

# Petitioning, Strategy and Agenda Democracy

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The demos must have the exclusive opportunity to decide how matters are to be placed on the agenda of matters that are to be decided by means of the democratic process.

Robert Dahl, *Democracy and its Critics* (1989), 113.

Seeds come from many places. Why they germinate, grow, and flourish is much more interesting than their origins.

John Kingdon, *Agendas, Alternatives and Public Policies* (1984), 77.

What is democracy and how does it advance? The equation of democracy with elections and parties is so deeply ingrained as to defy inspection. We assume that where more voting occurs, more democracy follows; that where parties develop, democracy matures. Canonical accounts of democratization now identify bargains of elites, major parties or dominant class coalitions as necessary processes of democratization. So too, a laser-like focus upon near-term responsiveness has led scholars to examine whether more or less democracy, or more or less equal democracy, follows from the short-run mapping of policies to voter preferences (Bartels 2008; Gilens 2012). With attention to expansions of constitutional rights and the courts, a more liberal reading of democracy has arrived, combining emancipation and equality, especially in the twentieth century. Yet even there, the origins of those rights, their constitutional embedding, remains elusive as an analytic target, confined more to narratives of “movements” and court decisions than to elections.

I am indebted to the network at Balkinization and to four outstanding scholars for their time spent with the book. Frances Lee and Robert Tsai each raise valuable questions about the relationship between petitions and democracy.

Before engaging with their readings seriatim, I want to pose the main question of this essay: How should we think about whether democracy has advanced at any given time, or by any single plausible cause? In addressing that question, how do we structure the proper narrative, how do we count and test properly?

There is no single answer to this question, but *Democracy by Petition* centers the idea of egalitarian agenda transformation as a necessary and too-often ignored process of democratization. The centrality of agendas to democracy in general is hardly new, as Robert Dahl underscored it in *Democracy and Its Critics* over three decades ago. Political scientists who have emphasized agendas – Kingdon, Baumgartner and Jones and many others – have followed E.E. Schattschneider in arguing that “the definition of alternatives is the supreme instrument of power.” Kingdon’s elegant typology

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of problem streams, solution streams and political streams, and their conjunctural creation of “policy windows,” showed that much had to happen before something became a dominant and attention-getting agenda item in Washington. But all of these streams are *themselves* the result of considerable “advance work,” even more than Kingdon himself fully theorized. Advance work not only precedes solutions but also the political stream, the politics of what gets defined as urgent, “unholy” or “evil,” dangerous or threatening, public or private, possible or impossible. Acts and processes that reshape agendas reshape what Deva Woodly has described as political or public “common sense” (Woodly 2015).

We cannot understand democratizing moments without examining this “advance work.” The coming of democracy and greater equality also had agenda-setting processes – rendering equality in its political, legal, social and economic dimensions as desirable, necessary and possible. Consider the Populist and Progressive eras (and movements) as narrated by two scholars, Daniel Rodgers in *Atlantic Crossings* (Rodgers 1998) and Elizabeth Sanders in *Roots of Reform* (Sanders 1999). Rodgers was astute enough to cite Kingdon (1984). The dynamics of Kingdon’s agenda-setting model affected not only “agendas” as a menu of final choices but the constrained stream of ideas up for debate at any one time. If we neglect the idea of agenda-setting, we miss the connections between the Progressive Era and the New Deal. The democratizing character of the Progressive Era, too, should be debated (McDonagh 1993), and our nation’s reckoning with the complicated – both progressive and aggressively racist – legacy of President Woodrow Wilson says as much. Yet as Elizabeth Sanders wrote in *Roots of Reform*, if one sees in the movements of the populists and progressives of the late nineteenth and early twentieth century merely a failure, then one is misreading the way they changed the conversation in Congress. And as Rodgers, notes, the New Deal is in many ways an extension of the Progressive Era and the many political ideas and platforms to which it gave birth in Europe and the United States (see also Katznelson 2013).

