



October 2022 Case Study

The Transformation of a Regime: At What Point is the United States of America No Longer the United States of America?

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Aristotle's book, *The Politics*, begins the study of politics by examining, comparing, and contrasting various kinds of regimes.

This case study raises fundamental questions that all citizens should ask and reflect upon. First is the question: This thing we call the United States, as a regime — Can we lose it? Is it possible for the United States, at some point in time, to exist no more? What could destroy the United States?

A related question is: As America continues to change, evolve, and transform, is there some point at which the United States changes so much that it is no longer the United States? Can America become something so fundamentally different than what it was that we can say, accurately, that the United States of the past is no more?



REGIME

Let us first clarify a term that is misunderstood almost as frequently as it is used: *regime*.

Classical political science, found in the works of Plato and Aristotle, focused on the study of regimes. Today, people often use regime as a synonym for government, as in: The American regime is the United States

Case Study Instructions:

At The Vino & Veritas Society, we have distilled the key principles of liberty into six precepts and four civic virtues.

These are the basic, foundational principles necessary for a free society and individual human flourishing. You should talk about these ideas, become familiar with them, and practice communicating them to fellow citizens.

Sometimes, adhering to these principles is straightforward. Other times, their practical application requires prudence, or practical wisdom, which is no easy thing.

Reasoning from first principles to the best policy or practical course of action, in a particular circumstance, poses great challenges, not least of which is that in politics we are often confronted with two or more options that are all bad.

Even identifying the lesser of evils is not always obvious.

Reasonable, smart, good citizens, who agree on the basic principles of liberty, can and do disagree about what is the prudent choice to make here and now.

We encourage members of The Vino & Veritas Society to approach the monthly case studies as exercises in prudence. We invite you to think for yourself what prudence requires.

Disagreement can be enlightening when it's informed by principles, facts, sound moral and political logic, and good civic intentions. Thoughtful disagreement can also lead to enlightened, prudent agreement, which is the goal of these case studies.

government, the French government *is* the French regime, the Chinese regime *is* the government of China, etc.

Classical thinkers, however, offered a much broader, deeper, and richer understanding of regime that can help us, today, think more clearly. For the classics, a regime includes the government — who has power to rule, how power is attained, and toward what end or goal that power is directed, as well the kinds of laws that are passed and the purpose of the laws.

The classical concept of regime also includes more than merely the government: The regime is the way of life that characterizes a particular people. The regime is that which is praised and honored by the people, as well as what is viewed as shameful, embarrassing, or vile.

For what kind of actions do a people award medals and ribbons? For what kinds of actions do a people scold and shame others? What kinds of people are viewed as heroes? And who are the villains?

In a highly militaristic regime, for example, such as ancient Sparta, the courage to stand next to one's fellow citizen-soldiers and fight unto the death was held up as the highest virtue among all virtues. That same kind of courage and willingness to fight is not praised, nor honored, within a group of pacifists.

A regime of pacifists is strikingly different from the Spartan regime. A regime that erects statues to honor Vladimir Lenin as a hero is strikingly different than a regime that views George Washington as one.

What we today call *culture* was included within the classical definition of regime. What people believe, how they view fellow citizens, how they view foreigners, the kind of religious worship they engage in, what they find to be entertaining and funny and enjoyable, how they view trade and other economic activity, and how they understand their own obligations and rights, are all parts of the *regime*.

With this big, sweeping understanding of regime in mind, ask yourself or discuss with friends: What *is* the American regime today? What does the American regime today have in common with the American regime a hundred years ago, or at the time of the American Founding?

SHIP OF THESEUS

With a better, deeper understanding of what the American regime is — the American way of life — let us return to the question: Can the American regime be lost? Can we lose America? Is it possible for the United States of America to exist no more?

The short answer is: Yes, it is possible.

Plutarch was born in a small Greek city in A.D. 46. He later became a Roman citizen. He died in A.D. 119. He is most famous for his book, *Parallel Lives*, which compares contrasts famous Greeks to famous Romans.

Thomas Hobbes (1588 - 1679) is most famous for his book, *The Leviathan*.

The most obvious way would be a successful attack by a foreign enemy. If a hostile, foreign regime defeated the military and destroyed the U.S. government, occupied the United States, and governed the United States according to *their* laws, customs, culture, etc, then the United States as we have known it would no longer exist.

