

Constitution, Law, and Rights – in capitalist society and in the future socialist society

Selections from the writings of Bob Avakian
and excerpts from the *Constitution for the
New Socialist Republic in North America (Draft Proposal)*
from the Revolutionary Communist Party, USA

This compilation is a project of The Bob Avakian Institute.

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Constitution for the New Socialist Republic in North America (Draft Proposal)
from the Revolutionary Communist Party, USA
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This compilation is a project of:
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Introduction

This compilation of selected writings from Bob Avakian, Chairman of the Revolutionary Communist Party, USA and excerpts from the *Constitution for the New Socialist Republic in North America (Draft Proposal)* from the Revolutionary Communist Party, USA brings a truly unique perspective to a subject that is of critical importance for all those concerned with social justice: Constitution, law, and rights.

Bob Avakian has spent decades summing up the positive and negative experience of the communist revolution so far and drawing on a broad range of human experience to develop a new synthesis of communism—a vision and strategy for a new and much better society and world. In the writings selected for this compilation, Bob Avakian brings a sweeping sense of history and the development of human society to his analysis of the economic, philosophic, and political underpinnings of the legal system in today's capitalist society and the role that this legal system plays in reinforcing oppressive and exploitative relations. In comparing and contrasting the concepts of Constitution, law, and rights under both capitalism and socialism, he highlights the profound differences in social content and role. His vision of the legal system and fundamental rights under socialism draws from, but also represents in significant dimensions a radical rupture with, the past historical experience of socialist states in the legal sphere and reflects his reenvisioning of the character of the future socialist society as being qualitatively more lively and vibrant than ever before.

The *Constitution for the New Socialist Republic in North America (Draft Proposal)* from the Revolutionary Communist Party, USA is an expression of the new synthesis of communism developed by Bob Avakian; and the excerpts from this Constitution which are included here are an application of this new synthesis to the sphere of law, the legal system, and the rights of the people.

It is in the spirit of stimulating serious engagement with the important issues discussed in this compilation that The Bob Avakian Institute is making this pamphlet widely available. The Bob Avakian Institute welcomes your thoughts and comments.

About Bob Avakian

Bob Avakian is the Chairman of the Revolutionary Communist Party, USA, and has dedicated his life to serving the cause of revolution and the emancipation of humanity. He has consistently taken responsibility for leading the movement for revolution, both theoretically and practically.

Bob Avakian grew up in Berkeley, California in the 1950s at a time when segregation was being challenged in the courts and in the streets, and the issues of inequality and racial discrimination were being debated throughout society. Bob Avakian, whose father was a lawyer and later a Superior Court judge, was raised in a family where discussions of legal cases, Constitutional rights, and the judicial process were a staple of dinner time conversation. Not only did this upbringing shape his early political awareness and passion for social justice, but this informal legal training gave him a keen appreciation for legal principles. This developed into a lifelong interest in the law and in jurisprudence (the science and philosophy of law).

Bob Avakian came alive as a revolutionary in the 1960s—taking part in the great movements of those days. As he came to the recognition that oppression and exploitation were woven into fabric of the current capitalist-imperialist system and could only be abolished through communist revolution, he also came to see that social justice could never be achieved within the confines of the existing legal system that serves capitalism-imperialism.

An innovative and critical thinker, he has brought forward a new synthesis of communism. His extensive and wide-ranging body of work includes writings and commentary on revolutionary strategy, philosophy, ethics, science, sports, music, and religion. In November 2014, 1,900 people packed the Riverside Church in New York City to experience a historic dialogue between Cornel West and Bob Avakian entitled “Revolution and Religion: The Fight for Emancipation and the Role of Religion.”

To Learn More: For more on Bob Avakian and his body of work (including the complete texts of the writings included in this compilation), as well as a video of the dialogue with Cornel West, go to: revcom.us.

In 2010, the Revolutionary Communist Party, USA published the *Constitution for the New Socialist Republic in North America (Draft Proposal)*. The complete text of this Constitution is available at revcom.us.

About The Bob Avakian Institute: The Bob Avakian Institute is a nonprofit institute organized for educational purposes. Its mission is to preserve, project, and promote the works and vision of Bob Avakian with the aim of reaching the broadest possible audience. To learn more about The Bob Avakian Institute or to donate to its mission, go to: thebobavakianinstitute.org.

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“Constitutions and Laws, Property Relations and Class Interests” ***

Now I want to move on and speak to some important questions regarding constitutions and laws, and the exercise of political power (or sovereignty as it's sometimes called).

Constitutions, where there is a necessity for them and they play an indispensable role, establish the basic framework, principles and provisions (or, more baldly, the “rules”) for how a government can and must function, how state power shall be exercised. Constitutions, of whatever kind, both give definition to and institutionalize rights and at the same time limit such rights in various ways. This is a reflection of the contradictory nature of reality in general, and more specifically of the contradictory nature of society—of the contradictions between freedom and necessity, between the economic base and the superstructure, contradictions within the economic base and within the superstructure, between different social groups and different interests in society. This applies in socialist society as well, even while it is already radically different from all previous societies in which there are class divisions, and is at the same time a transition to a classless society.

On the basis of a constitution, laws embody and involve both protection and coercion, in regard to members of society and their rights. As I spoke to earlier, in socialist society for example, you can't go and decide that somebody has something that you want and it's unfair for them to have it, so you're just going to arbitrarily take it. There are laws which will prevent that. Those laws, in turn, are rooted in a constitution, and there is still a state apparatus which, when necessary, enforces those laws through coercion, including physical coercion when that is what's required and nothing else works (and things like arresting and prosecuting people, and sometimes imprisoning them if they are convicted of a crime are, after all, precisely that—physical coercion).

So, we have to understand this once again as materialists: As long as you have laws, and as long as you have a constitution setting rules, this is going to involve both the protection of rights and the protection of people in society and, at the same time, coercion in regard to individuals and generally the members of society. This, once again, flows from a materialist understanding—it reflects where we are and where we have not yet gotten. Even when we have made the leap to socialism, it reflects where we are and where we have not yet gotten in terms of the social relations and in fundamental terms the production relations, but also the role of the superstructure in such a socialist society.

*** This selection is from Bob Avakian, *Birds Cannot Give Birth to Crocodiles, But Humanity Can Soar Beyond the Horizon* (Chicago: Insight Press, Kindle and EPUB editions, 2014). From a talk given in 2010. Also available at revcom.us.

“The Social Content of Law and Its Interpretation” ***

All law has a definite social content: Law is a part of the superstructure and is ultimately an expression of the dominant social—and, most fundamentally, production—relations in the given society. I spoke to that earlier in terms of capitalist society, but it’s true in socialist society as well. Marx made the point, speaking of law, that it is an expression of the prevailing property relations—or, we could say, of the more underlying production relations of which those property relations are in a sense an outward expression. I’ve spoken about the fact that, under the rule of the bourgeoisie (capitalist class) and with the dynamics of the capitalist system, there cannot be a law which grants people the “right to eat”—or, if there is such a law, it is not a law that can be effected and enforced without undermining those basic dynamics of capitalist society. This is another way of expressing that basic point of Marx’s that we keep coming back to—that right can never be higher than the economic structure of society and the culture conditioned thereby.

In a society ruled by an exploiting class (or classes), such as the U.S. throughout its history, along with the basic content of the law and the way in which this reflects the prevailing property and fundamentally production relations, there is also a matter of the interpretation of the law, particularly by the dominant judicial institutions—above all, in the U.S., the Supreme Court—interpretation which itself will fundamentally reflect and serve the prevailing social relations (and, above all, the production relations) and the interests and needs of the ruling class, interpretation which may change with changes in the particular ways those relations and interests find expression and are understood by various representatives of the ruling class—always, however, within the basic framework of this system of exploitation and its underlying dynamics.

Even supposedly fundamental Constitutional rights throughout the history of the U.S. not only can be—but particularly in times of “stress” or actual crisis in the system often are—sacrificed to the needs of the ruling class. We see this all the time, when there are rather stark judicial rulings that basically say that the interests of the state trump supposed rights, even basic rights. Look at what was recently done with Lynne Stewart—a lawyer who was prosecuted (in fact persecuted) and convicted of acts which supposedly aided someone condemned as a terrorist, who happened to be Stewart’s client. Here is a classic example where basically a higher court, representing more conscious representatives of the ruling class, said to the judge who had handed down her original sentence when she was convicted: “You didn’t punish her enough.” They demanded a harsher sentence. Really, and rather nakedly, this had nothing to do with the Constitution and law—it was just stark exercise of dictatorship: “You didn’t punish this person enough, take it up again and punish her more.”

There are all kinds of decisions, even less crude than that, where it is said in rendering the decision: the interests of the state dictate (whether the word “dictate” is actually used or not, that is the essence) that this or that right be superseded, the interests of the state must prevail over this or that right which is supposedly enshrined in the Constitution.

So even fundamental Constitutional rights can be—and especially in times of “stress” or actual crisis in the system often are—sacrificed to the needs of the ruling class. And we see this all over the place today in the context of the so-called “war on terror.” You have a trampling on *habeas corpus*—not only under Bush but under Obama as well. You have the invention and continuation of the “enemy combatant” status, where people can be held essentially without any rights in permanent detention. You have torture which is continuing under Bush—I mean under Obama. It has always been carried out by this ruling class and its state, but this was raised to an explicit level and openly justified under Bush; now it’s still carried out under Obama. What happened to all those indictments that were being talked about, in terms of the people who wrote torture memos and carried out torture during the Bush years? We haven’t seen any such indictments yet—but in any case the torture continues. And you have the Obama Administration openly declaring its right to authorize and, if it can, effect the assassination of American citizens whom it classifies as “terrorists.”

In the “popular culture,” through the seemingly endless “cop shows” and in other ways, there is a relentless assault on Constitutional rights, including something as basic as the right to legal representation. I think we should have a contest to see if anyone can name a cop show in which what are supposed to be fundamental Constitutional rights are not repeatedly spit on and stomped on. Think of the phrase that is continually used in these shows: “lawyering up.” Translation: exercising what’s supposed to be a basic Constitutional right to legal representation. This is repeatedly denigrated and assaulted with the pejorative phrase sardonically spit out: “Oh, you’re going to lawyer up.”

And one of the biggest travesties in American society—something which is also constantly trampled on in the “popular culture”—is the supposed presumption of innocence, which is totally inoperative. And now we have this whole phenomenon where people are tried in the media before they ever get into the courtroom, in a completely one-sided process where the defense has its hands tied. This is totally weighted in favor of the prosecution, even if and when competent advocates for the defendant might be able to get on the media—which sometimes they are prevented from doing by “gag rules” handed down by judges, which supposedly also apply to the prosecution, but it doesn’t matter because you have prosecutors in the form of pundits sitting on TV prosecuting. We’ve seen this over and over again: somebody is “guilty” before they ever get to the courtroom. They’ve already been convicted in “the court of public opinion”—and this has a general effect while also specifically influencing potential jurors.

Here I’m reminded of a story that my father used to like to tell about when he was a judge and in a particular criminal case they were having *voir dire* with a jury—the process whereby they see if the jurors are qualified and don’t have prejudices, and so on. So one woman, a potential juror, was being questioned by a defense attorney, and he asked her: “Now, you do understand the presumption of innocence, right?” And she said, “Yes, I think so.” “Well, you understand it means that, if my client is not proved guilty beyond a reasonable doubt, then you have to find him not guilty.” “I think I understand that, yes.” “In other words, if the prosecution doesn’t make its case beyond a reasonable doubt, you’re willing to just let him get up and walk a free man right out of this courtroom?” Then she paused and said, “Yes... But what if he does it again?”

Now, this speaks volumes to how the presumption of innocence is inoperative in this society—how in reality people are presumed guilty walking into the courtroom, in fact from the time they're accosted and arrested by the state and accused. All this, as I've been alluding to, is being taken to new depths with the epidemic of tabloidism in this society. And, by the way, tabloids are not politically and socially neutral—just check them out some time—in general they have a very reactionary social and political content. This tabloidism is overwhelmingly bound together with reactionary social and political content. And there is, more specifically, the whole “subculture” of what I was just referring to—“media prosecution”: Nancy Grace, that very sick person, and all the rest of it, where they repeatedly just hammer and hammer and hammer before people are even arrested, trying to get them arrested, and then hammer and hammer again to get them convicted.

The link between legal rulings and ruling class interests— some lessons from history

But besides these contemporary examples, let's pull the lens back a bit and look at the broader, historical sweep of things and how it illustrates the basic point I'm making here—that not only do the laws reflect the prevailing property and fundamentally production relations but so, too, does the interpretation of the law at various stages. Without going into great detail, let's just touch on a few striking historical examples.