The same kind of advance work should be at the forefront of our thinking about the age of American democratization. To take one of the prominent cases, democracy is incompatible with slavery. Any number of studies, most recently Manisha Sinha’s pioneering *The Slave’s Cause*, show that the ideas and the inspiration for antislavery happened very early, as did the emergence of various ideas about how to combat it politically, legally and economically. To ask whether “the Golden Age of Petitioning” improved democracy by focusing on short-run results is something like asking whether “the golden age of slave revolts” (say Haiti through Demerara through Nat Turner) improved American democracy by looking at what happened in the ten years after the blood stopped flowing. The question is not, by itself, misleading. But if asked in a myopic way, without attention to the agenda-setting processes that Sinha and others narrate, it misses the entire relevant frame of action, the whole ballgame if you will. On their own and at the time, the massive petition campaigns of the 1830s changed little, perhaps nothing. By mobilizing American women en masse, by turning northern men against the Democratic Party, by fostering an organizational legacy in the American Anti-Slavery Society and the Liberty and Free Soil Parties and by creating the template for activity that would again shift agendas during the Civil War, the cross-regional explosion of the 25<sup>th</sup> Congress reshaped American politics for generations.

Long-term agenda dynamics are central to the democratizing petition campaign. Even part of the organizational legacy of petitioning campaigns as well as their cultural legacy can be understood, at least in part, in this way. Levinson’s intriguing gestures to issue entrepreneurship and to lobbying can in part be understood as a call for greater awareness of agenda politics in modern democratic republics. Robert Tsai’s gives a thoughtful contrarian reading to *Democracy by Petition*, but he neglects

the central role of agendas and agenda-setting in politics. Frances Lee rightly sees agendas as central and justifiably calls for a research strategy centered upon them. I might suggest a different kind of quantification strategy, but I am taken with her reorientation of the *champ de jeu* that Maggie Blackhawk, David Zaret, Susan Zaeske and others, including myself, have been working for several decades. Julie Suk's reminder that judicial venues remain an ever-present avenue for shifting agendas (the case of 20<sup>th</sup> century civil rights is best known, but also see Gerald Rosenberg, *The Hollow Hope*) should be kept in mind, but it should also be remembered that coordinated court action does not necessarily lead to full public deliberation.

Let me clarify one point generally. In contrast to Lee and Tsai, I claim not so much that petitioning *in general* helped democratize North America, but that "this new and more democratic petitioning played a central role in the development of different dimensions of democracy – what I call institutional democracy, procedural democracy, organizational democracy, and cultural democracy" (Carpenter 2021: 25). It was the democratized petition that partially democratized other realms, not the petition of old.

## How to Count? Thoughts on Frances Lee

It is a treat to read and learn from the critique reading of France Lee, a scholar who brings a marvelous historical and contemporary command of Congressional politics and American political development to her theoretically-informed scholarship. Lee asks for a fuller accounting of petitions, thinking about the balance of this activity, and asks the important question of just what fraction of petitions were plausibly democratizing from 1790 to 1870.

Lee is absolutely correct to insist on this kind of research enterprise, including petitioning for land. Part of the problem is getting systematic data on petitioning in American history (see Blackhawk et al 2020 for an important start). Beyond that, a fuller accounting would demand a systematic survey of all petitioning to state legislatures, bureaus and perhaps even municipal governments and councils. I think we'll be waiting another decade if not two or three for that, especially on the bureaucratic and municipal government side.

But let's examine the data before us, first with a factual note: it's pretty clear that antislavery petitioning figured massively in both petitioning numbers, signature numbers and democratizing legacies in the nineteenth-century United States. The historical peak of petitioning to the U.S. Congress came in the 25<sup>th</sup> Congress (see Figure 2.1 and 2.2; also Blackhawk et al 2020), and it was that Congress that was buffeted (overwhelmed, really) by the broad antislavery petitioning campaign detailed in Chapter 10 (see also the pioneering Zaeske 2003). We also see antislavery petitioning represented in the list of mass signature campaigns in Table 2.1, not just in the 25<sup>th</sup> Congress, but in the Latimer petition campaign in Massachusetts and in the 1850s and again during the Civil War.

