Introduction to the Morality of a Slaveholder

JEFFERSON'S IMAGE AND INTELLECTUAL LEANINGS

Thomas Jefferson owned almost 200 slaves when authoring the famous lines of the Declaration of Independence in 1776 that all men are created equal and entitled to the rights of life, liberty, and the pursuit of happiness. After his death on July 4, exactly fifty years later, approximately the same number of slaves at Jefferson's Monticello plantation – as well as the estate itself – were auctioned off in order to clear his huge debts. Nevertheless, this Virginia slaveholder, living beyond his means, remains in American history "the great apostle of democracy and national self-determination" belonging to the "pantheon of American demigods" alongside George Washington and Abraham Lincoln.[1] Thanks to Jefferson's politically skillful advocacy of democratic rights, popular sovereignty, equal elementary education, and religious freedom, all scholars in the field are familiar with James Parton's 1874 exclamation that "if Jefferson was wrong, America is wrong."[2]

Rather than studying Jefferson's importance to the American idea, this book seeks to answer a different question: Could Jefferson claim any consistency in his advocacy of democracy and the rights of man while remaining, throughout his life, one of the largest slaveholders in Virginia? Once we fully acknowledge the premises of his ethical thought, the answer will be that he could. Admittedly, any attempt to find a morality in the mind of a slaveholder is vulnerable from the perspective of absolute moral imperatives. Neither can one compare the bad choices that Jefferson felt he confronted over slavery to the tragic choices that individual slaves confronted when, for example, choosing to run away at the cost of leaving their spouses and children in slavery. Yet, moralizing about Jefferson's racial prejudices and often helplessly old-fashioned scientific assumptions is the shortest route to misunderstanding the ethical dimensions of his thinking. Jefferson's position on slavery was not self-evidently even the weakest link in his egalitarianism. He never suggested full equality of women either.

The problems of interpreting Jefferson's moral thought arise from his confusingly liberal use of such ethical – or ethically charged – concepts as natural rights, natural law, and the state of nature, or such apparently uncomplicated pairs of concepts as justice and benevolence, morals and manners, virtue and vice, and duties and obligations. Jefferson's ethical thought, this study argues, arose from one context only, namely from his well-known belief in human progress. Even if it remained unlikely in his view that "the human condition will ever advance to such a perfection as that there shall no longer be pain or vice in the world," he famously thought the human mind to be "susceptible of much improvement, and most of all, in matters of government and religion."[3]

One should not confuse Jefferson's understanding of progress with any confessedly progressive theory of history. In an attempt to define the latter notion, we would only fall into myriads of controversies about the definitions of progress, history, historicity, or temporality. As this study shows, Jefferson's conception of progress was a worldview, not a theory about history. It provided no guarantee that history, as a simple sequence of human events, would not include retrograde developments. Neither did it rest on any detailed view of what the proper end of progress – the perfection of man – must look like at the end of days.

The context of human progress is all the more important to keep in mind, given that Jefferson is one of those historical figures whose moral convictions have been primarily questioned on the grounds of his actual achievements in putting them into effect. On the slavery question Jefferson attained what most moral philosophers have: He condemned injustices on paper. He considered slavery immoral, unjust, and harmful for both slaves and masters. In the only book Jefferson ever authored, *Notes on the State of Virginia*, he thought it evident that "the whole commerce between the master and slave is a perpetual exercise of the most boisterous passions, the most unremitting despotism on the one part, and degrading submissions on the other."[4]

Most historians today agree with John Chester Miller's 1977 thesis that Jefferson was sincere in his principled opposition to slavery. The same holds true of Miller's central conclusion that, from early on, "it was impressed upon Jefferson that he must choose between the preservation of his political 'usefulness' and his active opposition to slavery."[5] In order to grasp Jefferson's position, one needs to question the implied straightforward opposition between political "usefulness" and "active opposition" to slavery, or to some other moral evil. It is hardly self-evident that Jefferson regarded political action as a simple alternative to some presumably higher notion of moral duty. He famously insisted on "having never believed there was one code of morality for a public; and another for a private man."[6] In fact, he was conspicuously consistent in arguing for a political solution to the slavery question instead of individual manumissions. This calls for some other explanation than that Jefferson simply erred in his own moral thought.

