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Democratic Forms:

Matching the Social and Political in Tocqueville

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DECLARATION:

I hereby declare that no portion of the work referred to in this thesis has been submitted in support of an application of another degree, or qualification thereof, or for any other university or institute of learning. I declare that this thesis is my own independent work. All sources and literature are cited and included.

In Prague 29th June 2018

signature: _____

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Abstract:

Alexis de Tocqueville, the writer of *Democracy in America* is famed for his approach and scope. This thesis will attempt to summarise his concept of democracy and its constituents with the goal of clarifying his lengthy argument regarding the fulfilment of democratic principles. I will therefore extract a concept of democracy encompassing the two ways of interpreting it, namely as a regime and as a “social state”. From there I will focus on the mechanisms and tendencies that result from the framework of both regime and society, while focusing on the maintenance of principles and possibilities. Then I will discuss Tocqueville’s fears regarding a possible democratic despotism and try to find a solution to it in the view that practice must resemble theory. This will be extracted specifically from Tocqueville’s recurring comments regarding form and its importance. I will ultimately try to show that Tocqueville kept requesting a certain amount of responsibility from democracy’s participants, and through this also answer multiple questions that can be raised after being inspired by Tocqueville.

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1. Introduction:

The American Revolution and the following one in France were both a reaction to the past and an attempt to map the future. The questions that lead from thinking about these events are those of republicanism and of democracy. More concretely, why one failed and the other didn't? One French intellectual decided to devote himself to this exploration over the course of his life, the scale of which few have attempted, let alone achieved. The French Revolution had ushered in a new age of "freedom" so to say, an ambition and realization that people can question the way they live and how they live. In a geographic and cultural context but also global one, its impact was much wider in an intellectual sense than in a material one. As many revolutions, its main goal was a complete inversion of the social and political order which stood before – from an aristocratic to a democratic one. The questions on whether this was legitimate and why it happened the way it did do not matter as much as the context that it set for the writing of a specific book and the existence of an approach sincere in attempting to analyse possibilities and worth of alternatives. Alexis De Tocqueville comes from this historical and social context and his work expresses the need to look for answers but also solutions within the frame of what is real rather than what is prescribed.

His book, "*Democracy in America*", was written as an analysis of American society and regime with a goal to convey its being to readers and intellectuals in France, where an aristocratic system had been re-established after a failed democratic republic (Bourbon Restoration and the July Monarchy). The book, in a wider context of his writings was somewhat of a start and foundation of a journey where he tried to uncover the real reason for the failure of the democratic revolution in France. Another thing to note in connection to this is his background which was aristocratic, yet "observing" the inevitable process of the gradual development of equality (democracy), he rejected ideological systems and through their appropriation he had created an almost dialectical understanding between them. An understanding which he later employed in his perceptions and his approach.

Tocqueville's true opinions are therefore quite elusive as he had never written anything prescriptive, always trying to simply describe, compare and predict. Therefore as a scholar, Tocqueville differed and still does from many other political and social theorists. His approach was that of observation and description rather than idealisation and romanticisation in problem solving. The scale of his analysis went from particular to general and back to the particular. Instead of asking and answering specific questions he would have them spring up from the analysis itself and be resolved the same way. That is exactly the reason why his work is so relevant to us if we are to attempt and understand the political order taken today as normative,

building itself on the concepts of justice and liberty, leading to fairness. His approach, context and theme all culminate in a work that is itself an expression of a time leading to, but also a future where it led from.

The editor of *The Cambridge Companion to Tocqueville*, Cheryl B. Welch wonderfully described Tocqueville's approach in a sentence in her introductory article. She wrote that he "continues to inspire those who are attracted to a particular kind of explanation of social phenomena, an explanation that falls somewhere between cultural reconstruction and theoretical generalization, and that illuminates precisely because it works in this 'half-light'."¹ The explanation of the term "half-light", one that she quoted Tocqueville's own words in explaining his approach, is found in a note at the end of the article. It says "that half-light (demi-clarte') that allows one to glimpse the country and to ask the inhabitants to point out the way."² What this shows is the wisdom of Tocqueville's position towards a people and their regime. He wanted the regimes inhabitants to point out the way, that is, he put emphasis on individual experience to understand the whole. The amount of respect that Tocqueville puts in others as equals (in a sense of intrinsic worth) is also seen in his self-image and principles. He was well known for interacting and more importantly taking into account opinions radically different from his own and communicating with people radically different to him³. His working papers also show his humbleness and critical outlook towards his own work. He would constantly re-evaluate his writings, ask for critique and consider the possible experiences of his audience⁴.

Tocqueville's approach and way of thinking were quite unique for his time. From different perspectives it could be said that his work is an early example of political science and political, analytical or even historical sociology. Regardless, at its basic level, it is an analysis of democratic institutions and the relationships they produce with their participants from an almost socio-psychological perspective. While contextualised and underlined by a certain political philosophy, it ultimately emphasizes individuals and groups to act with mutual responsibility. Out of all his observations, one of the most important for understanding democracy as a socio-political phenomenon is the collective-regime or state-society relationship with implications for ideas of normative governance (on a macro) and more importantly self-perception (on a micro level).

The true worth of his observations, which were not all that new (specifically the emphasis on the individual-mores-society-state), is based in the fact that he put them

¹ Welch, Cheryl B. "Tocqueville in the Twenty-First Century." *The Cambridge Companion to Tocqueville*. Ed. Welch, Cheryl B. Cambridge University Press, 2006. p. 7

² Ibid p. 19

³ Mansfield, Harvey C. *Tocqueville: A very short introduction*. Oxford University Press, 2010. p. 16

⁴ Schleifer, James T. "Tocqueville's *Democracy in America* Reconsidered." *The Cambridge Companion to Tocqueville*. Ed. Welch, Cheryl B: Cambridge University Press, 2006. p. 128

in a contemporary (at the time) and practical/analytical perspective which had later paved the way for his works to be cited from political, organisational, sociological, philosophical and even business journals. Tocqueville then, truly seemed to have a certain “providence”. In an extreme case he was even called “the Nostradamus of democracy” by the “writer” Caleb Crain⁵. Whether this providence was God given, developed or even accidental, critiquing his work from the side of his terminology, context, style or even by devaluing with the argument of “mythologization”, disregards his results completely. Tocqueville time and time again has been proven correct in his predictions and produced a work from which an amazing amount of practical philosophical maxims and wisdom can be extracted. In this regard, Christofer Edling and Peter Hedstrom wrote an article where they attempted to show Tocqueville as an analytical sociologist. Here they also offered two very justified critiques from a methodological perspective of modern sociology. The problems arising from his terminology, as I mentioned before, and the apparent contradictions that appear in his analysis and conclusions⁶. The terminology issue, in which they explain terms and concepts as being “too loosely defined”⁷ is primarily directed at the “micro-level” mechanisms⁸ or those on the individual level. He uses a plethora of subjective and abstract words like soul, pride and the like.

A number of explanations can combat this. Tocqueville’s writing style, as one of the translators, Arthur Goldhammer had discussed, was as he called it, “classic”. This writing style of the old times includes such terminology and is common within the writers and researchers of the time⁹. Harvey Mansfield and Delba Winthrop also mentioned the issue of terminology when they were discussing translating specific words that are quite abstract, yet in spite of this, they tried to keep the text as literal as possible¹⁰. Thus they managed to keep the terms Tocqueville chose to use to transfer the mental images he had. This is one of the reasons why I chose to work with their translation, for example. If we take all this into account, that the translations are correct, Tocqueville’s “classical” writing style which implies abstract and subjective terms and concepts, the terminology issue then becomes that of context. All of the terms, even if they are abstract, still have very clear definitions. Just because they are subjective doesn’t mean that they cannot be reliable, even from a purely sociological perspective. Tocqueville didn’t try to alienate the subjective experience of politics and

⁵ Wallace-Wells, David. “The Trouble With Tocqueville.” *Newsweek*, 19 Apr. 2010, www.newsweek.com/trouble-tocqueville-70747. Accessed 28 Mar. 2018

⁶ Edling, Christofer, and Peter Hedström. “Analytical Sociology In Tocqueville’S Democracy In America”. Nuffield.Ox.Ac.Uk, 2005, <https://www.nuffield.ox.ac.uk/users/hedstrom/Tocqueville.pdf>. Accessed 28 Mar 2018. p. 8-9

⁷ *ibid* p. 18

⁸ *ibid*. p. 15

⁹ Goldhammer, Arthur. “Translating Tocqueville: The Constraints of Classicism.” *The Cambridge Companion to Tocqueville*. Ed. Welch, Cheryl B: Cambridge University Press, 2006. p. 140

¹⁰ Tocqueville, Alexis. *Democracy in America*. Translated by Harvey C Mansfield and Delba Winthrop, The University of Chicago Press, 2000. p. 74-76

society, he did exactly the opposite, he treated it as being natural to us and therefore used very human concepts. Edling and Hadstrom had affirmed it themselves, as they had suggested, had Tocqueville been in position to use a more developed methodology and toolset these contradictions wouldn't necessarily exist¹¹.

This also explains the apparent contradictions. The concept and practice of democracy is itself based in contradictions. Tocqueville therefore realised that a specific thing requires a specific outlook and approach. Because of that, I will take what is - as is, without further questions on method, what it might mean or where it might be wrong. He, through his context, tried to convey certain mechanisms and a certain nature of democracy to his contemporaries. I will therefore focus on the most general mechanisms which he wanted to show us by simplifying his lengthy explanations with the help of some other concepts and interpretations to get a clearer definition of what these might be. Subjective terminology included, but not discussed, exactly because of its implications through umbrella terms and subjective romantic concepts.

To better understand Tocqueville's methods and approach we must view the first and most apparent contrast to the majority of relevant political philosophers and theorists. What is truly characteristic and what multiple authors have noticed is his point of view and goals. Mansfield and Winthrop commented that his axioms or postulates upon which he creates his complex and indirect arguments are based in an approach that negates romanticisation (or a form of idealization) in making assumptions about the present. Mansfield explains that "Tocqueville does not start from a theory about human nature but draws, or allows readers to draw, the theoretical implication from the practice described."¹² This is interesting as it contrasts with philosophers like Locke and Hobbes or theoreticians like Kant and Rawls who had great influence in the establishment and grounding of the ideas on human nature in political contexts and democratic regimes. Tocqueville made his method explicit in rejecting the standard theoretical models of the time. The historical-critical edition of Tocqueville's democracy in America edited by Eduardo Nolla and translated by James t. Schleifer includes many of his manuscripts and working papers. His notes show his "discomfort with the traditional inclination of most social and political thinkers to draw lessons about democracy from the ancient and Renaissance republics" and, in his drafts, shows that he "reminded himself that the modern democratic world was entirely unprecedented. The earlier republics, therefore, had little to teach his contemporaries", as James T. Schleifer had pointed out¹³.

¹¹ *ibid* p. 13

¹² Mansfield, Harvey C., and Delba Winthrop. "Tocqueville's new political science." *The Cambridge Companion to Tocqueville*. Ed. Welch, Cheryl B: Cambridge University Press, 2006. p. 85

¹³ *Ibid*. *The Cambridge Companion to Tocqueville*. Ed. Welch, Cheryl B: Cambridge University Press, 2006. p. 95

Interestingly enough, the economist and philosopher Amartya Sen had tried to classify theoreticians into two contrasting types. In his book *"The Idea of Justice"*, he argues that on one hand, there is a group of authors who engage in "transcendental institutionalism" that focuses on "identifying just institutional arrangements for society". While on the other, there is a group of authors who engage in "realization-focused comparison" that focuses on "comparisons of societies that already existed or could feasibly emerge, rather than confining their analyses to transcendental searches for a perfectly just society." He explained that, transcendental institutionalism "concentrates its attention on what it identifies as perfect justice" and "on getting the institutions right." While realization-focused comparison concentrates on "the removal of manifest injustice from the world that they saw". The second group is, therefore, much more practical and, so to say, real. Dominic Burbidge summarised this lengthy dichotomy¹⁴ in his panel article *"Alexis De Tocqueville's Challenging Social Science Methodology"* as: "You see, some people specialise on how things might be, while others specialise on how things are, and conversation between the two is often tough."¹⁵ Here he, quite justly, shows how Tocqueville is one of the practical or "realization-focused comparison" theoreticians. Sen, just as Mansfield and Winthrop, would have positioned Tocqueville in the perspective of realization-focused approach against Locke and Hobbes (along with Kant and Rawls) that constituted the transcendental institutionalist one.

Tocqueville observes the relationships, their mechanisms and outcomes on society and individuals from which he outlines the grounded principles. After that, he builds his interpretations from these "laws". Jaume Lucien wrote about the characteristic of his approach: "his conviction that the collective is a specific object of study because it obeys distinctive laws of its own."¹⁶ These are, in essence, generalisations from observations because of his ability to "seize upon an image and to use a single detail to grasp the larger society also helped to lead him to models as a favored rhetorical and logical device."¹⁷ His method is thus "embedded in fact rather than abstracted in a theory."¹⁸ From a more sociological perspective we can say that his approach was, unlike many proto-sociologists of his time, more causal from an actor-based perspective. That is, he tried to explain social causality from the perspective of

¹⁴ Burbidge, Dominic. "Alexis De Tocqueville'S Challenging Social Science Methodology. For Panel: "Tocqueville'S Enduring Lessons Of Liberty"". Iep.Lisboa.Ucp.Pt, 2017, <http://www.iep.lisboa.ucp.pt/resources/Documentos/Curso%20de%20Ver%C3%A3o%20Internacional/EPF2017/papers/Alexis%20de%20Tocquevilles%20challenging%20social%20science%20methodology.pdf>. Accessed 23 Mar 2018. p. 1

¹⁵ Ibid p. 2

¹⁶ Jaume, Lucien. *Tocqueville: The aristocratic sources of liberty*. Princeton University Press, 2013. p. 115

¹⁷ Mansfield, Harvey C., and Delba Winthrop. "Tocqueville's new political science." *The Cambridge Companion to Tocqueville*. Ed. Welch, Cheryl B: Cambridge University Press, 2006. p. 95

¹⁸ ibid p, 86

individuals as singular units from each of which's actions transfer to a larger and more general group action, as Edling and Hadstrom showed¹⁹.

