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A Contradictory Constitution: Forgotten Hypocrisies in the Blueprint of Democracy

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Abstract

The following essay investigates the contradictions of the modern concepts linked to the U.S. Constitution and the actual ideologies of those who wrote it. While it may be viewed as a beacon of modern democracy today, it contains several contradictory and outright racist portions pertaining to Blacks. Although those contradictions and racist laws have been rectified, it is important that we remember they are still in there. If we cannot learn from the mistakes of those before us, we will more than likely make those same mistakes again.

“All men are created equal,” says the Declaration of Independence of the United States. The phrase was one of the guiding principles of the rebellion against Great Britain. It is a part of the U.S. Constitution, a document that is looked at today as the model of modern democracy. Unfortunately, people have forgotten that the phrase was contradictory at its inception, along with most of the ideals behind the Revolutionary War. While the Americans were fighting against the tyranny and enslavement of King George III, they themselves were hypocritically partaking in the practice of holding and trading other human beings as slaves. Even after eliminating the control the British had over them, those who wrote the U.S. Constitution failed to give their slaves the same freedoms they had fought for. Upon investigation, it is easy to see these contradictions now, but at the time most of the nation’s founding fathers did not see the contradictions as such hypocrisy.

In his 1775 pamphlet *African Slavery in America*, Thomas Paine asked, “With what consistency, or decency they complain so loudly of attempts to enslave them, while they hold so many hundred thousands in slavery; and annually enslave many thousands more, without any pretense of authority, or claim upon them?” (2005, p. 8). It would appear that, only a year before Paine inspired a nation to revolt with *Common Sense*, no one was listening to him discuss the contradictions in their quest for liberty (not to mention his proclaimed disgust at the institution of slavery itself). Why did the architects of the nation fail to include Blacks in their assessment of the individual rights of every man? While arguments can be made that anti-slavery northern states left the issue alone in order to keep the southern states appeased and remaining in

the newly formed union, one underlying theme remains a more plausible (if less acceptable) reason—racism. It must be noted that there is a distinct difference between anti-slavery individuals and abolitionists. Abolitionists took action to eliminate the institution of slavery, whereas those who were considered anti-slavery simply did not take part in the institution and wanted to keep it confined to the South—abolitionists had moral concerns; anti-slavery individuals did not. Lynn Montross (discussing American's individuality from other Englishmen circa 1775) says, "Prominent among these traits was a ruthlessness of purpose which had not hesitated at the extermination of one 'inferior' race and the enslavement of another" (1950, p. 90). It is apparent that Montross is referring to Native Americans and Blacks respectively. So, it would appear that one of the reasons behind the Constitutional contradictions was racism.

Christopher Collier and James Collier claim that "the major division in the country was between North and South. Indeed, in 1787 these two great sections of the country were already very different from each other in attitudes, life-styles, and economics" (1986, p. 137). Approximately 80 years later, similar observations were made on the eve of the Civil War. However, the majority of those with racist tendencies were never restricted to the South but spread evenly across all the colonies. The Colliers continue, stating, "Northerners in general disliked slavery, but not always for humanitarian reasons...slavery was no doubt immoral and reprehensible, but free or slave, Africans were not welcome, and the ultimate objective of most Northerners was to purge society of their presence altogether" (p. 141). It may difficult to comprehend, but while the men most would consider enlightened for establishing the United States made great progress toward the advancement of democracy, they remained barbaric in their ideas of human equality (or lack thereof). The Colliers provide another eye-opening example of alternative reasons for opposing slavery: "Virginians generally opposed the slave trade, in part because they felt it degraded master as well as servant, but also because the ending of the slave importation would increase the value of Virginia's surplus slaves" (p. 177). This suggests that the Virginians were opposed to slavery for economic—not moral—reasons and could have been considered to have had racist tendencies.

While racism may have been one of the factors in early American contradictions, not all of the nation's founding fathers were so negative toward Blacks. For example, Continental Congressman Richard Smith says in his diary that on Tuesday, September 26, 1775, "E Rutledge moved that the Gen. [Washington] shall discharge all the Negroes as well Slaves as Freemen in his Army" (Burnett, Vol. I, 1963, p. 207). The members of the Continental Congress thought enough of Black slaves to reward them (although not actively recruit them) for their service in the war against Britain. However, this could have also been an attempt to counter the British. The Redcoats promised freedom to American slaves who fought with them during the war. Regardless, Rutledge's motion shows compassion for what some of the delegates believed to be an inferior race of beings.