As the title of the book implies, Jefferson's ultimate belief in human progress entailed politics as the single route to any long-standing success. The ethically sustainable method of extending justice was political action – that is, embracing legal reforms, not individual crusades against the contemporary legal order. Progress, alongside increasing material welfare and accumulating scientific knowledge, was about gradually developing shared patterns of morally desirable behavior. No individual could achieve it alone. Enduring steps forward could be taken only through democratically accepted reforms. This is the context in which this study seeks the consistencies both within Jefferson's moral thought and between his thought and his policies. Inconsistencies no doubt remain, but they are considerably fewer than usually presumed.

It is important not to accidentally turn Jeffersonian optimism upside down. It would be a fundamental mistake, for example, to identify his belief in progressive natural sciences with one or another, presumably coherent, eighteenth-century "scientific worldview," and, consequently, with one or another racial theory of the time. Scientific progress, even in Jefferson's eyes, was about continuing research of the unknown. A scientific theory is, by and large, true as long as it cannot be disqualified as a research hypothesis.[7] Its truth-value depends solely on the yet uncompleted research. Anyone believing in cumulative knowledge must doubt its contemporary state. So did Jefferson. Taking this aspect of Jefferson's thought seriously, it is perhaps not such "an odd thing about a man who lived as long as Jefferson" that "he seldom changed his mind about anything," as Stanley Elkins and Eric McKitrick once argued.[8]

In certain important aspects, Jefferson's commitment to human progress does not quite fit with his contemporary fame as "the great philosopher and statesman of the south," nor with his current textbook image as a "philosopher scientist."[9] To be sure, Jefferson gained a well-earned reputation as a man of letters, a part-time scientist, a nationally recognized architect, and a cosmopolitan intellectual. He headed the American Philosophical Society from 1797 to 1814. His foreign contacts included such luminaries as the Marquis de Condorcet, Alexander von Humboldt, Thomas Paine, Richard Price, J.B. Say, and Dugald Stewart. But Jefferson's fame rested not so much on his intellectual achievements as on his exceptionally successful career as the spokesman of democracy and the rights of man.

As a statesman, Jefferson was conspicuously prone to view politics in moral terms. In the immediate aftermath of the War of Independence, one already finds him warning his fellow Virginians not to lose themselves "in the sole faculty of making money." Instead, they should keep close watch of their rulers, who will turn corrupt as soon as the people grow "careless."[10]

How did Jefferson become the American apostle of liberty? In his home state of Virginia, he advocated the abolition of the traditional restrictions on free inheritance of land and authored the famous Virginia statute for

religious freedom. In his early drafts of the Northwest Ordinance of 1787 he demanded both universal male suffrage and the prohibition of slavery in the new western territories prior to their accession to the Union.

From where did Jefferson's much-acclaimed liberal constitutional thought arise? As the American minister to France from 1785 to 1789, Jefferson counseled his fellow revolutionaries in their efforts to formulate the French Declaration of the Rights of Man and Citizen. From France he also persuaded his life-long friend and closest political ally, James Madison, to incorporate the Bill of Rights into the newly ratified Constitution.[11]

In 1790, Jefferson joined President Washington's first cabinet as the secretary of state but eventually resigned in bitter opposition to the secretary of the treasury, Alexander Hamilton. The notion of Jefferson as the foremost American spokesman of minimal government has its origins in his struggles with Hamilton, the key figure of the Federalist Party. It was Hamilton's large-scale fiscal program – based on permanent national debt, on the British model – that turned Jefferson's political instincts into moral fury. Hamilton's apparently one-sided favoritism of commerce and manufacture over agriculture threatened to subject Jefferson's beloved American husbandmen to an ever-increasing tax burden needed for the interest payments on the national debt. Moreover, the payments were headed into the pockets of a new hideous monocracy, the government's creditors.