As characterised by Pierre Manent "the whole book will serve as an explanation, a development, a deployment of this "factual" or "causal" thesis. In a way, Tocqueville explains what democracy does or produces without achieving a clear definition of what it is – indeed, without worrying a great deal about the need for such a definition. With wonderful breadth and subtlety, he shows us how "democracy" transforms every aspect of human life, even the most personal and intimate."²⁰

This thesis will therefore be concerned with his conceptions, or rather observations and conclusions regarding democratic regimes and societies. The general question then, is that of democracy and the danger it poses to itself. In other words, in which way (if it does so at all) does democracy undermine its own functions and principles, and through that its existence? To answer this, I will focus on his concept of "forms", more specifically his statements about the "necessity" and "utility" of forms. From there, I will try to outline their place in the wider concept of democracy as a socio-political phenomenon. The specific question then becomes that of the "necessity of forms" in democracies as explained by Tocqueville. Or, why forms are necessary and what is their utility there?

The exploration will start with a much needed clarification and explanation of his concept of democracy. The second and third chapters of the thesis body will deal with this. There, I will explore Tocqueville's conception of democracy as a phenomenon that is a synthesis of individual, social and administrative (political) aspects rather than purely as a regime or an ideology. I will try to show the relationship he perceived between the different "dimensions", so to say, from which I will try to explain their interplay in the reproduction of both the political regime and the society as democratic by outlining their principles and purpose. In the second part therefore, after establishing a definition of democracy, I will explore what he views as its components, in a sense of mechanisms and tendencies that the phenomenon of democracy (all aspects combined) leads to. I will talk about the mechanism of populism and legitimacy that it provides and how all of these contribute to democracy turning on itself and becoming a paradox. Defining this paradox is essentially answering the general question, the process through which democracy undermines its legitimacy and principles. The fourth chapter of the thesis will deal with "forms" or "formalities", the concept of norms and intentionality in groups and individuals that Tocqueville sees as being a counterweight to the tendencies that cause the paradox to

¹⁹ Edling, Christofer, and Peter Hedström. "Analytical Sociology In Tocqueville'S Democracy In America". Nuffield.Ox.Ac.Uk, 2005, <https://www.nuffield.ox.ac.uk/users/hedstrom/Tocqueville.pdf>. Accessed 28 Mar 2018. p. 16-17

²⁰ Manent, Pierre. "Tocqueville, political philosopher." *The Cambridge Companion to Tocqueville*. Ed. Welch, Cheryl B: Cambridge University Press, 2006. p. 112

come into being within democracy in the first place. I will, therefore, talk about the elements it relies upon, abstractly and concretely in order to reproduce (or maintain) itself, election to election (politically) and generation to generation (socially). The whole thesis will be posited around extracting a view that democracy, in order to reproduce successfully (maintain itself), must also reproduce principles, values and behaviours that cause democracy to be “democratic” and not “despotic”. The point of this will be to extract the most basic framework that democracy presupposes and requires which are these “forms”. Finally, to conclude the thesis, I will try to outline what underlies all of this, what type of intentionality even underlies the “forms” that are presupposed to reproduce democracy.

Because of the nature of Tocqueville’s approach and goals, but also because of the context in which he writes, I will try to focus only on the mechanisms that he recognised. For this reason, I will not employ the abstracted and “classical” terms he used, but only the causal mechanisms and structures that underlie it. With respect to Tocqueville’s brilliance compared to his contemporaries I will not employ any modern judgement or critique and I will try to understand his work and ideas as he intended them and as many authors interpreted them with respect to the context. I will therefore “pretend” that it is a modern and factual book, from which a great deal about individuals and societies can be learned.

2. Defining democracy:

“A great democratic revolution is taking place among us: all see it, but all do not judge it in the same manner. Some consider it a new thing, and taking it for an accident, they still hope to be able to stop it; whereas others judge it irresistible because to them it seems the most continuous, the oldest, and the most permanent fact known in history.”²¹ This quote from Tocqueville’s introduction to “*Democracy in America*” implies an interesting occurrence. That the democratic revolution does not seem to be a definite event as in the sense of a war, it is rather something much larger and more abstract. It is a process, a passive revolution of minds and sentiments that ultimately leads to an active one. This might answer as to how a revolution as an event builds and takes fuel from a revolution inside the subject first, but also how Tocqueville understands “great revolutions” along with any group activity. What is sure from our historical viewpoint when we look back is that there definitively was a long and passive revolution which results in an active revolution that ultimately might lead to a socio-political democratic regime.

But, how exactly do we conceptualise democracy and a democratic regime? As economic freedom? As legal equality? or political justice? Usually, we take it as freedom through justice underpinned by legal equality, but what exactly do these things mean? Democracy is not simply a political concept then if it relies on such abstract and ambiguous terms, ideals and legal frameworks. As a regime it is based in law, but there must be something that underlies it, it did not come about out of nowhere and yet it couldn’t have been tyrannically imposed from somewhere. The origins of modern democracy are more important in the goal of tracing its development than understanding its mechanisms and tendencies towards itself. Yet, its origins and trajectory of development cannot be scrapped and forgotten because it does play a crucial role in a sense of how it builds upon itself. What exactly is “democracy” then, and how does one of its most providential observers understand it?

For Tocqueville, the origins of democracy are far reaching and broad. It is rather a process of democratization than a specific event or “revolution”. It is a process that started on the continent, developed in Britain, matured in the colonies and finally exploded in revolution and institutionalisation resulting in the existence of the United States of America. But first, how can we conceptualise what he tried to genealogise? Democracy is such a general and indefinite concept both in wider debates and Tocqueville’s writing, so if we are to explore thoughts related to his conceptualisation of it, we must first understand what he meant by it. Tocqueville’s approach in both understanding and explaining democracy is strongly based in comparison. More

²¹ Tocqueville, Alexis. *Democracy in America*. Translated by Harvey C Mansfield and Delba Winthrop, The University of Chicago Press, 2000. Vol 1, Introduction p. 79

specifically, to its opposite – aristocracy. It is pretty self-explanatory yet, that too cannot be jumped at without laying down a solid foundation of his understanding of both the concept and phenomenon of it. He talks of “democracy” as multiple things but also as a single one. The two viewpoints are democracy as a mind-set or habit or belief – that is, social state, and democracy as a political regime (political system or state), or ultimately the social state institutionalised through law and in practice.

On one hand, democracy as a social state is characterised by its mores, traditions, values, laws and, as the name implies, social phenomena accompanying it. Tocqueville explains: “The social state is ordinarily the product of a fact, sometimes laws, most often of these two causes united; but once it exists, one can consider it as the first cause of most of the laws, customs and ideas that regulate the conduct of nations; what it does not produce it modifies.”²² He introduces a “generative fact” – the “equality of conditions” as a defining characteristic of the “social state” of democracy when he writes: “I studied American society, more and more I saw in equality of conditions the generative fact from which each particular fact seemed to issue, and I found it before me constantly as a central point at which all my observations came to an end.”²³ This means that he understands democracy primarily in social terms, from which the political phenomenon is based.

On the other, democracy as a political system seems to be characterised by the idea of the “sovereignty of the people” since it is the institutional application of the “equality of conditions”, he explains: “...the great maxim on which civil and political society in the United States rests; the father of the family applies it to his children, the master to his servants, the township to those under its administration, the province to the townships, the state to the provinces, the Union to the states. Extended to the entirety of the nation, it becomes the dogma of the sovereignty of the people.”²⁴ In contrast to the social state it is then characterised by laws, political and administrative institutions and thus legal and political phenomena. He explains the basic nature of their relationship when he writes that “in order to know the legislation and mores of a people, one must therefore begin by studying its social state.”²⁵ Through this, he hints at the interdependent nature of the two states.

What is important to note here, is that even though the political system follows from the social state, it can also influence it, because “the social state is ordinarily the product of a fact, sometimes of laws, most often of these two causes united; but once it exists, one can consider it as the first cause of most of the laws, customs and ideas that regulate the conduct of nations”²⁶. Therefore these “mores” or cultures are the basis for

²² Ibid Vol. 1, Part 1, Chapter 3; p. 111

²³ ibid Vol. 1, Introduction; p. 79

²⁴ Ibid Vol. 1, Part 2, Chapter 10; p. 378

²⁵ ibid Vol. 1, Part 1, Chapter 3; p. 111

²⁶ Ibid

studying any society and its political and legal institutions because they define a person's self-perception in relation to abstract phenomena and others while determining his reactions and its outcomes.

For now, the connections and intricacies of these two dimensions of democracy are in light because of the point of synthesis. To put it very generally, Tocqueville understands democracy as a socio-political phenomenon, because the idea of equality between individuals in society meets its legal counterpart resulting in the principle of the sovereign body of citizens. The "equality of conditions" and the "sovereignty of the people" being the two primary characteristics of the two dimensions meet in the socio-political phenomenon by interacting with one another. Tocqueville tried to describe the main characteristics of what makes America "democratic" and from this point, after understanding what he means by democracy we can start to explore the two states as separate and their interaction as such in one. But most importantly, for him, democracy seems to be much more than just a legal or social term. It is the synthesis of the two and as a regime it is more than just laws and administrative institutions, but also more than just a longing for fairness between individuals. The question that can be raised in this context is what exactly are these states and how can we understand them interacting with one another while being comprised of what?

a. Socio-political phenomenon of democracy:

In his ideas, the existence of institutionalised political systems is strongly tied to social states that legitimise and bring them into existence. Therefore, Tocqueville, throughout his work puts emphasis on the individual mind and its ideas in relation to groups because democracy as a political system is built on a social state that we can generalise to an ideology or mind-set that's encompassed within social and informal existence. It essentially seems to be a drive and template of norms and values for thought and behaviour. In other words it could be defined as a system of socio-political or socio-cultural norms. We already understand that it has a "generative" effect in a sense that it is "the first cause of most of the laws, customs and ideas that regulate the conduct of nations"²⁷. This means that the social state incorporates the "mores" and "philosophic methods" of the people which are sets of values, behaviours and collective ways of interpreting, as he writes: "...not only do I apply it to mores properly so-called, which one could call habits of the heart, but to the different notions that men possess, to the various opinions that are current in their midst, and

²⁷ *ibid* Vol. 1, Part 1, Chapter 3; p. 111

to the sum of ideas of which the habits of the mind are formed. I therefore comprehend under this word the whole moral and intellectual state of a people.”²⁸

So then, what exactly is a social state? It might help to understand the history of the term and how Tocqueville came to use and understand it in order to answer this question. The social state of democracy was first referred to by the French doctrinaires during the bourbon restoration²⁹. Even though the idea of a “social state” is usually attributed to Tocqueville it was actually the doctrinaire’s influence that ingrained such an idea into his understanding and conceptions. They started considering the social aspects of democracy and defined them as a collection of “mores, ideas and habits of the heart”³⁰. Just as Tocqueville had defined democracy as a social state, the doctrinaires used the word to designate an egalitarian society (in general)³¹ or the principle of “equality of conditions” that characterises the social state, as Tocqueville had called it. The doctrinaires believed that political institutions and laws were the expressions and manifestations of these exact social states which were constituted by mores, ideas, customs, habits and traditions³², implying that the political state must follow, resulting from the social one. For Tocqueville though, the social state was not exclusively democratic, but there was a social state of democracy defined by the “equality of conditions”.

For him, the relationship between the political and social states is more reciprocal than causal because it is both the product of laws and the laws are a product of it, he writes: “The social state is ordinarily the product of a fact, sometimes of laws, most often of these two causes united; but once it exists, one can consider it as the first cause of most of the laws, customs and ideas that regulate the conduct of nations.”³³ Therefore these “mores” or cultures are the basis for studying any society and its political and legal institutions because they define a person’s self-perception in relation to abstract phenomena and others therefore determining his reactions and its outcomes.

The extent to which the social state incorporates norms, values and an individual’s self-perception is explained by Tocqueville when he writes that “the people, not having conceived the idea of a social state other than their own nor imagining that

²⁸ Ibid Vol. 1, Part 2, Chapter 9; p. 297

²⁹ Craiutu, Aurelian. "Tocqueville and the political thought of the French doctrinaires (Guizot, Royer-Collard, Rémusat)." *History of political thought* 20.3 (1999): 456-493. Accessed 4 Feb 2018. p. 484

³⁰ ibid p. 485-487

³¹ Ibid p. 485

³² ibid p. 491

³³ Tocqueville, Alexis. *Democracy in America*. Translated by Harvey C Mansfield and Delba Winthrop, The University of Chicago Press, 2000. Vol. 1, Part 1, Chapter 3; p. 111

they could ever be equal to their chiefs, received their benefits and did not discuss their rights... Moreover, usage and mores had established boundaries for tyranny and had founded a sort of right in the very midst of force.”³⁴ What this means is that the social state defines what is acceptable politically and how it is perceived. So for example, a serf in feudalism wouldn't be able to understand the social and political structure of the time to be set against his interest or be unfair precisely because of the social state he adheres to. His interest would be defined and confined by his “mores”. So for him, social and individual existence is defined by the society and its influence on the individual. Alternatively, if the social state or the mores comprising it would start basing values in a different direction, the serf would try to free himself from the feudal political structure he was stuck in. The social state then incorporates normative beliefs and values. It also has to include individual expectations. It is then the context which confines and moulds the subjective and inter-subjective life of individuals.

If the “equality of conditions” has such a “generative” effect, we can understand it as a social fact. Durkheim defined social facts as “ways of acting, thinking and feeling which possess the remarkable property of existing outside the consciousness of the individual.”³⁵ He also explains how “they annul it or make my action conform to the norm if it is already accomplished but capable of being reversed; or they cause me to pay the penalty for it if it is irreparable. If purely moral rules are at stake, the public conscience restricts any act which infringes them by the surveillance it exercises over the conduct of citizens and by the special punishments it has at its disposal.”³⁶ The idea of the “equality of conditions” is a social fact then, because people act on it purely in the social, regardless of the political. There are many examples of this and Tocqueville brings a few.

When he tries to define what democracy is, he starts with its origins in America. He sees that the social state of the colonists in New England as the best example because that is where “the seed of a complete democracy”³⁷ had come into existence. He said that in addition to sharing a language they also share an experience of local government that they inherited from their home country of England. And that this was rooted in the idea of the people being sovereign. He says that these ideas have a continuum from the times of the Tudor monarchy, when colonists were encouraged by the government to relocate from Britain because they were seen as potential

³⁴ Ibid Vol. 1, Introduction; p. 83

³⁵ Durkheim, Emile. *Durkheim: The rules of sociological method: And selected texts on sociology and its method*. Palgrave Macmillan, 2013 p. 51

³⁶ ibid

³⁷ Tocqueville, Alexis. *Democracy in America*. Translated by Harvey C Mansfield and Delba Winthrop, The University of Chicago Press, 2000. Vol. 1, Part 1, Chapter 2; p. 99

revolutionaries, both out of religious and political reasons. It seems that this is where and when the social state could start a slow process of institutionalisation that resulted in the revolution and later, the regime of democracy.