*How should we count? What should we count?* In addition to aggregating and analyzing documents, as Lee suggests, I think we should do at least three other things in thinking quantitatively about this question. First, the democratizing petition was more likely to be a mass petition or at least a petition with more signatures, often tethered to other documents intentionally. If we do count documents, then, perhaps we should weight our counts by signatures (e.g., Carpenter and Moore 2014; *Democracy by Petition*, Chapters 2, 5-6, 10-15).

Second, maybe we should be counting not just petitions but petitioning *campaigns*. This would of course require some sort of definition of what a campaign is, what “adds up to” one and what does not.<sup>2</sup> Save for anti-dispossession petitions, land petitions tended to come in individually, not as orchestrated aggregations of documents and signatures. What made the antislavery, Native rights, woman’s rights, anti-feudal, anti-dispossession, anti-Dalhousie, pro-Catholic Mexican and other petitioning moments different from most earlier petitions in human history was not the sheer number of documents but their signatory weight, their connection to other mobilizations of violence, protest and dissent, and their orchestration.

Third, I think the question Lee asks should be reoriented to a degree. From an analytic perspective, the question is less whether the majority of petitions were democratizing from 1790 to 1870 than whether petitioning and petitioning campaigns in those eight decades were more likely to have left democratizing legacies petitioning campaigns before 1790 or petitioning campaigns after 1870.

Consider the following scenario. If ten percent of petitions were democratic or democratizing from 1800 to 1820 and yet they left little legacy, but twenty percent of petitions were democratic or democratizing from 1820 to 1850 and left a larger legacy, would we resist the conclusion that “new and more democratic petitioning played a central role in the development of different dimensions of democracy” (Carpenter 2021: 25)? In each case only a minority of petitions were “democratizing,” but the legacy of petitioning campaigns is clearly larger in the second one and that forces us (again in a Bayesian sense) to draw conclusions different from the “priors” in our head. I think the estimate is probably larger than 10-20 percent, but taking this case at baseline, I would call for a reorientation in how we count and, beyond that, in what our counts mean for how we think about democracy.

## Optimism or Realism? Responses to Tsai

Robert Tsai gives a thoughtful reading to *Democracy by Petition*, asking about the nature of democratization in the broadest sense of the term and whether petitioning comes from a stance of weakness or suffering as much as from an attempt to shift power (I see these hypotheses as complements, not as the substitutes that Tsai does). Tsai’s judgment that *Democracy by Petition* is a “very optimistic portrait – perhaps overly so” is one I’m going to contend with. The alternatives here are not “optimism” versus “pessimism” but one of realism, an emphasis on the kind of agenda politics that too often escapes our view.

First let me register two notes of factual disagreement. *Democracy by Petition* is a long book and any reader can be forgiven for missing it, but Tsai did indeed neglect the extensive evidence for petitioning’s “significant impact on the trajectory of the development of political parties.” Some of the quantitative evidence has been published in greater detail in articles (Carpenter and Schneer

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<sup>2</sup> Without casting doubt on the reality of “movements” as they have energized and buffeted American history (Sinha 2016, Masur 2021), I consciously avoided the term but for a few instances in *Democracy by Petition*, preferring “activism” and “campaign” as concepts historically more tethered to the reality of petitioning. The question I kept coming back to is what evidentiary criteria historical social scientists should use in deciding whether a constellation of activities and organizations amounted to a movement versus what constellations fell below that threshold.

2015; Carpenter 2016). Yet Chapter 9 shows that the American Whig Party emerged from Henry Clay's petitioning campaign to fight the Bank War against President Jackson, and that the statistical and geographical legacy of that petitioning campaign is evident in voting aggregates until the 1850s. So too, as Foner (1970) and Gienapp (1987) showed long ago, understanding the pre-Civil-War Republican Party is impossible with organizational reference to the Liberty and Free Soil Parties and the broader organizational ecology on which they rested. And as Chapter 10 shows, the Liberty and Free Soil parties, part of which were incorporated into the Republican coalition of the 1850s, owe some of their origins to the vast petitioning campaign of the 25<sup>th</sup> Congress.