Another example of this realization of Black humanity comes from George Washington. Carol Berkin states, "Although he had not made the abolition of slavery one of his general causes, he did emancipate all his slaves when he died" (2002, p. 247). Maybe he believed that his efforts would be in vain. Or maybe he simply could not bring himself to go against a lifetime as a Virginia slaveholder. Whatever

the reason, in the end Washington's conscience and morality seemed to have won (although his widow Martha would then have to deal with the fear of being the subject of the recently freed slaves' vengeance toward their former masters). The key point here is that perhaps racism was not the only factor in the contradictions. These two examples show that perception of the status of Blacks was not simplistic.

Another member of the Constitutional Convention, Alexander Hamilton, also had anti-slavery ideologies. Not only did he oppose the act, but he also made it known that he did not believe in the inferiority of Blacks. In his Gettysburg Address, Abraham Lincoln claimed that Hamilton was one of the "most noted antislavery men" during the construction of the American republic (Chan, 2004, p. 207). Notably, Hamilton did not share the common prejudice of Southerners concerning Negroes, which is all the more extraordinary given his upbringing on Nevis where a White Plantation aristocracy likewise relied on Black slaves for its way of life. "He did not even 'hazard' a mere 'supposition' of a natural inferiority of Negroes," claims Michael Chan (p. 217). This would suggest that Hamilton was unbiased about one race's superiority over another. Even though Hamilton was born in the Caribbean and would not have automatically adopted the Southern ideal, the sugar plantations of the islands were very similar to the tobacco plantations in the Southern colonies. As Hamilton led the charge for a new Constitution to replace the Articles of Confederation, he "was steadfastly committed to the eventual abolition of slavery, and was certainly not so complacent as to leave his commitment to the mere hope that slavery was on a path to ultimate extinction" (p. 208). However, it seemed Hamilton would eliminate slavery indirectly as "his program to make America a commercial rather than an agrarian society...would both undermine slavery and provide the best viable economic alternative to it" (p. 221). According to Hamilton's theory, industrialization would have likely brought about the downfall of slavery. If machines performed more work for less money than slaves and the number of merchants (requiring no slaves) grew, then the slaves would be obsolete. However, we will never know because the 13th Amendment to the Constitution abolished slavery before it had a chance to fade away. The point is that Hamilton was another early American leader in opposition of slavery, further complicating the dilemma of what to do about it in the infant nation.

Hamilton was a verbally strong opponent of slavery, but he was not an abolitionist. His view of the immorality of slavery often took a back seat to his belief in an individual's right to property. This logic worked because slaves had long been regarded as property rather than people. It seemed only fair to him that, if slaves were to be emancipated, then their masters should be compensated. Chan noted, however, "if push came to shove...Hamilton would have favored emancipation without full compensation if full compensation was impracticable" (2004, p. 215-216). Again we see how complex the issue of slavery and the perception of Blacks were at the time.

If Hamilton is an example of an exception to the racist rule, then Thomas Jefferson (author of the Declaration of Independence) is perhaps the most notable example of the contradictions in early American ideals. Hamilton's view of an American industrial power clashed with Jefferson's view of virtuous yeoman farmers (Chernow, 2004, p. 73). More important to this examination, though, are their differences with respect to slavery. Upon initial inspection, Jefferson would appear to be in line with Hamilton. In his letters of grievances he sent to Parliament following the

Stamp and Declaratory Acts (circa 1765-66), he stated:

Jefferson argued in his third claim that His Majesty likewise has failed to fulfill his duties toward America. The British Constitution has given to the king the power to veto a bill that has been passed by the “two branches of the legislature.” Yet he has refused to exercise this right in British America. This was particularly evident with respect to the controversial subject of domestic slavery. It was Britain, asserted Jefferson, that introduced slaves in the colonies against the wishes of many British Americans. Yet whenever the colonies initiated steps “to excluded all further importations” of slaves “from Africa,” his Majesty’s “negative” defeated these proposals to eliminate an “infamous practice” that is an affront to the basic “rights of human nature.” (Golden & Golden, 2002, p. 277)

What this appears to say is that the colonists never wanted slavery in the first place. Even before he laid blame on the British for slavery, Jefferson made public strides against it. As a member of the House of Burgesses in 1769, he convinced fellow member Colonel Richard Bland to propose a motion that would make “emancipation a workable option for slave-owners,” which he quickly seconded. The motion, however, was defeated, and while Jefferson’s actions were dismissed as “youthful indiscretion,” Bland was severely reprimanded and treated with disdain (Golden & Golden, 2002, p. 418).