A prime example is the contrast between *Plessy v. Ferguson* at the end of the 19th century (1896), which upheld segregation as Constitutional, and the *Brown v. Board of Education* decision in the middle of the 20th century (1954) which overturned it. Nothing fundamental affecting this had changed in the Constitution: the 13th, 14th, and 15th Amendments, which codified the end of slavery and important related changes, had been passed well before *Plessy v. Ferguson*—and between *Plessy v. Ferguson* and *Brown v. Board of Education* there were no changes in the Constitution which clearly prohibited segregation—but the ruling class, and its prevailing representatives, in the Supreme Court specifically, saw its interests one way in one historical period and another way in another historical period.

The same applies to the application of the 14th Amendment to the U.S. Constitution, which basically extended certain rights in the first 10 Amendments to the domain of the states and their powers and authorities, specifically prohibiting the states from denying people certain rights, including due process of law and equal protection under the law. This was particularly important in the aftermath of the Civil War, and this Amendment (the 14th) was obviously intended, in the period of Reconstruction right after the Civil War, to apply to former slaves especially. But how did the Supreme Court interpret it for a period of decades? Especially in the latter part of the 19th century, and into the 20th century, this was, to a very significant degree, interpreted on behalf of corporations. It was, in effect, interpreted to say that corporations constituted “corporate individuals”; and rulings were made on behalf of corporations in opposition to restrictions that were being imposed (or which might be imposed) on corporations. And we see an echo, or a revival, of this in the recent Supreme Court decision on corporate funding of elections, where the same sort of logic was applied, in which the rights of free speech of individuals

are applied to corporations as, in effect, “corporate individuals.” This was not the original intent of the 14th Amendment but, after Reconstruction was defeated and reversed (in the 1870s), and the interests of the ruling class were being directed in a certain way by its prevailing institutions and political operatives and leaders, this is how, to a large degree, the 14th Amendment was re-interpreted and applied.

All this also has to do with the particular—and peculiar, if you will—historical evolution of the United States. Today, we say this as one entity (almost as one word), but actually it has real historical significance: the “United States” of America. This is a reflection of the whole historical development of this country and of the bourgeois state (or the bourgeois/slaveowners’ state for a certain period in this country, up until the Civil War in the 1860s) out of 13 colonies, which were to a significant degree separate and distinct entities and had to go through a process, a halting and difficult process, marked by a lot of conflict among them, before they were able to form themselves into one unified nation-state, if you will. This peculiar historical evolution in the U.S. is different than other bourgeois societies where separate states or provinces don’t have the same prominence and influence as they do in the “United States”—just think of that phrase—the “United States” (not always so united) of America.

To get a unified state power for the whole country, and to have that embodied in their Constitution, was a process of real struggle. If you read *The Federalist Papers*, for example, you can see this being struggled out, with the polemics that are being waged around this by people like Madison and Hamilton, arguing why the Constitution of the United States (replacing the Articles of Confederation) should be adopted.

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“Socialism and Capitalism, Constitutions and Laws: Similarities—and Profound Differences” ***

What I have been discussing here, and the points that I have highlighted, must find expression not only in the Constitution, but also in the laws and government institutions and processes that are an extension of that Constitution, at every point in this socialist transition.

Laws in socialist society, and the Constitution in which they are ultimately based, must at any point in the process of this transition toward communism reflect the prevailing social (and fundamentally economic-production) relations. In this sense, laws in socialist society share a significant feature in common with laws in capitalist society in that, in both cases, the law is a reflection of the prevailing property relations—and of the production relations, of which the property relations are an outward expression. But there is a radical difference between capitalist and socialist production and property relations and the whole process and dynamics of the operation of the economic system as the foundation of the society as a whole. Yet, even with this profound difference, this is complicated by the fact that, on the one hand, socialist relations are not fundamentally relations of exploitation and oppression, but at the same time they contain remnants and elements of that—and there is the need for ongoing transformation of those relations, toward the ultimate goal of finally and fully eliminating all vestiges of exploitation, oppression, and social antagonism, through the advance to communism, on a world scale. This particular character, and motion, of the fundamental contradictions in socialist society will find expression, at any given time, in the laws, as well as the Constitution, of such a society; and handling well the contradiction and motion involved in all this is crucial in terms of both enabling socialist society to have relative stability and to function at any given time, while at the same time it is carrying forward—through struggle which will often be intense and at times become acute and tumultuous—the transition toward the final goal of communism.

Now, in this context it is worth briefly saying a few words about the applicability—and non-applicability—of “separation of powers” and “checks and balances” in a socialist society, with the dictatorship of the proletariat. Clearly, from what I’ve said so far, it stands out that the application of this will be very different than in capitalist society, with the dictatorship of the bourgeoisie, just as the overall society is radically different. But there is a valid application of the principle of not allowing too much power—or, to put it in those terms, an inordinate amount of power—to accrue to any particular institution or any particular group; this, in turn, flows from deeper contradictions which mark socialist society, and which are the basis for the fact that there are in socialist society not only contradictions among the people, including those between different sections of the people, but also contradictions between the people and the government—which, again, is spoken to explicitly in the *Constitution for the New Socialist Republic in North America (Draft Proposal)*, where basic principles and means are set forth for how that contradiction should be handled in such a society. So there is a real concern—and there is a need, along with the general concern and need to correctly handle the contradiction

between the government and the people in socialist society—to pay attention to preventing power from accruing unduly in a particular institution, or a particular leading body. And this does get acutely expressed around the role of the vanguard party, which is, on the one hand, a necessity and is crucial in terms of the society remaining on the socialist road, but is also a locus, and a potential concentration point, of the larger and underlying contradictions of socialist society precisely as a transitional society. This, too, is spoken to directly in the *Constitution for the New Socialist Republic in North America (Draft Proposal)*.

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“The Basic Nature, and the Constitution, of a Socialist State” ***

So, with the above in mind, let’s turn specifically to the role of a Constitution, and laws, in a socialist state—and the similarities and profound differences with the Constitution of a state ruled by an exploiting class (or classes).

A socialist Constitution must be based on, and must flow from, a scientific, dialectical materialist understanding of the dynamics of the historical development of human society, the basis and role of governments, and specifically the emergence and role of the state, as discussed earlier. It should correspond to the nature of socialism as an economic system as well as a particular system of political rule, the dictatorship of the proletariat, and as a transition to communism; and such a Constitution, at any given phase of this process—any given stage in this overall transition—should both in a general sense embody the relations, principles and objectives which are appropriate to that stage and give space to and foster the struggle to carry forward that transition toward more advanced stages of socialism, and fundamentally toward communism, together with the struggle for that goal throughout the world.

At certain crucial junctures—certain decisive “nodal points”—in this process, the struggle to carry forward the transition toward communism, and to defeat attempts to reverse this process and in fact to restore a system based on exploitation, may result in the necessity to revise certain aspects, including even certain decisive aspects, of the existing Constitution—or even perhaps to adopt an entirely new Constitution. But the orientation and actions of the authorities and instrumentalities of the state must, at any given point and overall, be in accordance with the Constitution as it exists; while, as far as possible, this Constitution should include and indicate the means by which it can be revised (or amended). This is also a point to which I will return later in this talk.

But here it is important to explore more fully the fundamental differences between constitutions and laws—and the political process overall—in socialist society, as compared to capitalist society, owing to the profound difference between the nature, and dynamics, of the underlying economic system and relations, as well as the social relations, and the nature and objectives of the political process.

To refer to what is said in a very important part of the Preamble of the *Constitution for the New Socialist Republic in North America (Draft Proposal)*: the governing bodies and processes of the socialist state, at all levels, must be vehicles for the furtherance of the communist revolution. That is their most fundamental nature and purpose. Constitutions in a society ruled by a bourgeois dictatorship, as for example the Constitution of the United States of America, are in fact vehicles for the maintenance and furtherance of the capitalist system of exploitation—and this is all the more insidiously so, because they do not directly and explicitly state this, but appear and claim to be setting forth principles which apply equally to everyone in society without mention of the particular nature of the system and the class that dominates in that system.

Here, by contrast, is an extremely important point: The fundamental nature and role of a constitution, and laws, in a socialist state—and the radical difference between this and constitutions and laws in a capitalist state—must be understood not only in light of the essential nature of socialism as a transition, and the need for continuing struggle against the remaining vestiges of the former society, in the superstructure of politics and ideology, as well as in the economic base and the social relations, but also in the way in which this must involve a continuing struggle against spontaneity; whereas capitalism, and the corresponding system of bourgeois political rule, or dictatorship, can to a significant degree rely on spontaneity, even as there is a continuing need for conscious policy and “political intervention,” on the part of the bourgeois state and bourgeois political representatives and operatives, in the functioning of society, including the economy.

Without going into great detail here, you can see this need for “political intervention” on the part of the bourgeois state, and bourgeois representatives and functionaries, sharply illustrated in the 1930s Great Depression—where Roosevelt had a lot of necessity and, in the face of rather intense struggle among the representatives of the bourgeoisie, he took initiative to institute policies to basically save the capitalist system from itself through the role of the state. And we see this in the current period, with the most serious economic crisis since the Great Depression—a continuing crisis—with the recent massive “bailouts” of financial institutions, as well as other measures, all of which once again has involved intense struggle, for example over whether to extend or not extend unemployment benefits.

We see the role of “political intervention,” obviously, in the wars that are waged by the bourgeois state, which are very extensively going on today. We see this in what I referred to earlier, in speaking of not only the passing of laws, but the interpretation of laws according to varying understandings of the interests of the ruling class on the part of various representatives of that ruling class. Sometimes the need for “political intervention” on the part of the ruling class and its representatives involves reinterpretation—or even, at least objectively, going directly in violation—of the Constitution of the bourgeois state. This, too, is starkly in evidence in the U.S. in these times.

But this is still radically different from socialist society, particularly in that to a large degree the bourgeoisie can rely on spontaneity while the socialist state and the vanguard party leading the revolutionary process in socialist society not only cannot rely on that, but in fact have to go up against, and repeatedly struggle and lead people in struggling against, spontaneity.

The Constitution in socialist society, and laws flowing from and in accordance with that Constitution, will, at any given point, establish the framework and set the general terms in which the functioning of society, including contestation of opposing views and programs, will take place. The nature of socialist society, as spoken to here, will require the application of the basic principle of “solid core, with a lot of elasticity,” and this is why you see this written directly into and explicitly referred to in several places in the *Constitution for the New Socialist Republic in North America (Draft Proposal)*. With

regard to the Constitution and the functioning of government, and the political process overall, this will, at least for a long ways into the socialist transition, involve, as a pivotal expression of “solid core,” the institutionalized leading role of the communist vanguard, embedded in the Constitution and spelled out there in terms of this vanguard’s essential role and relations with key institutions of the state and government. At the same time, this Constitution must embody the basic principles and “rules” which will apply to all members of society and every institution in society, including the communist vanguard and its role in relation to the state and government.

*** This selection is from Bob Avakian, *Birds Cannot Give Birth to Crocodiles, But Humanity Can Soar Beyond the Horizon* (Chicago: Insight Press, Kindle and EPUB editions, 2014). From a talk given in 2010. Also available at revcom.us.

“U.S. Constitution: An Exploiters’ Vision of Freedom” ***

James Madison, who was the main author of the *Constitution of the United States*, was also an upholder of slavery and the interests of the slaveowners in the United States. Madison, the fourth president of the United States, not only wrote strongly in defense of the *Constitution*, he also strongly defended the part of the *Constitution* that declared the slaves to be only three-fifths human beings (that provided for the slaves to be counted this way for the purposes of deciding on representation and taxation of the states—Article I, Section 2, cl. 3 of the *Constitution*).

In writing this defense, Madison praised “the compromising expedient of the Constitution” which treats the slaves as “inhabitants, but as debased by servitude below the equal level of free inhabitants; which regards the *slave* as divested of two-fifths of the *man*.” Madison explained: “The true state of the case is that they partake of both these qualities: being considered by our laws, in some respects, as persons, and in other respects as property.... This is in fact their true character. It is the character bestowed on them by the laws under which they live; and it will not be denied that these are the proper criterion.” Madison got to the heart of the matter, the essence of what the U.S. *Constitution* is all about, when in the course of upholding the decision to treat slaves as three-fifths human beings he agrees with the following principle: “Government is instituted no less for protection of the property than of the persons of individuals.” [1] Property rights—that is the basis on which outright slavery as well as other forms of exploitation, discrimination, and oppression have been consistently upheld. And over the 200 years that this *Constitution* has been in force, down to today, despite the formal rights of persons it proclaims, and even though the *Constitution* has been amended to outlaw slavery where one person actually owns another as property, the U.S. *Constitution* has always remained a document that upholds and gives legal authority to a system in which the masses of people, or their ability to work, have been used as wealth-creating property for the profit of the few.