Jefferson's vision of self-sufficient farmers' participatory democracy as the backbone of American freedom is best conveyed in his characterization of "true republicans" as including landholders and all other "labouring" Americans "in husbanding or the arts." These people he contrasted not only to a whole race of "nervous persons," but also to merchants, speculators, bankers, and office-hunters most of whom associated themselves with the principled "tories" of the Federalist Party.[12]

Jefferson's fame as a states' rights advocate, in turn, stems from his famous Kentucky Resolutions of 1798. During John Adams's presidency, the "nervous" Federalists attempted to suffocate criticism of the government through the infamous Alien and Sedition Acts, which appeared to nullify the constitutional right of free speech. These developments led the then Vice President Jefferson to argue that if no other branch of the federal government could put a stop to such an abuse of power, the member states of the Union were entitled to exercise judicial review on their own.

In 1800, Jefferson was elected the third President of the United States with his Democratic-Republicans winning the majority in both houses of the federal congress. This landmark event was, in Jefferson's words, "as real a revolution in the principles of our government as that of 1776 was in its form; not effected indeed by the sword, as that, but by the rational and peaceable instrument of reform, the suffrage of the people."[13]

It was clear to Jefferson that after the catastrophic failure of the French Revolution, America had to stand on its own, in isolation from the

superpowers of the time. France had fallen under the yoke of Napoleon, "the greatest of the destroyers of the human race," and Britain remained as unable as ever to include a single "chapter of morality into her political code."[14] From here arises Jefferson's image as the visionary of American exceptionalism.

Where should one look for Jefferson's progressive moral ideals? He was aware of practically every late-eighteenth-century theoretical argument in circulation, whether originating in Antiquity, the Middle Ages, or the Enlightenment. Jefferson's thousands of letters and memoranda reveal a never-fading interest in Epicurus and Cicero and a number of Stoic philosophers. Jesus of Nazareth, in Jefferson's words, had "supplemented" the ancient virtue ethics with the principle of universal benevolence. With equal ease Jefferson embraced such Scottish-Enlightenment-derived notions as common sense, moral sentiments, and the inborn moral sense of man.

Alongside John Locke, Jefferson – a lawyer by education – frequently referred to such prominent authorities in the field of the law of nature and nations as Hugo Grotius, Samuel Pufendorf, and Emer(ich) de Vattel.[15] To be sure, such luminaries as Kant or Fichte do not figure in Jefferson's records. Nor does Rousseau get more than a couple of brief remarks, and even Hume is summarily dismissed as merely a monarchist-minded British historian. But what appears to distinguish Jefferson as an American intellectual of the time was his interest in the apparent anticlericalism of the French Encyclopedists and in their followers, particularly Condorcet, Helvétius, and the less known Destutt de Tracy. Many of these "virtuous atheists" Jefferson described as his allies on the subject of human progress, although he personally remained a deist.[16] Even on moral issues Jefferson's own beliefs should be kept distinct from what he thought all could agree on.

In fact, the most characteristic aspect of Jefferson's intellectual outlook was his Stoic-inspired disregard of theory. This disregard held equally true in theology, natural history, and moral philosophy. In his eyes, the contemporary theoretical debates on morality served only to prove "how necessary was the care of the Creator in making the moral principle so much a part of our constitution as that no errors of reasoning or of speculation might lead us astray from it's observance in practice."[17] From this conviction arose Jefferson's conspicuously eclectic attitude to moral studies as well as to philosophy in general. What he maintained was this:

> I never submitted the whole system of my opinions to the creed of any party of men whatever in religion, in philosophy, in politics, or in anything else where I was capable of thinking for myself. Such an addiction is the last degradation of a free and moral agent.[18]

There is plenty of evidence that everything Jefferson ever claimed about morality emanated from *the absolute primacy of temporality in his*

intellectual outlook, embodied in this conception of the human being as a free, moral agent.

