Social Science History (2022), page 1 of 7
doi:10.1017/ssh.2022.37

SYMPOSIUM

Strategic Realism, not Optimism: Bayesian and Indigenous Perspectives on the Democratizing Petition

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Most of our judgments being based on the probability of testimonies, it is indeed vital to submit that to calculation.

Simon LaPlace, *Essai philosophique sur les probabilités* (1825: 136).[1]

Let us face it. Some folks out there are always going to think of us as damaged, and not because they are so convinced of the devastating aftereffects of colonization. But it is crucial to recognize that our communities hold the power to begin shifting the discourse away from damage and toward desire and complexity. We can insist that research in our communities, whether participatory or not, does not fetishize damage but, rather, celebrates our survivance.

Eve Tuck (Unangax̂ and Aleut Community of St. Paul Island, Alaska), *Suspending Damage: A Letter to Communities* (2009)

What is missing from the account of "normal" passivity is the slow, grinding, quiet struggle over rents, crops, labor, and taxes in which submission and stupidity are often no more than a pose—a necessary tactic. What is missing from the picture of the periodic explosions is the underlying vision of justice that informs them and their specific goals and targets, which are quite rational indeed.

James Scott, *Weapons of the Weak* (1985: 37).

With a history extending back millennia and remaining with us today in forms electronic and plebiscitary, petitioning defies easy, monotonic narratives. What overlapped and merged with technologies of diplomacy in a period of weak states

[1]"La plupart de nos jugemens étant fondés sur la probabilité des témoignages, il est bien important de la soumettre au calcul." I have adjusted the translation to reflect LaPlace's focus on modes of revising likelihoods given improbable testimonies.

and multitudinous clans was not the instrument of justice, mercy, and administration that emerged in medieval Europe, with monarch, bishop, and lord tethered to norms of response (Bisson 2009). What remade assemblies popular and seigneurial was not yet the tool of contestation and incipient assembly governance in early modern Europe or North America (Zaret 2000; Greene 2012). And none of these earlier ages quite saw the explosive and heady mass campaigns and agenda-transforming strategies of the long nineteenth century (Zaeske 2003, Carpenter 2021).

The reflections of Maggie Blackhawk, Allan Greer, Frances Lee, and Nadia Urbinati, along with Robert Lieberman's excellent introductory essay, are a gift, both to this scholar and to historical social science. Each of them hits the mark on several dimensions. Blackhawk, who has done more than any legal scholar to center the legislative petition in constitutional jurisprudence and American political development, rightly calls for a longer narrative, one that extends into the brutal trauma of the late nineteenth century when corporate power and Native dispossession took on new forms. Greer, whose capacious work sweeps across North America and Native America, points to the legitimating effect of petitions even if they have changed agendas or policy. And he is correct that the Canadian anti-seigneurial campaign cannot be understood without reference to the revolutions of 1837–1838.[2] That rare scholar who can command congressional politics and American political development over the long run, Frances Lee justifiably calls for a true accounting of the nineteenth-century petitioning agenda and just what proportion of those petitions would be democratizing. There are few political philosophers whose work is more relevant to democracy and the dialog of citizen and representative sovereign than Nadia Urbinati's, and Urbinati fairly insists that the effectiveness of attention-setting and agenda-shifting complaint need not have died with the waning of legislative and popular petitioning.

I am going to contend with the argument that *Democracy by Petition* offers an optimistic narrative. My alternative framing is not one of "pessimism," but one of realism, an emphasis on the kind of agenda politics that too often escapes our view.

I do give intentional emphasis to democratizing petitions and petitioning campaigns from those who were electorally weaker. By democratizing I mean that there is evidence either from quantitative or qualitative modes of inquiry that petitioners reshaped agendas, built new organizations, partially transformed the dialogue or discourse around them and, in some cases, directly shaped the more formal institutions of democracy. Among my theoretical inspirations for highlighting these petitions and the campaigns, two perspectives are central: one "Bayesian" and based on the philosophy of social science, another consciously adopted from Native North American writers. I greatly prefer these theoretical perspectives to a search for "irony," which remains a useful device for fiction writers but has limited theoretical value for social scientists.

Improbable Testimonies: Bayesian Conditionalization and Petition Democracy. The Bayesian story goes something like this. The story of democracy as the rise of white male electoral dominance has been richly told. We already "know," in some

[2]See Carpenter 2020 for a micro-level and quantitative account for how petitions plausibly shifted the agenda of this debate a decade after the Rebellions, however.

sense, that nineteenth-century North America was both a white-centered empire (Frymer 2017; Greer 2018; Saunt 2020) and that the United States in particular built "a white man's republic" (Bateman 2018; but see Gosse 2021). The American democratic achievement was a place of immense hierarchy and power where women, people of color, immigrants, and workers of many walks were excluded from power and from the public. Even among white men, power was often held by those newly and long-ago capitalized, with landed and parvenu wealth, as well as by church-aligned or party-aligned elites (Wilentz 2005). And what is known of the petitioning of the seventeenth through early nineteenth centuries (Bailey 1979; Greene 2012) suggests settler and factional lobbying often advanced white men's power and served the partisan organizations and their allies that built this white man's republic.

