

U.S. CONSTITUTION: AN EXPLOITERS' VISION OF FREEDOM

—ADDED NOTES (AND BRIEF INTRODUCTION)

by Bob Avakian

www.revcom.us

@TheRevcoms

youtube.com/TheRevcoms



CONSTITUTION

For The

New

Socialist

Republic In

North America

(Draft Proposal)

Authored by Bob Avakian

Adopted by the Central Committee of the
Revolutionary Communist Party, USA

Available online at revcom.us.

Order paperback copy, \$8 plus \$2.78 shipping/handling/tax
Send money orders or checks to: RCP Publications,
PO Box 3486, Merchandise Mart, Chicago, IL 60654

greater vision of freedom”—what it would mean “in real life.” One very important result of this is the *Constitution for the New Socialist Republic in North America*, which provides both a sweeping vision and a concrete blueprint for a radically different and emancipating society and world. This Constitution is available at revcom.us.

U.S. CONSTITUTION: AN EXPLOITERS' VISION OF FREEDOM

Added Notes (And Brief Introduction)

by Bob Avakian

Brief Introduction:

The following article by Bob Avakian was originally published in 1987. We are republishing it now, because it remains highly relevant in terms of understanding the basic nature of this system we live under—the system of capitalism-imperialism—and the role of the U.S. Constitution as the legal and political basis for this system of ruthless exploitation, murderous oppression and massive destruction. In this republished version, Bob Avakian has provided some Added Notes at the end of the article, to further clarify important points.



James Madison, who was the main author of the *Constitution of the United States*, was also an upholder of slavery and the interests of the slaveowners in the United States. Madison, the fourth president of the United States, not only wrote strongly in defense of the *Constitution*, he also strongly defended the part of the *Constitution* that declared the slaves to be only three-fifths human beings (that provided for the slaves to be counted this way for the purposes of deciding on representation and taxation of the states—Article I, Section 2, 3 of the *Constitution*).

In writing this defense, Madison praised “the compromising expedient of the Constitution” which treats the slaves as “inhabitants, but as debased by servitude below the equal level of free inhabitants; which regards the *slave* as divested of two-fifths of the *man*.” Madison explained: “The true state of the case is that they partake of both

these qualities: being considered by our laws, in some respects, as persons, and in other respects as property.... This is in fact their true character. It is the character bestowed on them by the laws under which they live; and it will not be denied that these are the proper criterion." Madison got to the heart of the matter, the essence of what the U.S. *Constitution* is all about, when in the course of upholding the decision to treat slaves as three-fifths human beings he agrees with the following principle: "Government is instituted no less for protection of the property than of the persons of individuals."¹ Property rights—that is the basis on which outright slavery as well as other forms of exploitation, discrimination, and oppression have been consistently upheld. And over the 200 years that this *Constitution* has been in force, down to today, despite the formal rights of persons it proclaims, and even though the *Constitution* has been amended to outlaw slavery where one person actually owns another as property, the U.S. *Constitution* has always remained a document that upholds and gives legal authority to a system in which the masses of people, or their ability to work, have been used as wealth-creating property for the profit of the few.

The abolition of slavery through the Civil War meant the elimination of one form of exploitation and the further development and extension of other forms of exploitation. As I wrote in *Democracy: Can't We Do Better Than That?*, "despite the efforts of abolitionists and the resistance and

¹ Quotes from James Madison are from the Federalist Paper No. 54 in *The Federalist Papers* (New York: New American Library, 1961), pp. 336-341, especially pp. 339 and 337.

Slaves were the property of slaveowners. Property rights—that is the basis on which outright slavery as well as other forms of exploitation, discrimination, and oppression have been consistently upheld. Here, a slave coffle in Washington, DC.



Thus, in looking into and reflecting on this further, I would say that, while it is important to understand the complexity and nuance of what Montesquieu writes here—and it can be said that the way in which I cited Montesquieu in writing this pamphlet on the U.S. Constitution does not really or fully do that—it is not the case that what Montesquieu was doing here was actually making a case against the enslavement of the Negroes, or against slavery in general. Once again, it is important to keep in mind the fact that, although he was opposed to slavery on general principle, and declared that it was a good thing that it had been eliminated in his home country, France, and more generally in Europe, Montesquieu did not think slavery was wrong, or without justification, in all circumstances. And it also seems that Montesquieu did not hesitate to invest in companies involved in the slave trade. In this, there is a parallel with John Locke, the English philosopher and political theorist, who, as I pointed out in this same pamphlet (*U.S. Constitution: An Exploiters' Vision of Freedom*), was also a major influence in the conception of the U.S. Constitution. As I wrote in *Democracy: Can't We Do Better Than That?* (p. 29):

"In sum, the society of which Locke was a theoretical exponent, as well as a practical political partisan, was a society based on wage-slavery and capitalist exploitation. And it is not surprising that, while he was opposed to slavery in England itself, he not only defended the institution of slavery, under certain circumstances, in the *Second Treatise*, but turned a not insignificant profit himself in the slave trade and helped to draw up the charter for a government headed by a slave-owning aristocracy in one of the American colonies. For as Marx sarcastically summarized: 'The discovery of gold and silver in America, the extirpation, enslavement and entombment in mines of the aboriginal population, the beginning of the conquest and looting of the East Indies, the turning of Africa into a warren for the commercial hunting of black-skins, signaled the rosy dawn of the era of capitalist production.'"