The abolition of slavery through the Civil War meant the elimination of one form of exploitation and the further development and extension of other forms of exploitation. As I wrote in *Democracy: Can’t We Do Better Than That?*, “despite the efforts of abolitionists and the resistance and revolts of the slaves themselves—and their heroic fighting in the Civil War itself—it was not fought by the Union government in the North, and its president, Lincoln, for the purpose of abolishing the atrocity of slavery in some moral sense.... The Civil War arose out of the conflict between two modes of production, the slave system in the South and the capitalist system centered in the North; this erupted into open antagonism, warfare, when it was no longer possible for these two modes of production to co-exist within the same country.” [2] The victory of the North over the South in the U.S. Civil War represented the victory of the capitalist system over the slave system. It represented the triumph of the capitalist form of using people as a means of creating wealth. Under a system of outright slavery, the slave is literally the property of the slaveowner. Under capitalism, slavery becomes *wage*-slavery: The exploited class of workers is not owned by the exploiting class of capitalists (the owners of factories, land, etc.), but the workers are in a position where they must sell their ability

to work to a capitalist in order to earn a wage. Capitalism needs a mass of workers that is “free,” in a two-fold sense: They must be “free” of all means to live (all means of production), except their ability to work; and they must not be bound to a particular owner, a particular site, a particular guild, etc.—they must be “free” to do whatever work is demanded of them, they must be “free” to move from place to place, and “free” to be hired and fired according to the needs of capital! If they cannot enrich a capitalist through working, then the workers cannot work, they cannot earn a wage. But even if they cannot find a capitalist to exploit their labor, even if they are unemployed, they still remain under the domination of the capitalist class and of the process of capitalist accumulation of wealth—the proletarians (the workers) are dependent on the capitalist class and the capitalist system for their very lives, so long as the capitalist system rules. It is this rule, this system of exploitation, that the U.S. *Constitution* has upheld and enforced, all the more so after outright slavery was abolished through the Civil War.

But here is another very important fact: In the concrete conditions of the U.S. coming out of the Civil War, and for some time afterward, wage-slavery was not the only major form of exploitation in force in the U.S. Up until very recently (until the 1950s), millions of Black people were exploited like serfs on Southern plantations, working as sharecroppers and tenant farmers to enrich big landowners (and bankers and other capitalists). A whole system of laws—commonly known as Jim Crow laws—were enforced to maintain this relationship of exploitation and oppression: Black people throughout the South—and really throughout the whole country—were subjected to the open discrimination, brutality, and terror that such laws allowed and encouraged. All this, too, was upheld and enforced by the *Constitution* and its interpretation and application by the highest political and legal authorities in the U.S. And, over the past several decades, when the great majority of Black people have been uprooted from the land in the South and have moved into the cities of the North (and South), they have still been discriminated against, forcibly segregated, and continually subjected to brutality and terror even while some formal civil rights have been extended to them.

Once again, this is in accordance with the interests of the ruling capitalist class and capitalist system. It is consistent with the principle enunciated by James Madison: Governments must protect the property no less than the persons of individuals. In fact, what Madison obviously meant—and what the reality of the U.S. has clearly been—is that the government must protect the property of white people, especially the wealthy white people, more than the rights of Black people. It must never be forgotten that for most of their history in what is now the United States of America Black people *were* the property of white people, particularly wealthy plantation owners. Even after this outright slavery was abolished, Black people have never been allowed to achieve equality with whites: they have been held down, maintained as an oppressed nation, and denied the right of self-determination. Capitalism cannot exist without the oppression of nations, and this is all the more so when capitalism develops into its highest stage: monopoly capitalism-imperialism. If the history of the United States has demonstrated anything, it has demonstrated this.

*** This selection is from Bob Avakian, *U.S. Constitution: An Exploiters' Vision of Freedom* (Chicago: RCP Publications, 1987). Excerpts from this pamphlet are available at revcom.us.

1. Quotes from James Madison are from the Federalist Paper No. 54 in *The Federalist Papers* (New York: New American Library, 1961), pp. 336-341.

2. Bob Avakian, *Democracy: Can't We Do Better Than That?* (Chicago: Banner Press, 1986), pp. 110-11.

“Why there is no basic ‘right to eat’ under capitalism” ***

One example that I’ve cited before—and it’s worth citing again because it very sharply gets to this point, and to the very nature of capitalism and the historical limitation of capitalism, with all of the proclamations about its being universal and being the highest and final point of human development—is the question of the “right to eat.” Or why, in reality, under this system, there is not a “right to eat.” Now, people can proclaim the “right to eat,” but there is no such right with the workings of this system. You cannot actually implement that as a right, given the dynamics of capitalism and the way in which, as we’ve seen illustrated very dramatically of late, it creates unemployment. It creates and maintains massive impoverishment. (To a certain extent, even while there is significant poverty in the imperialist countries, that is to some degree offset and masked by the extent of parasitism there; imperialism “feeds off” the extreme exploitation of people in the Third World in particular, and some of the “spoils” from this “filter down” in significant ways to the middle strata especially. But, if you look at the world as a whole, capitalism creates and maintains tremendous impoverishment.)

Many, many people cannot find enough to eat and cannot eat in a way that enables them to be healthy—and in general they cannot maintain conditions that enable them to be healthy. So even right down to something as basic as “the right to eat”—people don’t have that right under capitalism. If you were to declare it as a right, and people were to act on this and simply started going to where the food is sold as commodities and declaring, “We have a more fundamental right than your right to distribute things as commodities and to accumulate capital—we have a right to eat”—and if they started taking the food, well then we know what would happen, and what has happened whenever people do this: “Looters, shoot them down in the street.”

If this became a mass phenomenon—people taking something as basic as food, for which they have a vital need but which many cannot afford under this system—the system would come completely unraveled. And that is why, although the law does not make it illegal to lay people off work and have people unemployed—since that is actually crucial to the dynamics of capitalist accumulation—it *does* make it illegal to act on the right to eat without paying for what you eat. And, if people do declare that they have a right to eat, regardless of whether they can be employed in a way that makes profit for some capitalist, then they are denounced by at least certain representatives and spokespeople of sections of the ruling class as “lazy” and “undeserving” people. We have heard this in the whole debate about unemployment insurance in the U.S.—where some politicians declare: “We shouldn’t extend unemployment benefits because then people won’t really go out and look hard for work, they’ll just be eating off the fat of other people’s work.” It’s like that reactionary bumper sticker: “Work Hard, Somewhere There’s Somebody on Welfare Depending on You.” That kind of fascist mentality. Well, that kind of thing would be invoked: “You can’t do this, you can’t just take food because you’re hungry, you have to go out and find a job and ‘work like everybody else’ in order to have a right to eat.” That is a reflection, in the realm of ideas, of the way the system actually operates. It does actually operate so that you have to go out and get a job, if you can—you have to create more capital for whomever you can find who will hire you, in order to then get

remuneration in the form of money, which you can use to buy commodities that you can consume in the form of food and other basic necessities of life.

So if, in the legal sphere—or in the political sphere, or in the cultural and ideological sphere—you were to promote and enact a basic rebellion against that whole set-up, the economic functioning of society would grind to a halt and things would become chaotic. You can go down the line and think about other basic necessities besides food and other realms in which, if the superstructure is not in line with the capitalist economic base, society will, in fact, fly apart—it will not be able to be maintained and function with the dynamics that are necessary for that economic base.

*** This selection is from Bob Avakian, *Birds Cannot Give Birth to Crocodiles, But Humanity Can Soar Beyond the Horizon* (Chicago: Insight Press, Kindle and EPUB editions, 2014). From a talk given in 2010. Also available at revcom.us.

Article III. Rights of the People and the Struggle to Uproot All Exploitation and Oppression.

[Excerpt from *Constitution for the New Socialist Republic in North America (Draft Proposal)* from the Revolutionary Communist Party, USA (Chicago: RCP Publications, 2010). Also available at revcom.us.]

Section 1. The Basic Right of the People, the Purpose and Role of the Government, and Contradictions Between the People and the Government, in the New Socialist Republic in North America.

1. The most basic right of the proletariat, together with the broad masses of people, in the New Socialist Republic in North America is to be enabled to have the fundamentally decisive role in determining the direction of society, and to join in struggle with others throughout the world, in order to finally abolish relations of exploitation and oppression; and to bring into being, and increasingly play the determining role in regard to, government which will be an instrument toward those ends.

2. The purpose of the government of the New Socialist Republic in North America is to act in accordance with the principles and objectives set forth in this Constitution, in order to meet the basic needs and above all to serve the most fundamental and largest interests of the proletariat, together with the broad masses of people, within this Republic and ultimately in the world as a whole, with the aim of contributing as much as possible to the emancipation of all humanity, through the advance to communism.

At the same time, owing to remaining and still deep-seated contradictions, within this Republic and in the world overall—including contradictions between this Republic and imperialist and reactionary states, as well as contradictions within the economic (production) relations and the social relations, and the reflections of all this in the political, ideological and cultural spheres in this society itself—there are, and for some time will continue to be, contradictions between the people and the government in this Republic, and there is the possibility for the government, or particular agencies or persons with authority within the government, to act in conflict with the purpose and rightful role of this government. For these reasons, provisions must be made, and adhered to, which shall afford people in this Republic protection against government misconduct and abuse. And essential guidelines must be clearly set down by which the policy and actions of the government

can be evaluated, with regard to particular rights, and above all the most basic right of the people in this Republic.

Section 2. Legal and Civil Rights and Liberties.

1. In keeping with what is set forth in this Constitution as a whole, and specifically in the above Section of this Article, the orientation of the government, and that promoted in society overall, must be to not only allow but to value dissent, as well as political, philosophical and in general intellectual and cultural ferment and diversity, and to promote and foster an atmosphere in which all this can flourish. This shall find expression and be embodied in government policy and action, as well as in the law, including that part of law and policy specifically intended to protect the legal and civil rights and liberties of the people in this Republic.

In the New Socialist Republic in North America, the capitalist system has been overthrown and a socialist economic system—in which the right to employment and income is guaranteed—is being constructed, and there is ongoing transformation not only of the economy but of the society as a whole, including in the cultural and ideological realm, with a radically new morality being brought forward, in keeping with the goal of uprooting exploitation and oppression: for these reasons, “common crime” has ceased to be a major social problem, as it was in the former imperialist USA. But it has not yet been possible to eliminate all such crime, and more fundamentally, for the reasons touched on above in this Article, there remain contradictions between the people and the government. So long as that is the case, there is the prospect of political crimes against this Republic and its government, but also the possibility of ill-founded and wrongful arrest and prosecution of people for allegedly committing both political as well as “common” crimes. It is for this reason that, as set forth in Article I, Section 2, a Department of Legal Defense and Assistance shall be established, at the central level and at the various other levels of governmental and administrative responsibility, and this Department, while funded by the government, shall in every other way be independent of and operate independently of the government, in representing citizens and residents of the New Socialist Republic in North America when they are accused of crimes, as well as in other legal proceedings in which they confront the government in an adversarial position and have a right to legal representation.

2. No person in the New Socialist Republic in North America shall be deprived of the rights set forth in this Constitution, except through due process of law.

Through the course of and as a result of the revolutionary struggle which led to the defeat and dismantling of the former imperialist United States of America, and which has brought into being the New Socialist Republic in North America, members and functionaries of the former imperialist ruling class and its government and state apparatus—and in particular those who had been responsible for the most egregious crimes against the people and against humanity—will have been duly punished, in accordance with the necessities and requirements of that revolutionary struggle and the fundamental principles that guided and governed it.

Also, with the advance of that revolutionary struggle, as territory was increasingly wrenched from the control of the imperialists, growing numbers of people who had been imprisoned under the rule of those imperialists came under the jurisdiction of the advancing revolutionary forces. In this situation, the policy of the revolutionary forces with regard to these prisoners was to immediately abolish the inhumane conditions to which they had been subjected, and to begin a process through which they could learn more fully about the world and the struggle to transform it, and could have the best basis to transform their own world outlook and become conscious partisans of the revolutionary cause. To the degree possible, depending on the strength of the revolutionary forces and the overall situation, those who had been incarcerated in the dungeons of the imperialists, and who had in fact become partisan to the revolution, were provided with means to become actively involved in this revolution, in accordance with its basic principles.

Since the establishment of the New Socialist Republic in North America, the orientation and policy of the government of this Republic has been to enable as many as possible of those imprisoned under the old imperialist system to not only be freed from prison and integrated into the new society but to contribute in many ways to the continuing revolution, and to further transform themselves in the process. To this end, special bodies were set up to review, as quickly as possible, the cases and the situations of all those who had been incarcerated under the old imperialist system and who remained imprisoned at the time of the founding of the New Socialist Republic in North America. This resulted in release from prison, within a relatively short period, for the great majority—with the exception of those who had committed truly egregious offenses in the past and who showed no genuine signs that they were able, willing and determined to avail themselves of the chance, with the triumph of the revolution and the founding of the new revolutionary society, to radically

transform themselves, and contribute to transforming the larger world, with the goal of uprooting relations of domination, oppression, and exploitation and the ways of thinking that go along with all that. Among the great majority who were released, this generally involved a transition period in which supervision by the relevant authority was combined with active support and assistance, including education, both practical and political—with the length and specific character of this transition process determined in accordance with the particular history and needs of the different individuals. Political education and ideological struggle has also been carried out in the society overall, to contribute to an atmosphere in which people broadly would understand the actual reasons and causes for crime in the old society and the importance of creating the conditions and atmosphere in which those who had been incarcerated as a result of criminal activity in that old society could be welcomed and supported in devoting their energies, creativity, initiative, and determination to building the new revolutionary society and carrying forward the revolutionary process in these radically new conditions. The result has been that, in addition to a significant number of people who were discovered to have been wrongfully prosecuted and imprisoned under the old system, and were therefore immediately released and provided with the means to become actively involved in the new society and its revolutionary transformation, literally millions of men and women—who had been denied a decent life in the old society; who had become involved in criminal activity, owing to their often desperate conditions and in many cases to the influence of the prevailing outlook and values in that old society, which constantly encouraged and in many ways rewarded advancing one's interests at the expense of and through the domination of others; and who had been written off as subhuman, and confined in subhuman conditions, by the guardians and enforcers of the old order—have regained and reasserted their humanity through active involvement in the new, revolutionary society, with many of them having joined the front ranks of revolution to remake the whole world in the interests of humanity.