According to him, the basic unit of social organisation in this context was the township where, despite it being under a monarchical regime, local liberties and freedom to organise flourished. This is explained through the vastness and size of the continent. Because of its geography local liberty was kept in order to easily manage the colonisation process. As an argument for the existence of the democratic social state defined by the “equality of conditions”, Tocqueville claimed that the Townsfolk supported public education and provisions for the poor as the idea of the “equality of conditions” would already suggest. According to him, all of this can be explained through the religious beliefs that they held which had ingrained in them a sense of equality under God.³⁸ The social state that formed here was “eminently democratic” – people were respected on the basis of their intellect and virtue and were equal amongst each other.³⁹ It is logical to say, especially from today’s perspective, that this is an idealised characterisation, but his point remains the same nonetheless. The fact is that this social state was the primary cause for most of the laws and forms of organisation for the colonists⁴⁰ that was, and that will follow from and after. Democracy then starts with a certain social state where an “equality of conditions” reigns as a dominant idea. And this idea is an assumption of equal intrinsic worth. We see then, that even if the political system or regime is not in line with the social state, the social state could still express itself through informal institutions. The people can still treat each other how they view themselves.

To better understand Tocqueville’s concept, it should be compared to similar but newer ones. Charles Taylor, in his book *“Modern Social Imaginaries”*, defined it as: “something much broader and deeper than the intellectual schemes people may entertain when they think about social reality in a disengaged mode. I am thinking, rather, of the ways people imagine their social existence, how they fit together with others, how things go on between them and their fellows, the expectations that are normally met, and the deeper normative notions and images that underlie these expectations.”⁴¹ He further says that the “social imaginary at any given time is complex. It incorporates a sense of the normal expectations we have of each other, the kind of common understanding that enables us to carry out the collective practices

³⁸ Ibid Vol. 1, Part 1, Chapter 2; p.106-107

³⁹ Ibid Vol. 1, Part 1, Chapter 3; p.115-116

⁴⁰ Ibid Vol. 1, Part 1, Chapter 3; p. 111

⁴¹ Taylor, Charles. *Modern social imaginaries*. Duke University Press, 2004. p. 23

that make up our social life. This incorporates some sense of how we all fit together in carrying out the common practice. Such understanding is both factual and normative; that is, we have a sense of how things usually go, but this is interwoven with an idea of how they ought to go, of what missteps would invalidate the practice.”⁴² Taylor actually gives an example of it through democratic elections. He says that we know what foul play would be (buying votes, fraud, etc.) and that a macrodecision like this has to meet certain norms. He also makes a relation to norms by stating that “Implicit in this understanding of the norms is the ability to recognize ideal cases” and that “beyond the ideal stands some notion of a moral or metaphysical order, in the context of which the norms and ideals make sense.”⁴³

Habermas, for example, explained that there is an underlying and inter-subjective basis for the world we live in, the context of which provides us with something that we can have consensus on⁴⁴. He bases this concept on Husserl’s concept of the “lifeworld”⁴⁵ and even calls it the same. Similar to how the social state both defines, creates and influences, it can also be “created”. The degree to which we can equate Habermas’s lifeworld and system to the social and political state is tricky, but generally they can be said to be close. While the main issue lies in the fact that Habermas’s idea is much more defined and is based in a linguistic understanding of the world, it is still possible that it could’ve been inspired by reading Tocqueville. For Tocqueville though, the fact that there might be multiple social states in a society or social states for groups is unclear as it is for Habermas where he views separate groups as having “lifeworlds”. It can also be compared to Bourdieu’s idea of “habitus”. While Tocqueville’s concept is more encompassing and more general, both seem to be an integral aspect and basis for the reproduction of social structures. The social state in Tocqueville then must incorporate everything, from the subjective, shared and possible worldviews to the normative and dogmatic principles. In short, everything that is subjectively and intersubjectively constructed, appropriated and reproduced. Everything that’s not related to formal institutions and political regime structure and organization belongs to the dimension of the social state.

What then characterises this social state of the “Anglo-Americans” that is “essentially democratic”? The main thing that appears through the idea of the “equality of

⁴² Ibid p. 24

⁴³ Ibid p. 24-25

⁴⁴ Habermas, Jürgen. *Between facts and norms: Contributions to a discourse theory of law and democracy*. John Wiley & Sons, 2015. p 22

⁴⁵ Habermas, Jürgen. "The theory of communicative action: Lifeworld and system: A critique of functionalist reason (Vol. 2)." *Boston: Beacon* (1987). p 119

conditions” is the lack of influence of an “aristocratic element”⁴⁶. According to Tocqueville, this is seen because there is a strong middle class in America, “...there were neither great lords nor a people, and so to speak, neither poor nor rich” and “...in proportion to the population, so few ignorant and fewer learned men are found than in America. Primary instruction there is within reach of each; higher instruction is within reach of almost none.”⁴⁷ Meaning, none too rich and none are too poor. none too ignorant but none are too learned. Hence, this must result in a standard that makes them “more equally strong than they are in any country in the world”⁴⁸. People respect each other on the basis of intellect and virtue despite having different dispositions because, in the end, they are ultimately all equal under God⁴⁹. This seems to characterise how the “equality of conditions” is understood and works. Because, as he described it: “...it happens, at least from what we have just said, that intelligence, while remaining unequal as the Creator wished, finds equal means at its disposition.”⁵⁰ This is a result of the social state of democracy – the “equality of conditions”.

So then, this democratic social state, with the idea of the “equality of conditions” understands that all individuals are of the same intrinsic worth. Not only figuratively, but practically because they implemented this as a general idea of perceiving each other within the world. This marks a difference between the social and political states. The social state views them, but the political state implements the view on a legal and a formal institutional level. This explains why people in America choose equality while having a strong passion for freedom. They do because it makes everyone equally free. As he writes that the democratic social state “reduces men to preferring equality in servitude to inequality in freedom.”⁵¹ This means that everyone is “equally strong” and that there are no men that exert so much influence as they do in aristocracies. This is the only way to combine the passion for liberty and a need for fairness.

When Tocqueville talks of democracy, he actually talks of both the social state and the political system while the word remains the same. The extension of the social state of a people institutionalised into laws becomes a political system that can influence the social state. In all cases, Tocqueville’s definition of democracy is most well understood in its contrast to aristocracy. Aristocracy is deeply characterised by notions of order and hierarchy unlike democracy which rejects these ideas in order to achieve liberty of

⁴⁶ Tocqueville, Alexis. *Democracy in America*. Translated by Harvey C Mansfield and Delba Winthrop, The University of Chicago Press, 2000. Vol. 1, Part 1, Chapter 3; p. 116

⁴⁷ Ibid Vol. 1, Part 1, Chapter 3; p. 115

⁴⁸ Ibid Vol. 1, Part 1, Chapter 3; p. 116

⁴⁹ Ibid Vol. 1, Part 1, Chapter 3; p. 115-116

⁵⁰ Ibid Vol. 1, Part 1, Chapter 3; p.116

⁵¹ Ibid

individuals by giving them an equal amount of worth and power in social and political affairs.

Returning to the phenomena of equality and liberty, we need to assert that democracy has no apparent hierarchy. Therefore influences of particular interests are different as defined by what authority is and who can have it. In aristocracies, it is individual influence and interest that dominates through authority as opposed to influences of groups or associations in democracy. This is because, without hierarchy that is present in aristocracy, influences, interests or political actions are not implicitly or automatically organised by the “importance” of individuals. Therefore, this requires individuals to act together to achieve action and self-determination by securing themselves as authority. As Tocqueville explains: “little by little, individual influences ceased to make themselves felt”, the resulting process then “Constituted in a certain manner, it gathers, concentrates and it groups around some head property and soon after, in a way, it makes aristocracy shoot up from the ground”⁵² This means that the same capacity for acting becomes equally distributed. Following this, the aristocratic individual is the same as a group or association in a democracy, effectively making an actor out of a group rather than an individual. Since power cannot be as concentrated and becomes shared it makes “aristocracy” shoot up from the ground, at least in a way. Everyone becomes an aristocrat in the context of this authority status. As a result, a person has the same capacity for reason and is as intellectually capable as the rest, for example.

Liberty also becomes different. Both have liberty but while in aristocracy individuals possess liberty in a relation to others through their privileges guaranteed by a hierarchy, democratic liberty for the individual is based around freedom from these influences.⁵³ This means that Liberty is therefore concentrated in aristocracies while it is equally shared in democracies. Everyone has an equal amount of it. Liberty in this sense is only from an institutional and legal perspective, since a person is free to do anything really, but is compelled by punishment or emotions to mediate.

As a result of this the very consequences of liberty become inverted. Because, to affirm that everyone should have liberty means that we must affirm equality and with that, reject the idea of hierarchy in the first place. As Tocqueville writes: “...one also encounters a depraved taste for equality in the human heart that brings the weak to want to draw the strong to their level and that reduces men to preferring equality in servitude to inequality in freedom. It is not that peoples whose social state is

⁵² Ibid Vol. 1, Part 1, Chapter 3; p.112

⁵³ Manent, Pierre. *Tocqueville and the Nature of Democracy*. Rowman & Littlefield, 1996. P. 18-19

democratic naturally scorn freedom; on the contrary, they have an instinctive taste for it”, therefore, “rights must be given to each citizen or to no one.”⁵⁴ Following this, the main contrast is based around hierarchy, liberty and the capacity to direct the society. In the case there wouldn't be absolute liberty but contextual liberty since there would be constraints on it due to its equal distribution. Pierre Manent, in his book “*Tocqueville and the Nature of Democracy*”, elaborated extensively on the interaction of these concepts and the results of the inversion. It is obvious then, that the only way to achieve liberty for everyone is through equality. This means that liberty for individuals can only be achieved through equality, while equality is achieved through liberty. This creates a tension, upon which liberty and equality depend on each other in order for the principle of the “equality of conditions” to exist.

But then, what is the difference between the social state and the political one? If the social state recognises people as equals through mores, the political one must through laws. This is a result of an internalisation of social principles which express themselves politically through the “sovereignty of the people”. Tocqueville writes that “the Anglo-Americans have been happy enough to escape absolute power. Circumstances, origin, enlightenment and above all mores have permitted them to found and maintain the sovereignty of the people.”⁵⁵ If the social state creates a basis for the application of these ideas of equality what characterises the particular difference between the two? If the people themselves can only influence themselves, by being equalised both in authority and liberty, they become the sovereign formally. This in turn makes them the legislator of themselves. So the primary difference is the existence of formal institutions and laws that base themselves, as a regime, from the social state. Laws and formal institutions require strong fulfilment of norms and behaviours that follow the forms of government. Otherwise the regime wouldn't be able to reproduce itself from one generation to the next. For example, regimes in aristocracies would reproduce institutionally by generation because of inheritance, while in democracy they do through elections. Hypothetically, democracy allows a revert to aristocracy but only as a result of the election. In the case of aristocracy it could be through the death of the monarch, or a political change such as revolution or war.

Tocqueville described the distribution of influence and power in democracies by stating that “each individual forms an equal portion of the sovereign and participates equally in the government of the state.”⁵⁶ Naturally, this requires local government,

⁵⁴ Tocqueville, Alexis. *Democracy in America*. Translated by Harvey C Mansfield and Delba Winthrop, The University of Chicago Press, 2000. Vol. 1, Part 1, Chapter 3; p. 116

⁵⁵ Ibid Vol. 1, Part 1, Chapter 3; p. 117

⁵⁶ Ibid Vol. 1, Part 1, Chapter 5; p. 125

equality under the law, equal participation through equal spread of political power and formal influence, making it apparent how the democratic political state must follow from the social in a causal way. As Tocqueville described the practice of the democratic political system in New England, he had asserted that: “The freedom of a township in the United States therefore flows from the very dogma of the sovereignty of the people.”⁵⁷

The “equality of conditions” makes America a democratic society as it is the “generative fact” from which all others stem. It is exactly the “egalitarian” society the doctrinaires talked about. It is, therefore, defined by the social state and its main aspects. Following this, the most obvious political institutionalised part of democracy is exactly local government through which the “sovereignty of the people” is most obvious since it is the most direct one and that’s apparent.

This idea internalises the power into society making it “act by itself and on itself”. Thus, the individuals that comprise society are able to act as one through generalising and concepts like “public opinion”. This is so, because without hierarchy there is no authority between individuals, therefore, the only authority can come from a group through consensus. Authority and then truth must therefore become relative and inter-subjective. Political bonds become almost naturalised since the democratic mind-set has to be based and stem from an internalised belief in these principles, making any kind of group inherently political as everyone has the same amount of political power with which they act and because of which they act together. This politicises natural bonds between people because action to determine for oneself can only be taken by groups⁵⁸. Thus it is a proper contrast to aristocracy as it overturns everything from the social state to the political system upside down.

Tocqueville writes that “the most democratic republics of antiquity scarcely resembled what we name the people. In Athens all citizens took part in public affairs but there were only twenty thousand citizens out of three hundred and fifty thousand inhabitants;... Athens... was therefore, after all, only an aristocratic republic in which all the nobles had equal rights to the government.”⁵⁹ What this means is that even though the social state in antiquity contextualised it to be a form of democracy, the democracy that formed in America is actually a proper one in the sense of the word, because it views people as being of intrinsic worth. For Tocqueville, democracy cannot be formal in a sense of regime. Democracy has to be a mixture between the political

⁵⁷ Ibid

⁵⁸ Manent, Pierre. *Tocqueville and the Nature of Democracy*. Rowman & Littlefield, 1996. P. 9

⁵⁹ Tocqueville, Alexis. *Democracy in America*. Translated by Harvey C Mansfield and Delba Winthrop, The University of Chicago Press, 2000. Vol. 2, Part 1, Chapter 15; p. 446

state – the regime and the social state – culture. Democracy has to fulfil all its principles and be recognised from all the dimensions of life, formal and informal, objective and subjective. So, now that we established the aspects of democracy for Tocqueville, what forms does the regime of democracy take in America? And how does this later define and contextualise the process and tools through which the people are sovereign?

b. The regime of democracy:

The notion of the democratic social state from which a political system develops by institutionalising the principles characteristic of the social state results in the “sovereignty of the people”. This sovereignty makes the people rule over themselves and through themselves and seems to suggest that there must be some continuity between belief, motivation, action and reproduction. It implies that one must believe in something that he does if he is to do it and then reaffirm it if he wants to keep it, especially if the political and social states constantly influence each other. But more importantly, because of the way the sovereign becomes. The sovereign stays as a single entity, but in the case of democracy the sovereign becomes many in one. The one is defined by the many and the many are individuals with interests.