***** In the years since the writing of this article, I have devoted considerable work to the development of what is meant by this "far

considerable amount of determinism: it is a kind of mechanical materialism that argues for a direct and straight-line (linear) connection between things like geography and climate and the character of society and government. It is a kind of materialism that does not adequately and accurately characterize the real motive forces in the development of human society, and in fact this kind of vulgar materialism has often been used to justify various forms of oppression, including colonial and imperialist domination. While we can, and should, recognize that, in the circumstances and time in which he wrote—about 250 years ago—there are aspects of what Montesquieu was seeking to do that were new and represented a break with the suffocating and obfuscating feudal outlook and conventions, it is very important to understand how Montesquieu's outlook and method were marked, and limited, by the social, and international, relations of which they were ultimately an expression: relations in which one part of society, and of the world, dominates and exploits others. And that is the basic point that was being emphasized in relation to Montesquieu and the U.S. Constitution, in the pamphlet *U.S. Constitution: An Exploiters' Vision of Freedom*.

With regard to the specific passage that was cited in *U.S. Constitution: An Exploiters' Vision of Freedom*, “on the enslavement of the Negroes,” there is, in fact, some reason to accept that Montesquieu does not actually agree with the justification for this enslavement that he summarizes, and that he is actually subjecting this kind of justification to some ironic and satirical treatment. A reasonable interpretation of Montesquieu's arguments, as he goes on in this part of “The Spirit of the Laws” (book 15), is that this kind of argument, about the non-human character of the Negroes, is not a valid argument, not one that actually justifies this enslavement. But then he does go on to explore the question of *what might actually be* reasonable justifications, in certain circumstances, for slavery; and, as spoken to above, he finds such justifications in situations such as those where there is a despotic government, or where—as he concludes, through an application of vulgar and determinist materialism—the warm climate makes people lazy and unwilling, on their own initiative, to work.

revolts of the slaves themselves—and their heroic fighting in the Civil War itself—it was not fought by the Union government in the North, and its president, Lincoln, for the purpose of abolishing the atrocity of slavery in some moral sense.... The Civil War arose out of the conflict between two modes of production, the slave system in the South and the capitalist system centered in the North; this erupted into open antagonism, warfare, when it was no longer possible for these two modes of production to co-exist within the same country.”² The victory of the North over the South in the U.S. Civil War represented the victory of the capitalist system over the slave system. It represented the triumph of the capitalist form of using people as a means of creating wealth. Under a system of outright slavery, the slave is literally the property of the slaveowner. Under capitalism, slavery becomes *wage-slavery*: The exploited class of workers is not owned by the exploiting class of capitalists (the owners of factories, land, etc.), but the workers are in a position where they must sell their ability to work to a capitalist in order to earn a wage. Capitalism needs a mass of workers that is “free,” in a two-fold sense: They must be “free” of all means to live (all means of production), except their ability to work; and they must not be bound to a particular owner, a particular site, a particular guild, etc.—they must be “free” to do whatever work is demanded of them, they must be “free” to move from place to place, and “free” to be hired and fired according to the needs of capital! If they cannot enrich a capitalist through working, then the workers cannot work, they cannot earn a wage. But even if they cannot find a capitalist to exploit their labor, even if they are unemployed, they still remain under the domination of the capitalist class and of the process of capitalist accumulation of wealth—the proletarians (the workers) are dependent on the capitalist class and the capitalist system for their very lives, so long as the capitalist system rules. It is this rule, this system of exploitation, that the U.S. *Constitution* has upheld and enforced, all the more so after outright slavery was abolished through the Civil War.

But here is another very important fact: In the concrete conditions of the U.S. coming out of the Civil War, and for some time afterward, wage-slavery was not the only major form of exploitation in force in the U.S. Up until very recently (until the 1950s), millions of Black people were

² Bob Avakian, *Democracy: Can't We Do Better Than That?* (Chicago: Banner Press, 1986), pp. 110-11.



Up until very recently (until the 1950s), millions of Black people were exploited like serfs on Southern plantations, working as sharecroppers, like at this 1907 Georgia plantation. Photo: Library of Congress

exploited like serfs on Southern plantations, working as sharecroppers and tenant farmers to enrich big landowners (and bankers and other capitalists). A whole system of laws—commonly known as Jim Crow laws—were enforced to maintain this relationship of exploitation and oppression: Black people throughout the South—and really throughout the whole country—were subjected to the open discrimination, brutality, and terror that such laws allowed and encouraged. All this, too, was upheld and enforced by the *Constitution* and its interpretation and application by the highest political and legal authorities in the U.S. And, over the past several decades, when the great majority of Black people have been uprooted from the land in the South and have moved into the cities of the North (and South), they have still been discriminated against, forcibly segregated, and continually subjected to brutality and terror even while some formal civil rights have been extended to them.

Once again, this is in accordance with the interests of the ruling capitalist class and capitalist system. It is consistent with the principle enunciated by James Madison: Governments must protect the property no less than the persons of individuals. In fact, what Madison obviously meant—and what the reality of the U.S. has clearly been—is that the government must

polemize *against* the enslavement of African people, and that in general Montesquieu's writings express opposition to slavery. But the reality is not so simple as this, nor does this reflect what Montesquieu was essentially seeking to do in this part of "The Spirit of the Laws." It can be said that in "The Spirit of the Laws" Montesquieu's position is one of general opposition to slavery, and he indicates that slavery is not appropriate in countries like France; but, at the same time, he speaks to various circumstances in which he believes slavery *can* be justified or reasonable. For example, he argues that in the parts of the world, in particular the southern regions, where the climate is warmer, this climate makes people lazy (indolent), and slavery may be justified in order to get them to work (and he argues that in a despotic country, where people's political rights are already repressed, slavery may not be worse for people in that condition).

This, and the general discussion of slavery that makes up this part (book 15) of "The Spirit of the Laws," is included in a broader discussion by Montesquieu on the nature of different societies and governments in different countries and parts of the world (this is found not only in book 15 but also books 14 and 16 of "The Spirit of the Laws") in which Montesquieu argues that geography and in particular climate plays a big part in determining the nature of different peoples and the character of their society and governing system. And it is important to understand that, although in this discussion Montesquieu makes logical refutation of certain arguments, including certain defenses of slavery, this is not a polemic for or against slavery, or other forms of government, and its character is not that of moral argumentation, so much as it is an attempt to explain why various practices, and various forms of society and government, have existed (and in some cases continue to exist) in various places.