Or, if a hostile, foreign regime destroyed our military and detonated numerous nuclear weapons over the United States and literally wiped America off the face of the Earth — including cities, buildings, and people — then, also, the United States as we have known it would no longer exist.

These real possibilities of existential threats from foreign foes are precisely why the drafters of the United States Constitution made national defense and national security the primary focus of the federal government.

America can be lost in another, far more subtle, far less obvious way: *It can transform, slowly, into something else.* This is probably more likely than an outright military attack.

Here, the story of the ship of Theseus might be illuminating.

According to Greek mythology, Theseus, the founding king of the Greek city of Athens, rescued the children of Athens via a ship from enslavement by Minos. (This is the same story in which Theseus allegedly fought and slayed the minotaur, which was part man, part bull.)

For generations, Athenians honored Theseus by maintaining his ship and sailing it once a year in the Mediterranean Sea, along the Greek coast. The ship was made of wood. As the original planks would rot and deteriorate, the Athenians would replace them with new pieces of wood.

This story of the ship of Theseus led the Greek historian Plutarch to raise a question: After all of the original wood had been replaced with new wood, was it still the ship of Theseus? Or had it become something else?

It certainly had the form of the original ship, yet the material of which it was made came to be entirely different.

Many centuries later, the English philosopher Thomas Hobbes took an interest in the ship of Theseus. He raised yet another probing question: As the Athenians replaced the original planks of wood on the ship with new wood, what if someone kept all the old, deteriorated planks and reassembled the ship?

It likely would not be sea-worthy, of course. More importantly, there would be two ships — one made of replacement planks, and one made by reassembling the original planks. Which would be the real ship of Theseus?

The purpose of this thought experiment is to help us understand that a thing can change even though it continues to look the same in appearance.



In the case of Theseus, the ship that is getting replacement planks probably looks more like the original ship than the ship with the old, original, rotten planks — yet, arguably, the ship that looks more like the original is not necessarily the original.

If the American regime is continuously replacing original habits, customs, principles, forms of government, and laws, with new ones, does it at some point become something else?

BRUCE ACKERMAN

Another way to approach this idea that America can disappear by becoming something it's not supposed to be is through a brief summary of the scholarship of Bruce Ackerman.

Ackerman is a professor at Yale University School of Law and a prolific writer. He is one of the most influential constitutional and legal thinkers and writers today.

In his multi-volume treatise, titled *We The People*, Ackerman offers a novel thesis: There are *two* ways to amend the United States Constitution, Ackerman maintains. One way is to follow the formal processes outlined in Article V of the Constitution, which Americans have now done 27 times.

The other way to amend the Constitution, according to Ackerman, is informally. When United States citizens, and their elected representatives, redefine the meaning of the Constitution, then, for all practical matters, the Constitution has been amended.

The main example to which he points is the Social Security Act of 1935, passed by New Deal Democrats in Congress and signed into law by President Franklin Roosevelt.

Ackerman understands that the Constitution nowhere authorizes Congress or any part of the federal government to take money from the current working class of citizens, and transfer that money to older, retired citizens, in the name of “social security.”

Whatever the merits of financial security in old age might be, the Constitution does not grant to those in government power to provide such security.

Yet, Ackerman emphasizes, not only did elected representatives of the American people pass the Social Security Act, the idea that everyone has a “right” to social security has become deeply ingrained in the modern American regime. The right to social security has become more important, for most Americans, than natural rights such as individual freedom, free speech, or private property.

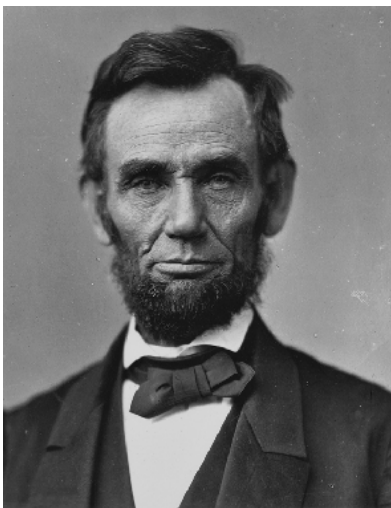
Example: A modern Congress can pass a law that restricts speech and use of property — call it “campaign finance reform” — and there is no serious political opposition. However, if Congress passed a law restricting or repealing Social Security, there would be marches on Washington DC and violence in the streets of American cities.

