

## **Two Visions of Democracy: Immigration**

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This essay is an application of the framework set out in *Two Visions of Democracy* in our last *Amintaphil* volume (Cudd and Scholz 2014, Parker, 75-86). Part I sets out that framework in summary form. Part II explains how the current gridlock in the Federal Government can be loosened. Part III suggests a principled compromise to the problem of what to do about the eleven million people residing illegally in the United States. Part IV gives reasons why the suggested compromise is politically possible.

### **Part I**

The current gridlock in the American federal government is caused by the equal political strength of two competing visions of democracy and democratic citizenship. The first vision, called Type A democracy in my earlier paper, is based on the ideal of a free self-governing individual who voluntarily contracts with other self-governing individuals to form a free self-governing political association. The second vision, called Type B democracy in my earlier paper, takes economic and social equality within a pre-existing nation as its main ideal. The root of both Type A and Type B democracy is equality between human beings. For Type A democrats, equality between free and politically equal citizens is primary. For Type B democrats, social and economic equality among all members of society is primary. Both Type A and Type B democrats are "good guys." Unfortunately, in America, they are often fighting one another instead of the authoritarian, hierarchical, patriarchal forces that abound in American society.

Type A and Type B democrats fight with each other because they have fundamentally different visions of the proper relation of citizens and their government.

Type B democracy is what emerges when the members of a pre-existing nation overcome a pre-existing centuries-old hierarchical authoritarian patriarchal order and install a democratic government. Type B democracy is what most of the world understands as democracy. Type B democracy is essentially the elimination of pre-existing social and economic inequalities. In a Type B democracy, the government or State, has the final responsibility for the welfare of the individual citizen. Type B political leaders such as President Obama and the modern Democratic Party often use metaphors of family to describe the relationship of the government to the citizen. *In a Type B democracy, as in a family, every citizen has a moral claim against the government to be provided basic education, health care, housing, food, and other necessities in the same way as a child in a family has a moral claim against his or her parents to be provided with these necessities.*

Type A democrats would agree that children have a moral claim against their parents to be provided with basic education, health care, housing, food, and other necessities. But for Type A democrats, government officials are no more than service personnel jointly hired by parents to

help the parents discharge their moral obligations to their children. For Type A democrats, government is a series of procedures by which free and self-governing individuals cooperate in ways that enable them to do things they could not do by themselves. For Type A democrats, there is no State in the European sense. The archetypal Type A government is the New England town meeting. For Type A democrats, individual poverty is the personal business of the poor person, and the poor person's family and friends, with help from charitable and religious organizations. The town meeting has no mandate to redistribute personal wealth from some town meeting members to other members. At most, the town meeting might provide temporary assistance to local needy people for the public good of forestalling local crime or homelessness.

For Type A democrats, obedience to the law is the core of good citizenship. Obedience to laws that are enacted through agreed upon procedures by free and self-governing citizens are what hold society together. For Type A democrats, the civic duty to obey the law is based on one's participation in (or at least one's consent to) the political system. *Type A democrats are typically enthusiastic participants in government and in politics.*

What is key for Type A democrats is what Danielle Allen in her book on the Declaration of Independence calls "equal political empowerment." This involves an "egalitarianism of co-creation and co-ownership of a shared world, an expectation for inclusive participation that fosters in each citizen the self-understanding that she, too, he, too, helps to make, and is responsible for, this world in which we live together." (Allen 2014, 275). (This particular passage was quoted in Gordon S. Wood's review of Allen's book, in *The New York Review of Books* for August 14, 2014.)

As I said in my earlier paper:

"Type A democracy is not the "individualism" that Tocqueville regarded as a serious threat to democracy (Tocqueville 1994a, 98). On the contrary, Tocqueville saw the local civic engagement required by Type A democracy as the antidote to the evils of "individualism" (1994b, 102).

Nor is Type A democracy the libertarianism which views all government as a necessary evil. Type A democrats are enthusiastic about the right kind of cooperative self-government among political equals and have historically been very skilled in substituting politics for violence and using government to advance common goals." (Parker in Cudd and Scholz 2014, 76).

Although traces of Type A democracy can be found around the world, only in America is Type A democracy a major political force equal to Type B democracy. The contrast between Type A and Type B democracy can be seen most clearly in the American context. In my earlier paper I gave an historical account of the growth of both types of democracy in the United States and explained why Type A democracy is so strong in the United States. The Constitution of the United States is a Type A document. The strength of Type B democracy in the United States is a 20th Century phenomenon. The equal political strength of the two types of democracy since 1992 is the root cause of the current gridlock in the American federal government.