Another way to put this is that what Montesquieu is doing, in these parts of "The Spirit of the Laws" (and generally in this work), is attempting to make a kind of materialist analysis of these phenomena, including slavery in many places where it has existed—although it must be emphasized that this is not a thoroughly scientific, dialectical materialism but instead a rather crude and vulgar materialism which is marked, and marred, by a

dynamism of this mode of production, a process which continually transforms value relations and which leads to crisis.

(*Breakthroughs* is available at revcom.us; and the article by Raymond Lotta referred to here, “On the ‘Driving Force of Anarchy’ and the Dynamics of Change,” can be found in the online theoretical journal *Demarcations*, Issue Number 3.)

*** As noted in “Imperialist Parasitism and ‘Democracy’: Why So Many Liberals and Progressives Are Shameless Supporters of ‘Their’ Imperialism”:

Some of the mass murderers in other countries who today play such a crucial role in serving the interests of U.S. imperialism throughout the world, and in making possible the maintenance of bourgeois democracy in this country itself (worm-eaten as it is indeed), are the same as they were 40 years ago, and some are different—but the essential reality remains that *the “platform of democracy” in this country rests on fascist terror, along with ruthless exploitation, in the oppressed nations of the Third World (Latin America, Africa, the Middle East and Asia).*

**** In relation to this statement by Montesquieu—and more generally his views on slavery—I am reproducing here the following “A Note from Bob Avakian: On Montesquieu, Slavery and the U.S. Constitution,” which appeared in *Revolution* #037, March 5, 2006, posted at revcom.us:

Recently, *Revolution* ran an excerpt from a pamphlet I wrote, which was originally published in 1987, *U.S. Constitution: An Exploiters’ Vision of Freedom*. In that excerpt, there is a quote from *De L’Esprit Des Lois* (or, in English, “The Spirit of the Laws”) by Charles Montesquieu, an 18th-century French philosopher, who was one of the sources of inspiration for the U.S. Constitution, and in particular the theory of the separation of powers that is incorporated in that Constitution. The quote from this work of Montesquieu’s, which was published in 1748, is one in which he recites an extreme and grotesquely racist justification for “the enslavement of the Negroes.” In relation to this, it is not infrequently argued that Montesquieu was being ironic here, and deliberately overstating this argument, in order to, in effect,

protect the property of white people, especially the wealthy white people, more than the rights of Black people. It must never be forgotten that for most of their history in what is now the United States of America Black people *were* the property of white people, particularly wealthy plantation owners. Even after this outright slavery was abolished, Black people have never been allowed to achieve equality with whites: they have been held down, maintained as an oppressed nation, and denied the right of self-determination. Capitalism cannot exist without the oppression of nations, and this is all the more so when capitalism develops into its highest stage: monopoly capitalism-imperialism. If the history of the United States has demonstrated anything, it has demonstrated this.

The Heritage They Won’t Renounce

The ruling class of the U.S. today—above all the U.S. imperialists, the large-scale capitalists and international exploiters who dominate the U.S. and most of the world—are indeed, as they proclaim, the direct and worthy descendants of their “Founding Fathers.” And this is why the ruling class and its political representatives, while they feel obliged to say that they are opposed to slavery today (at least in the U.S. itself), solemnly *praise* and *celebrate* slave owners and upholders of slavery who were so prominent among the “Founding Fathers” and played so central a part in the establishment of the system in the U.S.: men like George Washington, Thomas Jefferson, and James Madison.

These imperialists will never admit that their “Founding Fathers” established a system of government that, in its very foundation, is based on oppression and exploitation. They will never admit that their *Constitution* is the legal instrument for enforcing that exploitation and oppression. They cannot admit this, any more than they can admit their much-vaunted wealth and power has been established and built up by stealing land and resources from the native peoples (and Mexico) through extortion and outright murderous means; by trading in human flesh and harnessing human beings in slave labor; by pitilessly exploiting immigrants in their millions as wage-slaves; by robbing and plundering throughout the world, particularly Latin America, Africa, and Asia (what today is generally called the Third World). They cannot acknowledge that, while the *forms* of slavery have changed, the U.S. has, from the beginning and down to today, remained a society where enslavement, in one form or

another, has been at the very heart of the economic system and the very basis of the political structure.

There are many (including even Supreme Court Justice Thurgood Marshall) who argue that, because of the upholding of slavery in the *Constitution*—and other injustices, such as excluding women from voting, and the treatment of the Indians—the *Constitution* was not such a great document when it was written, but it has been made great through the history of the U.S. and the struggles to create a more perfect Union and a more perfect *Constitution*. In other words, the *Constitution* may have had defects in some important ways when it was originally conceived, but the miracle of it is that the *Constitution* has within it provisions for changing and improving it—for extending democracy and rights to those previously excluded. And, some will add, while the *Constitution* upholds property rights, it also upholds individual and civil rights (even the statement from Madison cited at the beginning of this article stresses that, some might argue). Let's look more deeply at these questions.