Jefferson made another attempt to curb slavery in his draft of the Virginia Constitution in 1776. In it, he proposed that “‘No person hereafter coming into this country’ would be held in slavery ‘under any pretext whatever’” (Mayer, 1994, p. 57). However, Jefferson’s proposal would again be defeated. Despite these political defeats, Jefferson apparently had continuous notions of ridding the United States of slavery. In Query XVIII of his *Notes on the State of Virginia* from 1785, Jefferson made it clear that he wanted to slowly rid his home state of slavery, “an institution he considered to be an unconscionable moral evil” (Golden & Golden, 2002, p. 324).

Of course, these facts show that Jefferson was similar to Hamilton in his views about slavery, but they begin to differ drastically in the realm of race. James Golden and Alan Golden point out that “in spite of these pronouncements, [Jefferson], unlike George Washington and John Randolph, felt motivated to use his administrative power to free only a handful of his slaves” (2002, p. 433). Granted, Washington freed his slaves posthumously, but he freed them nonetheless. Jefferson clearly contradicted himself in his words and actions. Even in *Notes*, Jefferson makes several racist comments. In Query XIV, Jefferson claims “that his experience as a Southerner and as a plantation owner gave him firsthand knowledge of the physical, moral, and mental characteristics of Blacks, [and] he chose to compare these traits with those of Whites. In doing so, he concluded that in most respects Blacks were inferior to Whites” (p. 421). Jefferson also claims that, “the amalgamation of Whites with Blacks produces a degradation to which no lover of his country, no lover of excellence in the human character, can innocently consent” (Halliday, 2001, p. 153). His displeasure toward mulattos is clearly on display here.

Again in *Notes* (Query XIV), Jefferson proposes that in order to abolish slavery, young Black men and women would be raised, educated until age 18 for

women and age 21 for men, and colonized, all at the public's expense (Golden & Golden, 2002, p. 423). At first glance, a proper upbringing would seem like a compassionate thing to do for someone so inferior, but E. M. Halliday makes a disturbing revelation: "It takes a moment to realize that the great champion of human liberty is talking about a program of forced training and deportation designed to ultimately rid America of its black population altogether" (2001, p. 152). It would seem then that Jefferson had no love for Blacks. Halliday does point out, though, that Jefferson's motives for the removal of all Blacks from America may not have been entirely racial. It is possible that Jefferson realized the great tensions between Blacks and Whites and the potential violence and hatred between them if Blacks were to be emancipated. Rather than have the country endure a civil war, Jefferson's proposal would avoid conflict by separating the two sides before any hostilities could begin (p. 153). Again we see how complicated racial situations were in the young republic.

These contradictions invite numerous questions. How can someone who supposedly fought for the freedoms of mankind hold such racist beliefs? Adding to the contradictions, Annette Gordon-Reed asks, "How could a man who wrote such things engage in a sexual liaison with a black person?" (1997, p. 134). Jefferson's relationship with his slave Sally Hemings (a relationship that produced children) would contribute not only to his hypocrisy, but it would invite a bit of controversy as well. Perhaps some of the contradictions can be explained by suggesting that Jefferson was not suited for the life of a plantation owner. According to Halliday, it is possible that Jefferson might have been a successful lawyer if not for his involvement with, and eventual marriage to, Martha Wayles. Jefferson had just begun to practice law and was apparently skilled at it. However, when he fell in love with Wayles, he must have come to the conclusion that a planter's daughter would expect to continue living on a plantation. Jefferson therefore claimed a plantation and 50 slaves from his father and strove to give Wayles what she expected (Halliday, 2001, p. 142).

It is also worth noting that Jefferson was both a gracious and a cruel master. His slaves often received generous rewards (such as new clothes) for their hard work, but it was also not uncommon for them to receive harsh punishments (including excessive floggings) for their insolence. Whether Jefferson himself instituted these punishments is irrelevant as he would have still given the orders to do so (Halliday, 2001, p. 144). This double-sided treatment provides another example of contradiction from Jefferson.

The racial remarks in his *Notes* were written before Sally Hemings moved to Jefferson's Paris mansion when he served as the U.S. Ambassador to France in 1787 (Halliday, 2001, p. 158). Therefore, his personal redemption, if you will, was probably left in his private life. As Jay Fliegelman points out, Jefferson's *Autobiography* at the age of 77 was a recollection of only public affairs, leaving his private life private (1993, p. 121). Even today, most Americans know little about his private life. If Jefferson experienced a crisis of conscience or even just a change of heart, we may never know. If Jefferson was adamant about eliminating slavery, though, then he did not do enough to abolish it (serving as ambassador to France cannot be viewed as an excuse). His inability to accomplish anything in the matter "left to future generations the difficult problem that he once likened to holding 'the wolf by the ears'...the greatest failure of both his private and public life" (Mayer, 1994, p. 326). Jefferson knowingly left the problem of slavery to be resolved by individuals long after his lifetime.