This New Socialist Republic in North America having been established, its Constitution adopted and in effect, and its government at various levels operating in accordance with this Constitution: from that time forward, only as a matter of law, and through due process of law, may people be imprisoned or otherwise deprived of rights and liberties. This shall apply to those—including former members and functionaries of the ruling class of the imperialist USA and its state and government apparatus—who are within the jurisdiction of this Republic and who may be accused of having in the past committed, or may in the future be

accused of committing, war crimes and crimes against humanity: whether tried in special Tribunals established to preside in cases of war crimes and other crimes against humanity (as set forth in Article I, Section 3) or in other judicial proceedings, all those accused of crimes shall be treated in accordance with the laws, and due process of law.

3. The following shall apply with regard to the New Socialist Republic in North America and those residing within its territory:

A. Freedom of speech, of assembly and association, and of dissent and protest shall not be restricted, except in cases of violation of the law and through due process of law.

Expression of opposition to this Republic and its Constitution and government—including advocacy in favor of abolishing this Republic and replacing it with another kind of society and form of government—shall not be prohibited, and on the contrary shall be permitted and protected, except as this shall involve the commission, or an active conspiracy to commit, or the direct and immediate advocacy of, violent acts, which are not in self-defense, against the government or members of the government, or others residing in this Republic, or other actions which violate the law (but, once again, expression of opposition to this Republic and its government, or mere advocacy in favor of replacing this with another form of society and government, may not be declared and treated as a violation of the law).

B. The right to strike. In the event of a strike, particularly one involving state-owned sections of the economy, the government shall work to effect a resolution which will best meet the needs and requirements of the people involved, on the basis of and in accordance with the needs of society and the people overall and the principles and objectives set forth in this Constitution. In any event, no violent means may be used to end a strike and suppress those on strike, except as may be necessary in cases of violation of the law; and in general, in working to resolve such situations, means of persuasion and appeals to the largest interests of the proletariat and masses of people shall be fundamentally relied upon.

C. The right to travel. Citizens and lawful residents of the New Socialist Republic in North America are free to travel anywhere within the territory of this Republic, and may not be restricted in such travel, by action of any agency of the government, at any level, except in accordance with the law and due process of law (but laws may not be passed whose essential or primary purpose is to restrict travel within this Republic, except insofar as

a violation of some other law is involved). With regard to travel from this Republic to other countries and parts of the world—and return to this Republic—this shall not be prohibited or interfered with, except in accordance with laws and legitimate security concerns which shall be adopted and acted upon by agencies of the government on the basis of, and in conformity with, this Constitution. Aside from what is set forth in the provisions in this Constitution concerning immigration into and asylum and residency in the New Socialist Republic in North America, with regard to people from other countries and parts of the world who wish to enter and remain for a certain period within this Republic, for one or another purpose, it shall be the general orientation of the government of this Republic to welcome and allow such travel, so long, again, as this shall be in conformity with the law and legitimate security concerns. Reasonable measures, which are in accord with these principles, shall be adopted by the government and its agencies to regulate travel from and into this Republic.

D. Individuals 18 years or older may own firearms for personal use, so long as this is in conformity with regulations that are established in this regard, and other laws that are established, in accordance with this Constitution. The use by others, less than 18 years, of firearms must be under the supervision of someone 18 years or older and in conformity with what is set forth here, and elsewhere in this Constitution.

E. No one shall be subjected to denial or abridgement of rights or liberty, or to discrimination, on the basis of nationality, gender, sexual orientation, or religious or other belief.

F. The right to religious belief and religious practice shall not be denied or abridged, except in the case of violation of the law and through due process of law. At the same time, religion and religious practice may not be used to carry out exploitation and to accumulate private capital, in violation of the law, or to engage in violation of the law in some other way; nor may religious persons, groups, or institutions be granted rights or privileges which do not apply to the people in this Republic in general.

The right not to practice religion or to hold religious beliefs, and to propagate atheism, shall also be upheld.

The separation of religion and the state shall be upheld and applied: No government body, and no representative of the government, may advocate or propagate and promote religion, nor on the other hand suppress or restrict religious belief and practice,

except in accordance with provisions here and elsewhere in this Constitution and laws in conformity with this Constitution. No functions of the state or of the law may be performed in the name of religion or by persons or institutions invoking religious authority.

The principles and functioning of the government in various spheres, including the educational system in particular—and its promotion of the scientific method and approach, a spirit of critical and rational thinking, the pursuit of the truth and correspondence with objective reality as the criterion of truth—shall be carried out in accordance with what is set forth in this Constitution, and this may not be interfered with on the basis of religious belief or practice or through claims of exception based in religious belief or practice. In the educational system, religious beliefs and practices should be analyzed and discussed in terms of their social and cultural content and role, as well as their historical roots and development—in the same way, and in accordance with the same approach and standards, as should be applied with regard to all other social and historical phenomena.

Particularly with regard to formerly oppressed nationalities, insofar as aspects of religious belief and practice are interwoven with the historically evolved culture of the people, the orientation and approach of the government shall be to seek to separate out from religious belief and practice those aspects of the people's culture which are in accord with the basic interests of the people and can contribute to enriching the lives of not only the people of the particular nationality but the people more generally, and which should be preserved and developed in line with what is set forth in this Constitution, while maintaining the separation of religion and the state.

In addition to the role of the government with regard to education, science and other spheres, the Revolutionary Communist Party will vigorously propagate and advocate for the communist worldview, with its foundation in dialectical and historical materialism, and, as an important part of this, will actively and vigorously promote atheism and engage in lively debate with advocates of religious and other viewpoints which are in opposition to the communist worldview.

G. With regard to the law, legal proceedings, and punishment in accordance with the law, the following shall apply:

i. Freedom from arbitrary and unreasonable stops and searches

—and from other infringements of basic rights and liberties, by organs of public security or other government institutions, except on the basis of law and due process of law.

ii. The prevention of unlawful imprisonment and punishment, including through the right of habeas corpus, that is, the right of persons accused and arrested to be presented before and to have a hearing before a court—on the basis of the law and due process of law—with regard to accusations and charges against them, in a timely manner (within 48 hours after detention). This right, however, may be suspended, or its application adjusted, in circumstances of extraordinary emergency (as discussed in H, below).

iii. No one shall be subjected to “double jeopardy” with regard to a crime for which they are accused and prosecuted—that is, after being tried and acquitted no one may be tried again for the same crime. Nor shall there be any “ex post facto” application of the law: no one may be arrested or prosecuted for an act which was not against the law in the New Socialist Republic in North America at the time the act was committed but may then have been subsequently prohibited by law.

iv. The central Legislature—and the legislatures at other levels, within the overall framework of the Constitution and laws of this Republic—may, within the spheres of their authority and responsibility, establish laws as to the “statute of limitations” (the time after which someone may no longer be prosecuted) with regard to various violations of the law.

v. Everyone accused of a crime and arrested has the right to legal representation, provided by the appropriate branch or arm of the Department of Legal Defense and Assistance, established and funded by the government but acting independently of the government on behalf of those it represents (see Article I, Sections 2 and 3). Defendants in such cases may also represent themselves, with or without the assistance of legal counsel, unless it is determined, in a hearing in open court, that they are unable to adequately provide for their own defense, in which case the assistance of legal counsel shall be mandatory. Those accused and arrested must be informed, immediately upon their arrest, of the right to legal counsel and the right to remain silent. If they are not immediately informed of these rights, or if these rights are in some other way violated by those detaining them, then any evidence against them acquired as a result of such violation may not be used against them.

vi. Along with the right of habeas corpus and other measures

to prevent unlawful detention and denial of rights and liberty, defendants in criminal cases have the right to a timely trial and to reasonable bail before trial, as determined in a legal hearing presided over by a judge. Such a bail hearing must be held in a timely manner after arrest. The basic orientation with regard to bail shall be consistent with “the presumption of innocence.” The approach to bail shall take into account remaining differences in income, and related factors, with regard to different defendants, so that such factors do not result in some defendants being effectively denied bail, when they otherwise have a right to it. While provision should be made to ensure the appearance of the defendant in legal proceedings where the defendant’s appearance is required, as a general principle bail shall be granted in keeping with the situation of the particular defendant—and with the understanding that confinement in circumstances where a person has not been convicted of a crime is an unjustified infringement of the rights of the person and an impediment to a defendant’s having the best possible defense in the face of accusation and prosecution for alleged commission of a crime—except in cases where it is clearly demonstrated, through the appropriate legal proceeding, that releasing a defendant on bail poses an actual danger to the security of this Republic and its people. Denial of bail may be appealed, and such an appeal must be heard in a timely way—within 48 hours, except under extraordinary circumstances—by the appropriate court.

vii. Trials involving prosecution for criminal offenses shall be presided over by a judge, who shall have been appointed to that position in accordance with Article I, Section 3 and other relevant parts of this Constitution. The basic rules and procedures for criminal (and any other) legal proceedings shall be established by the appropriate legislative body. These rules and procedures must include: the right of defendants to the “presumption of innocence,” that is, they may be convicted of a crime only if it is proven beyond a reasonable doubt that they are guilty of that crime (and juries shall be duly informed and reminded of this principle); the right of persons against self-incrimination, including the right not to testify in proceedings in which they are accused of violation of the law; and the right of defendants to have presented, in open court, all witnesses and evidence against them and the right (exercised directly by themselves and/or through the representation of legal counsel) to question and challenge all such witnesses and evidence. In keeping with the basic orientation articulated in Article I, Section 3, regarding the use of, and translation into, different languages in judicial proceedings, all defendants in criminal proceedings have the right to any assistance they may require from translators, in order

to fully understand and participate in these legal proceedings and to fully exercise their rights in such proceedings. In criminal proceedings, the accused has the right to have a trial by a jury, selected from the general adult population of voting age in the relevant jurisdiction, in accordance with laws and procedures established in conformity with this Constitution. A defendant in a criminal case may also choose to forego a jury trial and to have the verdict rendered by a judge.

viii. The law and due process of law shall provide for appeal in cases of criminal conviction. With regard to the appeal process, the more serious the crime, the more that weight shall be given to providing avenues of appeal. Legal representation by the Department of Legal Defense and Assistance shall be provided, if requested by the defendants, or if ordered by a judge with the relevant authority, in appeals of criminal convictions.

ix. In regard to all those convicted and sentenced to be punished for violation of the law, the basic orientation with regard to such imprisonment shall be to rehabilitate the persons convicted and imprisoned, and to release them and reintegrate them as productive members of the larger society, as soon as it may be possible to do so, in accordance with the judgment that this can be done without unacceptable risk and danger to society and the people, and where doing so would not be contrary to what is set forth in this Constitution. To this end, education, in accordance with the principles set forth in this Constitution—and in particular the principle of “solid core, with a lot of elasticity,” including education in the communist worldview and values but also access to a wide variety of political and philosophical, scientific, literary and other works, expressing a diversity of views—shall be afforded prisoners, and they shall be provided with the means to engage in productive work which can make a contribution to society, under conditions which are not only humane but which conform to the general standards of work in society at large. In no case shall persons be kept in prison for a period longer than that provided for by law and through legal proceedings embodying due process of law.

x. Cruel and unusual punishment, including torture, shall be prohibited.

xi. The New Socialist Republic in North America having been established and its organs of government—including the courts and other institutions dealing with justice, law and security—functional: from that time forward, the death penalty shall be eliminated and prohibited, except in circumstances of extraordinary emergency (as discussed in H, below). And once such circumstances

of extraordinary emergency have been overcome, and the normal functioning of society and government can be resumed, the death penalty shall once again be prohibited. Even in circumstances of extraordinary emergency, a judgment of the death penalty shall be rendered only in extreme cases, and whenever possible the carrying out of this sentence shall be suspended pending the end of the extraordinary emergency, at which time the prohibition against the death penalty shall once again apply.