Extension of the *Constitution* ... Extension of Bourgeois Domination

The extension of constitutional rights and protections to those previously excluded from them has gone together, in an overall way, with the extension of bourgeois (capitalist) relations and their dominance throughout the U.S. *And*, at the same time, it has gone hand-in-hand with the *continuation* of the oppression of Black people, of Native Americans, of Latinos and immigrants from Latin America (and elsewhere), of the oppression of women, and other forms of oppression and exploitation. All this is not in contradiction to but is consistent with the fundamental principles on which the *Constitution* is based and the way in which it treats the relationship between the rights of property and the rights of individuals.*

It is noteworthy that the 14th Amendment to the *Constitution* (echoing the 5th Amendment) has as its pivotal point the provision that no State may “deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the law.” Especially in the period since World War 2, this amendment has been used as a major part of the basis to extend civil rights for Black people, for women, and for others discriminated against. Yet this amendment was passed right after the Civil War, in 1866; and for many

calculations going into it, market estimates and all kinds of things, and may be very tightly organized in terms of how the actual process of production is carried out on the level of the particular capitalist corporation, and so on—while, at the same time, this is in contradiction to the anarchy of production and of exchange in the society as a whole (or today in the world as a whole, today more than ever in the world as a whole). So you have these two forms of motion—and I'll come back later to a crucial distinguishing aspect of the new communism: the importance of identifying the second form of motion of this fundamental contradiction, that is, the anarchy/organization contradiction, or the driving force of anarchy, as overall the principal and most essential form of the motion of the fundamental contradiction of capitalism....

In this regard, in the article “On the ‘Driving Force of Anarchy’ and the Dynamics of Change,” Raymond Lotta cited this statement of mine:

It is the anarchy of capitalist production which is, in fact, the driving or motive force of this process [of capitalist production], even though the contradiction between the bourgeoisie and proletariat is an integral part of the contradiction between socialized production and private appropriation. While the exploitation of labor-power is the form by and through which surplus value is created and appropriated, it is the anarchic relations between capitalist producers, and not the mere existence of propertyless proletarians or the class contradiction as such, that drives these producers to exploit the working class on an historically more intensive and extensive scale. This motive force of anarchy is an expression of the fact that the capitalist mode of production represents the full development of commodity production and the law of value.

And then there is this very important passage:

Were it not the case that these capitalist commodity producers are separated from each other and yet linked by the operation of the law of value they would not face the same compulsion to exploit the proletariat—the class contradiction between bourgeoisie and proletariat could be mitigated. It is the inner compulsion of capital to expand which accounts for the historically unprecedented

Fred Hampton, were murdered by police, along with many Black people taking part in urban uprisings in that period, while militant mass resistance against the Vietnam war and rebellions among middle class youth and students were in some cases subjected to a vicious, and at times murderous, response by police and National Guard troops.

It should never be forgotten, or overlooked, that the “law and order” that enforces this relative stability has included the regular murder of Black people, as well as Latinos, by police—resulting in the fact that the number of Black people who have been killed by police in the years since 1960 is greater than the thousands of Black people who were lynched during the period of Jim Crow segregation and Ku Klux Klan terror, before the 1960s. It should also not be overlooked that the U.S. has the highest rate of mass incarceration of any country in the world, with Black people and Latinos particularly subjected to this mass incarceration.

** The point here, as emphasized in my work *Breakthroughs: The Historic Breakthrough by Marx, and the Further Breakthrough with the New Communism, A Basic Summary*, is that the essence of the capitalist economy, and the source of capitalist “wealth” and “economic growth,” is not a bunch of capitalist entrepreneurs and their “innovation,” or their “entrepreneurial genius.” It is the exploitation by the capitalists (the bourgeoisie) of wage-workers (the proletariat). This is different than the question of what is the driving force compelling the capitalists to continue to intensify the exploitation of the proletariat and to continually find new means of doing so. As also pointed out in *Breakthroughs*:

Engels, in *Anti-Dühring*, discussed the motion of the fundamental contradiction of capitalism between socialized production and private appropriation. He pointed out that the working out of this contradiction assumes two different forms of motion that go into the dynamic process of this fundamental contradiction’s motion. Those two forms of motion are, on the one hand, the contradiction between the bourgeoisie and the proletariat that it exploits, and the other form of motion that Engels identified, importantly, is the contradiction between organization and anarchy, the organization of production on the level of, say, an enterprise—which may be highly organized, with lots of

decades this amendment was not used to combat racial or sexual discrimination. Instead, “For many years the Supreme Court applied the due-process clause mainly to protect business interests against state regulatory legislation.”³ It was only beginning after World War 1, and more fully after World War 2, that the 14th Amendment was applied in a significant way to the questions of racial and sexual discrimination. Thus, “in a long series of cases” beginning in 1925, the Supreme Court “gradually expanded its definition of due process so as to include most of the guarantees of personal liberties in the Federal Bill of Rights and has protected them from state impairment. A similar development occurred with respect to the equal-protection clause.”⁴ These changes in Supreme Court decisions were part of larger changes in ruling-class policy. But these resulted not from some brilliant new legal insight, nor from some sudden flash of moral awakening within the ruling class. Rather, they resulted from the changed situation of Black people in U.S. society and, more decisively, from the situation and needs of the ruling imperialists.

3 Edward Conrad Smith, editor, *The Constitution of the United States with Case Summaries* (New York: Barnes & Noble Books, 1979), p. 18. All citations in this article are from the essay “The Origins of the Constitution.”

4 *Ibid.*, pp. 18-19.



The needs of capitalism drew Black people from the South to urban ghettos in the North, into the most exploited sections of the proletariat, Above: Midvale Steel & Ordnance Plant, Coatesville, PA. Photo: Courtesy of Hagley Museum and Library

As noted earlier, the masses of Black people have undergone a dramatic change in their particular conditions of existence—and of oppression—in the U.S. This began during and immediately after World War 1 but developed fully during and after World War 2. Demand for labor in war production and other strategic industry, followed after World War 2 by sweeping changes in Southern agriculture—called forth by technological changes and international economic competition—drove millions and millions of Black people from the rural South to the urban ghettos of the North and South, and into the most exploited sections of the proletariat. At the same time, the U.S. imperialists emerged not only victorious but greatly strengthened from world war that devastated those countries which were much more directly and centrally involved. So, after World War 2 U.S. imperialism was everywhere, scooping up the former colonial possessions of the prior colonial powers and establishing U.S. neocolonial domination in the name of freedom and (usually) in the guise of allowing formal independence. In this situation, it was not so necessary—nor was it so helpful—to openly and blatantly treat Black people as “second-class citizens” in the U.S. itself. So, over the period of the next several decades, concessions were made to civil rights demands and struggles at the same time as deception, vicious repression, and the promotion of “loyal and responsible Negro leaders” were carried out to keep things firmly under the control of the ruling class and in the service of its larger interests. Similarly, recent decades have seen political and legal changes that have brought certain extensions of formal rights to women and certain concessions to their battle against oppression. These have