## Part II

The equal political strength of the two visions of democracy need not paralyze the federal government. Compromise is possible since both Type A and Type B democrats support governmental action in aid of various conceptions of public goods and equal opportunity. In the case of an issue such as immigration, compromise is possible, as we shall see in Parts III and IV below.

The immediate situation that currently undermines compromise at the federal level is the under-representation of Type A democrats in Washington. Most Americans are moderate Type A democrats who believe in good government. The under-representation of moderate Type A democrats is due to the current posture of the two major modern political parties in America.

The modern Democratic Party is strongly Type B while less than forty percent of the American people are Type B democrats and they are concentrated in the Northeast and on the West Coast. The modern Republican Party is strongly libertarian, seeing government as, at best, a necessary evil. Both parties are increasingly national and hierarchical, and both are subject to the influence of special interests, undermining democracy of either Type A or Type B. (Mann and Ornstein 2012). The two modern major American political parties leave moderate Type A democrats under-represented in Washington.

As I made clear in my earlier paper (Cudd and Scholz 2014, Parker 83-85), a large part of the solution for the current political gridlock at the federal level is for Type B democrats to stop trying to use the federal government to impose impose Type B solutions on states with a majority of Type A democrats. Type B democrats have a much better chance of success if they focus their efforts in the states where they have an electoral majority. Success of Type B solutions in those states will then encourage other states to follow suit as they see the benefits of the Type B solutions.

In my earlier paper I used large public research universities as an example. The Morrill Land-Grant Act which provided funding for land grant universities (and was passed in 1862 only because the Confederate States were not represented in Congress) was used differently by different states. Individual states such as California, Michigan, and Wisconsin were able to forge ahead and create large world-class public research universities because they did not have deal with states where the voters placed a much lower value on higher education.

This past June, I was in Copenhagen for the first time. Denmark is a Type B paradise. Universal health care, excellent public transportation, and one of the lowest Gini coefficients (the standard measure of income inequality) in the world. (See: [http://en.wikipedia.org/wiki/List\\_of\\_countries\\_by\\_income\\_equality](http://en.wikipedia.org/wiki/List_of_countries_by_income_equality) )

The question naturally arises: why can't Massachusetts be more like Denmark? Massachusetts has a slightly larger population than Denmark, a strong majority of Type B democrats among its voters, better universities, and more human capital.

A major part of the explanation why Massachusetts cannot be more like Denmark is the fiscal drag of the United States Government. According to *The Economist*, in the period of 1990 to 2009, the citizens of the Commonwealth of Massachusetts paid taxes to the Federal Government of over 1.06 trillion dollars They received back in total federal spending about .917 trillion

dollars. Despite the location of six military bases in Massachusetts, and a population older than most other states (and thus a higher percentage of Social Security and Medicare recipients), the net cost of the Federal Government to the citizens of Massachusetts over that 19 year period was over \$147 billion dollars. From the point of view of both Type B and Type A democrats, that money could have been better spent in Massachusetts. (See:

<http://www.economist.com/blogs/dailychart/2011/08/americas-fiscal-union>

<http://www.economist.com/blogs/freeexchange/2012/06/americas-fiscal-union>

<http://www.mass.gov/governor/administration/councilscabinetsandcommissions/military/massachusetts-military-bases.html>

[http://www.statemaster.com/graph/peo\\_med\\_age-people-median-age](http://www.statemaster.com/graph/peo_med_age-people-median-age)

[http://en.wikipedia.org/wiki/List\\_of\\_U.S.\\_states\\_and\\_territories\\_by\\_population](http://en.wikipedia.org/wiki/List_of_U.S._states_and_territories_by_population)

[http://en.wikipedia.org/wiki/List\\_of\\_countries\\_by\\_population](http://en.wikipedia.org/wiki/List_of_countries_by_population)

Many of the states with a majority of Type B democrats (Democratic Party states) have a similar relationship to the Federal Government. They pay much more to the Federal Government than they receive. All of these states could be more like Denmark if the Federal Government did not extract so much in net resources. Yet the Democratic Party insists that the nation's problems must be solved by the federal government rather than by state governments, even for potentially local items such as education, health, and welfare.