Democracy as a political system, especially as it is described by Tocqueville in America, is characterised by the “sovereignty of the people” more properly than other attempts elsewhere. This is because it is formally/legally institutionalised into rule and upheld by social norms and an all-encompassing democratic social state. But, how are the democratic institutions designed to keep themselves stable, resilient, sustainable and reproduced while trying to keep its core characteristics, namely, the “equality of conditions” and the “sovereignty of the people”? Tocqueville, to demonstrate this, analyses the constitution and the governmental or administrative structure arising from the equilibrium of the social state and the political one during its process of development.

When talking of the influence of the American constitution, he asserts the feat by praising the politicians that drafted it by declaring: “The assembly, few in number, that was charged with drafting the second constitution included the finest minds and

noblest characters that had ever appeared in the New World.”⁶⁰ The constitution, designed by exceptional individuals, enables the organisation of government and distribution of power that Tocqueville describes as follows: “...the United States has a complex constitution; one notes in it two distinct societies enmeshed and, if I can explain it so, fitted into one another; one sees two governments completely separated and almost independent”⁶¹. Meaning that the government is separated into two, the local and federal governments, because he describes them as being: “one, habitual and undefined, that responds to the daily needs of society, the other, exceptional and circumscribed, that applies only to certain general interests.”⁶² When talking of “two distinct societies” he seems to imply the nature of the relationship between the congress and the senate, that is, the state and federal government. But also, implies the tension we see between liberty and equality.

Tocqueville describes the whole system as being built from the small to the large, local to regional to national, from the township to the state and to the union, and basically from the bottom to the top. He describes the organization in its whole as: “twenty-four little sovereign nations, the sum of which forms the great body of the Union.”⁶³ Because “The great political principles that govern American society today were born and developed in the state; one cannot doubt it. It is therefore, the state that one must know to have the key to the rest.”⁶⁴ He explains how the “Political or administrative life is found concentrated around three sources of action that could be compared to the various nervous centers that make the human body move.”⁶⁵ And that “At the first stage is the township, higher the county, finally the state.”⁶⁶, therefore his examination of the institutionalised system of democracy starts with the operation of the township itself. He starts from the decentralised to the centralised.

As the focus of analysis Tocqueville, of course, chooses the township in New England, because, as he explained: “it appeared to me that these principles had received more considerable development and reached more extensive consequences in New England than anywhere else. There they show themselves so to speak in higher relief and are thus more easily open to the observation of a foreigner”, because “The institutions of the township in New England form a complete and regular ensemble; they are old; they are strong by law, stronger still by mores; they exert an enormous influence on

⁶⁰ Ibid Vol. 1, Part 1, Chapter 8; p. 161

⁶¹ Ibid Vol. 1, Part 1, Chapter 5; p. 121

⁶² Ibid

⁶³ Ibid

⁶⁴ Ibid

⁶⁵ Ibid

⁶⁶ Ibid

the entire society.”⁶⁷ He is confident to generalise so, even if “The township and the county are not organized in the same manner in all parts of the Union”, evidently because he says that “it is easy to recognize, however, that in all the Union nearly the same principles have presided at the formation of both.”⁶⁸ Therefore it seems that the best example is in the New England Township because it is the most efficient, most apparent, most stable and its political and social states have the biggest potential for reproduction according to their principles, “equality of conditions” and “sovereignty of the people”.

He shows how the township is a phenomenon that naturally arises from the social state regardless of the political one because: “The Township is the sole association that is so much in nature that everywhere men are gathered, a township forms by itself. Township society therefore exists among all peoples, whatever their usages and their laws may be.”⁶⁹ It is then the most basic unit where all principles are upheld. Yet, the democratic political state along with its freedom is elusive and hard to establish artificially, as he explains: “Township freedom therefore eludes, so to speak, the effort of man. Thus it rarely happens that it is created; it is in a way born of itself. It develops almost secretly in the bosom of a half-barbaric society. It is the continuous action of laws and mores, of circumstances and above all time that comes to consolidate it.”⁷⁰ He explains how democracy forms in the township and is most attainable, the township, therefore, becomes the basic unit of democracy by being the basic of the people’s sovereignty: “It is nonetheless in the township that the force of free peoples resides. The institutions of a township are to freedom what primary schools are to science; they put it within reach of the people”. People learn the forms and the system by interacting with it on a daily basis. It is in the township that an individual through daily life internalises and accepts the democratic social state as his own.

He further explains how even if the political system guarantees freedom and freedom is practiced by its legal institutions, it will nevertheless develop into “despotism” if the social state and its institutions aren’t in accordance with the political ones: “Without the institutions of a township a nation can give itself a free government, but it does not have the spirit of freedom” and that “...despotism suppressed in the interior of the social body reappears sooner or later on the surface”. Therefore, “as long as township freedom has not entered into mores, it is easy to destroy it, and it can enter into mores

⁶⁷ Ibid Vol. 1, Part 1, Chapter 5; p. 123

⁶⁸ Ibid Vol. 1, Part 1, Chapter 5; p. 122

⁶⁹ Ibid Vol. 1, Part 1, Chapter 5; p. 121-122

⁷⁰ Ibid Vol. 1, Part 1, Chapter 5; p. 122

only after having subsisted for a long time in the laws”⁷¹, meaning that the political state must reflect mores of the social state. He shows again, the importance of continuity and compatibility because the relationship is reciprocal. He reveals that the loss of one of the constitutive principles in society be it equality or liberty results in a sort of despotism, more a type of lag that works against the full reproduction of its principles.

The township is them, the place where the people truly do rule. This is so because it is based in a system of direct democracy. Yet, due to the size of the states, people are required to send representatives to communicate their interests efficiently. This is why the township is where democracy is most felt in America and why it is its basic unit. Tocqueville explains that: “There is no municipal council; the body of electors, after having named its magistrates, directs them itself in everything that is not pure and simple execution of the laws of the state.”⁷² This means that the decisions are up to the people, while the execution of laws is up to the magistrates (they are called selectmen) themselves.

But how do these local enforcers keep the people sovereign? He explains that the laws that the state imposes on the township require them to act in accord with norms, but that also their own relationship to the townspeople makes them responsible: “The general laws of the state have imposed a certain number of obligations on the Selectmen” and “Most often they act on their private responsibility and in practice do nothing but follow the consequences of principles that the majority has previously laid down. But should they wish to introduce any change whatsoever in the established order, should they desire to engage in a new undertaking, they must go back to the source of their power.”⁷³ This means that if a decision is to be taken that impacts the community, “they call for a general convocation of the inhabitants”⁷⁴ through town meetings. The number of different roles that these magistrates take makes them interdependent and lowers the chance of manipulation by dividing responsibilities and powers.

Regardless of that, if there is a responsibility to fulfil duties to the state through law and forms, and a personal responsibility to fulfil duties through the community and their norms we see that in the practice of democratic government both the social and the political have ways of checking into themselves and regulating themselves. But because of them being comprised of individuals, this only works insofar as there is a

⁷¹ Ibid

⁷² Ibid Vol. 1, Part 1, Chapter 5; p. 123

⁷³ Ibid Vol. 1, Part 1, Chapter 5; p. 124

⁷⁴ Ibid

shared belief in these forms and norms. So in a way, norms in the political state have to be fulfilled for it to reproduce. The social state similarly, would not be the same if these norms aren't fulfilled, it wouldn't reproduce the way that it was, it then wouldn't be the democratic social state and democracy wouldn't be socio-political on this level, but simply, political.

On political obligation and fulfilment of norms, Tocqueville explains that the role of the county is to administer justice because "The extent of the township was too restricted to be able to include the administration of justice. The county therefore forms the first judicial center⁷⁵", by having a court and a sheriff to execute the decrees of tribunals and a prison. He says that "The administrators of the county have only a limited and exceptional power that applies only to a very few cases that are foreseen in advance. The state and the township suffice in the ordinary course of things. These administrators do nothing but prepare the budget of the county; the legislature votes it. There is no assembly that directly or indirectly represents the county", following this "The County therefore has, to tell the truth, no political existence⁷⁶".

The state is then made up of counties that administer justice, which themselves are made up of townships. The states have governors who are fulfilling a role that bridges the federal government with the townships and counties because: "The supreme magistrate, whom they name the governor, is placed next to the legislature as a moderator and counsel. He is armed with a suspensive veto that permits him to stop or at least to slow movement at his will. He sets out the needs of the country to the legislative body and makes it known what means he judges useful to employ in order to provide for them; he is the natural executor of its wishes for all undertakings that interest the entire nation⁷⁷", he is limited in his interaction with the townships and keeps their freedom because he "does not enter into the administration of townships and counties, or at least he takes part in it only very indirectly by the nomination of justices of the peace which he cannot afterwards revoke⁷⁸". The governor is therefore responsible for the executive powers of the whole state. The laws then enforce themselves by checking themselves on these levels while also being decentralised enough to offer the people a chance to be sovereign in the sphere where they can be so (township).

The legislature of the state though depends on the "two distinct societies" that are a part of the United States Congress – the Senate and the House of Representatives. The

⁷⁵ Ibid Vol. 1, Part 1, Chapter 5; p. 129

⁷⁶ Ibid

⁷⁷ Ibid Vol. 1, Part 1, Chapter 5; p. 139

⁷⁸ Ibid Vol. 1, Part 1, Chapter 5; p. 140

senate strengthens authority by “...concurring in the choice of officials that it ordinarily enters the sphere of executive power. It participates in judicial power by pronouncing on certain political offenses, and sometimes also in ruling on certain civil cases⁷⁹” while the house of representatives insures the communication of the state’s interest to the federal government because it “takes part in judicial power only by accusing public officials before the Senate⁸⁰”. So we can see that the House of Representatives communicates to the senate, which later makes the decision on whether to act or not.

The American people then, communicate their needs and take their sovereignty even further, onto the federal government because: “To divide legislative strength, thus to slow the movement of political assemblies, and to create a court of appeal for the revision of laws—such are the sole advantages that result from the current constitutions of the two houses in the United States⁸¹”. The two houses act as a check and make sure that there are no abuses in administration because “...one of the two branches of the legislature is vested with the right to accuse, and the other with the right to judge. The [House of] Representatives denounces the guilty one, the Senate punishes him. But the Senate can be seised only by the representatives, and the representatives can accuse only public officials before it⁸²”. But because the senate is the one that pronounces the judgement it therefore is the main supervisor.

“The principle of the independence of the states triumphed in the formation of the Senate; the dogma of national sovereignty, in the composition of the House of Representatives⁸³” because it was a middle ground between giving full power to the citizens and taking the power. This is essentially a recognition that the country is too big and diverse for a working direct democracy, but also the recognition of local life and the arbitrariness of detached political struggles (such as those of general interest). On the other hand, the relationship between the principles of independence and sovereignty directing the opposing upper and lower chamber might mirror the usual tension within democracy – that of liberty and equality. Especially if we consider the idea of independence and liberty as being the thing that should be most guarded, but this then negates what the “equality of conditions” implies by being a tension. This was a compromise between large and small states by dividing power. A check on the citizens power was introduced by allowing the senators to be chosen by the state,

⁷⁹ Ibid Vol. 1, Part 1, Chapter 5; p. 138

⁸⁰ Ibid

⁸¹ Ibid Vol. 1, Part 1, Chapter 5; p. 139

⁸² Ibid Vol. 1, Part 1, Chapter 7; p. 156

⁸³ Ibid Vol. 1, Part 1, Chapter 8; p. 164

while the representatives by the people themselves⁸⁴. Thus, the organization tries to guard itself from itself. Or it might be better to say that its components are put into reciprocal relationships that pit these components against each other diminishing the chance for power to concentrate.

Because of the size and vastness of the country, Tocqueville introduces his examination of the constitution by pronouncing that “The time has come to examine the portion of sovereignty that has been conceded to the Union.”⁸⁵ He explains that “The duties and the rights of the federal government were simple and easy enough to define, because the Union had been formed with the goal of responding to a few great general needs. The duties and rights of the state governments were, on the contrary, multiple and complicated, because these governments entered into all the details of social life.”⁸⁶ Following this, “The Union, therefore, was granted the exclusive right to make peace and war; to conclude commercial treaties; to raise armies, to equip fleets.”⁸⁷ It was also “given over the right to regulate all that relates to the value of money; it was charged with the postal service; it was given the right to open the great [lines of] communication that would unite the various parts of the territory.”⁸⁸ The reason why the federal constitution is superior to that of the states and why the federal government regulates certain aspects of general interest is because “the dangers that threatened the people could only arise from abuses of freedom”⁸⁹ and “they felt at the bottom of their hearts a sincere and ardent love for that same freedom; they dared to speak of restricting it because they were sure that they did not wish to destroy it.”⁹⁰ What we see then is “sovereignty of the people” being felt and upheld differently, unrestrained or restrained, the people are still sovereign. From direct to representative, there is always a check. But there is another thing that’s important if the citizens truly want to be sovereign.

As with anything, the sovereign needs to concentrate power in order to be able to act. Tocqueville says that the people in America are sovereign both in their immediate surroundings and in a wider context. Just as they can direct what happens in the township, they can also direct what happens with the nation through two different arrangements. He describes both centralization of government which deals with the general interests and decentralization of local administration allowing liberty.

⁸⁴ Ibid Vol. 1, Part 1, Chapter 8; p. 166

⁸⁵ Ibid Vol. 1, Part 1, Chapter 8; p. 160

⁸⁶ Ibid Vol. 1, Part 1, Chapter 8; p. 162

⁸⁷ Ibid

⁸⁸ Ibid

⁸⁹ Ibid Vol. 1, Part 1, Chapter 8; p. 190

⁹⁰ Ibid

First, he describes that through governmental centralization “the state seems to move like a single man; it stirs up immense masses at its will, gathers and brings the effort of its whole power everywhere that it wishes.”⁹¹ This means that in order to keep the country together, there needs to be a strong federal government which concentrates power in order to uphold “Certain interests” that “are common to all parts of the nation, such as the formation of general laws and the relations of the people with foreigners.”⁹² Without a strong degree of governmental centralization, the sovereign (majority) wouldn’t be able to direct their country as a whole. This means that any individual from any part of the country, through his vote, directs general things because the power of the single sovereign, defined by majority, is centralized exactly in this spot. The unified sovereign directs the general course.

On the other, local level, Tocqueville describes administrative decentralization. He says that through it “Other interests” that “are special to certain parts of the nation, such as, for example, the undertakings of the township”⁹³ are upheld. This kind of arrangement makes sure that there is no single body directing particular interests therefore guaranteeing liberty on the local level except the sovereign related to the local level. This is opposite to an administrative centralization whereby particular points of the country would have a single central point from which they could be directed.