H. If, in its judgment, a situation of war, invasion or insurrection directed against the state, or other extraordinary circumstances, constitute a direct and immediate threat to the security, or even the very existence, of the New Socialist Republic in North America, the central Executive Council may declare a “security emergency” and, if it deems this necessary, may temporarily suspend rights and provisions set forth in this Article and elsewhere in this Constitution, including the prohibition of the death penalty. But, under no circumstances may torture or other means of cruel and unusual punishment be applied, and the principle of the humane treatment of prisoners, of all kinds, must be adhered to.

In the event of such suspension of certain rights and provisions of this Constitution, within the shortest possible time after such suspension—one week or less, unless circumstances absolutely prevent this, and in any case as soon as it can actually be done—this action by the Executive must be reviewed by the Supreme Court, which shall have the authority to determine whether any part of this action by the central Executive Council, or this action in its entirety, is actually required by the circumstances and is in accord with this Constitution. With regard to any parts of such an action, or the action as a whole, which the Supreme Court finds to be in violation of the Constitution: this must be immediately ended, upon such judgment. Further, until a normal situation and the normal functioning of society and government shall have resumed, a review by the Supreme Court of the actions and policies of the Executive in carrying out emergency measures, including the suspension of civil and legal rights and liberties, must be repeated, at regular intervals of no more than 30 days, to determine whether the circumstances continue to justify these policies and actions. Further, the central Legislature must be apprised of the reasons for this action by the Executive Council and must be convened to discuss this action and to offer its advice to the Executive Council, within the shortest possible time—not to exceed 15 days, if at all possible. The orientation and standard with regard to such emergencies must be: to restrict only to the degree really necessary the rights and liberties of the people during such emergencies, to put an

end to such emergencies at the earliest possible time and, upon the ending of such emergencies, to fully restore the rights and liberties of the people, in accordance with what is set forth in this Constitution.

Section 3. Eradicating the Oppression of Women.

1. The oppression of women emerged thousands of years ago in human history together with the splitting of society into exploiting and exploited classes, and this oppression is one of the cornerstones of all societies based on exploitation. For the same reason, the struggle to finally and fully uproot the oppression of women is of profound importance and will be a decisive driving force in carrying forward the revolution toward the final goal of communism, and the eradication of all exploitation and oppression, throughout the world. Based on this understanding, the New Socialist Republic in North America gives the highest priority not only to establishing and giving practical effect to full legal equality for women—and to basic rights and liberties that are essential for the emancipation of women, such as reproductive freedom, including the right to abortion as well as birth control—but also to the increasing, and increasingly unfettered, involvement of women, equally with men, in every sphere of society, and to propagating and popularizing the need for and importance of uprooting and overcoming all remaining expressions and manifestations of patriarchy and male supremacy, in the economic and social relations and in the realms of politics, ideology and culture, and to promote the objective of fully emancipating women and the pivotal role of the struggle for this emancipation in the overall transformation of this society and the world as a whole. This orientation, and policies and laws flowing from it, shall be applied, promoted, encouraged and supported with the full political, legal and moral force, authority and influence of the government, at all levels, in the New Socialist Republic in North America.

Section 4. Uprooting National Oppression and Overcoming Gaps Between Regions and Other Great Differences.

1. As set forth in the preceding Article in this Constitution, the orientation, laws and policies of the government of the New Socialist Republic in North America shall also attach great importance to—and shall wield to the fullest extent the political, legal and moral force, authority and influence of the government on behalf of—achieving the full equality of nationalities within this

Republic and to overcoming the whole history and continuing effects of national oppression, not only in this society but throughout the world.

2. As evidenced in the historical experience of oppressed nationalities in the imperialist USA (and in experience throughout the world) overcoming inequalities between regions is closely interconnected with uprooting national oppression. Especially for this reason, the government of the New Socialist Republic in North America will devote special attention, efforts, and resources to the development of regions which, owing to the rule of exploiting classes and the dynamics of capitalism, and other factors, have been maintained, under the old system, in a more backward state, and to overcoming disparities between regions, as well as the gaps between urban and rural areas (in this regard see also Article IV).

Section 5. The Mental/Manual Contradiction.

1. Longstanding and deeply-rooted division between intellectual and physical work, and between those who primarily engage in the one and the other (the mental/manual contradiction), is bound up with the antagonistic division of society into exploiters and exploited, and itself contains the seeds of such antagonistic division. In order to continue developing the economy, and transforming not only the relations of production but the society as a whole, on the road of socialism toward the final goal of a communist world, it is necessary to correctly handle the contradictions that are bound up with, and interpenetrate with, this division—neither undermining the sphere of intellectual work nor reinforcing and perpetuating an oppressive division between intellectual and physical work—so as to finally move beyond a world in which such divisions exist and fetter human beings, and to bring into being a community of freely associating human beings who are capable of carrying out, and find fulfillment in carrying out, both physical and intellectual labor.

2. The orientation, laws, policies and actions of the government of the New Socialist Republic in North America shall give expression to these objectives and the struggle to achieve them.

Section 6.

What is set forth in the preceding Sections of this Article, together with the principles in the following Article (IV) regarding

the development of the economy along socialist lines, is decisive in terms of the exercise of the most basic right of the people in this Republic and in the continuing struggle to finally uproot and move beyond all relations of exploitation and oppression, in this society and in the world as a whole—which is fundamental to, and must be at the heart of and a driving force in, the New Socialist Republic in North America. And in all this the leadership role of the Revolutionary Communist Party will be of decisive importance.

Introductory Explanation: On the Nature, Purpose and Role of This Constitution (Draft Proposal)

[Excerpt from *Constitution for the New Socialist Republic in North America (Draft Proposal)* from the Revolutionary Communist Party, USA (Chicago: RCP Publications, 2010). Also available at revcom.us.]

This Constitution (Draft Proposal) is written with the future in mind. It is intended to set forth a basic model, and fundamental principles and guidelines, for the nature and functioning of a vastly different society and government than now exists: the New Socialist Republic in North America, a socialist state which would embody, institutionalize and promote radically different relations and values among people; a socialist state whose final and fundamental aim would be to achieve, together with the revolutionary struggle throughout the world, the emancipation of humanity as a whole and the opening of a whole new epoch in human history—communism—with the final abolition of all exploitative and oppressive relations among human beings and the destructive antagonistic conflicts to which these relations give rise.

In order to bring this new socialist state into being, it would be necessary to thoroughly defeat, dismantle and abolish the capitalist-imperialist state of the USA; and this in turn would only become possible with the development of a profound and acute crisis in society and the emergence of a revolutionary people, in the millions and millions, who have the leadership of a revolutionary communist vanguard and are conscious of the need for revolutionary change and determined to fight for it. To work for this objective—to hasten while awaiting the emergence of these necessary conditions, with the goal of revolution and ultimately communism clearly in mind—is the strategic orientation of the Revolutionary Communist Party, USA. And, as one important part of giving life to and carrying out this strategic orientation, we are publishing this “Constitution for the New Socialist Republic in North America (Draft Proposal)”: as a contribution to a process in which growing numbers of people are seriously considering and grappling with whether, how, and in what form there could be a real alternative to the present capitalist-imperialist system and the unspeakable suffering and depredations it imposes on the great majority of people in the world, on humanity as a whole, as well as on the environment and the webs of interconnected species which inhabit this earth; to provide a more concrete sense of the basic nature, structure and functioning of the socialist society, and its government, envisioned here, and the principles and objectives underlying and

guiding this; and to enable people to see, sharply outlined, what is in reality the radical difference between the society and government envisioned here and the capitalist-imperialist system which currently rules in this country and exercises domination over the world as a whole, with such terrible consequences.

The term “New Socialist Republic in North America” has been chosen not because that would necessarily be the name of such a socialist society, brought into being through revolution in this part of the world (the formal name would of course be decided at the time of the actual establishment of such a socialist state); rather, this term is utilized in order to emphasize that this is intended as a proposal for the Constitution of a socialist state as it would have been newly brought into being, in the first stages of its existence, with the victory of the revolution that would have put an end to the imperialist USA and replaced it with a new, revolutionary society on the road of socialism. And, while we have sought to indicate here, as much as possible, the basic principles, institutions, structures, and processes which would characterize this new socialist society, and particularly the functioning of its government, much of the specific features of this would naturally be influenced by the situation that existed at the time of the establishment of this new socialist state—including factors such as the size of the territory that had been liberated from the imperialists (and other reactionaries) and consolidated as the territory of the new socialist state, and what overall situation prevailed, particularly in terms of the struggle between revolutionary and reactionary forces, in this part of the world, and in the world overall, at the time of the founding of this new socialist state. Some of this is spoken to in the Constitution (Draft Proposal) that follows, but there are clearly aspects of such a future situation which can be anticipated only in broad terms, and others which may arise which cannot at all be anticipated now. Nevertheless, it has been our purpose, and we have striven to the best of our ability, to put forward as clearly as possible the basic principles that would be embodied in a Constitution for a new socialist state in North America, and much of the specific ways in which these principles would be applied, in order to enable and encourage people to engage, in a serious and substantive way, with the vision that is put forth here of this new socialist state and the potential for a radically different society and world that it represents. For, again, that is our purpose in publishing this Draft Proposal: to stimulate, as broadly as possible, such serious and substantive engagement with this Draft Proposal, and vigorous discussion and debate about what it puts forward as the kind of society and world to be not only imagined but actively struggled for.

A final point. As a Draft Proposal for a Constitution for a new socialist state, this document focuses on and is primarily concerned with addressing the purposes, nature, objectives, and functioning of the government in this new society and does not attempt to discuss to any great depth the philosophical-ideological and political-strategic thinking regarding the necessity and basis for, and the means for bringing into being, such a state. For more background in relation to this, we strongly recommend the talks and writings of the Chair of our Party, Bob Avakian, as well as other Party publications, including: *Birds Cannot Give Birth to Crocodiles, But Humanity Can Soar Beyond the Horizon*; *Revolution and Communism: A Foundation and Strategic Orientation*; *Constitution of the Revolutionary Communist Party, USA*; and *Communism: The Beginning of a New Stage: A Manifesto from the Revolutionary Communist Party, USA*.

Revolutionary Communist Party, USA, October 2010

“I Want to Get More’—or We Want Another World?” ***

I was moved, or provoked, to speak to this again in reading some reports recounting the responses of different people, youth in particular, to watching the DVD of my 2003 talk *Revolution: Why It’s Necessary, Why It’s Possible, What It’s All About*. *** I want to begin with a comment of one youth (I believe it was a high school student in Oakland) who watched this DVD, and said he really liked it—“I agree with everything in there, and I really liked the vision of the future society”—*but*, he went on, “if I invent something, I want to get more for it.”

Here we come right up against the question of making (or not making) a leap beyond the narrow horizon of bourgeois right. What do we mean by “bourgeois right”? This refers to the concept of “right” which essentially corresponds to *commodity relations*—relations in which people confront each other as owners (or non-owners) of *things*, which are to be exchanged—and more specifically, relations in which the *appearance of equality* covers over profound *inequalities*, relations which are grounded in the exploitation and oppression of the many by a relative handful. In its most fundamental terms, this is grounded in a relationship where a small number of people dominate ownership not only of the wealth of society, but more fundamentally the means to produce wealth (land, raw materials, technology of various kinds, and so on), and a large number of people own little or none of these things, and so must sell their ability to work to those who do own them (and, if they are not able to sell their ability to work—if they cannot get a job—they will either starve or be forced into other means, often illegal means, in order to be able to live). Once again, this exchange—of the ability to work (or “labor power”) for a wage (or salary)—*appears* to be an equal exchange; but in reality it involves and embodies a *profoundly unequal* relation, in which those without capital are forced into a subordinate position: forced to work for—and, in the process of working, creating more wealth for—those who do own and control capital.

This fundamental relation of inequality, of domination and exploitation, is extended into and embodied in all the relations of capitalist society. Take, for example, the concept of “equality before the law.” This is supposed to mean that the same laws are applied, in the same ways, to everyone, regardless of what their “station” in life is, how much money they have, and so on. Experience shows, however, that this is not how things work out in reality. People with more money have more political influence—and those with a great deal of money have a great deal of political influence and power—while those with less money, and especially those with very little, also have no significant political influence, connections with political power, and so on. And this plays out, repeatedly, in legal proceedings, right down to the way in which those presiding over legal procedures (judges) look—very differently—at different kinds of people who become involved in legal proceedings. But what is even more decisive is the reality that the *laws themselves* (and the Constitution which sets the basis for the laws) *reflect and reinforce the essential relations* in society, and most fundamentally the economic (production) relations of capitalism. This, for example, is why it is perfectly legal for capitalists to lay off thousands of people, or to refuse to hire them in the first place, if these capitalists cannot make sufficient profit by employing (and exploiting) them—or if they can make more profit by

employing, and exploiting, people in some other place—but it is *illegal* for people who have been denied employment in this way to take the things they need without paying for them (without giving money in exchange for these things—money which in fact they do not have, money they cannot earn, because they have been *prevented* from working, by means that are *perfectly legal* under this system). All this—and the many ways in which this finds expression in society, in the relations between groups and individuals, in the laws and institutions, and in the thinking of people—is what is meant in referring to “bourgeois right.”