The 1960s and '70s have seen political and legal changes that have brought certain extensions of formal rights to women.
Photo: Wikimediacommons

Added Notes by the Author, Spring 2023

* A major factor underlying this “extension of constitutional rights and protections to those previously excluded from them” has—especially since the second half of the 20th century—been the increasing globalization of the capitalist-imperialist economy, a worldwide system of exploitation ensnaring literally billions of people, and in particular *super-exploitation* of masses of people, including more than 150 million children, in the Third World of Latin America, Africa, the Middle East and Asia. The relationship of this worldwide exploitation, and super-exploitation, to the situation in the U.S. itself—particularly with regard to the economic structure and social and class relations within this country—is analyzed in depth in the paper by Raymond Lotta *Imperialist Parasitism and Class-Social Recomposition in the U.S. From the 1970s to Today: An Exploration of Trends and Changes*, which is available at revcom.us. The political dimensions of this are explored in my article *Imperialist Parasitism and “Democracy”: Why So Many Liberals and Progressives Are Shameless Supporters of “Their” Imperialism* (also available at revcom.us), where the following is made clear:

[T]his imperialist plunder provides the material basis for a certain stability, at least in “normal times” in the imperialist “home country” (with the U.S. a prime example of this). This relative stability, in turn, makes it possible for the ruling class to allow a certain amount of dissent and political protest—so long as this remains within the confines of, or at least does not significantly threaten, the “law and order” that serves and enforces the fundamental interests of this ruling class.

At the same time, as sharply demonstrated in mass uprisings which do call into question that “law and order” and/or defy allegiance to the imperialist interests of this system—such as the mass outpouring against police terror in 2020, and urban rebellions and mass opposition to the Vietnam war in the 1960s—the rulers of this country will frequently respond to such opposition with severe repression and murderous retribution. For example, the city of Wilmington, in Biden’s home state of Delaware, was placed under martial law for months during the 1960s upsurge against the oppression of Black people, and a number of members of the Black Panther Party, most prominently

Let the “Founding Fathers” and their descendants draw theoretical inspiration from the likes of Montesquieu! Let them defend slavery and modern-day exploitation on the ground of property rights, taking their lead from the likes of James Madison, the main author of the *Constitution*. As for the proletariat, our goal is “Marx’s view of the complete abolition of bourgeois property relations—and all relations in which human beings confront each other as owners (or non-owners) of property rather than through conscious and voluntary association.”¹⁵

For the exploiting classes, and in a system under their rule, the “bottom line” is to reduce the masses of people to mere wealth-creating property—and today, under the domination of the imperialists, the greatest of all exploiters, the mass of humanity is treated as merely a means to amass even greater wealth and power in the hands of, and for the profit of, so few. And at what cost! This cost must be measured in massive human suffering, degradation, and destruction. Imagine the even greater cost in human suffering, degradation, and destruction that will have to be paid unless and until the oppressed and exploited victims of this system, who are the great majority of humanity, rise up and overthrow this system and finally put an end to all social relations of exploitation and oppression.

In conclusion, *The Constitution of the United States* is an exploiters’ vision of freedom. It is a charter for a society based on exploitation, on slavery in one form or another. The rights and freedoms it proclaims are subordinate to and in the service of the system of exploitation it upholds. This *Constitution* has been and continues to be applied in accordance with this vision and with the interests of the ruling class of this system: In its application it has become more and more fully the instrument of bourgeois domination, dictatorship, oppression, conquest, and plunder.

Our answer is clear to those who argue: Even if *The Constitution of the United States* is not perfect, it is the best that has been devised—it sets a standard to be striven for. Our answer is: Why should we aim so low, when we have *The Communist Manifesto* to set a far higher standard of what humanity can strive for—and *is capable of achieving*—a far greater vision of freedom. *****

¹⁵ Avakian, *Democracy*, p. 212.

corresponded to significant changes in society and the world, including the fact that in only a small percentage of U.S. families is it any longer the case that the family is supported by just the man working. But, again, these concessions have been confined within limits that fundamentally conform to the interests and needs of the ruling class in the face of changing conditions in the U.S. and the world.

Would anyone dare say that, because of these changes and concessions, inequality and injustice have been eliminated in the U.S.? The fact is, none of this has in any way eliminated, or come close to eliminating, discrimination against Black people, their overall conditions of oppression, their status as an oppressed nation. Nor have the ruling imperialists ceased to oppress the Native Americans—they have never even stopped trying to cheat and rob them of valuable land and resources. Nor have these imperialists ceased to discriminate against and viciously exploit other national minorities and immigrants. Nor, despite the constitutional amendment (the 19th, in 1919) giving them the right to vote and other concessions to “women’s rights,” have women been granted equality—there has been no end to the subjugation and degradation they have been subjected to: The oppression of women remains a foundation stone of U.S. society, as indeed it must so long as a system of class domination and exploitation is in force. Today, 200 years after the U.S. *Constitution* first took effect, and after all the changes and amendments, no one can seriously and reasonably argue that the various kinds of oppression that I have spoken to here do not exist or are only a minor aspect of the situation. No one can seriously and reasonably argue that they are not a basic and deeply rooted feature of American society.