The evidence for Canada is no weaker. Chapter 9 relies on Mary Wilton's authoritative account (Wilton 2000) to show that petitioning was the dominant political practice in early nineteenth-century Upper Canada and was in fact the motive force in the formation of an anti-Tory opposition. Before that, Chapter 7 shows how petitioning was one of the integrating practices that knit together the French Canadian opposition in the 1820s, leading to the formation of a reform movement and, later, the *parti patriote*. It was DeTocqueville who remarked that the Canadian union plan of 1822 brought the colony's French population together as never before, and what interred the union project in the House of Commons and the Colonial Office was the monster petition of 1822. Leaders of Canadian reform politics in Lower Canada are the same leaders of the petitioning movement (Chapter 7, 12). Similar alliances played out in the Lower Canadian campaign against seigneurial tenure (Chapter 12, Carpenter 2020).

Second, Tsai's reading of optimism neglects the degree to which *Democracy by Petition* features democratizing petitions that served decidedly illiberal interests. These narratives are a feature, not a bug, of the democratization narrative in *Democracy by Petition*. The petitions of Mexican Catholic conservatives (including newly mobilized Mexican women) brought greater political equality on dimensions of gender, but their endeavor resulted in a setback for religious minorities, especially Protestants (Chapter 11). As the narratives of women's petitioning emphasize (Chapters 10, 11, 14), temperance petitions to regulate alcohol were also some of the most common and diffusive campaigns of the period. I don't know whether to celebrate these or not, but celebration or lamentation is not the point. Temperance and prohibition campaigns marshalled deeply democratic impulses. For women, they represented a strike against the corrupt electoral order and the patriarchy of booze.

More directly, why does *Democracy by Petition* place partially greater emphasis on democratizing outcomes? One reason is that petitions themselves are not the only, or even the main unit of analysis. And relatedly, the historical characterization is not just that the "golden age" of petitioning advanced democracy, but that it did so more than petitioning before and more so than petitioning since.

I do highlight – both analytically and narratively – democratizing petitions and petitioning campaigns from those who were electorally weaker. By democratizing I mean that petitioners plausibly transformed agendas, constructed new organizations (including parties as well as the civil society organizations that DeTocqueville wrote about), reshaped the dialogue around them and, in some cases, directly shaped the more formal institutions of democracy (suffrage reform, non-feudal land holding, broader participation in the public sphere).

Among the main reasons I do so follows, as I have written elsewhere (Carpenter forthcoming) from two philosophies of social science that emphasize distinctive narratives. The first is Bayesian

another reason is that scholarly research should emphasize what we have learned from evidence that differs from that which we already recognize or assume. In the philosophy of science, this is the idea of *Bayesian conditionalization*, the principle that if we think a pattern negligible but witness testimonies (even a few) utterly discordant with that idea, then we need to revise our judgments and perhaps appreciate so, in light of the evidence (Laplace 1823; Talbott 2008).

A Bayesian approach would point to what already seems firmly ingrained in our theorization and our evidence base, what which we already seem to “know”: American democracy in the nineteenth century was a racial empire (Frymer 2017; Greer 2018; Saunt 2020). The United States in particular constructed “a white man’s republic” (Bateman 2019), a site of simultaneous empowerment from below but also of newfound hierarchy where Black Americans, Native Americans, women, immigrants and workers of many trades were disempowered and kept from the public sphere. Even among white men, we have learned (Wilentz 2003), nineteenth-century political power was often held by those newly and long-ago capitalized, with landed and parvenu wealth, as well as by church-aligned or party-aligned elites. So too, our understanding of the history of petitioning suggests that the white man’s republic was often built through mechanisms that bundled lobbying with inside petitioning (Bailey 1979; Greene 2014).