To be sure, viewing temporality as the paradigmatic element of Jefferson's moral thought only extends the theme of generational sovereignty in Jefferson scholarship, most forcefully brought to the fore by Richard Matthews and Herbert Sloan.[19] In the simplest terms, Jefferson's principle held that each "generation is as independent as the one preceding" and has therefore "a right to choose for itself the form of government it believes most promotive of its own happiness." In order to link this apparently political conception of human happiness to Jefferson's rights thinking one may resort to the same document also stating that "*the dead have no rights*. They are nothing; and nothing cannot own something."[20] Jefferson's understanding of generational sovereignty was both moral and inescapably linear.

What was the relationship of temporality to the notion of progress in Jefferson's thought? In the simplest form, the answer can be found in his most celebrated law text, the Virginia bill for religious freedom. The bill held that the assembly enacting religious freedom had "no power to restrain the acts of succeeding Assemblies" from revoking that freedom. It could only urge the future assemblies to respect the principle as a natural right.[21] Within Jefferson's self-confessedly progressive moral outlook, temporality did not yield to the modern, linear view of time, whether unfolding progressive or retrograde developments. Insofar as morality is about one's respect for other people, as the term is most broadly defined, it cannot remain in the past. As "free moral agents," our respect for others should recur every day.

Whereas Jefferson's commitment to generational independence is widely acknowledged, this study's central claims about the man himself are highly controversial. First, Jefferson refused to be a philosopher for moral reasons. His statements on the rights of man, on ethics, on race, or on gender issues did not aim at a consistent theory but at keeping ethical discourse alive. Second, if anything, Jefferson was a man of politics. His ethically charged Lockean leanings cannot be grasped in isolation from his belief in free representative democracy as the crucial human innovation in history. Free government provided the very framework in which genuinely progressive steps forward could be taken. Third, and the most controversial point, is that the image of Jefferson as an advocate of only minimal government is a misconception.

These claims run counter to dominant voices in the field of Jefferson studies. But it is equally notable that philosophers and intellectual historians disagree about Jefferson's inconsistencies. Jefferson has been described as a moral rationalist, a moral sentimentalist, and an Epicurean, as well as a modern libertarian.[22] Particularly in relation to the problem of slavery, Jefferson has often been accused of sheer self-deception.[23] No doubt, he attempted to provide himself with an argumentative moral niche from

which to blame others. But his alleged failures and simplicities in formulating his position have been unnecessarily exaggerated.

Historians, as if by occupational hazard, insist on finding Jefferson maturing in his thought over time. Again, they often disagree on the direction of the presumed changes – most of which, as this study argues, never occurred.[24] The central suggestion of the present study is that Jefferson usually aimed at circumventing rather than resolving philosophical and scientific problems because of his faith in democratic political discourse in solving peacefully such concrete, contemporary ethical predicaments as slavery.

JEFFERSON THE POLITICIAN

Scholars also disagree on whether Jefferson matured into a more Liberal, Libertarian, or Republican political thinker over the years.[25] Even in this respect his views changed much less than is commonly presumed. The scholarly disagreements arise as much from methodological as from political or purely historical grounds. Consider Carl Becker's classic claim that, in Jefferson's eyes, "the only thing to do with political power, since it is inherently dangerous, is to abate it."[26] Is this not an extraordinary conclusion in view of Jefferson's exceptionally long and energetic career as a diplomat, a legislator, a governor, a national party leader, the president of the United States, and a widely recognized political eminence until the end of his life?

