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From Native Rights to Natural Equality: *The Agreement of the People* (1647)

Rachel Foxley

... [S]ince therefore our former oppressions, and scarce yet ended troubles have beene occasioned, either by want of frequent Nationall meetings in Councell, or by rendring those meetings ineffectuall: We are fully agreed and resolved, to provide that hereafter our Representatives be neither left to an uncertainty for the time, nor made uselesse to the ends for which they are intended: In order whereunto we declare,

I.

That the People of England being at this day very unequally distributed by Counties, Cities, & Burroughs, for the election of their Deputies in Parliament, ought to be more indifferently proportioned, according to the number of the Inhabitants: ...

III.

That the People do of course chuse themselves a Parliament once in two yeares ...

IV.

That the power of this, and all future Representatives of this Nation, is inferiour only to theirs who chuse them, and doth extend, without the consent or concurrence of any other person or persons; to the enacting, altering, and repealing of Lawes; to the erecting and abolishing of Offices and Courts; to the appointing, removing, and calling to account Magistrates, and Officers of all degrees; to the making War and peace; to the treating with forraigne States: And generally, to whatsoever is not expresly, or impliedly reserved by the represented to themselves.

Which are as followeth,

1. That matters of Religion, and the wayes of Gods Worship, are not at all intrusted by us to any humane power, because therein wee cannot remit or

*exceed a tittle of what our Consciences dictate to be the mind of God, without wilfull sinne: neverthelesse the publike way of instructing the Nation (so it be not compulsive) is referred to their discretion.*¹

The *Agreement of the People* for a firm and present peace upon grounds of common right and freedom did not proclaim itself a revolutionary text. The proposers of the 1647 *Agreement* were responding to the ‘oppressions’ of Charles I’s government and the bloodshed of the English civil war, which had ended with Charles’s defeat by his own parliament the year before this text was written. These upheavals, according to the *Agreement*, were caused by a failure to maintain an existing system of ‘national meetings in council’, and similar troubles could be prevented in future by the restoration of this system. Although contemporaries did come to see the mid-seventeenth-century crisis as a time of ‘confusions and revolutions of government’ – at least after the king had been executed in 1649 – they did not embrace deliberately revolutionary programmes, and one word which sometimes came close to modern senses of the word revolution – ‘innovation’ – remained pejorative even in the vocabulary of the Levellers when they put forward their final version of the *Agreement of the People* in 1649. But in spite of its authors’ protestations, this document has had revolutionary resonances for readers from the nineteenth century onwards, as aspects both of its content and its form reminded them of key documents produced in the course of the eighteenth-century American and French Revolutions.² To many seventeenth-century contemporaries too the 1647 *Agreement of the People* and its subsequent versions seemed to threaten a profound change in the political order.³ It is easy for us to see the *Agreement* as a programme for change, as an expression of novel assumptions about people and politics and as a revolutionary device to bring about change; but the *Agreement* was rooted in the modes of thought about politics available in the mid-seventeenth century, which included thought about the nation’s past. Those resources could generate revolutionary visions of the future, but they often did so by reimagining and reinterpreting the past and the present.

The draft *Agreement* read on 28 October 1647 in the General Council of the Army served as one foundation for the Putney Debates, in which grandees, officers and some rank and file members of parliament’s New Model Army debated the terms of settlement for the nation with the participation of a couple of civilian radicals. The parliamentarians had defeated the king in the civil war, but now the New Model had banded together to resist disbandment orders from parliament, creating a novel General Council of the Army which included

‘agitators’ representing rank-and-file soldiers and junior officers. Radicals within the army had in turn pulled away from the agenda of their leaders, converging to some extent with the concerns of the group of civilian radicals in London who were soon to be christened ‘Levellers’, although the extent of any collaboration is much disputed.⁴ The *Agreement* of 1647 is thus a document which reflects the serial displacements of power and energy often found in revolutions, as oppositional coalitions fragment and different forces seize the initiative. It was a position paper produced for debate under specific and tense circumstances, but it was also printed and ‘offered to the joynt concurrence of all the free Commons of England’ (title page). It was one peace proposal among many in the 1640s, but it was unusual in not just claiming but actively seeking the real agreement of the people of the nation as a precondition for peace. It failed in 1647, but the notion of settlement by an ‘Agreement of the People’ had been established as one which could potentially bind army and civilian radicals together and offer a legitimating process for a final resolution of England’s troubles. Its centrality for the civilian Levellers can be questioned but a second *Agreement* was debated in the prelude to regicide in December 1648 (resulting in slightly different versions endorsed by the army and the Levellers), and on 1 May 1649 the Leveller leaders issued a third *Agreement of the People* designed to rally opponents of the post-regicide regime around a vision of a more legitimate and more radical alternative.

