: International Publishers, 1963), p. 120. Italics in translation.

<sup>24</sup> Today, this is called multiculturalism or diversity, and it contrasts with autonomy.

<sup>25</sup> Op. cit., Marx, p. 121.

<sup>26</sup> There were many early nineteenth century examples of state socialism, including within the United States. One of the more dramatic, however, occurred during the succession of constitutional struggles in Paraguay between 1816 and 1840.

<sup>27</sup> Op. cit., Marx, p. 47.

<sup>28</sup> Ibid., p. 15.

<sup>29</sup> *Recollections*, p. 125

<sup>30</sup> Ibid., p. 252.

<sup>31</sup> Ibid., p. 131.