The reason for this is rooted in the very reality and nature of the economic system in the U.S. and the political system that upholds and enforces this economic system, including the *Constitution* as the legal “cement” of the political structure. The fundamental reason why the “extension” of constitutional rights to those previously excluded from them has not put an end to exploitation, inequality, and oppression is this: The essence of the capitalist economic system is not the competition of commodity owners, all vying equally in the marketplace (equal opportunity for all). The essence is the exploitation of labor as wage-labor, the command by capital over labor power (the ability to do work) as a commodity—a unique commodity—that creates wealth through its use.** (As a dockworker told me years ago: No one gets rich *working*; the only way

to get rich is by making *other people* work for you.) And the essence of the political structure that goes along with and protects this capitalist economic system is not freedom and democracy for all, regardless of wealth and social position. The essence is the *dictatorship* of the bourgeois class—its monopoly of political power and armed force—over those it dominates in the economic system, especially the proletariat. Thus, the right to vote and other formal rights for the proletariat and other oppressed masses are in no way in fundamental opposition to the economic and political system of capitalism and bourgeois dictatorship.

Bourgeois Democracy—Bourgeois Dictatorship

Bourgeois democracy presents itself as classless democracy: It proclaims equality for all. Thus, the U.S. *Constitution* does not say that different classes of people shall have unequal wealth and power; rather, it sets forth a charter that appears to treat everyone the same, regardless of wealth and social status. Yet there never has been, and never could be, a capitalist society without tremendous differences in wealth and power, without fundamental class divisions and antagonisms. In fact, a capitalist society without these things is not even conceivable. And in reality, democracy in capitalist society can only be bourgeois democracy. This means there is democracy—equal political rights *and* the power to make fundamental decisions—only among the capitalist class, the ruling class. For the rest, and for the proletariat especially, bourgeois democracy means dictatorship: It means being ruled over by the capitalists, even while being allowed to vote and even while being governed by a *Constitution* that sets forth laws that are said to be applied, equally, to all. How can this be?

First, as for voting, as I pointed out in *Democracy: Can't We Do Better Than That?*:

On the most obvious level, to be a serious candidate for any major office in a country like the U.S. requires millions of dollars—a personal fortune or, more often, the backing of people with that kind of money. Beyond that, to become known and be taken seriously depends on favorable exposure in the mass media (favorable at least in the sense that you are presented as within the framework of responsible—that is, acceptable politics)... By the time “the people express their will through voting,” both the

exploitation, all oppressive social relations, all class distinctions, through the revolution of the exploited class under capitalism, the proletariat.

To get a very stark sense of just how historically conditioned—how long since outmoded and completely reactionary—are the interests and the paramount concerns of the “Founding Fathers” and their descendants, the ruling imperialists of today, let us consider the fact that, in writing their *Constitution*, Madison and others “For theoretical inspiration...leaned heavily on Locke and on Montesquieu’s *Spirit of the Laws*. Both writers had insisted on the need for separation of powers in order to prevent tyranny; in Montesquieu’s view even the representatives of the people in the legislature could not be trusted with unlimited power.”¹³ In reading over Montesquieu’s *Spirit of the Laws* I could not help but be struck by how thoroughly his frame of reference is that of a bygone age and his outlook that of exploiting classes whose period of historical ascendancy is long since past. As a glaring illustration, consider the following:

If I had to justify our right to enslave Negroes, this is what I would say: Since the peoples of Europe have exterminated those of America, they have had to enslave those of Africa in order to use them to clear and cultivate such a vast expanse of land.

Sugar would be too expensive if it weren’t harvested by slaves.

Those in question are black from the tip of their toes to the top of their heads; and their noses so flattened that it is almost impossible to feel sorry for them.

It is inconceivable that God, who is a very wise being, could have placed a soul, especially a good soul, in an all-black body...

One proof of the fact that Negroes don’t have any common sense is that they get more excited about a string of glass beads than about gold, which, in civilized countries, is so dearly prized.

It is impossible that these people are men; because if we thought of them as men, one would begin to think that we ourselves are not Christians.¹⁴,****

¹³ Smith, *Constitution of the U.S.*, p. 13.

¹⁴ Charles Montesquieu, *De L’Esprit Des Lois*, Paris: Garnier, 1927, livre 15, chapitre 5, “De L’Esclavage Des Negres” (*The Spirit of the Laws*, book 15, chapter 5, “On the Enslavement of Negroes”), my translation.

not just the breaking away from domination by a foreign power. It also meant breaking away from a form of government that vested great power in the person of the monarchy—even while it ultimately served the interests of the bourgeoisie and the landed “nobility.” In general, the rights and the restrictions of power established in the *Constitution* of the newly founded United States revolved around preventing arbitrary rule by despots and the concentration of too much power in one person or one part of the government. The “separation of powers” and the “checks and balances” of different branches of government was seen as a way of insuring that the government would serve the interests of the capitalist class and (at that time) the slaveowners *as a whole*. It is in this light that “We the people of the United States,” in the “Preamble” of the *Constitution*, must be understood. Obviously, “We the people of the United States” did not include all those who were expressly excluded from the process of selecting the government and endorsing the *Constitution*. For, “Even on the most obvious level, how could the government of the newly formed United States, for example, be considered to have derived its powers ‘from the consent of the governed’ when, at the time of the formation of the United States of America, a majority of the people ‘governed’—included slaves, Indians, women, men who did not meet various property requirements, and others—did not even have the right to vote...to say nothing of the real power to govern and determine the direction of society?”¹²

Bourgeois ruling classes generally speak in the name of the people, all the people. From their standpoint, it may make a certain amount of sense: They do, after all, *rule over* the masses of people. But from a more basic and more objective standpoint, their claim to represent all the people is a deception. If it was a deception at the time of the founding of the United States and the adoption of its *Constitution*, it is all the more so now. For now the rule of the capitalists is in fundamental antagonism with the interests of the great majority of people, not just in a particular country, but all over the world. Now the decisive question is not overcoming economic and political obstacles to the development of capitalism and its corresponding political system. The time when that was on the historical agenda is long since passed. What is now on the historical agenda is the *overthrow* of capitalism and the final elimination of all systems of

¹² Avakian, *Democracy*, p. 100.

candidates they have to choose among and the “issues” that deserve “serious consideration” have been selected out by someone else: the ruling class....