*** This selection is from Bob Avakian, “Making Revolution and Emancipating Humanity”

Part 1: “Beyond the Narrow Horizon of Bourgeois Right”

Part 2: “Everything We’re Doing Is About Revolution”

From a talk given in 2007. Available at revcom.us and also included in *Revolution and Communism: A Foundation and Strategic Orientation*, a *Revolution* pamphlet, 2008.

+++ [Editor’s Note: *Revolution: Why It’s Necessary, Why It’s Possible, What It’s All About*, a film of a talk by Bob Avakian (2003) is available at revolutiontalk.net and also available as a DVD set from RCP Publications.]

“Freedom, Right, and the Nature of Society” ***

[Editor’s Note: The endnote numbering of this selection preserves the original numbering as it appears in Making Revolution and Emancipating Humanity. For that reason the first endnote in this selection begins with endnote 6.]

This relates, once again, to that well-known statement by Marx—which we also, for good reason, keep returning to—about how right can never be higher than the economic structure of society and its cultural development conditioned thereby—another little-known and even less understood statement. All the time, in discussions which, in fundamental terms, are proceeding from a bourgeois standpoint and outlook, you hear things put forward which are ignorant of, or ignore, this basic principle and understanding (it’s either ignorance, or more deliberate ignore-ance).

Let’s go back to the comments by a youth in Oakland who said, in referring to my talk “Revolution”⁺⁺⁺: “I agree with everything in there, and I really liked the vision of the future society”—*but* “if I invent something, I want to get more for it.”

Well, in terms of the “right” to “get something more” by inventing something, even if you could realize this “right,” where does that “right” proceed from and what does it correspond to? It proceeds from and corresponds to a certain economic structure of society, as Marx put it, and a culture conditioned thereby. It corresponds to and proceeds from a certain economic base and the corresponding superstructure. And, in turn, it reinforces that kind of society and that kind of world. For that “right” to have meaning, it is necessary to have the kinds of conditions and the kinds of relations that make this possible. In feudal society, even though there were fairly developed commodity relations, if you were a serf, you didn’t have any such conception of a right. Now, at a certain point in feudal society, there began to be a certain amount of social mobility, although it remained limited in many ways. Still, this notion of getting more for inventing something was not a right characteristic of feudal society—it is a right characteristic of a certain kind of economic structure and culture, a certain kind of system, namely capitalism. And insofar as that right (to get more for inventing something) applies, it applies and can only apply for a relative handful of individuals. At the same time, all the conditions that are bound up with this economic structure, and the corresponding culture, involve all kinds of horrific consequences for the great majority of individuals in the world and for humanity as a whole. So there we can see—by negative example, so to speak—how right is embedded, if you will, in the economic structure of society and the culture conditioned thereby.

Let’s turn to some examples of more “positive rights.” What about the right to live in a world in which human beings no longer confront each other through antagonistic relations? Where does the “right” to do that exist—under what conditions does that right have any meaning? Certainly, in the present world, you don’t have that right. You may proclaim it as much as you want. You may develop all kinds of utopian schemes to give expression to your desire to live in a world in which human beings no longer relate to and confront each other through antagonistic relations. But, within the present social system and with the way in which that system dominates and shapes the world, you have no

ability whatsoever to effect such an ideal. That right can only be realized with a different economic structure, a different set of production relations, namely those of communism, and the culture conditioned thereby—or, in other words, the superstructure that corresponds to communist economic and social relations. Only through the revolution to advance to communism can humanity reach the point where finally human beings no longer confront each other through antagonistic relations. This is another expression of the fact that, as Marx put it, right can never be higher than the economic structure of society and the cultural development conditioned thereby.

What about the “right” of the masses of people in the world to explore scientific questions? What kind of economic structure and culture—what kind of production and social relations, and what kind of superstructure—is necessary for that, and does that correspond to? Again, only a communist world. With the kind of division of labor that has existed in and has characterized every form of class-divided society—and in particular societies ruled by exploiting classes—there is *no real right* for the masses of people, for the great majority of society, to explore scientific questions. It doesn’t exist for them. A few individuals here and there may emerge from among the masses and change class position, if you will, and be able to do that as their life’s work and avocation. But for the masses of people there is no such right. The very functioning of the economic base, in dialectical relation with the superstructure—the dynamics of capitalist accumulation and the workings of the corresponding political system, the educational system, and the dominant ideas propagated throughout society, along with the division of labor that’s bound up with all this—make it impossible for the masses of people to have the “right” to explore scientific questions.

And what about those who presently do have the ability to do this? What about their “right” to explore scientific questions in a whole new social context and framework, where much greater numbers of people are increasingly being freed and enabled to do this as well? What about the ability of people—even those who are presently conducting scientific work—to carry this out in a much more unfettered (not absolutely unfettered but in a qualitatively more unfettered) way, freed from the constraints imposed by exploitative and oppressive relations in society and the corresponding ways of thinking? What about *that*? What about having a situation where you’re not scrounging around for grants on the basis of having to vitiate your own scientific project by presenting it in a way that meets the requirements of the ruling class—for example: “This will help the Defense Department.” What about *that* “right”?

The point is not that in communist society everybody will do everything—or will want to do everything—all with the same emphasis, or passion, or in the same way. There are and there will always be differences among human beings, and certainly this will be so—and will be consciously recognized and given expression, in a qualitatively greater way than ever before—in communist society. Not everyone will want to be engaged in science all the time, or in politics all the time. But the barriers and social divisions that presently exist and are characteristic of exploitative society will have been overthrown and surpassed.

What about the “right” for all that to happen? What kind of economic structure and what kind of “cultural development conditioned thereby” is necessary for *that* to happen? This is impossible under the present system, and is only possible under the future system, in other words, in communist society. This is what the “4 Alls” are all about—this is what it means to achieve those “4 Alls” that mark the advance to communism: the abolition of all class distinctions; of all the production relations that underlie those class distinctions; of all the social relations that correspond to those production relations; and the revolutionization of all the ideas that correspond to those social relations. All that, and all the “rights” which adhere to that, are only possible in a future communist society—which is not some utopian ideal but an actual possibility, a possibility whose realization lies in the freedom that can be wrenched out of the current necessity that confronts humanity in this era, and in particular confronts the proletariat as a class and those who consciously take up the worldview and objectives of the proletarian revolution. [6]

What about the “right” of people in society, in the world as a whole, to have to spend only a small part of their waking hours and energy in simply contributing to the reproduction (and the expansion of the means of production) of the material requirements of life? What about the “right” of the people to only have to spend a few hours a day doing that, and to have more time, instead, to devote to political, social and cultural affairs, and to recreation...and just plain fucking off? Where does that “right” exist for the great majority of humanity, including little children, now? The present economic structure and the culture conditioned thereby *prevents* the great majority of humanity, including small children, from having anything approximating such a “right”; and only with communist society can that “right” be actually realized (and then, in fact, it will no longer be conceived of as a “right” but will be a “natural” part of the functioning of human society, without having to be institutionalized and to assume a special status as a “right”).

This is a profoundly important point that we have to really grasp deeply. And, again, the point of grasping this is to act on it, including by popularizing it and bringing forward more people who consciously understand this and act on that understanding.

Does it make a difference if people think that we’re just trying to impose one ideal of society over another? Or whether, instead, they really have a materialist and dialectical understanding of how the possibility of achieving the things I’m talking about here relates to the existing contradictions in society and is called forth through the struggles based in those contradictions—how the possibility and the potential for a whole different human society, characterized by radically different and much better relations among people, and the corresponding culture and ways of thinking, actually exists and resides in the present material contradictions of society, in the world today? Does it make a difference whether they understand this in a completely utopian and idealist way, or with materialism and dialectics? Will that make a difference in terms of what they think is desirable, what they think is possible, what they believe is worth struggling for? Of course it will.

*** This selection is from Bob Avakian, “Making Revolution and Emancipating Humanity”

Part 1: “Beyond the Narrow Horizon of Bourgeois Right”

Part 2: “Everything We’re Doing Is About Revolution”

From a talk given in 2007. Available at revcom.us and also included in *Revolution and Communism: A Foundation and Strategic Orientation*, a Revolution pamphlet, 2008.

+++ [Editor’s Note: “Revolution” refers to Bob Avakian’s 2003 talk *Revolution: Why It’s Necessary, Why It’s Possible, What It’s All About*. Available at revolutiontalk.net and also available as a DVD set from RCP Publications.]

6. This discussion of the “4 Alls” relates to the observation by Marx, in *The Class Struggles in France, 1848-50*, that “socialism is the *declaration of the permanence of the revolution, the class dictatorship of the proletariat as the necessary transit point to the abolition of class distinctions generally, to the abolition of all the relations of production on which they rest, to the abolition of all the social relations that correspond to these relations of production, to the revolutionizing of all the ideas that result from these social relations.*” (See *Marx-Engels Selected Works*, Volume 1, emphasis in original)

The formulation of the “4 Alls” to refer to this analysis by Marx was popularized by the revolutionaries within the Chinese Communist Party in the course of the Great Proletarian Cultural Revolution, during the years 1966-76.

“The Role of Dissent in a Vibrant Society” * [1]**

Socialist society should be a very lively and vibrant society, full of wrangling and struggle over all kinds of questions, in which we're moving step by step to narrow and finally to eliminate the differences and inequalities that mean that some people are locked out of whole spheres of society. But that's a process that's going to go through stages, and through twists and turns, and not in a straight upward line. And at each stage there will be a very acute contradiction between holding onto power and continuing on the socialist road while at the same time drawing ever greater numbers of masses of people into this process, overcoming these inequalities to the greatest degree possible at every stage, and laying the basis to make further leaps in the future with regard to things that you cannot overcome at the present time.

The challenge is one of developing and applying the correct principles and methods so that all of this develops in such a way that it serves the advance toward communism, toward a communist world, so that socialist society is a vital and vibrant society in which masses of people are, in a great diversity of ways, increasingly wrangling with and engaging all kinds of questions having to do with the nature and direction of society; and, through all this, not only is political power maintained in a way that serves the fundamental interests and needs of the masses of the people and the world revolution, but the advance is carried forward toward the eventual abolition of state power altogether and the emergence of a community of freely associating human beings all over the world, a communist world where, to quote Mao, human beings consciously and voluntarily transform themselves and the objective world. And all this will be achieved through a wrenching process of struggle and wrangling, and not in some orderly, neat straightline way, and not with uniformity of opinion about everything all the time, by any means.

So democracy under the dictatorship of the proletariat, democracy for the vast masses of people, has to take in all these dimensions. It doesn't just mean that they have the right to speak out freely without being suppressed—which it does mean and must mean—but it means much more than that. It means not only their ability to associate politically and to demonstrate and to criticize, to raise disagreements with the official policy at any given time, or even with the leading ideology at any given time. But it also means that this has to be done in such a way that it's moving toward the withering away, first of all of dictatorship—that is, rule in society by one class over another and its use of an apparatus of repression, that is, armed forces, police, courts, and so on, to enforce its rule and to suppress those who would seek to overthrow it. Not only do we have to be moving toward the eventual withering away of all this and developing and applying concrete steps which actually lead to that—not just mouthing the words that we're working toward this withering away, but actually developing concrete forms and institutions that lead in that direction. But, together with that, we also have to be moving toward the withering away of democracy.

That, of course, is a very controversial statement. What do I mean by that? What I mean is *not* that through the advance of the dictatorship of the proletariat there is less and less

democracy for the masses of people, until eventually it's eliminated altogether! That's not what we mean by the withering away of democracy together with the withering away of dictatorship. What we mean is, in essence, the opposite of that. We mean that the forms and means are developed through which the masses of people, in a certain sense, "naturally" take up, wrangle with, and ultimately make decisions about all different spheres of society.

As I spoke to in a series that was printed in the *RW*—excerpts from a talk I gave, *Getting Over the Two Great Humps* [2]—it means that the institutions and structures that are necessary to ensure that the rights of the people are upheld, and that one part of society, even among the people, is not being suppressed by another part—those structures and institutions no longer are necessary, and new structures and institutions are brought into being which correspond to and give expression to the fact that among the people there are no exploiters and exploited, there are no profound social divisions that lead to exploiters and exploited. At that point it will no longer be a question in society about whether one group among the people is going to oppress and dominate another. We will have moved, both in material reality and in the thinking of the people, beyond the point where that is even a possibility, because the economic and social conditions have been brought into being and, together with them, the political structures and institutions and political processes, and the ways of thinking and the culture have developed in such a way that the idea of one person, or one group in society, exploiting and oppressing another will be understood to be outrageous, absurd—and impossible.

....