In fact, the fundamental problem lies in keeping the analysis of Jefferson as an American founding father distinct from his image as a politician. Gordon Wood's well-balanced studies on the impact of classical republicanism on the founders' thought deserve their status as standard textbooks on the Revolutionary era. Regardless of his interest in the so-called republican tradition, Wood has always subscribed to the fundamentally Lockean-liberal thesis of the historical meaning of the founding. As early as 1969 he argued that, in adopting the Constitution, "Americans had retained the forms of Aristotelian schemes of government but eliminated the substance, thus divesting the various parts of the government of their social constituents."[27] The American revolutionaries broke with this decidedly premodern tradition, Wood argues, because of their Lockean-derived, modern notion of free society, based on the principle of equal opportunity.[28]

As a large-scale generalization, Wood's view may well be acceptable. But what is not is his further inference regarding Jefferson's ethical convictions, which suddenly begin to appear elementarily indifferent, if not hostile, to the concept of politics. According to Wood, the "Jeffersonian modern virtue" that "flowed from the citizen's participation in society, not in government" must be distinguished from the classical notion of virtue arising out of "participation in politics."[29] From this summary one easily infers that Jefferson's virtue ethic was distinctly modern in being antigovernment, if not entirely antipolitical – as if "citizen participation in society" had nothing

to do with the power relations within the so-called free government. The notion of civil society as in anyway related to political discourse does not enter the picture.

To question the popular notion of "Jefferson's antigovernment ethos,"[30] one hardly needs to take sides in the outdated historiographical struggle over the true meaning of the American founding between the John Pocock–inspired republican school and neo-Lockeans, such as Joyce Appleby and Isaac Kramnick.[31] As Daniel Rodgers once brilliantly summarized the debate, eventually the Lockean-liberal school "prevailed by raising the stakes of what counted as *meaningful* conflict, until every conceivable demonstration of conflict short of Jacobin or Bolshevist revolution vanished in the all-pervasive liberal consensus."[32]

Indeed, in order to study Jefferson as a politician of his time, one needs the concept of meaningful conflict. Without going into distinctions between, say, "politicizing" a given issue and "politicking" for it, consider the textbook notion that there is a political aspect to every social phenomenon in which one may discern even a potential conflict.[33] The notion of conflict as the salient feature of human life was far from alien to Jefferson. As he contended, "an association of men who will not quarrel with one another is a thing which never yet existed, from the greatest confederacy of nations down to a town meeting."[34]

By letting go of the oddly common view that conflict is inherently contradictory to human sociability, it is easier to see the myriad ways that power relations permeate everyday life. Power relations are in play in every family disagreement over whose turn it is to take the dachshund out, and in every instance the dachshund pulls on the leash in disagreement with his walker about the proper route. None of this means submitting to some 1970s notion that "everything is political." The notion of politics as public discourse does not run counter to the fundamental tenet of modern liberalism that individuals are generally capable of handling their private-life conflicts without public interference. The suggestion is simply that social phenomena can always be, and often become, politicized.

Methodologically, social developments can be viewed as a series of conflicts and conflict resolutions and, hence, studied as political phenomena. Whenever violence occurs, politics has failed. Here arises the modern notion of civil society as the discursive basis for conflict solving and as an integral part of what is properly called free government. In fact, all standard definitions of "civil society," from Tocqueville onward, involve its function as the site of discourse and, thus, also as a political site for anyone with an agenda. That, after all, is why textual (or discourse) analysis of anyone's sayings is applicable to political studies. In this standard, extended meaning of politics, it definitively belongs to civil society. There one finds politics as an everyday occurrence, practiced by NGOs, the media, political parties, congressmen, courts, corporations, lobbyists, ad hoc pressure group coalitions,

and the like. Hence, governmental action, whether taking place on its own initiative or in response to so-called popular pressure, is only one aspect of the constant political action that is one of the most characteristic features of civil society.[35]

To grasp how deeply all this involves Jefferson's image as the foremost ideologue of the founding, one need only visit the Jeffersonian Memorial in Washington, DC. On the wall there is an inscription of Jefferson's statement on black slaves from 1821: "[N]othing is more certainly written in the book of fate than that these people are to be free." Omitted, however, is Jefferson's qualification in the very next sentence: "Nor is it less certain that the two races, equally free, cannot live in the same government."[36]