Democracy by Petition emphasizes these "petitions of the powerful," and not only in Chapter 4 ("Petitioning in the Settler Republic"). These include the petitions of slaveholders (existing and potential) to expand slavery in Mexican Texas (Chapter 6), the petitions of slaveholding interests in the US South to restrict free black liberties (Chapter 6 and Chapter 10), and the petitions to dislodge the eastern Haudenosaunee and to induce war with Tecumseh (Chapter 5). The emergence of the American Whig and Canadian reform (Durhamite) parties through petitioning campaigns (at least in part) is surely no story of radically marginalized interests (Chapter 9). The petitions of Mexican Catholic conservatives (including newly mobilized Mexican women) brought greater political equality on dimensions of gender, but their endeavor resulted in a setback for religious minorities (Chapter 10). Chapter 4 adds the petitions of emerging corporate interests to gain bank charters in New York, water transport monopolies in New York and the Mississippi River, and land company charters in New York and Georgia.

A Bayesian narrative emphasizes the added value of information that differs from what we already know—not just momentarily but stably, amounting to tens of thousands of petitions, millions of signatories, and dozens of changes in institutions, agendas, organizations, culture, and policy. LaPlace's point was this: If we think something has exceedingly low probability but we find evidence of it happening from multiple and plausibly independent sources, we should revise our judgments and perhaps massively. Philosophers have formalized this idea as *Bayesian conditionalization*, the idea that if we think a pattern negligible but witness testimonies (even a few) utterly discordant with that idea, then we need revised judgments (Talbott 2008).

Put differently, if we think partial democratization by petition an unlikely narrative, then how to explain the joint development, across a continent, of the following patterns?

- The process by which the machinations of Indian removal or the plight of Native Nations were debated so widely before legislatures and bureaus in Washington, Boston, Québec, Santa Fe, and Lansing (Chapter 5, Chapter 12).
- A political campaign by a subject population (French Canadians), speaking a majority but non-dominant imperial language, that got a colonial governor booted from power and in so doing raised metropolitan awareness of legislative capacity in a settler colony (Chapter 6; Carpenter and Brossard 2019).

- A national-level debate over slavery, its evils, and its expansion in a national legislative chamber (not just in antislavery print culture), one so transformative that the primary axis of debate was whether or not the petitions and, by extension, their many thousands of Black and women authors, could be heard (Zaeske 2003, Sinha 2016).
- The invited testimony of women across northern American legislatures—Massachusetts (1837) and then New York, Ohio, Wisconsin, Nebraska Territory, Kansas, and Indiana—on matters on which women had petitioned in greater numbers than ever before.
- Broad legislative debates in two countries, each spanning a decade or more, on the persistence of feudal tenure (Chapter 12).

So too, our priors on North American democracy as essentially an electoral phenomenon are plenty (including most recently the innovative Gosse 2021). Scholarly priors on racial democratization as a set of movements—less embodied in petitions—abound (Sinha 2016; Masur 2021). And our priors on North American governance as settler dominance are also well grounded (Frymer 2017; Greer 2018, Saunt 2020). With few exceptions, narratives of nineteenth-century North America associate petitioning with subservience, with weakness. Testimony to the contrary seems evanescent, negligible. It is this testimony that LaPlace and the principle of Bayesian conditionalization would have us prioritize, once we see enough of it.

What realism gets and the usual narrative does not is *agenda democracy*. The occasional and multidimensional effectiveness of petitioning I emphasize is, in some sense, little different from James Scott's (1979) insistence upon the occasional and multidimensional effectiveness of *Weapons of the Weak*. What *Democracy by Petition* adds, I hope, is an emphasis on weapons as technologies that have been reappropriated, reinvented, and repurposed, and in which agenda shaping and organization are central.

I am taken by Urbinati's cautionary (and accurate) conclusion that petitions as a broader set of complaint and demonstration practices remain alive and well (see Krotoszynski 2012). A range of modern forces can contribute to agenda democracy, organizational democracy, and cultural democracy. Still, I think that centralized parties have displaced some of the technology of voice. Progressively from the mid-nineteenth century on, party leaders redirected legislative and executive actions toward the interests of re-election and party discipline. As I have argued elsewhere, where parties have taken clear stands on issues and where the party label has a lot of informational efficiency (and parties are centralized), we should not expect petitions to do as much work, we should expect less response to them, and we should not expect as many of them (Carpenter 2016). The question—of great normative as well as positivist weight—is whether centralized partisan efficiency becomes so "efficient" and totalizing that it crowds out or even suppresses non-partisan political complaint.