### *Why are Democratic Party members so in love with the Federal Government?*

During the heyday of the Democratic Party from 1932 until 1968 when the country was governed by the Type B New Deal Coalition, two major successful federal interventions were carried out: (1) the programs of the New Deal to combat the Great Depression, and (2) the intervention in the 1960s to secure Type A voting rights of African-Americans in the Southern United States. Although some later major federal interventions were successful such as the clean air and clear water legislation in the early 1970s and the Americans with Disabilities Act of 1990, for the last 20 years, the Federal Government has been a net drag on the fortunes of the United States. Perhaps out of nostalgia for the New Deal, the modern Democratic Party refuses to acknowledge the growing dysfunction of the Federal Government and the danger it represents to democracy of any type, especially to Type A democracy. (The American Department of Defense employs some three million civilian and uniformed employees. The CIA and the intelligence community employs about 100,000 people. (Gates 2014, 14). See also (Maddow 2012).)

In a June 30, 2014 poll, the Gallup organization recorded record lows of confidence in the Supreme Court and Congress and a six year low in confidence in the presidency.

"While Americans clearly have the lowest amount of confidence in the legislative branch, ratings for all three are down and are at or near their lowest points to date. At this point, Americans place much greater faith in the military and the police than in any of the three branches of government." <http://www.gallup.com/poll/171992/americans-losing-confidence-branches-gov.aspx>

See also the fifty year downward trend in trust in government recorded by the Pew Center for the People and the Press: <http://www.people-press.org/2013/10/18/trust-in-government-interactive/>

Discouraged Type A democrats turn for relief to the modern Republican Party, but that Party is

even less able to offer them representation than the Democratic Party.

Until 1968, the Republican Party was the natural home of Type A democrats. Their strength was in the West Coast States (George W. Bush was the first Republican ever to win the presidency without the electoral votes of California), the Upper Midwest, and Northern New England (rock-ribbed Republicans). The Republican Party dominated national elections from 1860 until 1932 (the Democratic Party held the White House for only 16 of those 72 years) when disaster in the form of the Great Depression struck. The FDR New Deal coalition, a combination of the anti-democratic Solid South and the Type B democrats descended from the tsunami of more communally minded immigrants who arrived between the Civil War and the First World War, gained power in 1932 and dominated until 1968. In a deal with the Devil, the New Deal Coalition agreed to tolerate segregation in the South in return for southern support of national Type B programs such as Social Security (1934) and Medicare and Medicaid (1965). That deal broke down with the Civil Rights Movement in the 1960s. The Republicans then made their own deal with the Devil with a Southern Strategy that embraced the anti-democratic Southern States, combined with a hostility to government at all levels.

Neither the Democratic or the Republican Party represent the vast numbers of moderate Type A Americans who look askance at the modern Federal Government but are willing participants in functioning state and local government.

*The solution for gridlock in Washington is for Type B democrats to combine with Type A democrats to cap or reduce Federal Government spending and to use the money to increase spending by the states that wish to increase spending.*

Recent polling by the Pew Research Center for the People & the Press shows that Americans have much more confidence in state and local government than they do in the federal government. <http://www.people-press.org/2013/04/15/state-governments-viewed-favorably-as-federal-rating-hits-new-low/>

Type A and Type B democrats could more easily combine at the state level where a common regional culture would provide more agreement among citizens on what public goods were worth paying for. Some states would spend more more than other states, but both Type A and Type B democracy would be enhanced nationwide.

Type B democrats are inherently more paternalistic than Type A democrats. They value government "for the people" more than government "by the people." Because of their history, the Democratic Party seems convinced that good government requires supervision from Washington.

From the point of view of Type A democrats, the notion that a morality of "good government" requires Type B programs to be forced on states that do not want them is essentially an argument for authoritarian hierarchy. If only for reasons of sheer size, programs run from the capital of a democracy of more than 318 million people comprised of many distinct regional cultures will be defective from both the Type A and the Type B perspectives. Concentrations of power and wealth in Washington produce hierarchical structures that undermine democracy of either type. (For regionalism see: (Woodard 2012), (Fischer 1989), (Garreau 1981). For hierarchical concentration of power and wealth see: (Freeland 2012) (Murray 2012) (Hayes 2012). )