Contrary to popular belief, Jefferson was not present at the Constitutional Convention. Those who were there, however, agreed with Jefferson and wanted to limit (if not abolish) slavery but did not do enough to achieve that goal either. A combination of lack of effort, postponements, and alliances between northern and southern states hindered the elimination of slavery—which arguably brought about the greatest travesty the United States has witnessed, the Civil War. Chan points out that there was “widespread lack of concern over the moral challenge of Negro slavery” (2004, p. 208). Obviously, if there was sufficient concern about the matter, then it would have been at least limited. Instead, it was continually used as a bargaining chip by the South. In addition, Northerners more or less dismissed slavery as unimportant in order to complete the Constitution (Collier & Collier, 1986, p. 178). The greater good of establishing the nation and finishing the Constitution outweighed any potential negatives that would be attached to slavery. For example, in 1774 John Adams said, “*Mr. Henry...Slaves are to be thrown out of the question*” (Burnett, *Vol. VIII*, 1963, p. 14). It appears that Adams held a mind-set similar to the one previously mentioned.

Montross adds, “Congress wisely decided that Americans had better not venture out of their glass houses to throw stones at a monarch whose responsibility for slavery was somewhat less than their own” (1950, p. 156). Montross suggests that Jefferson’s accusations about the British introduction of slavery were not entirely warranted. So even if northern abolitionists wanted to push their cause, their challenge was great because the majority of delegates had deemed the issue unimportant for more than 10 years at the time. This would explain why there are so few records of actual attempts to limit slavery. It also explains why there are not more examples such as Rufus King of Massachusetts, who wrote in a letter to Timothy Pickering, “I likewise inclose you the report of a committee on a motion for the exclusion of slavery from the new states. Your ideas on this unjustifiable practice, are so just that it would be impossible to differ from them” (Burnett, *Vol. VIII*, 1963, p. 94). King would be in the minority. As mentioned before, not many examples of anti-slavery or abolitionist correspondence can be found today.

A more complete explanation for the lack of action is presented by Christopher Collier and James Collier: “Northerners at the Convention were so strongly committed to union that it was easy for them to believe that slavery would shortly disappear” (1986, p. 142). “The Colliers further stated, Roger Sherman of Connecticut claimed that although he disapproved of the slave trade, the ‘public good’ did not require its prohibition, and he ‘thought it best to leave the matter’ as it was, in order not to drive the South out of the union. He added that slavery was dying out anyway and would by degrees disappear” (p. 172). Not only was slavery unimportant to the delegates, but it was also avoided both to appease the southern states and because it seemed to be a faltering practice anyway. The Colliers conclude, “in sum, if the North had pressed for abolition of slavery, there would have been no Constitution, and everybody at the convention knew it” (p. 177). By allowing the issue of slavery to remain a non-issue, the northern states had a better chance of completing their task of establishing a new government for their infant nation. Obviously, then, “the question before the convention was most distinctly not the abolition of slavery...that issue was never seriously discussed, and any suggestion that it might be was quickly squelched by...Georgia and the Carolinas” (Collier, 2003, p. 65). Realistically, though, not

discussing the issue of slavery was like not discussing the proverbial “elephant in the closet”—eventually something would have to give.

Not to be overlooked, though, is the specter of racism. When given the opportunity to relieve the upstart democracy of what could be considered its greatest evil, “the men of the North did not make the fight. They did not because most of them genuinely believed that Blacks were inferior and, even as freed men, could work only at menial labor” (Collier & Collier, 1986, p. 178). It seems, then, that not only did Northerners not care about debating the issue, but they did not even care about the Blacks in the first place.

The North-South alliances from the convention should also be examined. In order to push their respective agendas, northern and southern states formed alliances to make compromises and combat similar big-state and small-state alliances. In fact, “the alliance may also have been based on a sense among the delegates from the Deep South that if they supported the Big Three on issues important to them, Virginia, Massachusetts, and Pennsylvania would not attempt to harass the Deep South on an issue crucial to them—slavery” (Collier & Collier, 1986, p. 91). These alliances obviously worked exceptionally well. Southern delegates wooed enough delegates from the “Big Three” to override the concerns of anti-slavery delegates such as Hamilton and Sherman. One of the most infamous compromises of the convention came about because of such alliances—the Three-Fifths Compromise.

