G. Parkinson, Robert. "Exclusion at the Founding: The Declaration of Independence." *Revolutionary Moments: Reading Revolutionary Texts*. Ed. Rachel Hammersley. London: Bloomsbury Academic, 2015. 53–60. *Bloomsbury Collections*. Web. 26 Apr. 2023. <<http://dx.doi.org/10.5040/9781474252669.0013>>.

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Exclusion at the Founding: The Declaration of Independence

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We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, among these are the right to Life, Liberty, and the pursuit of Happiness ...

He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian Savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions.¹

The Declaration of American Independence was always intended to speak to two separate audiences. The first, and perhaps primary, one was what Thomas Jefferson referred to in the document as a ‘candid world’, the Europeans he imagined who waited with anticipation to render their opinions about this massive colonial rebellion. In truth, the Declaration should have been written in French, for it was the court at Versailles that the Congress really meant to impress. The entire exercise was a work of legitimization, to put the American rebellion in a posture of righteous and justified resistance, supported by appeals to universal rights and Enlightenment principles. Though they were doing something innovative, American patriots wanted the ‘candid world’, especially the French, to consider their declaration of independence as nothing new, but rather a statement highly steeped in historical precedent and tradition. They sought to portray the American rebellion as a new Glorious Revolution, a repeat of perhaps the most hallowed event in the history of English liberty. The patriots laboured to present 1776 as 1688 redux.

That is the reason behind the opening two paragraphs, the Declaration’s preamble. Ever since the tolling bells stopped announcing the news, scholars,

politicians, historians, social activists and admirers throughout the world have tried to discern the true meaning of those paragraphs. Scores of students have wrestled over what or whom Jefferson intended by 'created equal', 'pursuit of happiness', 'self-evident', 'unalienable rights', 'all men'. Those analysts constitute another audience, the 'candid world' that pored over the Declaration and its meaning long after 1776. They were (and are) the candid posterity that drafted, adapted and shaped Jefferson's Declaration to fit their own circumstances. Abraham Lincoln was one of those students. Eight decades on, Lincoln continually invoked the preamble of Jefferson's Declaration as the unfulfilled promise of the American republican experiment. Many others in the nineteenth and twentieth centuries – in the candid posterity – invoked the Declaration's opening paragraphs to legitimize their own varying political and social agendas.

Yet, at the same time, this taking the Declaration out of its specific context thoroughly alters its intention and purpose. The 'candid world' outside North America at the time or the 'candid posterity' who fixated on the opening paragraphs ever since were not the only audiences Jefferson and the Continental Congress intended when they ordered the Declaration to be printed and read aloud in the summer of 1776.

In other words, since 1776 we have been mostly reading the Declaration of Independence wrong.² The Declaration of Independence was a political document meant to achieve specific domestic goals at a particular historical moment. It was a statement intended to cultivate popular opinion for the revolutionary movement at home, to solidify support among the minority of colonists who backed the 'common cause' and, more importantly, to convince the large number of inhabitants who considered themselves neutral or 'disaffected' that the patriots were right. To understand this, it is necessary to focus on the body of the Declaration, not the preamble. By broadening our attention away from the universalist opening lines to include an analysis of the twenty-seven grievances that comprise the Declaration's body – especially the last, climactic charge – we can grasp the purpose of the document.

Without a compelling, concrete list of grievances that resonated with all audiences, foreign and domestic, the preamble would have been impotent. The twenty-seven charges levelled at King George III were essential to the Declaration's immediate reception and were therefore quite carefully assembled. Instead of presenting the case chronologically, Jefferson grouped them for maximum effect. The first dozen reached back a decade or more into the imperial crisis, centring on abuses of executive authority. Many of these first

charges were in and of themselves hardly inspiring enough to encourage farmers to rush to their muskets, but Jefferson was starting slowly. They were meant to incorporate as many local issues as people in the various thirteen colonies might have separately felt, meant to be a summary statement from all of the mainland provinces. So, therefore, while only New Yorkers really felt the particular repercussions of not paying for the supply of British troops, or even though Massachusetts was the only colony to suffer from the removal of their assembly and court records, Congress included them as a complaint from all rather than some, however minor they might appear.

The second dozen focused on a menu of tyrannical parliamentary acts and the king's willingness to enforce them, especially the Coercive and Quebec Acts. Here are the American complaints about taxes and perceived alterations in where the colonies stood in the constitutional apparatus of the British Empire. Whereas Jefferson listed each of the first-dozen grievances with a separate, personal accusation aimed at King George, beginning with 'he has', most of the grievances in this second set abandoned this patterned march of indictment by stringing together a list of eight infractions with colons, creating an effect of one collective, singular charge against the Crown.

As Jefferson pivoted into the past year of violence, the Declaration approached its apex. The verbs alone give it away. The accusations levelled at George earlier on were rather feeble: he had 'dissolved', 'obstructed' and 'refused'. In the final five presentments, the king's crimes were far more severe. In the concluding charges, Congress submitted powerful accusations that the king had 'plundered', 'ravaged' and 'destroyed'. These final charges carried a great deal of rhetorical and political weight; their acceptance by the 'opinions of mankind' could determine whether American independence was deemed legitimate and defensible or not.