Finally, my critics might fairly argue that I should push for an even more Bayesian enterprise, namely what Blackhawk and Lee pose as a fuller accounting of petitions just what fraction of them were democratizing from 1790 to 1870. That is a worthy enterprise and I dearly hope it is carried to fruition

(see Blackhawk et al. 2021 for an important start). Beyond the fact that it has already been documented that the historical peak of population-adjusted petitions to the US Congress came from the antislavery campaign of the 25th Congress (Chapter 1, Chapter 10), the real question is less whether the majority of petitions in the nineteenth century were democratizing, but whether petitioning and petitioning campaigns were more likely to have left democratizing legacies from 1820 to 1870 than before the 1820s or after 1870.

Survivance and Discourse Shifting. I read Eve Tuck's urgency for an empiricism of desire as in part a call for attention to agenda democracy, attention to how Natives have often been "shifting the discourse," and here not merely the discourse of the dispossessed but also the discourse of the possessed. Similarly, the Ojibwe writer Gerald Vizenor (2008) also calls for survivance narratives that highlight an active sense of presence and resistance to narratives of victimry (see Treuer 2019 for a recent application).

It would be dangerous to drive these principles aggressively into denial of the erasure of peoples and spaces, and often the genocide, that characterized the long nineteenth century. As I make clear in Chapters 4 and 5, Natives petitioned from their trauma and dispossession. And the chapters display many a case (the Oneida, the Cherokee, and the other removed "civilized tribes," many pueblos; see Chapter 5) in which the petitions of dispossessed Indigenous peoples fell upon deaf ears or indifferent souls.

There is nothing sunny or progressive about Cherokee removal, either as I narrate it or as told by others (Saunt 2020). Yet an emphasis on agenda democracy allows other dimensions to come into view—a petitioning campaign that occasioned the widest debate on Indian removal in American history to its time, one that put Lewis Cass and others on the rhetorical defensive, one that began to build Native-white anti-removal alliances outside of the Quakers, and one that inspired the Seneca, the Mashpee Wampanoag, and other tribes to the north to launch petitioning campaigns (the Seneca and the Mashpee explicitly mentioned the Cherokee as they lay their complaints before legislators). Blackhawk correctly points to a later legacy of nineteenth-century dispossession and erasure, and the role of settler petitions in this process should be analyzed. That said, Native dispossession and settler dominance became more routinized, more bureaucratic, in the later nineteenth century, in part due to reasons that Blackhawk herself has emphasized: the petitions (including land requests) become administrative claims subject to little or no deliberation (McKinley 2018). The consolidation of the US Army after the Civil War, the vast explosion of gun owning among War veterans, and the lock-tight grip of US state, transcontinental railroads, and development interests also contributed (White 2011).

Still, why emphasize some "successful" stories, as I do in Chapter 12 ("Native Continuance, Native Governance")?

In the long history of North American dispossession, reversal of dispossessing treaties does not just happen. There was nothing probable or foreordained about the remaking of the Treaty of 1838. Nor was there anything probable about the enactment of the reserves legislation in Canada in 1851, the small but vital victories of the Mashpee Revolt, the continuance (against many orchestrated efforts of Cass

and Henry Schoolcraft) of the Odawa and Ojibwe in northern Michigan, and the survival of pueblo communities.

Each of these stories retains, as it must, a degree of realism. The Cattaraugus and Alleghany Seneca reversed the Treaty of 1838 in part by selling out the Tonawanda Seneca (Carpenter 2021: 424–26). As a political scientist, I do note that it represented a strategy of continuance taken under duress and under the *divide et impera* logic of British and American treaty making.

Yet if the story of the Seneca Nation of Indians—whose Constitution of 1848 is arguably the oldest written constitution among Native American nations in the United States (somewhat modifying the account of Treuer 2019: 165, 202–204)—is to be realistically written, the alliance-building and agenda-shifting political activism of Senecas and their allies from the 1810s to the 1840s must be centered, at least for a moment.

Survivance narratives compose, in this sense, empirical documentation of strategic realism. All the more so because as Scott (1985) knew, our sources and our readings of them often exclude the strategic work of the weak. They still suffer and "lose" as much or more than they "win," but by survivance they resort to particular strategies to attempt, slowly and painstakingly, to change the terms of the contest—awakening other audiences, recruiting allies, changing vocabularies, and seeking a hearing.

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Cite this article: Carpenter, Daniel (2022) "Strategic Realism, not Optimism: Bayesian and Indigenous Perspectives on the Democratizing Petition," *Social Science History*. doi:10.1017/ssh.2022.37