Further, and even more fundamentally, to “get anywhere” once elected—both to advance one’s own career and to “get anything done”—it is necessary to fit into the established mold and work within the established structures.⁵

But that is not all:

If, however, the electoral process in bourgeois society does not represent the exercise of sovereignty by the people, it generally does play an important role in maintaining the sovereignty—the dictatorship—of the bourgeoisie and the continuation of capitalist society. This very electoral process itself tends to cover over the basic class relations—and class antagonisms—in society, and serves to give formal, institutionalized expression to the political participation of atomized individuals in the perpetuation of the status quo. This process not only reduces people to isolated individuals but at the same time reduces them to a passive position politically and defines the essence of politics as such atomized passivity—as each person, individually, in isolation from everyone else, giving his/her approval to this or to that option, *all of which options have been formulated and presented by an active power standing above these atomized masses of “citizens.”*... [T]he very acceptance of the electoral process as the quintessential political act reinforces acceptance of the established order and works against any radical rupture with, to say nothing of the actual overturning of, that order.⁶

And let us remember that one of the main reasons for which the U.S. *Constitution* was “ordained and established,” as proclaimed in its “Preamble,” was to prevent social upheaval and the overturning of the order upheld by that *Constitution*—to “insure domestic tranquility.”

The same can be said of the other aspects of bourgeois democracy and the kind of rights set forth in the U.S. *Constitution* (including its “Bill of Rights”): They have the purpose and function of reinforcing the rule of

⁵ Avakian, *Democracy*, p. 69.

⁶ *Ibid*, p. 70.

the bourgeoisie and keeping political activity within limits acceptable to the bourgeoisie. Thus, “the much-vaunted freedom of expression in the ‘democratic countries’ is not in opposition to but is encompassed by and confined within the actual exercise of dictatorship by the bourgeoisie. This is for two basic reasons—because the ruling class has a monopoly on the means of molding public opinion and because its monopoly of armed force puts it in a position to suppress, as violently as necessary, any expression of ideas, as well as any action, that poses a serious challenge to the established order.”⁷ The history of the U.S., like the history of all other “democratic” bourgeois dictatorships, is full of graphic illustrations of just how true the above-quoted statement is!

Formal equality—the treatment of all persons as equal, and specifically as “equal before the law,” without regard to wealth or social position—in bourgeois society actually covers over the relationship of complete subordination, exploitation, and oppression to which the proletariat and masses of people are subjected. If a small group—the capitalist class—controls the important means of creating wealth, then in reality they have the power of life and death over those who control little or none of these. To have such power over other people is, in essence, to hold them in an enslaved condition, whether or not the chains are literal and visible. In such a situation—which is the fundamental condition of capitalist society—how can there be anything but profound *inequality* economically, socially, and politically? And with such a fundamental division, with such fundamental inequality, there can never be anything *but* exploitation, oppression, domination, and dictatorship.

With regard to the law, this will manifest itself in two main ways. First, those who dominate society economically will dominate in deciding, through the political structure, what the laws will be. They will insure that the laws serve their interests. And second, the actual application and enforcement of the law will discriminate in favor of those with wealth and power and against those without them—and even more so against oppressed nationalities, women, and others who are “the last of the last” in society. Everyday life in any capitalist society proves this over and over. Thus, once again, as with the right to vote and other constitutional rights in a bourgeois-democratic republic, formal equality before the law expresses itself, in reality, as profound inequality—and more—as

⁷ Ibid, p. 71.

“the rule of law” can be part of a dictatorship, of one kind or another, and in the most general sense it always is—even where it may appear that power is exercised without or above the law, laws (in the sense of a systematized code that people in society are obliged to conform to, whether written or unwritten) will still exist and play a part in enforcing the rule of the dominant class. Conversely, all states, all dictatorships, include laws in one form or another.¹⁰

Most fundamentally, the question is: What is the character and the class content of the laws, what system do they uphold and enforce, which class interests do they represent—of which class dictatorship, bourgeois or proletarian, are they the expression and instrument—and toward what end are they contributing—the maintenance of class division and domination, exploitation and oppression, *or* the final elimination of class divisions, of all oppressive social divisions, and of social antagonisms? In short, the essential question is not “a government of laws vs. a government of people,” it is *which* people—which *class*—rules, and *what laws* are in force, in the service of *what ends*?

“‘We The People,’ that is the heart of this *Constitution* and the genius of this *Constitution*: It establishes a government of, by and for all the people.” As a matter of historical fact, this opening phrase of the *Constitution*, “We the people of the United States,” was not the product of some lofty desire by the “framers” of the *Constitution* to set forth some universal principle of popular sovereignty. It was the product of their desire to overcome the problem of States posing their own sovereignty against that of the Federal Government—and the desire to avoid the specific problem of not knowing which States would ratify the *Constitution*: “The Preamble of the Articles of Confederation had named all the states in order from north to south. How was the [Constitutional] Convention to enumerate the participating states without knowing which would ratify? In a brilliant flash of inspiration, the Convention began with the words, ‘We the People of the United States... do ordain and establish this Constitution...’”¹¹

More importantly, the larger historical context and the actual content of this proclamation—“We The People”—must be made clear. The founding of the United States of America as an independent country represented

¹⁰ Ibid., pp. 233-34.

¹¹ Smith, *Constitution of the U.S.*, p. 12.