This means that there are two sovereigns, in a way. One single and general – the majority of the whole country. And the other, local and individual and his immediate interest. Politically, therefore, the people are truly sovereign. Because no one external can tell them how to live and administer their immediate surrounding and particularity, while they can all administer the general course of the nation. This means that the people are sovereign on different levels in different way, but still sovereign. Nationally they are all equal, locally they are free. The nation is free from local interests and local interests are free from the national. If we understand this from the perspective of the social state, it means that people embody the “equality of conditions”. Everyone is ultimately equal intrinsically and equally sovereign. People cannot impose will externally on each other. This means that, hypothetically, if one state doesn’t like another, they wouldn’t have the right to direct them and vice versa, guaranteeing liberty and also guaranteeing equality.

⁹¹ Ibid Vol. 1, Part 1, Chapter 5; p141

⁹² Ibid Vol. 1, Part 1, Chapter 5; p 140

⁹³ Ibid

The thing is designed in such a way whereby the natural processes are almost simulated and reproduced through a tension that in a way “locks” the society and state in an endless and reciprocal process of reproduction and reaffirmation. This works under certain forms that were established in accordance to principles of founding that recognised the social state because the political one must emanate from it since it is democratic. The point is that the country will stay together no matter what happens internally, the country is sovereign on different levels and only sovereign in this arrangement. The two societies are almost isolated but they are intertwined. The forms of government dictate the directness of local administration in political action while they dictate the indirectness of national strategy. Due to the immense economic and political freedoms this all creates a certain system within which the people are sovereign i.e. the tools that they direct the country with.

3. Tools and tendencies as consequences of democracy:

a. Tools of the sovereign and its rule:

For Tocqueville, as we have seen, democracy is both a legal and institutional – political state of affairs or regime and at the same time a cultural and social phenomenon – the social state. Further, the question becomes that of the consequences of political institutions and forms of democracy. In a sense of what tools does the sovereign (people) needs in to govern, while reproducing the political framework in the sense of reproducing institutions and legal processes belonging to the democratic regime. To understand how democracy culminates through the interaction of state and society we must understand how exactly the people rule and which mechanisms and tools help them rule. If the principle of the sovereignty of people characterises the political dimension of democracy, how exactly are the people sovereign? That is, how do they rule? To begin answering this question about how society acts “by itself and on itself” we must understand the limits of the political system.

If the political forms set the institutional framework and legislature that is democratic, then consensus by majority must be measured through voting. Rule is both direct on a local and indirect on a general level, yet voting and consensus still remain integral to directing society and state. What then, directs the people as individuals in their sovereignty? What is this basic and directing power that acts as, and quantifies sovereignty making it into a process? Tocqueville says that “above the one as above the other stands a directing power, that of public opinion.”⁹⁴ Then, behind everything, behind every decision and outcome both on local and national levels is a public opinion that organises votes and directs voters that define results and following, both institutional and state action. Public opinion then, by being quantifiable, becomes the opinion of the sovereign, and since the people make up the sovereign it must be public.

First, Tocqueville explains how life in a democracy and its principles condition thought and through that, legitimacy. He says that “the action that the intellect of one man can have on another, it is necessarily very restricted in a country where citizens, having become nearly the same, all see each other from very close, and, not perceiving in anyone among themselves incontestable signs of greatness and superiority, are constantly led back toward their own reason as the most visible and closest source of truth. Then not only is trust in such and such a man destroyed, but the taste for

⁹⁴ Tocqueville, Alexis. *Democracy in America*. Translated by Harvey C Mansfield and Delba Winthrop, The University of Chicago Press, 2000. Vol. 1, Part 1, Chapter 8; p. 169

believing any man whomsoever on his word.”⁹⁵ This means that the principles of equality, like with other things, imply that an intellectual authority cannot exist. And without a clearly defined intellectual authority, an individual becomes his own authority. This gives rise to the idea that public opinion must be legitimate in a sense of truth and value based on the number of people holding it.

This is so, because the concept and legitimacy of public opinion is strongly based in the democratic social state. Tocqueville explains that for common action to exist in societies (and especially democratic society where common action defines action by authority) there exists a need for certain “dogmatic beliefs”. This is because without these common beliefs leading to common action, a defined social body cannot exist. These beliefs have to be dogmatic because they would be inefficient for both the social body and the individual to inquire about themselves and are built on faith in others (it works both with a single authority as in aristocracies or group authority as in democracies). This same process works in the case of religion, it is knowledge developed inter-subjectively and over time. He further explains that it is exactly the idea of the “equality of conditions” that makes people trust (faithfully) the opinion shared by a large number of individuals. If we are all equal and capable, then the majority must be right by sheer force and number. He writes that “In times of equality, because of their similarity, men have no faith in one another; but this same similarity gives them an almost unlimited trust in the judgment of the public; for it does not seem plausible to them that when all have the same enlightenment, truth is not found on the side of the greatest number.”⁹⁶ Following this, if the idea of equality creates a mechanism for directing affairs made possible by the political framework, how can public opinion be defined further?

What then, constitutes public opinion? It is clearly not an institution but it is a kind of association, yet not an active or obvious one. It is one because the people are sovereign, and in association through the direction of public opinion they influence the action of the state. That means that a distinct social body is a kind of association. The issue here is that an association is not one, associations are many. On a normal scale, associations come to be smaller and more defined, while on a larger scale they become less defined and more abstract. Public opinion is abstract exactly because it cannot judge by reason. But to understand the nature and influence of public opinion we have to understand associations. If democracies are built out of individuals, while the individuals are equal, with each having the same amount of formal influence, associations must be the only way that citizens might achieve common action. We

⁹⁵ *ibid* Vol 2, Part 1, Chapter 1; p398-399

⁹⁶ *Ibid* Vol. 2, Part 1, Chapter 2; p. 403

must therefore understand what exactly associations are and what their role is in Tocqueville's understanding.

The very basis of associations for Tocqueville is common interest. He says that this forms the "intellectual bonds of the association⁹⁷". Associations are therefore groups of people that share a common interest and organise around that. He says that in "In the United States, they associate for the goals of public security, of commerce and industry, of morality and religion."⁹⁸ He describes two types, civil and political associations. Political associations are obvious, as they have a clear goal to achieve within the legal and political framework of the system. He says that when "An obstacle comes up" people "establish themselves in a deliberating body; from this improvised assembly will issue an executive power that will remedy the ill."⁹⁹ Civil associations on the other hand are more general and do not necessarily need political action but a common interest. They meet more regularly and for pleasure, as he explains "Should it be a question of pleasure, they will associate to give more splendor and regularity to the fête."¹⁰⁰

He says that both of them have their interests and are at odds with other associations representing their interests, people "unite to resist wholly intellectual enemies: they fight intemperance in common."¹⁰¹ As Mansfield & Winthrop described these groups at odds they said that Tocqueville "analyzes the associations in which America excels. In those associations he sees a shared idea or sentiment in the members that they want to impart to the community, to publicize."¹⁰² So people united in groups interact as groups, because both the legal forms require it and because the social state conditions it. This is especially so in political life (parties, interest groups) and civil life (church communes). Basically, associations for Tocqueville are groups of people. Even two people can form an association, as is the case is with marriage.¹⁰³

The relationship between political and civil associations, as with everything, is reciprocal. They depend on and facilitate each other. Because people learn from associations to unite in common goals and in spite of common enemies, Tocqueville says that both political and civil associations have an interdependent relationship. By

⁹⁷ Ibid Vol. 1, Part 1, Chapter 8; p. 201

⁹⁸ Ibid Vol. 1, Part 2, Chapter 4; p. 220

⁹⁹ Ibid

¹⁰⁰ Ibid

¹⁰¹ Ibid

¹⁰² Mansfield, Harvey C., and Delba Winthrop. "Tocqueville's new political science." *The Cambridge Companion to Tocqueville*. Ed. Welch, Cheryl B: Cambridge University Press, 2006. p. 93

¹⁰³ Tocqueville, Alexis. *Democracy in America*. Translated by Harvey C Mansfield and Delba Winthrop, The University of Chicago Press, 2000. Vol. 2, Part 3, Chapter 12; p. 568

practicing small associations in civil matters such as commerce or even leisure and intellectual interest, men learn how to pursue greater interests that they have in common. He says that “Civil associations therefore facilitate political associations; but, on the other hand, political association singularly develops and perfects civil association.”¹⁰⁴ Associations like temperance societies of 19th century America are “civil at one point and political at another”¹⁰⁵ because civil and political associations are not distinct.

American associations are thus democratic, in general, because they merge both the social and political aspect, since they congregate around a similar interest and try to influence others and also change the law to suit them. Associations then seem to act as moral and norm entrepreneurs, usually as “rule creators” as in Howard S. Becker’s definition,¹⁰⁶ while enforcing still has to come from the law¹⁰⁷. Parties might be more political but they nonetheless attract a certain kind of people with certain beliefs because they have to stay consistent and also because their existence depends on support. Mansfield says that both political and civil associations belong to the informal or underlying dimension of democracy since they fall outside of the state and belong to civil society.¹⁰⁸ Therefore, we can imagine that formal associations can be defined as a court of law, senate and other things which belong to the legal and institutional framework and form by which the democratic regime exists and reproduces. Now, if the far expression of associations in social life is a political party, because it tries to interact with both the people and the state by representing the people to the state, then what are parties exactly and what is their relationship to the individual. What is the relationship of strictly civil associations to parties then?

Political parties in the United States organise opinions and representatives, they help bring the large scale and national decisions, even state decisions to the people. Parties, as Mansfield has pointed out, are aspects of informal democracy.¹⁰⁹ As Tocqueville had observed “The two great weapons that the parties employ in order to succeed are newspapers and associations.”¹¹⁰ What do the associations or people with similar interests both social and political use? That is, what is the underlying dimension of democracies tool? Other than parties, as Mansfield had pointed out, there is the “free

¹⁰⁴ Ibid Vol. 2, Part 2, Chapter 7; p. 491

¹⁰⁵ Mansfield, Harvey C. *Tocqueville: A very short introduction*. Oxford University Press, 2010. p. 25

¹⁰⁶ Becker, Howard Saul, and M. O’keefe. “Outsiders: Studies in the sociology of deviance.” (1963). p 147

¹⁰⁷ *ibid.* p. 155

¹⁰⁸ Mansfield, Harvey C. *Tocqueville: A very short introduction*. Oxford University Press, 2010. p. 25

¹⁰⁹ *Ibid* p. 39

¹¹⁰ Tocqueville, Alexis. *Democracy in America*. Translated by Harvey C Mansfield and Delba Winthrop, The University of Chicago Press, 2000. Vol. 1, Part 2, Chapter 2; p. 212

press”¹¹¹. So they are the aspects of the peoples rule outside of the legal framework of vote by majority and the institutions that enable and organise it. Both parties and associations use the press, while the parties use both associations and the press. We then have a relationship by which associations and parties both use the press but also use each other.

Tocqueville writes that “when citizens differ among themselves on points that interest all portions of the country equally, such as, for example, the general principles of government, then one sees arise what I shall truly call parties.”¹¹² This means that the function of the parties is to organise opinions of the people through representatives. Since the country is too big, decisions of national importance cannot be solved on a local level. In his approach, Tocqueville generalises parties to “small” and “great” ones. He says that great parties arise specifically for these larger and national interests when sentiments and commitments for change rise. On the other hand, there is also a “time of intrigues and small parties.”¹¹³ He says that great parties, due to their nature, are “attached more to principles than to their consequences; to generalities and not to particular cases; to ideas and not to men”¹¹⁴. While, “Small parties, on the contrary, are generally without political faith. As they do not feel themselves elevated and sustained by great objects”¹¹⁵.

According to him small parties follow after great ones, in the momentum that caused the original political changes and seem to feed on it. He says that most American political quarrels to outsiders therefore seem “incomprehensible”¹¹⁶, because of small parties and no real changes no party is really motivated by an ideal interest. They are rather motivated by material ones.¹¹⁷ Tocqueville, in relation to the platforms that small parties take wrote that “one does not know if one ought to take pity on a people that is seriously occupied with miseries like these or envy it the good fortune of being able to be occupied with them.”¹¹⁸ This looks tragi-comical almost, but it is exactly for this reason that he calls parties an “evil inherent in free governments”¹¹⁹. Politics then becomes an arbitrary power game made up of mixed and muddled interests.

¹¹¹ Mansfield, Harvey C. *Tocqueville: A very short introduction*. Oxford University Press, 2010. p. 39

¹¹² Tocqueville, Alexis. *Democracy in America*. Translated by Harvey C Mansfield and Delba Winthrop, The University of Chicago Press, 2000. Vol. 1, Part 2, Chapter 2; p. 207

¹¹³ Ibid

¹¹⁴ Ibid

¹¹⁵ Ibid Vol. 1, Part 2, Chapter 2; p. 208

¹¹⁶ Ibid Vol. 1, Part 2, Chapter 2; p. 210

¹¹⁷ Ibid Vol. 1, Part 2, Chapter 2; p. 208

¹¹⁸ Ibid Vol. 1, Part 2, Chapter 2; p. 210

¹¹⁹ Ibid Vol. 1, Part 2, Chapter 2; p. 207

The real purpose and motivation of these parties being muddled is difficult to discern, but he generalises them to two. He writes that “As one penetrates the innermost thoughts of these parties more deeply, one perceives that some of them work to narrow the use of public power, the others to extend it.”¹²⁰ The most basic division therefore is that of promoting either liberty or equality, in distressful times sincerely and in calmer times artificially through small scale issues. In any case, parties reflect the paradox and tension upon which democracy is built, the one between liberty and equality and thus capitalize on it. They also through the mixing and muddling of interests show an inherent flaw that the political principles of liberty allow, specifically concealment of interests. Democracy here is thus bare, so to say, especially in Tocqueville’s analysis of forces behind political processes, but also their outcomes.