The *Agreement* of 1647 marked a revolutionary moment in its (partly tacit) abolition of the political assumptions of the old regime, if not the social structures which went with them. No longer was power to be organized around a conception of the three estates (however malleable that had been in practice) or the coordination of powers between king, Lords and Commons. It was to be two more years before the newly purged House of Commons awarded itself legislative sovereignty in order to put the king on trial without the consent of the House of Lords, but here in the autumn of 1647 we have a proposed constitutional settlement in which an unwary student could easily miss the only references to the king and Lords which are present: ‘That the power of this, and all future Representatives of this Nation ... doth extend, without the consent or concurrence of any other person or persons; to the enacting, altering, and repealing of Lawes’. Not only have the arrangements for the election and meeting of the Representative been discussed without any reference to a king or non-elected upper House, but the legislative sovereignty of the elected Representative – a reformed version of the House of Commons – is asserted against the potential veto of any other person or persons, that is, a king or a House of Lords. Whether or not king and Lords are to survive, they are not to partake

of the traditional 'marks of sovereignty', legislative and executive, annexed to the Representative under clause IV. What is more, the Representative itself is not just the House of Commons of old: geographical representation is to be 'more indifferently proportioned, according to the number of the Inhabitants' – an apparently innocuous stipulation which might be taken to mean the rectification of historical anomalies caused by depopulation of boroughs, but which was rightly (and hostilely) read by Henry Ireton in the Putney Debates as a demand for a radical extension of the franchise among adult males. The form, composition and workings of the institutions of government would all have been radically transformed by the implementation of the *Agreement*.

This transformation reflected a fundamental rethinking of political principles, although one which took its pivotal vocabulary and some of its starting points from contemporary discourse. The language used to gloss the transition from the old parliament to new Representative is notably slippery: 'Parliament' is only used to refer to the past body but is used as if it referred only to the elected House and not the House of Lords; 'Nationall meetings in Councell', also used of the past, neatly abstracts from form to function and paves the way for a new body which might better represent the nation. The House of Commons is nowhere mentioned: the representative character (however imperfect) of the old Commons facilitates the move to a new 'Representative', which actually replaces the whole parliament. 'Representation' was one of the pivotal concepts which legitimated the claims made in the *Agreement*: Leveller writers and other parliamentarians had begun to question the idea that the parliament, because it represented the whole nation, could not be challenged, instead making representation a test which parliament had to pass: an unrepresentative parliament could be challenged. The only place where modern students of politics are still likely to encounter the older notion of representation as preventing rather than enabling challenge from the ruled is in Hobbes's argument for an absolute sovereign, but at the time Hobbes's view ran in parallel with some similarly absolutist parliamentary arguments. The radicals' revision of the concept of representation fed into the connected ideas of an expanded franchise and an ultimate popular sovereignty which set limits to governmental power.

The limitation of power was, of course, a natural parliamentary response to the perceived abuses of Charles I's prerogative powers before the wars; this could have been achieved by formalizing the role of parliament and privy council to hold the king in check. However, by effectively abolishing the king, and any council (including the House of Lords itself) dependent on the king's prerogative, the radicals closed off the option of putting a check on power by

distributing it between several institutions of government. In declaring the supremacy of a unicameral body, they had landed themselves with the potential for a new tyranny, a danger they were very alive to, given the behaviour of the Long Parliament which had been sitting since 1640. The *Agreement* accordingly enacted a new type of division of powers: 'That the power of this, and all future Representatives of this Nation, is inferiour only to theirs who chuse them.' Whatever the origins of the *Agreement* in army circles, this stipulation reflected the way in which the imprisoned civilian Leveller leaders John Lilburne and Richard Overton had begun to 'appeal to the people' over the heads of the current parliament in 1647. The *Agreement* offers a more orderly way in which popular sovereignty could place limits on parliamentary power: what Lilburne and Overton were appealing to the people to *do* was never quite clear, but without an institutional framework for action, the possibilities ranged from petitioning to violence. In the *Agreement*, by contrast, popular sovereignty retained specific areas of operation: in certain matters, starting with religion, the people would retain their power rather than handing over any 'compulsive' authority to their representatives. Even apart from these crucial 'reserves', though, the assertion of the subordinate nature of the Representative's power had implications. When a second *Agreement of the People* was being negotiated at the end of 1648, one of the sticking-points for the Leveller leader John Lilburne was the army men's desire to give the Representative the 'highest and finall Judgement, concerning all Naturall or Civill things', apart from those reserved.⁵ By contrast, in the radicals' versions of the *Agreements* (the first, the third and Lilburne's version of the second, entitled *Foundations of Freedom*), power remained with the people unless otherwise stated, and the matters reserved were of secular as well as religious import. Spelling out the bounds of institutionally exercised governmental power might obviate the need for action by the people in future or, if the worst came to the worst, make clear when popular action was justified. With biennial elections specified (the preferred option for the civilian Levellers was annual elections), there would also be regular opportunities for the people's sovereignty to be exercised and erring representatives removed.