Despite the current gridlock in the Federal Government, there is broad agreement on many major federal programs. Social Security provides more than one-half the income of more than sixty percent of all Americans over the age of sixty-five. [http://www.ssa.gov/policy/docs/chartbooks/fast\\_facts/2013/fast\\_facts13.html#contributions](http://www.ssa.gov/policy/docs/chartbooks/fast_facts/2013/fast_facts13.html#contributions) Social Security is an example of a successful Type B program. Because it involves only the disbursement of money rather than the provision of services, it avoids the worst aspects of hierarchical bureaucratic paternalism. Because everyone must pay into Social Security and everyone receives benefits, Social Security avoids the stigma of welfare, and can be seen as simply as a mandatory insurance plan to guard against being poor in old age. (You may not need it, but you do not know that when you are young.) It is so conducive to the general common good that it enjoys broad support among Type A democrats.

Examples of Federal Government agencies that enjoy support among most Americans are the Centers for Disease Control and the National Institutes of Health. The overlap of programs which both Type A and Type B democrats can agree to pay for are those that provide public goods and equal opportunity for all. The Federal Government can be utilized to do things that the states cannot do by themselves. One area where agreement should not be difficult is the problem of the eleven million people living illegally in the United States.

### **Part III**

Several important factors favor agreement between Type A and Type B democrats on how to deal with the large number of people living illegally in the United States.

First, all sides agree that immigration is a matter for the federal government. Unlike health care or welfare or education, there is no disagreement on which level of government should set the standards. Article I, section 8, clause 4 of the United States Constitution expressly gives the United States Congress the power to establish a uniform rule of naturalization.

A second important factor favoring compromise is that both sides agree that the presence of eleven million people living illegally in the United States is undesirable. Both sides agree that reform requires "securing the border," plus sufficient law enforcement to prevent another large population of illegal immigrants building up if the current population is reduced by some sort of amnesty or deportation.

A third factor favoring compromise is that Type A and Type B democrats have different basic concerns when it comes to the illegal immigrants.

For Type A democrats, what is most important is that these immigrants are lawbreakers who are present in the United States only because they have violated the law. In a country that is constituted by free and politically equal citizens, it is morally wrong to allow people to become fellow citizens who are in the United States only through breaking the law.

"Arguably the greatest harm they do is the illegal way they came to this country--which undermines the rule of law that helps make the US a magnet for immigrants in the first place and is unfair to all who wait their turn to come legally. Once they get here, they tend to be more law-abiding than other Americans because they know that any brush with the law could result in deportation." (Taylor, 2014, page 83.)

For Type A democrats, to be law-abiding out of a fear of deportation is to be unworthy of citizenship. As free self-governing individuals who participate in a self-governing polity, the major reason that we should obey the law is that it is we who create the law. Being law-abiding is a promise and a duty that we owe to ourselves and to our fellow citizens.

*The bottom line demand of Type A democrats is that those who are here only because they have intentionally violated the law can never become citizens.*

*The bottom line demand of Type B democrats is that there be no mass deportation. Some form of mass amnesty must be part of an acceptable solution. Most of the people now here illegally must be allowed to stay for the rest of their lives.*

Fortunately, these bottom line demands are compatible. The obvious compromise is that there be a path to permanent residence similar to the path that passed the Senate by a vote of 68 to 32 on June 27, 2013 (S. 744). However, persons who elect that path can never become citizens. Instead of a green card at the end of the long probationary period required by S. 744 (See Appendix A), they might receive a "blue card" that would be identical in burdens and privileges to a green card, except that a blue card holder could never become a citizen.

Suppose the Senate amended S. 744 to make one change: at the end of the long probationary period, the final reward would not be full citizenship but a "blue card" which would carry all of the benefits and burdens of a green card but would them permanently from United States citizenship. My prediction is that the current House of Representatives would pass the bill and that President Obama would sign it.

#### Part IV

The compromise outlined above is formally compatible with both bottom line demands. There are several reasons why an amended S. 744 would pass the House and would be signed by the President.

First, for many of the illegal immigrants in the United States, and their supporters, citizenship is not an important goal. Consider the numbers of legal immigrants who have green cards but have not applied for citizenship.

"Among all immigrants who are here legally and thus eligible to naturalize, only about two-thirds (including just 36% of legal Mexican-American immigrants) have done so. The rest remain legal permanent residents, enabling them to work, pay taxes, and receive many government benefits, but not giving them the right to vote." (Taylor, 2014, page 84.)