Through all this, while overt political repression by the state is in one sense the clearest indication of the class content of democracy—in the imperialist countries as well as elsewhere—in another sense the daily, and often seemingly arbitrary, terror carried out against the lower strata in these imperialist countries concentrates the connection between the normal workings of the system and the political (that is, class) nature of the state.⁹

A New and Far Greater Vision of Freedom

In the course of this article so far, in speaking to some essential questions concerning the U.S. *Constitution* and the system it upholds, I have answered some of the main arguments made in defense of this *Constitution* and this system, including the argument that the *Constitution*, if not perfect, is perfectible—that it can be continually improved and the rights it establishes can be extended to those previously excluded. Before concluding, I want to briefly address some of the other main arguments made on behalf of—or in defense of—this *Constitution* and the principles and vision it embodies.

“This *Constitution* establishes a law of the land that is applicable to all—it establishes a government of laws, not of people.” This is closely linked to the principle of “equality before the law.” What is meant by “a government of laws, not of people” is that no one is “above the law” and that what is allowed and what is forbidden are set forth before all, in one set of regulations binding on everyone, and this can be changed only through the procedures established for making such changes. A “government of people” refers to a notion of a government where it is the will and the word of certain people—a king, a despot, a small group of tyrants, etc.—that determine what is allowed and what is forbidden, and where this can and will change according to the dictates and the whims of such rulers: There is no common and clearly spelled-out standard binding on all, even on the political leaders and the powerful and influential in society.

Like all principles of bourgeois democracy, this notion of “a government of laws, not of people” misses and obscures the essential question. First of all,

⁹ Avakian, *Democracy*, pp. 137-39.



In large parts of the world under imperialist domination, the masses of people are subjected to much more open and murderous repression. Here, armed Marine kneels on back of a Haitian during 1994 U.S. occupation of Haiti.

something confined within and conforming to bourgeois domination and dictatorship.

The basic difference between the bourgeoisie’s view of freedom and democracy on the one hand, and the striving of oppressed masses for an end to oppressive conditions on the other hand, is sharply drawn in recent events in Haiti, the Philippines, and South Korea. The oppressed masses (and students and other revolutionary intellectuals) want some kind of fundamental change in the social system and a breaking of the chains of imperialist domination in their countries. But the bourgeois opposition leaders and parties want only the recognition of bourgeois-democratic provisions and procedures—with elections the highest expression of political activity. Most of all, they want the sharing of power more broadly and “equally” among the upper classes—really, they want their chance to hold the reins of power—while leaving the social system and imperialist domination intact. As for the imperialists, where they become convinced of the need for change in such situations, they make every effort to keep it confined within the framework of imperialist domination and bourgeois rule. Indeed, they try to use such situations to strengthen and perhaps “refine” the apparatus of bourgeois politics—and, above all, of *repression*—in the countries involved.



May 13, 1985, an example of brutal repression at home was the MOVE massacre. Police dropped two bombs on the MOVE house killing six adults and five children, and burning 61 homes. Photo: Wikipedia

This brings us to a most fundamental point that is so often ignored or glossed over in discussions and debates about democracy in countries like the U.S.: The fact is that even the extent to which rights are allowed to the nonruling classes in imperialist countries depends on a situation where, in large parts of the world under imperialist domination, the masses of people are subjected to much more open and murderous repression. In short,

The platform of democracy in the imperialist countries (worm-eaten as it is) rests on fascist terror in the oppressed nations: the real guarantors of bourgeois democracy in the U.S. are not the constitutional scholar and the Supreme Court justice, but the Brazilian torturer, the South African cop, and the Israeli pilot; the *true* defenders of the democratic tradition are not on the portraits in the halls of the Western capitols, but are Marcos, Mobutu, and the dozens of generals from Turkey to Taiwan, from South Korea to South America, all put and maintained in power and backed up by the military force of the U.S. and its imperialist partners.^{8,***}

But, at the same time, the imperialist rulers and ardent worshippers of bourgeois democracy go to great lengths to try to cover over, or explain

⁸ Lenny Wolff, *The Science of Revolution: An Introduction* (Chicago: RCP Publications, 1983), p. 184.

away, the brutal repression “at home” that is so essential to the functioning of the system and the maintenance of the established order:

For there is vicious repression and state terror carried out continually—and not only in times of serious crisis or social upheaval—in the imperialist countries; it is carried out specifically against those who do not support but oppose the established order, or who simply cannot be counted on to be pacified by the normal workings of the imperialist system—those whose conditions are desperate and whose life situation is explosive anyway.

In the U.S. the hundreds of police shootings of oppressed people, particularly Blacks and other minority nationalities, every year; the fact that jails are overwhelmingly filled with poor people, the greatest number again being Black and other minority nationalities—it is an amazing but true statistic that one out of every thirteen Black people in the U.S. will be arrested each year (and Blacks are incarcerated eight and one-half times as frequently as whites!)—and the widespread use of drugs, surgical techniques, and other means to repress and terrorize prisoners (as well as an astounding number of people not in jail, including allegedly recalcitrant children); the use of welfare and other so-called social service agencies to harass and control poor people down to the most intimate details of their personal lives; this, and much more, is part of the daily life experience of millions of people in the major imperialist countries. Along with all this, of course, is the use of the state apparatus for direct political repression....

In times of severe crisis and social strain, of course, all this is carried out more intensively and extensively.... Already, right now in the U.S., to cite one important aspect of this, hundreds of thousands of immigrants, “illegal” and “legal,” are being subjected to a campaign of terror—including raids at their places of work and homes, the sudden and forcible separation of parents from children, and the deportation of large numbers of refugees back to the waiting arms of death squads and other government assassins in countries like El Salvador. The same kind of thing is also being directed against immigrants in France, West Germany, England, and other imperialist democracies.