Now, another aspect of this that I want to speak to briefly is what I call "the synthesis of the points that were emphasized in the polemic against K. Venu and some arguments made by John Stuart Mill." Now, in this polemic against K. Venu [3] I basically made the point that we can't have bourgeois democracy, we have to have the dictatorship of the proletariat. If we try to implement all these instrumentalities of mass democracy, without any distinction among the people, we are going to hand power back over to the bourgeoisie, after everything people have gone through to seize power in the first place and all the sacrifice that that has required. In socialist society, we still have to have a vanguard party that leads, and we have to have an ideology that leads. Even if we don't want to insist that everybody has to profess that ideology whether they agree with it or not, we still have to have a vanguard party that leads, and an ideology that leads. This is one of the points that I was stressing in that polemic. But what I am referring to by synthesizing that, combining it in the correct way, with arguments of John Stuart Mill is that Mill makes the argument that no opinion should be discounted, let alone suppressed in society, until all those people who wish to argue for it have had an opportunity to do so. And he goes on further to make the point that it is not enough to hear ideas characterized by those who oppose them, it is necessary to hear them put forward by people who are ardent advocates of those ideas—in the book *Democracy Can't We Do Better Than That?* [4] I addressed this.

Well, of course, as I spoke to earlier, what he argues for can never literally be implemented. There is always somebody who wants to make one more argument for an

idea. [laughs] There does come a time when you have to close the debate, at least for the time being. There are material reasons underlying that, and there are also reasons of politics. Decisions have to get made at certain points. You can't just go on arguing endlessly and conducting searches to see if there is anybody else who wants to argue for a point of view that nobody else agrees with.

Still, there is a point that Mill is getting at with this argument that it's not enough to hear positions characterized by those who oppose them, it is necessary to hear ardent advocates arguing for these positions. This relates to something that I think we have to incorporate more into the dictatorship of the proletariat and the rule and transformation of society by the masses of people. And this goes along with not just tolerating but encouraging dissent: we have to allow for people to explore many different ideas, and to hear advocates of many different ideas—without giving up the whole game, without losing power, without undermining and destroying the dictatorship of the proletariat. And that, once again, is a very complex and acute contradiction.

In order to handle this correctly, there are a couple of principles that I think are very important. One was actually articulated for me in a conversation that I had not long ago with a spoken word artist and poet. I was laying out to him how I saw socialist society and some of the same points that I'm making here about how we have to hang onto power and keep things going in a forward direction toward communism, while on the other hand there is a need for a lot of experimentation in the arts, a lot of critical thinking that needs to go on in the sciences and all these different spheres, and you have to let people take the ball and run with it, and not supervise them at every point on everything they do. And I asked him, for example: could you write your poetry if every step of the way there was a party cadre there looking over your shoulder, examining what you are writing? He said "no way."

Then, as we discussed this for a while, he came up with what I thought was a very good formulation. He said, "It sounds to me like what you are talking about is 'a solid core with a lot of elasticity.'" And I said "yeah, you've really hit on something there," because that was exactly what I was trying to give voice to—that you have to have a solid core that firmly grasps and is committed to the strategic objectives and aims and process of the struggle for communism. If you let go of that you are just giving everything back to the capitalists in one form or another, with all the horrors that means. At the same time, if you don't allow for a lot of diversity and people running in all kinds of directions with things, then not only are people going to be building up tremendous resentment against you, but you are also not going to have the rich kind of process out of which the greatest truth and ability to transform reality will emerge.

So this is another expression of a very difficult contradiction that we have to learn how to handle a lot better. Mao had some good ideas about this, and struggled a lot to get the party to implement them. Mao was wrangling with this, but he was only able to get so far with it. As he pointed out, human life is finite. He was only able to get so far with it, and then he died and what happened in China happened. And people—in particular the people now ruling that society—no longer were concerned with wrangling with that contradiction.

So we have to take this up and go further and learn to do even better with it the next time around. And in order for that to happen, those who are won to or seriously grappling with the question of this whole revolutionary process have to start engaging these questions now, and prepare ourselves as well as bring forward broader and broader ranks of the masses to be wrangling with these things, so that when we do seize power here and there, we are further along in our ability to be dealing with these things in a much more practical sense, even while, as I said, continuing to wrangle with them in the realm of theory.

Now what goes along with the principle of “solid core with a lot of elasticity” is another very important principle and method, which I characterize this way: being able to distinguish the difference between those times and circumstances where it is really necessary to hold the reins tightly, and pay very detailed attention to things, on the one hand; and, on the other hand, those times and circumstances where it is not necessary to do this, and in fact it is much better not to do so. And if you think about it, this contradiction applies to all kinds of things on all kinds of levels. In anything that you take up at any given time, there are always aspects that, if you don’t pay great detailed attention to them, and even in certain ways insist that “this is the way this has to be done,” the whole thing flies apart and comes undone. And there are other aspects where, first of all, if you *try* to pay that much attention and insist on “just this way” about them, you can’t even do it. And to the degree you can, you make a mess of things.

....

And you can go on and on with things in life. If you think about anything, you’ll realize that there are those things where you really should insist that “this is the way it has to be done, and we have to very finely calibrate this,” and many, many things in the same process where you not only *don’t have* to do that, but where you *should not* do that.

....

So we can’t let go of this solid core. There are things we really do have to insist upon. Think about it. I was having another discussion with another poet, and he was arguing that you really shouldn’t suppress ideas, you really have to let all these ideas come out, and then criticize the things that you think are wrong and let people learn. And I said: “Well, that’s good as a principle, and it should be applied to a significant degree, but you can’t make an absolute out of that.” And I gave this example: imagine if you were trying to build a new society, and you go down the street and at every street corner are paintings of women being raped and Black people being lynched. Do you think you could build a new society with those images assaulting people at every turn? Some things you have to put your foot down and say “This will not be allowed, because if it is, the masses of people are going to be demoralized and disoriented, and the reactionaries are going to be emboldened.” So there are some things—as I said it’s not so simple—there are some things you just cannot allow.

But there are many, many things you can, and should, allow. For example, how do we uproot male supremacy and white supremacy? You can allow a lot of debate about that,

and *should* allow a lot of debate about it—and a lot of criticism and struggle over many different things. So there again, you have your solid core, and a lot of elasticity. You have those things where you have to put your foot down and say yes, or no—this is the way it is, and this is the way it is not.

But, again, this “you” needs to be constantly expanding. Still, at any given time, that leading core does have to lead in that way. It does have to correctly combine a solid core with as much elasticity as possible on the basis of that solid core. Even while it is an expanding core, at any given time it has to determine when to hold the reins tightly and pay very detailed attention to things, and what are those conditions and times and circumstances where it is not necessary to do this, and in fact it is better *not* to do so.

*** This selection is from Bob Avakian, *Observations on Art and Culture, Science and Philosophy* (Chicago: Insight Press, 2005). Also available at revcom.us.

1. This selection was originally excerpted from the talk *Dictatorship and Democracy, and the Socialist Transition to Communism*, the edited text of which is available online at revcom.us. This particular selection was published in the *Revolutionary Worker* [now *Revolution*] #1257 and 1258 (October 31 and November 14, 2004).

2. *Getting Over the Two Great Humps: Further Thoughts on Conquering the World* is a talk given by Bob Avakian in the late 1990s. Excerpts from this talk appeared in the *Revolutionary Worker* and are available online at revcom.us. The series “On Proletarian Democracy and Proletarian Dictatorship—A Radically Different View of Leading Society” appeared in *RW* #1214 through 1226 (October 5, 2003–January 25, 2004). The series “Getting Over the Hump” appeared in *RW* #927, 930, 932, and 936-940 (October 12, November 2, November 16, and December 14, 1997 through January 18, 1998). Two additional excerpts from this talk are “Materialism and Romanticism: Can We Do Without Myth” in *RW* #1211 (August 24, 2003) and “Rereading George Jackson” in *RW* #968 (August 9, 1998). All of these excerpts can be found online at revcom.us.

3. Bob Avakian, “Democracy More Than Ever We Can and Must Do Better Than That,” appendix to *Phony Communism Is Dead...Long Live Real Communism!*, 2nd edition (Chicago: RCP Publications, 2004).

4. Bob Avakian, *Democracy: Can't We Do Better Than That?* (Chicago: Banner Press, 1986).

“Individuals and Collectivity and the Greater Good of Society” ***

[Editor’s Note: The endnote numbering of this selection preserves the original numbering as it appears in The Basis, the Goals, and the Methods of the Communist Revolution. For that reason the first endnote in this selection begins with endnote 21.]

I want to speak further to the contradiction involving individuals in relation to collectivity and cooperation, and individuals in relation to the greater good of society. This is a matter of grasping firmly the principal aspect and yet not obliterating or ignoring but giving due weight and expression to the secondary aspect. These contradictions between individuals, on the one hand, and collectivity and cooperation on the other, and between individuals and the greater good of society—these contradictions are spoken to in a number of talks as well as writings of mine, including *GO&GS (Great Objectives and Grand Strategy)* [21] and the epistemology discussion. [22]

In that epistemology discussion, I said there is more work to be done on these questions, and I referred to engaging with John Rawls’ *A Theory of Justice* in this connection. In that work, Rawls is setting out to construct the idea of a just society. He is not claiming that this society has ever existed or that it has evolved historically, but he’s setting out to define what such a just society would be like and what should be striven for as the goal. And in this context—he’s speaking particularly about and polemicizing against the utilitarians, including people like John Stuart Mill, or perhaps people like Jeremy Bentham more than Mill—he says: “Justice denies that the loss of freedom for some is made right by a greater good shared by others.... In a just society,” he continues, “the basic liberties are taken for granted and the rights secured by justice are *not subject to political bargaining or to the calculus of social interests.*” Note again: “The rights secured by justice are *not subject to political bargaining or to the calculus of social interests.*” And then later, in discussing, as he calls them, “Two Principles of Justice,” Rawls writes, once again particularly in opposition, it seems, to utilitarianism of various kinds: “First: each person is to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others.” Sound familiar? Immanuel Kant, anyone? “Second: social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone’s advantage, and (b) attached to positions and offices open to all,” rather than the exclusive province of some. “These principles,” he goes on, “are to be arranged in a serial order with the first principle prior to the second. This ordering means that infringements of the basic equal liberties protected by the first principle *cannot be justified, or compensated for, by greater social and economic advantages.*” [Rawls, *A Theory of Justice* (Cambridge: The Belknap Press of Harvard University Press, 1999, revised from the 1971 edition), pp. 25, 53-54, emphasis added here]

In other words, what he is saying here, boiling it down, is this: the greater social good cannot justify restricting the rights of some, or affording greater “basic liberties” to one part of society as opposed to another. Goodbye, dictatorship of the proletariat!

And here we can see the fundamentally idealist and ahistorical nature of these principles, and of the viewpoint they express. If you think back to the whole discussion at the beginning of this talk, about the motion and development of society through the continuing expression and dynamism of the contradictions between the forces and relations of production and the base and the superstructure, and Marx's point about how each generation inherits the productive forces from the previous generation, and the whole discussion of necessity and freedom, with the latter consisting in the transformation of the former—if you think about all that, you can see how this is totally idealist and ahistorical, how this notion of Rawls' doesn't at all correspond to how societies actually develop and how classes first emerged, and the state with them, and what the further development of class society *has in fact* led to. [23] You can see how this is fundamentally ahistorical, and fundamentally idealist. If one applies historical materialism and thereby understands how society actually has evolved, it can be clearly seen how it is *not possible* to apply these principles of justice, formulated by Rawls, equally to individuals in the way he's talking about.

And in basic opposition to this kind of approach is the communist approach of situating all this in the context of definite production and social—and, in class society, class—relations and the recognition that, in a society divided into classes, there are not only differing but even *fundamentally opposed* views of “the societal good”—what it is and how to achieve it—and of the relation of individuals to that societal good. Again, I go back to my earlier point that every class, and in particular every ruling class, identifies the general societal interests with its particular class interests. In opposition to that, there is the communist approach of *correctly* recognizing the criterion of realizing the greater social good, as the *principal* thing, while *not negating* the *secondary but still very important* aspect of not trampling on individuals and individuality, but *giving the fullest expression to individuality within the overall societal and collective and cooperative framework*. Here, again, we are back to Marx's point that “right can never be higher than the economic structure of society, and the culture conditioned thereby.” *And*, with the exercise of state power by the proletariat, led by its vanguard, there is the importance—here is something else which I expect will be controversial within the international communist movement, or in any case it is a rupture with at least some of the previous practice of socialist states—there is the importance of not subjecting individuals, *even* individuals of the former ruling class (and other counter-revolutionaries being dictated over), to *arbitrary* suppression and curtailment of their individual rights, expressions, etc.

This goes back to my whole discussion about the “rule of law” and a Constitution, because if even the representatives of the overthrown ruling class and other counter-revolutionaries, or people who are said to be counter-revolutionary, are subjected to *arbitrary* suppression and curtailment of their rights, then you're opening the door to doing that on a very wide scale, including among the ranks of the people, at the whim and caprice of whoever happens to be having their hands on the levers of power at a given time. So here again is the role of a Constitution and the question of “the rule of law” in socialist society. [24]

Once again, this all relates back to **the communist, as opposed to the bourgeois, the materialist—the dialectical materialist—as opposed to the idealist and metaphysical, view of freedom.** And it's important for us to grasp and apply this *without* falling into a utilitarianism and instrumentalism which says that whatever is for the greater societal good should be done, and it doesn't matter what happens to individuals—when you make an omelette you have to break some eggs, and so on.