The main goal for many immigrants is not to become citizens but to stay permanently in the United States with their American-born children who are American citizens under the 14th Amendment. As part of the compromise, illegal immigrants brought to the United States as minors (the DREAMers) could be granted the path to full citizenship laid out in the current Senate bill. Because these people were minors when they violated the law, the full responsibility for being lawbreakers so important to Type A democrats applies less or not at all.

Second, limiting those granted amnesty to permanent residence would erase those fears of the modern Republican Party that amnesty resulting in citizenship for eleven million illegal immigrants would bring on defeat at the polls.

Third, the guarantee of **no citizenship ever** for those who are here illegally and elect to enter the amnesty process provided by the amended S. 744 would be a major face-saving slogan allowing Tea Party members of the House of Representatives to defend a yes vote to their constituents.

Arguments will be made against the compromise by supporters of the illegal immigrants that we should not establish a separate class of US permanent residents who would be "separate and unequal." [http://immigrationpolicy.org/sites/default/files/docs/citizenship\\_1.pdf](http://immigrationpolicy.org/sites/default/files/docs/citizenship_1.pdf)

An answer to these arguments is that the people applying to enter the amnesty process under an amended S. 744 are members of a group that will diminish and vanish over time because strict enforcement of the new immigration system will prevent what happened in the 1980s when amnesty encouraged millions more to sneak into the United States. For all those who follow the law when they enter the United States, full citizenship will become available over time in accord with American traditions.

## Appendix A

**S. 744** passed the Senate on June 27, 2013 by a vote of 68 to 32. Every Democratic and Independent senator voted aye as did 14 Republicans. See

<https://www.govtrack.us/congress/votes/113-2013/s168>

The bill itself is huge. See

<http://thomas.loc.gov/cgi-bin/query/D?c113:3:./temp/~c113p4szUj:> for the text itself.

A very competent summary of the bill can be found at:

<http://www.immigrationpolicy.org/special-reports/guide-s744-understanding-2013-senate-immigration-bill>

The bill is a major overhaul of the American system of immigration. Only a small part of the bill deals with the problem of the eleven million immigrants living in the United States. That part offered a long and rigorous path to permanent residence. Here is a quote from the summary referenced above. Immigrants living illegally in the United States would come out the shadows and register as "Registered Provisional Immigrants" or RPIs.

The bill will allow undocumented immigrants to apply for Registered Provisional Immigrant (RPI) status if they have been in the U.S. since December 31, 2011, have not been convicted of a felony or three or more misdemeanors, pay their assessed taxes, pass background checks, and pay application fees and a \$1,000 penalty (which may be paid in installments), among other requirements. Applicants must also be admissible under current law, which excludes individuals who have committed certain offenses, participated in terrorist acts, or belong to other excluded categories. Spouses and children of RPIs would also be eligible. RPIs will not be eligible for federal means-tested public benefits such as Medicaid, food stamps, and benefits under the Affordable Care Act, and in general will not receive social security credit for previous unauthorized employment (except in the case of

those who received a Social Security number prior to 2004).

Registered Provisional Immigrants will be able to apply for Lawful Permanent Residence (a “green card”), but they must go to the “back of the line” and have been in RPI status for at least 10 years. They will receive permanent residency only after all other applications submitted before the enactment of the bill have been processed. Like the RPI requirements, the requirements for permanent residence will include maintaining regular employment, which allows for gaps of up to 60 days at a time. In the alternative, if an applicant cannot show regular employment he or she would have to show an average income or resources of 125 percent of the poverty line during the RPI period. Exceptions are made for full-time students, children under 21, physical or mental disability, and showings of extreme hardship. Applicants would also have to show that they have maintained RPI status, paid taxes, meet English proficiency requirements (or be pursuing a course of study in English), pass an additional background check, and pay application fees and an additional \$1,000 penalty....

Registered Provisional Immigrants who have been lawfully present for 10 years before becoming permanent residents will be able to apply for U.S. citizenship after maintaining permanent resident status for 3 years. Therefore, undocumented immigrants who legalize via the RPI track will have to wait at least 13 years to become citizens.

I was surprised at how tough these requirements were, yet all 52 Democratic Party senators voted aye. My suggested amendment eliminates the last step of being able to apply for U.S. citizenship. All those who take the RPI path to Lawful Permanent Residence would be permanently barred from U.S. citizenship. With such a change, I believe that S.744 would pass the House and be signed by President Obama.

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