The delegates to Congress grasped this importance. They tinkered with this last group of accusations more than all the other grievances during their editing sessions on 2–3 July. Other than a few touches to rearrange words or slice extraneous phrases, Jefferson's first twenty-two grievances entered the final Declaration largely intact. But as the stakes increased, so did Congress's attention. They edited the last five charges heavily, striking out one entirely from Jefferson's rough draft (on encouraging loyalists by offering them confiscated property), adding evocative phrases that deepened the king's crimes and, most of all, paring down to a few words Jefferson's long passage that blamed the king for the crime of 'waging cruel war against human nature itself' by continuing the African slave trade. When students lay Jefferson's rough draft against the

final Declaration, it is no accident that most of the red ink is at this point, the document's climax.

There was more to Jefferson's pivot than just amplified resentment. When the Declaration moved from legislative acts to violent acts, the king suddenly had lots of helpers. To this point in the 'long train of abuses and usurpations', George had been the sole designer 'to reduce them under absolute Despotism'. Apparently, he had personally 'ravaged our coasts, burnt our Towns, and destroyed the Lives of our People'. In the final three grievances, the king had far more assistants outside the Commons or cabinet.

For the first time there were vague categories of numerous proxies acting on the king's account. Some of these aides could not be blamed; they were, after all, acting against their will: 'He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the Executioners of their Friends and Brethren, or to fall themselves by their Hands.' Other proxies could not claim a similar absolution.

He is, at this time, transporting large Armies of foreign Mercenaries to compleat the Works of Death, Desolation, and Tyranny, already begun with circumstances of Cruelty and Perfidy, scarcely paralleled in the most barbarous Ages, and totally unworthy of the Head of a Civilized Nation.

He has excited domestic Insurrections amongst us, and has endeavoured to bring on the Inhabitants of our Frontier, the merciless Indian savages, whose known rule of Warfare, is an undistinguished Destruction of all Ages, Sexes and Conditions.

Here, at the climax, a panoply of enemies stands against the 'Free and Independent States.' The king was joined by willing assistants: rebellious slaves, hostile Indians and German mercenaries.

It was not surprising that Congress concluded its indictment with these particular charges. Since the news of Lexington and Concord had spread throughout North America late in April the year before, worries about what role African Americans and Indians might play in the now-war with Britain preoccupied patriots' minds. Starting in the summer of 1775, rumours of slave insurrections and Indian attacks swept through the American countryside, from the Canadian Frontier to the Carolinas. Accounts suggesting a myriad of British officials, from army officers and imperial agents to royal governors, were attempting to 'spirit up', 'tamper with' or 'instigate' Indians and African Americans to intercede in the fighting appeared almost without cessation throughout the year preceding independence.

Newspaper accounts – managed and promulgated by patriot leaders – then collected and substantiated those rumours. They were the first sustained group of war stories of the Revolutionary War. Patriot political and communications leaders played upon inherited fears of slave insurrections and Indian massacres as the terror of colonial American society, turning the British into the conductors of those nightmares. One of the victims of those stories, the British Superintendent for Indian Affairs in South Carolina, wrote from his forced exile to Florida, ‘The newspapers were full of Publications calculated to excite the fears of the People. ... Massacres and Instigated Insurrections were Words in the mouth of every Child.’³ In the autumn, rumours about the Crown begging for mercenary troops, first from Catherine the Great of Russia (unsuccessfully) and then from a group of German princes (successfully), also swept through the American colonies. For months before Jefferson sat down to draft the Declaration, stories about slaves, Indians and foreign mercenaries aiding in the violent suppression of the rebellion were narratives that were well known by many colonists across North America.⁴ Patriot leaders continually invoked the use – or, to be precise, the potential use – of these groups as proxies of British tyranny. Those war stories were the essence of the king’s attempt to destroy or enslave them, far more than just restricting their rights to jury trials or consent to taxation. Once the shooting started, patriot leaders described the plotting of British officials in America (from Indian agents and royal governors to naval captains and army officers) to encourage slaves, Indians and foreign mercenaries to murder them as the ultimate deal-breaker with the Crown. These ubiquitous stories were the centrepiece of the ‘common cause’ after April 1775. Indeed, in the case of the king’s proxies – whether slaves, Indians or mercenaries – when Jefferson remembered five decades on that the Declaration neither aimed at ‘originality of principle or sentiment’ but was ‘intended to be an expression of the American mind’ his memory was well served.⁵

On 3 July 1776, John Adams wrote home to Abigail, ‘The Second Day of July 1776 will be the most memorable Epocha in the History of America. I am apt to believe that it will be celebrated, by succeeding generations, as the great anniversary Festival.’⁶ Adams, who would complain three decades later about Jefferson’s wrest-of-glory as a ‘*coup de théâtre*’, would not allow himself to grasp the importance of the Declaration as a necessary performance.⁷ For him, it simply stated the obvious: when the king withdrew his protection, America was independent by default. The ‘theatre’, however, offered an opportunity to present heroes and villains not just to the ‘candid world’ but to colonists throughout North America. These final grievances sought to make the case that

‘we’ – the ‘one people’ who ‘hold these truths to be self-evident’ – were distinct from and superior to their ‘British brethren’. It was a summary statement of the ‘common cause’.