If both parties and associations are linked by individual interests, how do they interact and influence public opinion? The other aspect of the social and underlying dimension of democracy is the free press. In a society that is ruled by people’s opinions through their sovereignty, the press being unfree would be in contradiction to the principles of democracy. On the press and its effects correlating to politics in America, Tocqueville wrote “I love it out of consideration for the evils it prevents much more than for the good it does.”¹²¹ He explains that since America has no central intellectual authority, and no regulatory laws on the press¹²² a great number of newspapers can arise. The situation is such that any man can start his own newspaper easily and journalists can write whatever they want in whatever tone they want. There is such a great number of newspapers and journals that “there is almost no small town that does not have its newspaper.”¹²³

Because of all this, the press in America cannot “establish great currents of opinion that sweep away or overflow the most powerful dikes.”¹²⁴ Politically, this is good because it is unlikely to lead to manipulation and a certain centralisation of public opinion, as Tocqueville writes: “When a large number of organs of the press come to advance along the same track, their influence becomes almost irresistible in the long term, and public opinion, struck always from the same side, ends by yielding under their blows.”¹²⁵ It thus prevents an evil that would work against the very idea of the “sovereignty of the people”. In this way it can help keep liberty alive even if the effects of such a multitude of opinions are not as good as it would be if there was a central

¹²⁰ Ibid Vol. 1, Part 2, Chapter 2; p., 210

¹²¹ Ibid Vol. 1, Part 2, Chapter 3; p. 213

¹²² Ibid Vol. 1, Part 2, Chapter 3; p, 216

¹²³ Ibid Vol. 1, Part 2, Chapter 3; p. 217

¹²⁴ Ibid

¹²⁵ ibid Vol. 1, Part 2, Chapter 3; p. 218

intellectual authority. But because of the mess, Americans learn to distrust journalists and then, what they “seek in a newspaper is knowledge of the facts”¹²⁶. The nature of the press being decentralised and creating newspapers that are accessible, opens the doors to influence of associations, both civil and political. The free press then allows a lot and guards against centralization, but also at the same time doesn’t because of its freedom and ireregulation.

Associations of people and parties, through the press have an effect on public opinion. The people influence themselves socially, just like they do politically. At the same time the political depends on the social, and the social – on the political. The informal and underlying dimension of democracy comprises associations – parties and lobby groups, the press and public opinion. The legal framework of democracy gives the social dimension and the people themselves freedom to choose and act, it brings it to them and gives them the liberty of governing themselves, of being sovereign. But this liberty that the regime secures for individuals and associations can also be detrimental. Especially if some are more equal than free or vice versa. Tocqueville therefore says that “One will never encounter, whatever one does, genuine power among men except in the free concurrence of wills”¹²⁷, because “citizens advance for long toward the same goal.”¹²⁸ Meaning that people are responsible for what they do and do things because they believe in them. This belief is acted upon in a manner of ways but is characterised through people holding opinions and believing in them.

b. The mechanisms of tyranny and despotism:

The idea of the “equality of conditions” penetrates into everything; it is a social fact that shapes perception and norms. One of the aspects of its practice is majoritarianism and group authority. This authority has an ability, just like the social fact, to influence minds and convictions. The influence transcends boundaries of social, political and also private, directing even the most ardent individuals. Tocqueville affirmed a certain populism that democracy allows and legitimises. This populism, an integral idea and phenomena that he had recognised seems to be an extreme that the social state facilitates and the political one allows. He called it the tyranny of the majority and talked of it as having an almost intimidating effect when it comes to opinion and

¹²⁶ Ibid Vol. 1, Part 2, Chapter 3; p. 217

¹²⁷ Ibid Vol. 1, Part 1, Chapter 5; p. 146

¹²⁸ Ibid

beliefs. He viewed it as one of the main dangers in democratic societies given the circumstances of liberty and equality. This tyranny, takes equality to the extreme, but also liberty. It seems to be the “equality of conditions” taken to its utmost extreme.

Tocqueville says that if the majority has the full right to exercise its will in any way it wants, it can rule tyrannically but legitimately, insofar as they do it democratically. The most basic example Tocqueville gives is the treatment of Native Americans and slaves. It wasn't unjust to be inhumane to them regardless of the apparent contradiction in principles, because that's what was (democratically) legitimised by the majority. For him, the root of this tyranny is not in the treatment being ethically wrong. The injustice is still there, he shows a deeper root, that of the “omnipotence” of man in democracies coupled with the principle of equality. Therefore the issue of majority tyranny is not in the injustice that the tyranny produces, but the very mechanism by which it contradicts its own reasons for existence.

This omnipotence has root in the social state of democracy, that is, “equality of conditions” as a social fact. If we are all free to act as sovereign because we are all equally capable, intelligent and legitimate, then the majority must be right. He writes that “It is the theory of equality applied to intellects”¹²⁹ because “the moral empire of the majority is also founded on the principle that the interests of the greatest number ought to be preferred to those of the few.”¹³⁰ This is because “the moral empire of the majority is founded in part on the idea that there is more enlightenment and wisdom in many men united than in one alone”¹³¹.

Therefore, morality becomes inter-subjective and ultimately subjective in relation to the majority. In its wake then, there could be no universal morality as long as something is legitimised through the majority, it becomes relative by its force. For a regime that starts in principle with liberty and equality at odds, liberty can only be achieved, in the framework of the established equality. The relationship thus becomes dependant, liberty becomes dependant on equality and gets defined through it. Equality stops being at tension with liberty, because its supremacy comes from legitimation by the majority. The issue is not a moral one and its injustice rather lays in the fact that mans “omnipotence” can create a false image of what is just. The tyranny then becomes inverted, from hard as in aristocracies, to soft, as in democracies.

¹²⁹ Ibid Vol. 1, Part 2, Chapter 7; p. 265

¹³⁰ Ibid Vol. 1, Part 2, Chapter 7; p. 266

¹³¹ Ibid Vol. 1, Part 2, Chapter 7; p. 265

When Tocqueville talks about the majority and its influence on the individual he writes that he does “not know any country where, in general, less independence of mind and genuine freedom of discussion reign than in America.”¹³² This seems contradictory to the presuppositions of the legal and institutional framework of the regime, because the press is free and both political and social associations are allowed through which citizens are supposed to grasp truth and practice sovereignty. In reality it only contradicts the basis of the social state that understands people as individuals of equal capabilities and worth. So how does Tocqueville explain this? Like most things, the solution to the contradiction lies in the relationship between the social and political states.

If the two are distinct but meet in the general socio-political organisation of democracy, they cannot necessarily account for one another and be in a type of equilibrium. If the political state institutionalises the tension and reproduces itself, the social state does not necessarily have to. If the proper principles exist formally in the political state, the norms keep it in constant reproduction by fulfilling themselves. The social state similarly depends on the fulfilment of norms to reproduce itself but it does not exist as law unlike the political state. This means that even if the social state has mores that formally base themselves in principle, practice can be opposite. That is, formal democracy doesn’t represent and follow its informal counterpart. This requires us to differentiate forms from norms and norms from laws. Included in this differentiation are the levels of socio-political existence that manifest themselves either subjectively from inside of individuals into groups, or objectively from laws and from the outside into groups and individuals. Just how the social state influences the political one, the political state influences the social one.

Tocqueville explains that levels of freedom of thought are low because of the social state. The informal dimension of the people’s sovereignty takes the concept of public opinion as the only legitimate public authority underpinned by laws that create a formal structure that legitimises and allows it. He says that due to the mechanism of majority tyranny, freedom is rare exactly because “the majority draws a formidable circle around thought. Inside those limits, the writer is free; but unhappiness awaits him if he dares to leave them.”¹³³ This means that if the majority is the source of legitimacy and authority, people that go against it will not have legitimate backing. He says that “It is not that he has to fear an auto-da-fé, but he is the butt of mortifications of all kinds and of persecutions every day. A political career is closed to him: he has offended the only power that has the capacity to open it up. Everything is refused him,

¹³² Ibid Vol. 1, Part 2, Chapter 7; p. 271

¹³³ Ibid

even glory.”¹³⁴ A historical example of this can be persecution of scientists by the Catholic Church. Regardless of whether they were right or wrong, they were illegitimate.

He shows human tribalism at its finest, and further explains that minority opinions (true or not) will not be expressed out of fear. He says that “those who think like him, without having his courage, keep silent and move away.”¹³⁵ Tocqueville thus recognised what was later proposed as “the spiral of silence” by the political scientist Elisabeth Noelle-Neumann (she even cited Tocqueville)¹³⁶. But also his understanding of majority tyranny incorporates what was later defined as “the bystander effect” and the “bandwagon effect”. The majority becomes tyrannical because it is the sole authority and that carries legitimacy. Its authority is gained from the sheer number, therefore a unified opinion that the majority can have is almost like a giant association. This tyranny cannot be escaped even by the press because the press itself survives on the interests of associations, both through associations securing funding before, or associations securing funding after. Then, opinions other than the dominant one without any backing, true or not, become fringe movements.

It seems that Tocqueville had described a tendency within democratic societies that is made possible through the freedom of the political framework. But this complicates things too much as it contradicts the very principles of democracy. Yet, it contradicts because of the social state, he writes: “I say that no guarantee against it may be discovered, and that one must seek the causes of the mildness of government in circumstances and mores rather than in the laws.”¹³⁷ He says that there would be almost no chance of tyranny in a democratic government if a legislative body would represent the majority “without necessarily being the slave for its passions”¹³⁸. This shows that the possibility of tyranny depends on the social state because of the role of mores and circumstances, which lay outside of the political framework. This seems to imply the idea that people are intrinsically equal in their reason and enlightenment is not enough and that it must be true phenomenally. The idea of the informal and underlying dimension of democracy comes in to the spotlight here because, like with a prescribed norm in the formal dimension (of institutions and laws), there seems to be no formalised approach in the social state, only a guideline as an ideal, abstract and

¹³⁴ Ibid

¹³⁵ Ibid

¹³⁶ Noelle-Neumann, Elisabeth. *The spiral of silence: Public opinion, our social skin*. University of Chicago Press, 1993. p. 1

¹³⁷ Tocqueville, Alexis. *Democracy in America*. Translated by Harvey C Mansfield and Delba Winthrop, The University of Chicago Press, 2000. Vol. 1, Part 2, Chapter 7; p. 270

¹³⁸ Ibid

undefined in its scope. The mores and sentiments change, the social state is not fixed as the legal institutions of the regime.

At the same time, if tyranny depends on mores rather than laws, what kind of mores can guard against tyranny? Mores defined the values during the institutionalisation of the democratic regime in the process and after the American Revolution. Blind passion can then be fought with mores. This means that there must be a prescribed and formal approach within the underlying social dimension of democracy. This approach must be different from norms that are goals for principles to survive, like voting correctly (norm) to keep the “equality of conditions” (principle) reproduced. Does Tocqueville then point at conservative aristocratic forms? Or does he rather point at the needed equilibrium between the social and political states that is based in the principle of democracy? The latter requires a formalised approach in the informal and underlying dimension. Love for liberty and equality does not give people methods to solve issues and recognise solutions. Regardless, his observations of dangers inherent to democracy in its principle go further. He explains what results from this tyranny taken to the extreme in its manifestation or, in other words, what happens when the sovereign becomes truly tyrannical in a passive sense.

In the second volume of his book, Tocqueville begins to focus less on the active mechanism of tyranny and populism, to a more passive system of despotism. He began exploring a despotism inverted and democratic instead of aristocratic, a soft despotism. It looks and works in a very different way than in historical examples of hard despotism which used force in order to control and direct the legitimising factor – the people. It rather uses non-violent means, “it would be more extensive and milder, and it would degrade men without tormenting them.”¹³⁹ That is, it uses the nature of groups in relation to the administrative and institutional abilities to achieve this, hence making it imperceptible to the people and through this also being legitimate.¹⁴⁰ He explains that “in centuries of enlightenment and equality like ours, sovereigns will come more easily to gather all public powers in their hands alone and to penetrate the sphere of private interests more habitually and more deeply than any of those in antiquity was ever able to do.”¹⁴¹ What does he exactly mean by this?

Tocqueville writes that “until our time, it had been thought that despotism was odious, whatever its forms were. But in our day it has been discovered that there are legitimate tyrannies and holy injustices in the world, provided that one exercises them

¹³⁹ Ibid Vol. 2, Part 4, Chapter 6; p, 650

¹⁴⁰ Ibid Vol. 2, Part 4, Chapter 8; p.662

¹⁴¹ Ibid Vol. 2, Part 4, Chapter 6; p. 651

in the name of the people.”¹⁴² This despotism, he says, “does not break wills, but it softens them, bends them, and directs them; it rarely forces one to act, but it constantly opposes itself to one’s acting; it does not destroy, it prevents things from being born; it does not tyrannize, it hinders, compromises, enervates, extinguishes, dazes, and finally reduces each nation to being nothing more than a herd of timid and industrious animals of which the government is the shepherd.”¹⁴³ This happens when citizens think that they are in control of their choices and are having them represented in government.

Tocqueville writes that “They combine centralization and the sovereignty of the people. That gives them some respite. They console themselves for being in tutelage by thinking that they themselves have chosen their schoolmasters. Each individual allows himself to be attached because he sees that it is not a man or a class but the people themselves that hold the end of the chain.”¹⁴⁴ The fact that the minority is forced to eventually accept it because of the majority principle is what the despotism over the mind is. This means that “the minority accepts it only with difficulty; it habituates itself to it only in the long term.”¹⁴⁵ This seems to mean that despotism will come about from majority tyranny, and at the same time, keep the status quo that causes the majority to be tyrannical in its acting. It seems almost as if the tyranny of the majority will become passive and habituate itself into political discourse and processes in the social state and informal dimension of democracy comprising associations, parties and the press, through centralizing administration.

For Tocqueville, the root of despotism in democracy seems to be manipulation. He writes “subjection in small affairs manifests itself every day and makes itself felt without distinction by all citizens. It does not make them desperate; but it constantly thwarts them and brings them to renounce the use of their wills.”¹⁴⁶ He explains that “they make them alternatively the playthings of the sovereign and its masters”¹⁴⁷. Because of this manipulation, he says that “in vain will you charge these same citizens, whom you have rendered so dependent on the central power, with choosing the representatives of this power from time to time”¹⁴⁸. This implies that through centralizing administration people lose the little bit of sovereignty they have because they become unable to direct themselves but also unlearn how to direct themselves,

¹⁴² Ibid Vol. 1, Part 2, Chapter 10; p. 377

¹⁴³ Ibid Vol. 2, Part 4, Chapter 6; p. 652

¹⁴⁴ Ibid

¹⁴⁵ Ibid Vol. 1, Part 2, Chapter 7; p. 266

¹⁴⁶ Ibid Vol. 2, Part 4, Chapter 6; p. 653

¹⁴⁷ Ibid

¹⁴⁸ Ibid

the only thing that they truly then think that they can direct is the general interest which in reality doesn't pertain them at all and which they know least.

He sees, in this despotism, the complete negation of democracy and its principles. He writes "It is in fact difficult to conceive how men who have entirely renounced the habit of directing themselves could succeed at choosing well those who will lead them; and one will not make anyone believe that a liberal, energetic, and wise government can ever issue from the suffrage of a people of servants."¹⁴⁹ He seems to be describing a managed democracy of sorts. His providence here recognised that the results are completely in line with the legal framework. Just as there is economic freedom there is political freedom to the extent where democracy remains a regime but departs from its social idea.