The *Agreement* did not overtly express its aspirations in universal terms; it talked of the people of England and the nation's representatives, and even tacitly located its own authors as only one party in the civil war, regretting that 'so many of our Country-men ... opposed us in this quarrel' (1). However, behind its demands lay principles which at least pulled in the direction of universalism. The authors of the *Agreement* summed up their demands and prescriptions with a resonant phrase: '*These things we declare to be our native Rights*' (5).

This claim to rights, and the assertion that such rights simply exist as part of the moral universe and are waiting to be claimed, is reminiscent of the later invocation of the 'rights of man' in the French Revolution. But here the 'rights' are 'native' – due to the authors and subscribers of the *Agreement* by birth – probably by English birth rather than as a universal human inheritance. The birthright invoked is probably that of the English law and the fundamental or ancient constitution which '*our Ancestors*' (5) sought to defend or recover after the Norman Conquest. However, that law and constitution were themselves interpreted by radicals in the light of universal principles, and the rights of the law and the natural rights of human beings could – and should – converge.

One fundamental principle which is foundational to the *Agreement* is a principle of equality. The scope and implications of this are not spelt out, but one of the 'reserves' against governmental power states 'That in all Laws made, or to be made, every person may be bound alike, and that no Tenure, Estate, Charter, Degree, Birth, or place, do confer any exemption from the ordinary Course of Legall proceedings, whereunto others are subjected' (5). This is a statement of *legal* equality; but it must rest on a belief that there is a relevant equality of *worth* between all those who are subject to the nation's laws. This presumably also informed the demands for a widened franchise, even though the franchise itself had some limits (including its restriction to adult males, which was spelt out in subsequent versions of the *Agreement*). The grounds of the right to vote were never definitively settled by army or civilian radicals, but at one end of the scale the relationship between obedience and consent implied an almost universal franchise, as did the sketchy but generous criterion embedded in Rainborough's comment during the franchise debate at Putney that 'the poorest hee that is in England hath a life to live as the greatest hee', although the gendered assumption here is telling.⁶ Contemporaries leapt to the conclusion – denied by the radicals themselves – that such claims for political equality involved a desire to see economic 'levelling'. The radicals simply argued that a fundamental type of human equality, coupled perhaps with a minimal degree of social and economic independence which women were assumed not to have, grounded a basic *political* equality. These claims were not elaborated enough to be read as grand claims of human equality grounding universal human rights, but at times the Levellers emphasized the consequences of a fundamental human equality: all human beings since Adam and Eve 'are, and were by nature all equall and alike in power, digni[t]y, authority, and majesty, none of them having (by nature) any authority, dominion or majesteriall power, one over or above another'.⁷ Similarly, the claims of conscience, both in secular and in specifically religious

matters, were enshrined in fundamental law by the *Agreement*, suggesting a deep spiritual and moral equality between adults. Such claims to equality – plural, overlapping and ill-defined though they might be – were what lay behind the *Agreement's* toppling of the old political regime in favour of a system founded on popular sovereignty.

That notion of ultimate popular sovereignty underlay the final and most revolutionary aspect of the *Agreement*: its own standing as a foundational constitutional document which, once legitimated by popular subscription, would be unalterable by future parliaments. In spite of the modest wording of the 1647 *Agreement*, its ambition to provide a definitive settlement was already a contentious issue at the Putney Debates; the second *Agreement* at the turn of 1648–9 made citizenship dependent on subscription to it and the third *Agreement* made any attempt to overthrow it treasonable. For modern readers, these features may hint at the ‘social contract’ later expounded by Rousseau and at the theory of fundamental law underlying the Constitution of the United States.⁸ In the context of the 1640s, though, the claim being made in these documents was not so much that the people had the power to create a new political order out of nothing, but that the people were able to recognize and ratify the fundamental laws which could already be discerned operating in the ‘ancient constitution’ of (pre-Norman) England and which were in tune with the laws of nature.⁹ For that reason, perhaps, there was no provision even for the people themselves to alter or replace the *Agreement* in the future. The *Agreements of the People* were revolutionary re-imaginings of the nature and basis of politics and the ancient constitution; but for their authors, it was still tyrannical rulers rather than reforming people who could be expected to ‘innovate in Government’.¹⁰

Further Reading

Baker, P. and Vernon, E., *The Agreements of the People, the Levellers and the Constitutional Crisis of the English Revolution* (Basingstoke: Palgrave Macmillan, 2012).

Foxley, R., *The Levellers: Radical Political Thought in the English Revolution* (Manchester: Manchester University Press, 2013).

Mendle, M., *The Putney Debates of 1647: The Army, the Levellers, and the English State* (Cambridge: Cambridge University Press, 2001).

Vernon, E. and Baker, P., ‘What Was the First Agreement of the People?’, *Historical Journal* 53 (2010): 39–60.