The time-honored notion of American free society is not mentioned at all in this clumsy appraisal of freedom's application to all races. What makes it so strikingly non-Jeffersonian? Strictly speaking, racial equality was not at issue here. Jefferson averred that no matter how inferior one race may appear in comparison to another, white and black people should become "equally free." It was only that they were not to become so under Jeffersonian "government." Nothing was said about either Lockean or post-Lockean free society. Jefferson's use of the terms "equality" and "government" comprises the whole problem.[37]

At least in 1821, Jefferson's abolition plan entailed compulsory removal of the entire African-American population from the United States. As this study shows, it was the only solution to slavery to which Jefferson ever subscribed. If that makes Jefferson untrue to the Jeffersonian legacy, the reason is that the legacy is derived from historians' later definition of it. The problem is historical. No sane person today would agree with Jefferson's racist grounds for arguing that African Americans should establish themselves as a distinct nation. Neither do many people share Jefferson's outspoken belief that rocks grow.[38]

To track a genuinely power-centered view of society in the Jefferson archive, one may resort to his definition of "pure republic." It consisted of "a state of society in which every member of mature and sound mind has an equal right of participation, personally, in the direction of the affairs of society."[39] This power-derived perspective on the very concept of society arose from the notion that potential conflicts of interests permeate all social life. None of this prevented Jefferson from subscribing to the core conception of modern liberalism that, by and large, individuals are capable of solving conflicts without public control. To what extent Jefferson thought such an ideal to be in the grasp of the America of his day is another question. As noted, he never made up his mind about whether women are by nature entitled to equal political rights with men.

Jefferson never won enough public support to put his emancipation plan into effect. But neither did he win his battle for universal, white male suffrage in his home state of Virginia. As early as 1776, his draft constitution

for the state of Virginia suggested that all "male persons" with 25 acres of land and other residents having paid "scot and lot to government the last [two years] shall have right to give their vote in the election of their respective representatives." They were also to be qualified for office. This demand was supplemented with the initiative of appropriating 50 acres of land for all men without property, which in essence would have guaranteed universal male suffrage.[40] The Virginia legislators ignored Jefferson's draft. Against his ceaseless demands to rectify the situation, approximately half of the white, free male Virginians were excluded from the ballot well after Jefferson's death in 1826.[41]

What was Jefferson's personal "consent" to contemporary American democratic discourse like, whether Lockean or otherwise? In seeking consistencies in his ethical convictions, one should begin with the stunning number of compromises he was ready to make in order to remain loyal to contemporary majority rule after the Revolution. Jefferson's faith in an equal white men's democracy in Virginia remained a mere hope, because the majority of the politically empowered were uninterested in the idea. Apparently, Jefferson could compromise even that goal in order to keep his personal loyalty to government intact.

Politics is about the future, not about keeping the world from coming to its end. Even less does it have to do with the view that ethically sound politics should be capable of correcting past injustices. To give an example, Affirmative Action is often (mis)understood in terms of encouraging the employers to take "positive measures to recruit minorities, thus *compensating for past injustices*."[42] This kind of metaphysics of leveling the playing field (in the name of the equal opportunity principle) in the past alongside the present may appear morally valid to many. Such aspirations have nothing to do with Jefferson's future-oriented thought of generational independence.

The standard lamentation that Jefferson was not outspoken enough in all his wishes is out of touch with what successfully playing politics is all about. Rather than speaking his mind, Jefferson regularly urged Madison and other friends to go public with issues he personally could not touch when attempting to acquire power. Jefferson's harsh language about his political opponents was not that surprising given all the abuse he himself had to endure. Over the years, he was accused of being not only an atheist, but also an effeminate liberal idealist with secret abolitionist ambitions, who also kept a black concubine, thus undermining his fame as a genuine racist.[43]

But most conspicuously, it is difficult to view Jefferson's huge number of political initiatives stemming from some essentially antigovernment ethos. Perhaps Max Edling's reading of the founding era, well captured in the title of his book, *A Revolution in Favor of Government*, pertains to Jefferson as well.[44] As to Jefferson's preferences, his purchase of the Louisiana Territory in 1803 not only doubled the size, but also increased the debt of the nation,