Tocqueville, in his exploration of despotism possible in democracy, still comments on the relationship between the social and political states explicitly. He says that "this sort of regulated, mild, and peaceful servitude, whose picture I have just painted, could be combined better than one imagines with some of the external forms of freedom, and that it would not be impossible for it to be established in the very shadow of the sovereignty of the people."¹⁵⁰ The social state therefore, through a process of influence of the political state and its tendencies, when combined with the political state can cause despotism to arise. "External forms of freedom" imply the difference between something that is formally present but informally missing, while the shadow of the "sovereignty of the people" implies the same. Formal liberty as principle and formal "sovereignty of the people" in law and in ideas, but informally, that is in reality inexistent. Politically the people are free (externally) but not internally. The social state basically acts only as the political one, it reproduces political principles rather than sentiments and mores.

This proves providentially true, especially if we consider the influence and freedom associations can have, and Tocqueville's prediction of an aristocracy that "could issue from industry"¹⁵¹. In this regard, he is worried about a reproduction of the inequality that they could cause because of the legal framework, but also, of a manipulative legitimacy it can exercise in the majority "Still, the friends of democracy ought constantly to turn their regard with anxiety in this direction; for if ever permanent inequality of conditions and aristocracy are introduced anew into the world, one can predict that they will enter by this door."¹⁵² Democracy then undermines itself, by

¹⁴⁹ Ibid Vol. 2, Part 4, Chapter 6; p. 653-654

¹⁵⁰ Ibid Vol. 2, Part 4, Chapter 6; p. 652

¹⁵¹ Ibid Vol. 2, Part 2, Chapter 20; p. 525

¹⁵² Ibid Vol. 2, Part 2, Chapter 20; p. 527

losing the component of an individual who chooses his faith by himself and only by himself. A person cannot be independent and have liberty unless he acts on it and through it.

If the majority can act tyrannically, and if the associations can influence it through the freedom of the press, what real guards against despotism are there? How does the underlying dimension of democracy become accounted for in the formal dimension? How can the political state influence the social one but at the same time guard against the influence of the social states absence of formal guidelines without which it would simply modify?

4. From the utility to the necessity of forms:

a. Maintenance of democracy:

Democracy has the tendency to turn against its own principles and turn on itself which results in a paradox. Tocqueville, therefore, outlines the dimensions on which reproduction and maintenance rest. He says that the “causes tending to the maintenance of a democratic republic” are three. First “The particular and accidental situation in which Providence has placed the Americans”¹⁵³. The second, coming from “from the laws”¹⁵⁴. While “the third flows from habits and mores.”¹⁵⁵ All three seem to have a role in maintaining and reproducing a democratic republic in its fullest sense, in the socio-political sense. But he says that “The importance of mores is a common truth to which study and experience constantly lead back. It seems to me that I have it placed in my mind as a central point; I perceive it at the end of all my ideas.”¹⁵⁶

We have seen how the “particular and accidental situation” of the social state and its chance of institutionalisation in America brought to the creation and formulation of the principles of the democratic republic. We also have seen how the legal forms resulting from the institutionalisation of the social state set norms, that wouldn’t make the regime reproduce if they would not be fulfilled. But regarding mores, we have seen little. Mores imply a lot of things but mostly a certain intentionality and democratic political culture that includes values. So how does Tocqueville exactly understand battling the possibility of a paradox within democracy with mores? Similarly to the concept of morale in war, mores require some kind of active participation and responsibility, but above all else an internalisation of principles and strong intentionality. Mores truly do seem, in his view, to be an underlying backbone to solving problems in democracies. He said that “There is no country where the law can foresee everything and where institutions will take the place of reason and mores.”¹⁵⁷

He oftentimes calls to “self-interest well understood” and “enlightenment”. The first concept is tied to a certain democratic virtue whereby a person is responsible not only for himself but for others, this reflects the nature of the “equality of conditions”

¹⁵³ Ibid Vol. 1, Part 2, Chapter 9, p. 289

¹⁵⁴ ibid

¹⁵⁵ ibid

¹⁵⁶ Ibid Vol. 1, Part 2, Chapter 9, p. 314

¹⁵⁷ Ibid Vol. 1, Part 1, Chapter 8, p. 167

whereby liberty and equality are mutual and are strengthened mutually. The second comes from practice, that is, learning through experience and getting the ability to judge based on acquired wisdom.

Tocqueville says that “American moralists do not claim that one must sacrifice oneself to those like oneself because it is great to do it; but they say boldly that such sacrifices are as necessary to the one who imposes them on himself as to the one who profits from them.”¹⁵⁸ The doctrine of “self-interest well understood is enough to lead man toward the just and the honest.”¹⁵⁹ This means that it is a certain understanding of oneself and one’s interest in relation to democratic society. An understanding of one’s own interests in that context and the ability to differentiate personal local interest from general national one. He says that “If long-term interest could prevail over the passions and needs of the moment, there would never be tyrannical sovereigns or an exclusive aristocracy.”¹⁶⁰ This truly does seem like the solution to the influence of passion but, again, he says that most “believe that at birth each has received the ability to govern himself, and that no one has the right to force one like himself to be happy. All have a lively faith in human perfectibility”¹⁶¹ and that, because of this, it falls to the same mistake that causes tyranny of the majority to arise. Is true self-interest well understood then even separated from majority tyranny or not, if it functions by the same principle? It seems as if self-interest well understood is not exclusive to it.

Otherwise, there seems to be a certain democratic wisdom, a practical sort of enlightenment. Tocqueville says that “The American mind turns away from general ideas; it does not direct itself toward theoretical discoveries. Politics itself and industry cannot bring it to them.”¹⁶² This means that the immediate local life of action or the administrative aspect of sovereignty doesn’t help democratic minds understand the governmental or general one. This is because Americans usually learn from experience and not lessons since dogma and tradition get inverted in democracies. This can explain why governmental centralization is required to direct general interests in a singular way. He says that “It is from participating in legislation that the American learns to know the laws, from governing that he instructs himself in the forms of government. The great work of society is accomplished daily before his eyes and so to speak in his hands.”¹⁶³ Enlightenment in practice therefore helps men understand and untangle the difference between administrative and governmental sovereignty because

¹⁵⁸ Ibid Vol. 2, Part 2, Chapter 8, p. 495

¹⁵⁹ Ibid Vol. 1, Part 2, Chapter 10, p. 361

¹⁶⁰ Ibid Vol. 1, Part 2, Chapter 5, p.237

¹⁶¹ Ibid Vol. 1, Part 2, Chapter 10, p. 361

¹⁶² Ibid Vol. 1, Part 2, Chapter 9, p 309

¹⁶³ Ibid Vol. 1, Part 2, Chapter 9, p 311

it teaches the difference. For people to be able to tell their interests apart and grasp an interest “well understood” he needs an enlightenment which is only gained from practice.

But if the practice of democracy teaches people to conduct their interests properly, how does a paradox arise in spite of democratic enlightenment? Tocqueville says that “In centuries in which almost everyone acts, one is therefore generally brought to attach an excessive value to rapid sparks and superficial conceptions of the intellect and, on the contrary, to depreciate immoderately its profound, slow work.”¹⁶⁴ This implies that practice is not enough. Passions overrun even practice then, because practice must follow certain forms. This means that the principle of equality defines the principle of liberty in such a way, that the “equality of conditions” has a tendency to overturn something that helps people organise both theory and practice. He says that forms in the social state, pertaining to what underlies practice help organise and formalise the process because they “fix the human mind in the contemplation of abstract truths, and by aiding it to grasp them forcefully, they make it embrace them ardently.”¹⁶⁵ But, that “nothing revolts the human mind more in times of equality than the idea of submitting to forms. Men who live in these times suffer [representational] figures with impatience; symbols appear to them to be puerile artifices that are used to veil or adorn for their eyes truths”¹⁶⁶. The issue then becomes one of responsibility and formality instead of mores or laws or even institutions. Forms underlie everything because they systematise norms in relation to principles with social and political states. Forms, therefore, have a certain utility that democrats do not understand.

b. Forms as forced democracy:

In order to distribute liberty equally, one must impose limits on it. The constitution is therefore the ultimate expression of the democratic social state institutionalised into a political system. Bottom to top, through the township to the federation, from an evident and obvious democratic political state to a more complicated and abstracted social one. In the end, the institutions that were designed to govern the other institutions in the political system give rise to different layers of legal and institutional forms that enable the people to govern themselves both directly on the local and

¹⁶⁴ Ibid Vol. 2, Part 1, Chapter 10, p 430

¹⁶⁵ Ibid Vol. 2, Part 1, Chapter 5, p. 416

¹⁶⁶ Ibid Vol. 2, Part 1, Chapter 5, 415

indirectly, through representation, on the national level. At the most basic level, the citizen “mingles in each of the incidents of township life: in this restricted sphere that is within his reach he tries to govern society”¹⁶⁷ while he “acts through representatives when it must treat general affairs of the state.”¹⁶⁸

Tocqueville says that “Men who live in democratic centuries do not readily comprehend the utility of forms; they feel an instinctive disdain for them.”¹⁶⁹ Because, “they ordinarily aspire only to easy and present enjoyments, they throw themselves impetuously toward the object of each of their desires; the least delays make them despair. This temperament, which they carry into political life, disposes them against the forms that slow them down or stop them every day in some of their designs.”¹⁷⁰ It seems as if, according to him, forms constrain passion and with that, help against the paradox. Especially if they underlie democratic practice through which democratic enlightenment can be attained. So, what are these forms exactly and what is their mechanism?

When talking about the aspects of democracy as a regime and a social state but more concretely about the institutional reproduction and way of government, we must also speak of mores and social reproduction. Forms, formalities and informalities along with norms and principles serve a purpose here. Professor Harvey C. Mansfield, had defined them loosely, but concisely in his book *“Tocqueville: A Very Short Introduction”*. To quote him “Forms or formalities are institutions (with rules and officers) or mores (ceremonies, rituals, courtesies, and “dressing up”) or legalities (for example, due process of law) that show respect for others and enable common action with people who are not friends or family.”¹⁷¹ He says that “democratic peoples, who respect forms less, need them more. Their principal merit, says Tocqueville, is to serve as a barrier between the strong and the weak, especially between the government and the governed, forcing the former to slow down and enabling the latter to have time to reflect. Self-interest well understood, for Tocqueville as opposed to his Americans, is to live in a society where one is prevented from going directly to one’s self-interest but compelled to do so legally or constitutionally or conventionally or respectfully or formally.”¹⁷²

¹⁶⁷ Ibid Vol. 1, Part 1, Chapter 5; p. 128

¹⁶⁸ Ibid Vol. 1, Part 1, Chapter 5; p. 123

¹⁶⁹ Ibid Vol. 2, Part 4, Chapter 7,p. 657

¹⁷⁰ Ibid Vol. 2, Part 4, Chapter 7,p. 657-658

¹⁷¹ Mansfield, Harvey C. *Tocqueville: A very short introduction*. Oxford University Press, 2010 p. 27

¹⁷² Ibid p. 28

Professor Mansfield also discussed forms in greater detail and in practice in an article entitled "*The forms and formalities of liberty*" which got published in the journal "the public interest" a quarter of a century before his "*Very Short Introduction*", in 1983. Here, he has a practical, and a more in depth explanation of forms but connected more to the questions of mores rather than legal institutions or governance. Here, he says, forms or rather formalities, serve to preserve a democratic "perception" of equality in spite of apparent and evident material or immaterial inequality that exists naturally and unavoidably. He writes that "Forms or formalities equalize human relationships, and preserve necessary inequalities, by preventing them from being relationships of mere, unrestrained power."¹⁷³ This is so because they "can preserve equality by upholding the dignity of inferiors and by restraining the pride of superiors."¹⁷⁴ As an example he uses politeness and formal behaviour, but he also shows the dimension of legal forms within democracies because "Law is more formal than custom because the procedure by which laws are made and changed is publicly visible. To have such a procedure is to have a constitution in some sense, and one can often judge the character of a constitution more from looking at the way laws are changed than from looking at the laws that remain unchanged"¹⁷⁵.

This shows us that there is a difference between forms in democracy and simple formalities. If formalities, are a part of mores (because of behaviour (politeness) rather than institutions) then that must mean that formalities have to fall within the domain of the social aspect of democracy. To say this in contrast to democracy of legal and political forms we can say informal democracy. Because democratic forms must be the prescribed way of doing things through legal institutions, means that the formal process of, or aspect of, democracy exists as it is and cannot change. Differently the informal (social) one can change and underlies it as it is not made into legal institutions.

The explanation of what are formal and informal aspects of democracy is found in his exploration of ends and means, or the act of separating an action and its end. He talks of correct means, or as he rather writes "prescribed" because we can recognise the end as legitimate and in line with a norm. While the adoption of shared means to it through "formalities" or "forms" keeps the idea of equality in spite of the apparent and inevitable inequality. This means that if there is only one mean to an end, there is no need for a social form because there is a form to follow in law. While on the other

¹⁷³ Mansfield, Harvey C. "The forms and formalities of liberty." *The Public Interest* 70 (1983). Accessed 18 Mar 2018. p. 123

¹⁷⁴ *Ibid* p. 122

¹⁷⁵ *Ibid* p. 124

hand, a form in society exists if there are multiple ways to fulfil a norm and there is a “correct” way in a sense of the relation between norm and principle. In this case he talks of the tensions between equality and liberty and how forms keep the tension apparent instead of letting one prevail over the other. Therefore “The adoption of forms is such a method that not only retains inequalities necessary to any society larger than a friendship, but also, on the contrary, equalizes those inequalities by confining them to formal relationships.”¹⁷⁶

So, what are these forms exactly? Are they legal institutions? Are they rules that the institutions set for administration? Are they politeness and the recognition of the equality that democracy produces from which a certain liberty arises? The answer to these questions which truly defines what forms are in democracies was quoted above and it is the process of living in a society where one is compelled to take the legal (in the case of the political state) or prescribed (in the case of the social state) route in attaining a goal reachable through and guaranteed by a democratic government. Forms, therefore, belong to socio-political democracy because they are norms, behaviours, ideas and concepts that create and maintain institutions through which people in democracies govern themselves in the only way possible, that helps reproduce the principles in spite of other implications. Forms are partly based off of the mores and habits that preceded the institutionalisation and embodied democratic equality, but also based in reproduction of experiences and development of dogmas (as in the case of religion).