Let’s start with a radical counterpoint. *Could we not just as easily ask whether the golden age of elections improved American democracy?* According to our usual calculus, such a question is literally illogical, meaningless. Since democracy is reducible to elections, any advance of the frequency of elections is, ipso facto, an advance of democracy. But if the golden age of elections advanced slavery (the Second Party System systematically elided it); furthered Indigenous dispossession (Saunt 2020); curtailed women’s rights and presence in public spaces (the eclipse of petticoat electorate in New Jersey in 1808 was its last stand, save for the small women’s electorate in Mashpee (Wampanoag) village that lasted until the 1820s); and stymied attempts to reform a crippling feudal system of land tenure in New York (Huston 2000; McCurdy 2001); then maybe we should revisit the question and how it is asked. In the 1850s, as Chapter 14 summarizes, electoral democracy was flourishing in the Deep South, but by any number of other indicia, democracy was struggling.

What Tsai misses is the power of *agenda democracy*. This is the democracy to which John Kingdon pointed in his positivist work in 1984 and which Robert Dahl urged in his theoretical work in 1989. Put differently, if we think democratic agenda-setting petition an unlikely narrative, then we need to address the following questions and do so in a joint narrative.

- How did women, who never had been invited to give testimony before legislatures or their committees before 1838, come to appear regularly at legislative hearings across the American states – Massachusetts (1838) and then in the 1850s New York, Ohio, Wisconsin, Nebraska Territory, Kansas and Indiana – on matters on which women had petitioned in greater numbers than ever before. Why are the reports of these hearings invariable reports on the petitions that triggered the testimony itself? How did Massachusetts pass the first married women’s property law, immediately after these hearings, in 1855, when women were not part of the electorate?
- How did the United States come to debate slavery not just in print culture but in the halls of the United States Congress and state legislatures across the north and the west from the 1830s through the 1860s? How did that debate – so radical and transformative a battle as to open the question of whether or not the petitions and, by extension, their many thousands

of Black and women authors, could be heard in the U.S. Congress (Zaeske 2003, Sinha 2019) – come to capture the attention (and vitriol) of Americans nationwide?

- How did the relentless processes of Indian removal and the machineries of injustice targeted at Native Nations get debated so broadly before assemblies and offices across the continent, whether in Boston, Québec, Lansing, Washington and Santa Fe (Chapter 5, Chapter 12)?
- How did French Canadians, a subject population in the world's most powerful empire, fend off a Colonial Office plan to merge their colony with its English-language neighbor and erase French institutions in doing so? How did those same French Canadians cast so much doubt on the reputation of a colonial governor as to get him ousted from office? How did that same campaign raise metropolitan awareness of the weakness of legislative institutions in French Canada and lead to them being strengthened (Chapter 7; Carpenter and Brossard 2019)?
- After centuries of the persistence of feudal tenure long after the advance of fee simple arrangements in land, how did two countries at roughly the same time launch decades-long debates on the persistence of pre-modern land holding (Chapter 12; Carpenter 2020)?<sup>3</sup>

When we neglect agenda-setting, we neglect one of the most important potential “weapons of the weak” (Scott 1985). In this sense, if *Democracy by Petition* is optimistic, so is James Scott’s *Weapons of the Weak* and so, likely, the other narrative that Levinson read, Kate Masur’s *Until Justice Be Done* (and beyond that, also Manisha Sinha’s *The Slave’s Cause*).

It is in that long run of discourse-shifting, association-building and aspiration voicing – procedural democracy, organizational democracy and cultural democracy – that we must center analysis. We should do it when the legacies of democratization are not celebrated from a liberal standpoint: temperance, anti-religious toleration, even dispossession and enslavement. And we should do it when century-long struggles for equality, sovereignty and liberation – always partial, never forever won – cry out for explanatory narrative.

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<sup>3</sup> For quantitative evidence that petitioning campaigns in French Canada had plausible effects more direct and discernible on agenda-setting votes than on votes for the final legislation, see Carpenter 2020.

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