But it was nevertheless an exclusionary one. At the crucial founding moment, the definition of what it meant to be an American was a negative one: not-British. But the heated language of the Declaration’s final grievances gave it other shapes, especially not-slave and not-savage. Those negative constructions reinforced the patriots’ positive assessment of themselves as holding the moral, philosophical and political high ground in this conflict. Because those tropes plugged into deeply embedded colonial prejudices about Africans and Indians, however, they were more than just stock tropes about not behaving in manners that were slavish or savage. They had the effect of casting out real Indians and African Americans.

Outside Huntington, on the north shore of New York’s Long Island, a crowd ‘from all the distant quarters of the district’ gathered on 22 July to show their approval for independence. After a public reading of the Declaration, the assembly celebrated by constructing a visual representation of the multiple enemies of the new United States of America. A newspaper report detailed the actions of that July afternoon:

An effigy of [George III] being hastily fabricated out of base materials, with its face black like *Dunmore’s* Virginia regiment, its head adorned with a wooden crown, and its head stuck full of feathers, like *Carleton* and *Johnson’s* savages, and its body wrapped in the Union [Jack] instead of a robe of state, and lined with *gunpowder*, which the original seems fond of.

‘The whole’, the article concluded, ‘was hung on a gallows, exploded, and burnt to ashes.’⁸ In essence, the crowd of Long Islanders gave their own performance of the Declaration. They defended ‘life, liberty, and the pursuit of happiness’ by animating and then destroying both the king and his proxies simultaneously. The New Yorkers consigned all their enemies – the king, the ‘merciless savages’ and the ‘domestic insurrectionists’ – to the flames, leaving ‘Americans’ to stand outside and watch the blaze. The names of enemies listed in the article (Dunmore, Carleton and Johnson) were some of the notorious royal officials whom patriots had broadcast as being tied to slave insurrections and Indian hostility in colonial newspapers throughout 1775–6. For those Long Islanders, all their enemies – the king and his officers and their blackened and feathered proxies – were outside the social compact Jefferson sketched in the preamble and therefore enemies of the American people. Consigning them to the flames

was the natural outcome of more than a year of hearing patriot leaders construct the conflict in that particular fashion. That expression of rage and exclusion defined those who were, for the first time, declaring something – that they were an independent people. It outlined the boundary between the people who were to be included in the ‘we’ and those who were not.

That this distinction and division occurred in the nation’s founding document would be crucial in years to come. Jefferson and Congress made no exceptions in their announcement that all Indians were ‘merciless savages’, leaving no room for the thousands of Stockbridge, Oneida, Tuscarora, Catawba, Delaware or Shawnee Indians who supported the patriot cause. Nor did the Declaration leave any space for African Americans who served bravely in the Continental Army, the most racially integrated force the United States would embody until the Vietnam War. They too were all deemed enemies, all ‘domestic insurrectionists’ who sought to undermine the Revolution. The Declaration allowed for no nuance or gradations; it made bold assertions and lumped people into categories, cordoning off ‘friend’ from ‘enemy’, ‘us’ from ‘them’. In addition to the central division cordoning off ‘he’ (the king) from ‘we’ (the American people), the final grievances also gave some evidence of who belonged to that latter group – and who did not.

As the Revolutionary War continued, patriot leaders continued to amplify stories in their newspapers of British agents ‘instigating’ with African Americans in the Deep South and ‘tampering’ with Indians throughout the backcountry. After Washington’s forces routed the Hessians at Trenton, patriot leaders stopped amplifying stories of German mercenaries as fearsome destroyers and began portraying them as pitiful fellow victims of monarchical despotism. Their refusal to continue telling stories about Germans as King George’s proxies opened up a space for their redemption. Not so with slaves and Indians. Though critical as the founding statement of the United States, the Declaration was but one of the ways patriot political leaders associated African Americans and Indians with British tyranny. Week after week in their local newspapers they read stories about *these* proxies (but not foreign mercenaries) undermining the cause of liberty and freedom throughout the remainder of the war. This too was foundational to the experience of the Revolution for many Americans.

Before they solidified in the nineteenth century, concepts of racial difference were under construction during the late 1700s. They were in part a reaction to the claims of natural rights and universalism posited by the Enlightenment and in subsequent revolutions in America, France, Haiti and Latin America. Here we, like Lincoln, can credit the Declaration’s preamble for being a touchstone

in that Enlightenment project. In this view, Jefferson's soaring words of 'all men' being 'created equal' fixed an agenda by which equality, democracy and human rights were imperatives that defined the modern condition. However, further down that very same page, Jefferson himself provided important evidence to challenge those universalist claims. The Declaration also forwarded an argument for exclusion and racial discrimination. By taking into consideration both sides of the Declaration – the preamble and the climactic grievances – we can see the central paradox of the American Revolution and the contradictions of race, citizenship, belonging and equality that Americans would face throughout the early history of the United States.

Further Reading

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