For example, a democratic form in the political system can be the fact that the people vote for their representatives, or vote on laws through a certain process where they have to register first or earn the right of suffrage. While in the social state, this aspect of correct or form is the fulfilment of the principle of rational decision that the “equality of conditions” presupposes in behaviour upon which the legal one is based. An example of a social formality is a professional and wilful distance that’s embodied in the relationship of the employee and employer because it keeps the employer from perceiving the supremacy of liberty and the employer from perceiving the supremacy of equality. We know that despotism arises from administrative centralization which aims to change local laws through presenting general interests as particular one because of the bias that passion creates.

Formal democracy is therefore a perceived and almost ideal norm that is always apparent, while its fulfilment is not. Mansfield says that “these forms enable the people to govern themselves effectively and, as a result, to live sensibly and prosper

¹⁷⁶ Ibid p. 123

economically. They make political liberty possible because they are political liberty, which is liberty in practice, not merely in theory.”¹⁷⁷ Or as Tocqueville wrote “The inhabitant of New England... ..habituates himself to the forms without which freedom proceeds only through revolutions, permeates himself with their spirit, gets a taste for order, understands the harmony of powers, and finally assembles clear and practical ideas on the nature of his duties as well as the extent of his rights¹⁷⁸”. Then the fulfilment of these forms, or rather following them defines the effectiveness of social or political reproduction.

The dimension of reality that underlies the forms, that is the fact whether they are followed or not defines reproduction. For example, if a consensus based voting system is a part of formal democracy since it is legally institutionalised then public opinion is informal and underlying democracy’s equivalent to it. But this underlying aspect of democracy is held up by formalities in behaviour to mimic the institutionalised norms. Mansfield never gives a clear definition of what this is, and neither does Tocqueville, but Mansfield does give examples and he does give a generalised definition through examples such as: “Informal democracy is just what the old, formal liberalism tried to forestall with the ideas of representation and separation of powers. Hobbes and Locke conceived of a formal democracy in the state of nature, but it had only a fleeting existence, if that, and its purpose was to legitimize a sovereign that would govern in the name of—that is, instead of—the people. Locke and Montesquieu, seeing that the people’s representatives might be unfaithful, worked out a formal separation of powers that would compel the government to check itself.”¹⁷⁹ It seems to imply that the social state of democracy is that which underlies, but also contrasts the formal one and the processes and institutions which cause and explain why and how people act. For example, Mansfield asserted in his book, that the press and political parties are instruments and institutions of this informal (social aspect) underlying democracy.¹⁸⁰

We can attempt and define them in terms where the underlying reality of democracy is the democracy that’s social-psychological or democracy within the subjects, democracy closer to the social state and through its lens. While the formal one is the legal institutions and framework through which the subjects exercise their political behaviour because the regime wouldn’t exist otherwise. Nevertheless, because of the reciprocal nature of the political and social states and the wide-encompassing, legitimate-normative and legal-cultural characteristics of formal and informal

¹⁷⁷ Mansfield, Harvey C. *Tocqueville: A very short introduction*. Oxford University Press, 2010 p. 37

¹⁷⁸ Tocqueville, Alexis. *Democracy in America*. Translated by Harvey C Mansfield and Delba Winthrop, The University of Chicago Press, 2000. Vol. 1, Part 1, Chapter 5; p. 128

¹⁷⁹ Mansfield, Harvey C. *Tocqueville: A very short introduction*. Oxford University Press, 2010 p. 38

¹⁸⁰ *Ibid* p. 39

dimensions of democracy, a safe characterisation of their classification within the two dimensions can be made. And that is, that both the formal and informal democratic dimensions belong to a socio-political dimension of democracy which means that they are integral to one another and are inextricable from each other.

This means that we, in the end, regardless of the careful and detailed definitions of democracy and its dimensions come back to the most general concept of it. The socio-political merging of the two dimensions of democratic life and governance imply a fragile and almost tangible, so to speak, reproduction and practice of democracy. The confusing part about it is that formal democracy comprises legal forms, while the social state of democracy comprises its own social forms that depend on mores and instruments of the peoples rule outside of the strict framework of the regime. The definitions and exploration in to these concepts that I have just presented might make everything seem more complicated than it is, but just as the practical existence of democracy as a political system is based in contrasts such as liberty and equality, so is democracy through its dimensions of the interaction of citizen and regime. Socio-political democracy then depends on forms, except that political forms are institutionalised into law, while social ones are not which creates a certain responsibility because of the tendencies to go against them.

Formal and informal dimensions of democracy are about what appears, what is a norm and what is actual and appears as something that underlies. Forms seem to be a “prescribed” or a guided way to a certain thing. Forms then are ways to fulfil norms. Forms then exist as a dogma, in a way, to fulfil norms, while norms are ways to fulfil principles and reproduce according to them. In the specific example of despotism, forms exist to equalize the tension between liberty and equality and to help untangle the mixing of local and general interests, democratic wisdom and passion. Because despotism manipulates people by mixing the sentiments and interest for local and general, by centralizing administrative rule, they in a way, keep the tension in spite of the prevalence of one component of the principle over the other. Simply because they introduce barriers to passion and also because they set rules for practice which later teach democratic wisdom or democratic enlightenment.

Tocqueville discusses religion and its mechanisms to show how reproduction of social states and mores requires form. He says that “Christianity did not lose sight of the principal general ideas it had brought to light. But it nonetheless appeared to lend itself, as much as it could, to the new tendencies arising from the fragmentation of the human species. Men continued to adore one God alone as creator and preserver of all things; but each people, each city, and so to speak each man, believed himself able to

obtain some separate privilege and to create for himself particular protectors before the sovereign master. Unable to divide the Divinity, they at least multiplied it and magnified its agents beyond measure”¹⁸¹. This resembles the same tendency towards confusion that democracy has. And as a result of the confusion “Christian religion would regress to the religions it had defeated.”¹⁸² Meaning that just like democracy, Christianity can go against itself and its own principles becoming a paradox. Just like any encompassing and wide system of values and action.

For this reason he says that forms “fix the human mind in the contemplation of abstract truths, and by aiding it to grasp them forcefully, they make it embrace them ardently.”¹⁸³ But that also, “one must rather restrict them, and that one ought to retain only what is absolutely necessary for the perpetuation of the dogma itself, which is the substance of religions, whereas worship is only the form.”¹⁸⁴ This means that forms have a utility that needs to be understood in context of its principles. But if we take into account the constitution that Tocqueville praised so much and the principles of democracy, we can see that political forms were in line with the social ones. The issue ultimately becomes that of treating democracy with responsibility. Too much form and dogma cause the same thing as centralization, they go against principles of democracy. The true merit then seems to be mediation, but Tocqueville doesn’t explicitly comment on how to mediate.

Regardless of this, Tocqueville still says that “Forms are more necessary is the sovereign is more active and more powerful and as particular persons become more indolent and debilitated. Thus democratic peoples naturally have more need of forms than other peoples, and they naturally respect them less. That merits very serious attention.”¹⁸⁵ Or that “There is nothing more pathetic than the haughty disdain of most of our contemporaries for questions of form; for the smallest questions of form have acquired an importance in our day that they had not had up to now. Several of the greatest interests of humanity are linked to them.”¹⁸⁶ So then it seems that forms are the last resort, but also the very basis.

¹⁸¹ Tocqueville, Alexis. *Democracy in America*. Translated by Harvey C Mansfield and Delba Winthrop, The University of Chicago Press, 2000. Vol. 2, Part 1, Chapter 5, p. 415

¹⁸² *ibid*

¹⁸³ *Ibid* Vol. 2, Part 1, Chapter 5, p.416

¹⁸⁴ *ibid*

¹⁸⁵ *Ibid* Vol. 2, Part 4, Chapter 7, p658

¹⁸⁶ *ibid*

It is exactly for these reasons that Tocqueville proclaims: “I believe firmly in the necessity of forms”¹⁸⁷.

¹⁸⁷ Ibid Vol. 2, Part 1, Chapter 5, p.416.

5. Conclusion and reflection:

Democracy in America is a great example of early social science and also political philosophy. Undermined by a consequentialist outlook and a mature recognition of roles and contexts, Tocqueville had become an inspiration to many statesmen, politicians, thinkers and scholars. He modernised many approaches that came before him. His insights have an immense influence and deeply inspired many who have read him. It is both an institutional analysis and a philosophical treatise.

He taught us that democracy is not one sided or two sided but that democracy is a multidimensional phenomenon. We have seen that as an ideal, democracy is socio-political, but also as a regime it incorporates both the social and political states. It is based in an application of an ideal to real, theory to practice. From its social state, which is built upon liberty and equality held by its members mutually in relation to each other, to its political state which is designed to protect individuals and give them liberty.

The “equality of conditions” is the idea of intrinsic liberty and intrinsic equality. This put into law produces a “sovereignty of the people” which views every individual as being intrinsically free and intrinsically equal on the institutional level. The regime of democracy follows these principles in its administration and therefore allows for freedom in all fields and defines it through the idea of equality. Through this, individuals participate in the formation and disintegration of different laws and rules by which they live. To rule, sovereign individuals gain their tools from the laws and political forms. They are a consequence of the way the country is administered in the relation to its principles, but also the tools affirm the “equality of conditions”

The “equality of conditions” is the idea of liberty and equality at tension. In its ideal and its practice, the opposition of both ideas keeps a state of affairs where both liberty and equality are possible. Tocqueville also showed us a more important thing, that the intrinsic equality between individuals although seeming true is equally untrue. People in groups become prone to following each other and their passions. They therefore go against the main presuppositions of equality. Liberty can become lost in this case just as equality can lose itself. The majority can become tyrannical in its imposition of equality but also its imposition of liberty. Therefore, the presuppositions of the social state and the practice of the political one open the door for a new kind of democratic despotism.

Democracy then turns against itself and undermines its own principles. It presupposes freedom and sovereignty to recognise one's own opinion, but if an individual is compelled to adopt or force a view then he truly stops being sovereign. Individuals comprise society and political life. These individuals are given the right to choose what happens, but they cannot truly choose. They become managed by society at large, which becomes managed by different forces of moral and norm entrepreneurs, different associations and capital backed by a possible industrially issued aristocracy. The tools of rule defined by administration and in line with principles here turn against the principles because of the liberty that permits it. While liberty permits them they impose an extreme equality. The paradox of democracy is therefore characterised by an extreme "equality of conditions", and through this extreme, it undermines itself.

In spite of all this, Tocqueville sees that democracy as an ideal remains an ideal which can be tried and tried again. But the relationship between the social and political states makes one realise that reciprocity also requires a certain amount of force unless it is "accidental" in its institutionalisation. Once democracy is lost, then it is difficult to bring it back without using the exact same methods of tyranny and despotism that Tocqueville had outlined. The paradox stays apparent because it seems contradictory to fix it since it becomes legitimate.

Democracy, then, can be earned by a society, not imposed. The force upon which individuals can impose democratic practices are understood as being formal ways of acting out on the social state, but the tendencies and influence of the principle of equality rather protect the instinct instead of guard against it. This in the end requires a degree of responsibility in order to internalise values and behaviours. Tocqueville saw that everything had form. Form in its existence, form to follow, form to impose and practice. If everything is learned from practice and from participating then how can democracy also be learned? It can, he talks of a democratic wisdom gained through practice. But the very essence of democracy argues against any kind of form. Is form then a remnant of older times? What is left then?

The other solutions were seen in "mores" which are essentially social norms. Yet these are complicated as they have to be learned and practiced. Furthermore, the very mores that established democracy in America are elusive because they were accidental. So we have to go back to practice. Forms in the end turn out to be an integral part of life, forms are practical ways to fulfil norms, reproduce principles and reach ideals. Forms then try to bridge theory and practice, they exist to bridge reality and the ideal. Forms have the ability to teach mores and values through practice. And, through that, fulfil principles and reproduce democracy.

This reveals an underlying theme and argument in *Democracy in America*. Tocqueville essentially shows us an inconsistency between theory and practice, ideals and reality. As long as the “mores” or sentiments, or in its best case an arrangement of knowledge, belief, intention, motivation and practice all align with the institutional structure and its unchanging forms, ideals get fulfilled, and from that, principles also. The main difference is that there are fixed and institutionalised forms in the political state of democracy, while the social state has the opposite. If these forms are not followed the political state does not exist. Similarly with the social one, the forms have to be followed and fulfilled for it to reproduce as it is. The issue becomes that of there being no fixed forms that are imposed, so small changes can happen. Because of this the social state changes over time. The idea of responsibility, then, comes as the main message and rightly so. Maybe Tocqueville tried to show us that we have to be responsible in order to keep the freedom that we are given and recognise the equality upon which we function. Responsibility requires us to go against our instincts, which are to blame for abandoning the fulfilment of forms and principles.

There is an idea, or quote in countless different instances that would convey the same message in a simpler but less justified way as it is in Tocqueville. It is the idea that power requires responsibility. In Europe it is traced to different sources, but one that is relevant to Tocqueville is tied to the French revolution. It says that “responsibility follows inseparably from great power.”¹⁸⁸ The main precursor to this idea comes from the Bible. “Everyone to whom much was given, of him much will be required, and from him to whom they entrusted much, they will demand the more¹⁸⁹”.

Tocqueville with his formulation of managed democracy in the form of despotism seems to be an accurate prediction of the “post-political” climate in consolidated democracies around the world. The underlying theme being that of responsibility implies certain things. That there exists a need for motivation and drive, in order to be able to intend and fulfil principles. This idea reappears with many social theorists such as Arnold J. Toynbee and his idea of a “creative minority” that holds the driving force behind development and prosperity in societies. Similarly, Lev Gumilyov also had a similar idea. He defined a certain “passionarity” that motivates group members to interact with, and change their environment, both natural and social. Is Tocqueville’s main point then that we really need to be committed and motivated in order to achieve not only progress but some kind of security?

¹⁸⁸ Garson. “With Great Power Comes Great Responsibility.” *Quote Investigator*, Quote Investigator, quoteinvestigator.com/2015/07/23/great-power/. Accessed 19 June 2018.

¹⁸⁹ *The English Standard Version Bible*. New York: Oxford University Press, 2009. Print. Luke 12:48

Tocqueville's insights might seem basic, but he tried to argue for them on multiple levels and achieved so. One of the underlying themes then truly is that of individual responsibility. The best way to close, therefore, with respect to the insight of individual responsibility is Tocqueville's own final sentence: "Nations of our day cannot have it that conditions within them are not equal; but it depends on them whether equality leads them to servitude or freedom, to enlightenment or barbarism, to prosperity or misery¹⁹⁰". It depends on the individuals, because laws cannot account for subjective experiences and social behaviour.

¹⁹⁰ Tocqueville, Alexis. *Democracy in America*. Translated by Harvey C Mansfield and Delba Winthrop, The University of Chicago Press, 2000. Vol. 2, Part 4, Chapter 8, p. 664

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