As Americans come to value the right to Social Security more than their natural rights of free speech and property — as the American regime transforms from a nation of people who value liberty to a nation of people who value government programs and entitlements — the America regime changes into something it did not used to be.

For Ackerman, the fact that few if any lawmakers, judges, politicians, or prominent citizens publicly challenge Social Security is proof that the Constitution has been amended, *informally*, from a Constitution incompatible with big government programs like Social Security to a Constitution that authorizes and legitimizes big government programs like Social Security.

And that change, according to Ackerman, did not require an actual Constitutional amendment, nor did it require de-ratifying, replacing, or abolishing the Constitution. Our Constitutional order — our Constitutional *regime* — changed as the habits, opinions, and ideas of the American people changed.

Is Ackerman right? After FDR’s New Deal, and the creation of a federal leviathan of government bureaucracies, agencies, and programs, is the American regime different than it was before the New Deal? Is it the same regime, with some changes? Or is it a different regime altogether? Can a regime that knows no principled limits on government power be the same regime as one that adopted strict constitutional limits on government power?



LINCOLN’S ELECTRIC CORD

In a speech delivered in Chicago, a few days after Independence Day, 1858, Abraham Lincoln commented on how fast and large the United States had grown, and how much America had changed:

We are now a mighty nation, we are about thirty millions of people, and we own and inhabit about one-fifteenth part of the dry land of the whole earth. We run our memory back over the pages of history for about eighty-two years and we discover that we were then a very small people in point of numbers, vastly inferior to what we are now, with a vastly less extent of country, with vastly less of everything we deem desirable among men.

Lincoln then connects the annual celebrations that happen on or around each 4th of July to the founding generation of Americans:

We look upon the change as exceedingly advantageous to us and to our posterity, and we fix upon something that happened away back, as in some way or other being connected with this rise of prosperity: We find a race of men living in that day whom we claim as our fathers and grandfathers. They were iron men. They fought for the principle that they were contending for, and we understood that by what they then did it has followed that the degree of prosperity that we now enjoy has come to us. We hold this annual celebration to remind ourselves of all the good done in this process of time of how it was done and who did it, and how we are historically connected with it; and we go from these meetings in better humor with ourselves—we feel more attached the one to the other, and more firmly bound to the country we inhabit. In every way we are better men in the age, and race, and country in which we live for these celebrations.

Lincoln almost sounds as if the most important bond Americans share with each other is biological, that they share some common bloodline or ancestry. That is when he turns to something far more important than common ancestry:

But after we have done all this we have not yet reached the whole. There is something else connected with it. We have besides these men —[who are] descended by blood from our ancestors—among us perhaps half our people *who are not descendants at all* of these men. They are men who have come from Europe—German, Irish, French and Scandinavian—men who have come from Europe themselves, or whose ancestors have come hither and settled here, finding themselves our equals in all things. If they look back through this history to trace their connection with those days by blood, they find they have none, they cannot carry themselves back into that glorious epoch and make themselves feel that they are part of us.

But when they look through that old Declaration of Independence they find that those old men say that “We hold these truths to be self-evident, that all men are created equal,” and then they feel that that moral sentiment taught in that day evidences their relation to those men, that it is the father of all moral principle in them, and that they have a right to claim it as though they were blood of the blood, and flesh of the flesh of the men who wrote that Declaration, *and so they are*. That is the electric cord in that Declaration that links the hearts of patriotic and liberty-loving men together, that will link those patriotic hearts as long as the love of freedom exists in the minds of men throughout the world.

Lincoln was right. The American regime is not a people connected by race or blood or common ancestry. It is — or it was — a people who share in common the America Idea, the idea that every human being is endowed by the Creator with equal, natural, individual rights, and that the legitimate, limited purpose of government is to protect those rights, which is why the legitimate powers of government should be limited by wisely-designed constitution.

The American regime is a group of self-governing citizens who embrace “the electric cord in that Declaration that links the hearts of patriotic and liberty-loving men together.” When citizens reject that electric cord, mock it, or blame it as the source of all injustices and evils, can those citizens be Americans? Can the regime they form be the regime of the Revolutionaries of '76 and the American Founders? Can we lose America by letting it become something incompatible with what America was supposed to be?