In order to have a proportional section of government, the North had to accept southern slaves as part of their population. The debate, though, was over whether slaves were citizens or property. If they were citizens, then they should be free and given the right to interact with their government like anyone else. However, if they were property, then they had as much of a right to be counted for representation as any other of their masters’ tools. James Wilson of Pennsylvania proposed the resolution of the debate (Collier & Collier, 1986, p. 143). He claimed that every five slaves would count as three freemen toward a state’s proportional representation. The compromise seemed fair to many, but it was not until the formula was also attached to taxation (slaves would be taxed as three-fifths of a person each as well) that the northern states agreed to the Three-Fifths Compromise.

The North believed that the South would grow and eventually overtake the North in population and would then be able to command the country’s economy (Collier & Collier, 1986, p. 161). It is possible that, because of the states’ differences in opinion of representation, without this compromise the Constitution may never have been ratified. As Collier points out, however, “the deal that saved the convention in this case helped to bring on the Civil War...it has been justly characterized as a ‘dirty compromise’” (2003, p. 63). No doubt that leaving the slavery issue unresolved meant that it was only a matter of time before things grew out of control. Ironically, what most consider America’s greatest triumph, the Constitution, can also be viewed as the instrument of arguably the country’s greatest tragedy, the Civil War.

Finally, looking at the actual Constitution itself reveals that the word *slavery* does not appear until the 13th Amendment. However, the institution is mentioned in passing three times before then. Article One, Section Two states that, “three fifths of all other Persons” would be used in determining a state’s representatives and taxes. The phrase, “such Persons as any of the States now existing shall think proper to admit,”

refers to the taxation and eventual potential to limit slaves in Section Nine of Article One. Article Four, Section Two mentions a “Person held to Service or Labour in one State,” when talking about the duty of states to return runaway slaves to their homes. These passages show the reluctance of our initial lawmakers to deal with slavery. It also provides an excellent example of the ability to discuss something without discussing it. As previously mentioned, the issue of slavery was continually brought up during the creation of the Constitution, but it was rarely discussed. Therefore it seems fitting that the actual word *slavery* never appeared in the Constitution until it was abolished by the 13th Amendment.

In conclusion, liberty was not granted to everyone by the Constitution, as the words of the document might have modern readers believe. The authors even went so far as to leave slavery virtually unmentioned in the Constitution and Bill of Rights. Whether it was because of being overshadowed by those who were apathetic toward slavery, compromises with the South, or even underlying racism, the Constitution initially missed a crucial aspect of freedom. Jefferson was right when he claimed that “all men are created equal.” Unfortunately, it took nearly 100 years and the bloodiest war in American history to begin the road to racial equality. These things must not be forgotten by those who know only the image of the Constitution and not the actual document.

References

- Berkin, C. (2002). *A brilliant solution*. New York: Harcourt.
- Burnett, E. (Ed.). (1963). *Letters of members of the continental congress Vol. I*. Gloucester, MA: Peter Smith.
- _____. (1963). *Letters of members of the continental congress Vol. VIII*. Gloucester, MA: Peter Smith.
- Chan, M. (2004). Alexander Hamilton on slavery. *Review of politics*, 66 (2), 207-231.
- Chernow, R. (2004, July 5). The best of enemies. *Time*, 164, 72-76.
- Collier, C. (2003). *All politics is local*. Lebanon, NH: University Press of New England.
- Collier, C., & Collier, J. (1986). *Decision in Philadelphia*. New York: Random House.
- Fliegelman, J. (1993). *Declaring independence*. Palo Alto, CA: Stanford University Press.
- Golden, J., & Golden, A. (2002). *Thomas Jefferson and the rhetoric of virtue*. Lanham: Rowman & Littlefield.
- Gordon-Reed, A. (1997). *Thomas Jefferson and Sally Hemings*. Charlottesville, VA: University of Virginia Press.
- Halliday, E. M. (2001). *Understanding Thomas Jefferson*. New York: Harper Collins.
- Mayer, D. (1994). *The Constitutional thought of Thomas Jefferson*. Charlottesville, VA: University of Virginia Press.
- Montross, L. (1950). *The Reluctant Rebels*. New York: Harper & Brothers.
- Paine, T. (2005). African slavery in America. *Common sense and other writings*. New York: Barnes & Noble.