Having spoken to these points, I want to emphasize again that, even now, before there is the establishment of a new proletarian state in the world—and, in fact, in order to strengthen the basis for establishing that state, wherever that breakthrough can be made first, through the revolutionary struggle for the seizure of power—and to make the socialist state serve, as fully as possible, the fundamental and final aim of advancing to communism, there is still more work to be done on this question of the relation of individuals to the greater societal good, including with regard to the summation of the previous historical experience of the dictatorship of the proletariat. At the same time, the principles I have spoken to, and the contradictions I have identified as essential, in relation to this, do, I believe, provide important parts of the foundation for that further work.

*** This selection is from Bob Avakian, “The Basis, the Goals, and the Methods of the Communist Revolution.” From a talk given in 2005. Available at revcom.us.

21. *Great Objectives and Grand Strategy* is a talk given by Bob Avakian at the end of the 1990s; excerpts from it have been published in the *Revolutionary Worker* #1127-1142 (November 18, 2001 through March 10, 2002) and are available online at revcom.us.

22. “Bob Avakian in a Discussion with Comrades on Epistemology: On Knowing and Changing the World,” is included in the book *Observations on Art and Culture, Science and Philosophy* by Bob Avakian (Chicago: Insight Press, 2005) and originally appeared in the *Revolutionary Worker* #1262 (December 19, 2004). It is available online at revcom.us.

23. The discussion of the points referred to here by Bob Avakian is included in “Views on Socialism and Communism: A Radically New Kind of State, A Radically Different and Far Greater Vision of Freedom,” which is available on the Web in its entirety at revcom.us; and the particular discussion referred to here appeared in *Revolution* #40 (March 26, 2006).

24. A discussion of the “rule of law” and Constitutions in socialist society is found in the part of this talk published as “Views on Socialism and Communism: A Radically New Kind of State, A Radically Different and Far Greater Vision of Freedom,” which is available, in its entirety, online at revcom.us. The part containing this discussion appeared in *Revolution* #42 (April 9, 2006). [Editor's Note: This discussion has been included in this compilation and can be found in the selection “Some Further Thinking on: The Socialist State as a New Kind of State.”]

“Some Further Thinking on: The Socialist State as a New Kind of State” ***

[Editor’s Note: The endnote numbering of this selection preserves the original numbering as it appears in Views on Socialism and Communism: A Radically New Kind of State, A Radically Different and Far Greater Vision of Freedom. For that reason the first endnote in this selection begins with endnote 20.]

I want to talk a little more about the question of democracy and dictatorship in socialist society and about the socialist state, the dictatorship of the proletariat, as a radically different kind of state. Proletarian democracy—as given expression as democracy for the masses of people in socialist society—should contain some secondary and “external” features, if you will, in common with bourgeois democracy, including Constitutional provisions for the protection of the rights of masses of people, *and* of individuals; but *in essence it is a radically different kind of democracy*, fundamentally because it is an expression of a *radically different kind of class rule*—rule by the proletariat, led by its vanguard, openly exercising dictatorship over the overthrown bourgeoisie and other proven counter-revolutionary elements—*and* it has radically different objectives, above all the advance to communism, and the “withering away of the state”—*and of democracy*.

Here the following passages from Engels, once again from *The Origin of the Family, Private Property and the State*, are very relevant: He points out: [In early communal society] “there cannot yet be any talk of ‘right’ in the legal sense....Within the tribe there is as yet no difference between rights and duties.”

That’s worth pondering and wrangling with deeply: no difference between rights and duties. And we can go on to say that, in a fundamental sense, what was true in early communal society will again be true, but in a very different way—with a different material, and ideological, basis and in a different, worldwide context—in communist society: where there is no class antagonism, there is no separation, in a fundamental sense, between rights and duties. There is no separation between rights and duties characteristic of class society, is another way to say this. All rights and duties will be afforded and carried out consciously and voluntarily—and there will be no need for special institutions to enforce duties and to protect rights—no need for the state, *nor* for formal structures of democracy. This, of course, does not mean that there will no longer be a need for a *government* in communist society, for decision making and administration. That need will persist, and understanding this is a crucial part of understanding the difference between a **scientific** and on the other hand a **utopian** view of communism—and of the struggle to get to communism (I will have more to say on this, too, as we go along). But the *state* is not the same thing as, not identical with, government: the state, once again, is an organ, an instrument, of *class suppression* and dictatorship, and its existence is always and everywhere an expression of the existence of *class antagonisms*. Now, at the same time, the character of the proletarian state, and the way in which power is exercised under the dictatorship of the proletariat, must—in accordance with, and to advance toward, the fundamental objectives of the communist revolution—also be *radically different* from any previous kind of state.

In order to get into this, and as a foundation for it, I want to paraphrase and review three sentences on democracy which I have formulated as a concentration of some fundamental points. To paraphrase, the first of these sentences is: In a world marked by profound class divisions and social inequalities, to talk about democracy without talking about the class content of that democracy, and which class it serves, is meaningless or worse. And second: In such a situation, there cannot be any such thing as democracy for all or “pure democracy”—one class or another will rule and will institute the forms of rule and of democracy that serve its interests. And therefore the conclusion of this, if you will, the third sentence, is: The essential question and dividing line is whether this class rule and the corresponding forms of democracy serve to reinforce fundamental class divisions and social inequalities, fundamental relations of exploitation and oppression, or whether they serve the struggle to uproot and finally eliminate these relations of exploitation and oppression.

Now, I said before, in another context, that I could teach a whole college course on this, simply by reciting these three sentences and then saying, “discuss,” for the rest of the semester. And I wasn’t joking. One could easily do this. But here, let’s take off from this to discuss some important related questions, with this as a foundation.

I want to discuss the *state*—once again, the armed forces and the other organs of dictatorship—in relation to the *broader institutions and functions of government* in socialist society, including decision-making bodies, a legislature of some kind more or less, as well as centralized institutions that can effect the carrying out of decisions, or an executive of some kind. I also want to deal with the question of a Constitution and of the “rule of law” and of courts.

Recently, I told some people that one of the key things I have been grappling with is how to synthesize what’s in the polemic against K. Venu [20] with a principle that is emphasized by John Stuart Mill. A pivotal and essential point in the polemic against K. Venu is that, having overthrown capitalism and abolished the dictatorship of the bourgeoisie, the proletariat must establish and maintain its political rule in society, the dictatorship of the proletariat, while continuing the revolution to transform society toward the goal of communism and the abolition of class distinctions and oppressive social relations, and with that the abolition of the state, of any kind of dictatorship; and that, in order to make this possible, the proletariat must have the leadership of its vanguard communist party throughout this transition to communism. In continuing to grapple with these fundamental questions, I have become convinced that this principle articulated by Mill—that people should hear arguments presented not only as they are characterized by those who oppose them, but as they are put forward by ardent advocates of those positions—is something that needs to be incorporated and given expression in the exercise of the dictatorship of the proletariat. This is one element—not the entirety, but one element—of what I have been reaching for and wrangling with in terms of what we have formulated as a new synthesis. And in line with that, while the proletariat has to maintain firm control of the state—and, particularly in the early stages of socialism and for some time, this is expressed in terms of the leadership of the vanguard party of the proletariat—while the proletariat in that way has to maintain firm control of the state; and while the key organs and instruments of the state have to be responsible to the party

(and I'll talk more about that and other aspects of this shortly); there is also a question of how can the masses be increasingly drawn, not only into the exercise of state power, but also into other forms, other aspects of the governing and administration of society, and the law-making of society; and how can the political process that goes on in socialist society, on the basis of the firm control by the proletariat over the state as exercised in a concentrated way through the leadership of its party—how on that basis can the political process lead to, or contribute to, the kind of ferment that I've been talking about as an essential element of what needs to go on in socialist society, including the emphasis on the importance of dissent?

So here “the John Stuart Mill principle” comes in, in a certain way—within the framework of proletarian rule and not raised as some kind of absolute, outside of and above the relation of classes and the class character of the state. I don't have time to go into a whole discussion of Mill, but in the “Democracy” book (*Democracy: Can't We Do Better Than That?*)^{***} I made the point that in fact Mill did not insist on and apply a principle of unrestricted liberty in some universal and absolute sense—he didn't think it applied to workers on strike; he didn't think it applied to people in “backward countries” who, as he saw it, were not yet ready to govern themselves, and he implemented that by being an official in the East India Company, a major instrumentality of colonial depredation and ravaging in Asia and other places. But nonetheless, leaving those contradictions aside here, there is a point that Mill is raising, about how people should be able to hear arguments from their ardent advocates. And I think one of the ways in which this should find expression in the governing of socialist society is that—within the framework where, first of all, the state is firmly controlled by the proletariat, and second, there is consultation between the party and the masses and the implementation of forms, such as those that were developed through the Cultural Revolution in China, forms that combine basic masses with people from administrative posts or technical or educational professionals, or people in the arts who are professionals, etc., in decision-making and administrative tasks on all the different levels and in all the different spheres of society—while that should go on as a foundation, there should be a certain element of contested elections within the framework of whatever the Constitution of the socialist society is at the time. And one of the reasons why this should happen is that it will contribute to implementing what is positive about this John Stuart Mill point—that people need to hear positions not just as they are characterized by those who oppose them but as they are put forward by ardent advocates of those positions—what is positive about this in relation to **our** strategic objectives, of continuing the socialist revolution toward the goal of communism, the ways in which the implementation of this principle will contribute to political and overall intellectual ferment in socialist society and to the flowering of critical and creative thinking and, yes, of dissent, within socialist society—which will make that society more vibrant and will overall strengthen not only the willingness but the conscious determination of the masses of the people, including among the intellectuals, to not only preserve and defend that society but to continue revolutionizing society toward the goal of communism, together with the revolutionary struggle throughout the world.

One of the things that should be really understood about what we have characterized as the new synthesis, is that it envisions a much more wild society than has heretofore

existed, politically speaking. I mean, things got very wild in the Cultural Revolution in China. But I am envisioning this in a different sense, on a more ongoing basis—one in which there is a solid core, and elasticity is giving rise to all kinds of contention on the basis of the solid core and within the framework in which the proletariat is (a) firmly in control of the state, and (b) is leading, and in that sense, in control of the overall political apparatus, even those parts that are not strictly speaking the state in the literal sense of being organs of political dictatorship and suppression, such as the armed forces, where the leadership of the party, and with that the rule of the proletariat, has to be very clear and firm.

The reason that I'm wrangling with this idea of having contested elections to, in part, select people to legislatures—in other words to have *part* of the selection, not the whole, but part of the selection of people to legislative bodies on local areas, and even on the national level, open to contestation—has to do with the Mill principle. It has to do with the principle (which I've articulated before) about how even reactionaries should be able to publish some books in socialist society—all of which, of course, is highly unorthodox [*laughs*] and, to say the least, controversial, especially in the international communist movement. But I do believe that the masses themselves—if they're actually going to rule and transform society and understand to an increasingly deepening level what is involved in transforming the world—will be better served by some contention in this kind of way, and that it has to find some expression other than just people being able to be guaranteed certain “first amendment” rights (freedom of speech and of assembly, of the right to dissent and protest, and so on), which they should have, within the framework of the proletarian dictatorship. So that's one element that I'm wrestling with.

Along with that, as there has been in previous socialist societies, there needs to be a Constitution. A Constitution, however, should always be understood, as should the law, as a *moving, dynamic thing*. At any given time it has relative identity. You can't say it's completely relative, or that it's essentially relative at any given time, or it would have no meaning then—it would be whatever anybody wanted it to be, and that's not a Constitution. A Constitution is something that sets down what are the rules of the game so that everybody can, on the one hand, in one important aspect, feel at ease, and, at the same time, can contribute fully to the struggle to transform society, while knowing, in effect, what the rules are. But it's a *moving* thing in the sense that a Constitution will change as the advance is carried forward toward communism. A Constitution is a reflection in the superstructure of where you are in the overall transformation of society, including in the economic base—just as the law, as Marx pointed out, is essentially a reflection of the property relations of society (and the production relations at the foundation of those property relations) at any given time. And there will be a need, as there was in China, for example, for different Constitutions at different stages in that process. You will need to, in effect, tear up the old Constitution and rewrite it, as you advance, particularly by leaps, from one stage to another. But, at any given time, a Constitution plays an important role, I believe—or should play an important role—in socialist society. For example, I firmly believe that the army, and also in a fundamental sense the courts, especially courts that have a more societal-wide impact, and the essential administrative bodies, should be particularly responsible to the vanguard party in socialist society. But, here's where the contradiction comes in. I also believe they

should be *responsible to the Constitution*. That is, to get right down on the ground, the army should not be able to be mobilized to go against the Constitution, even while it's being led by the party. And here you can see a potentially roaring tension. But if the party can lead the armed forces to go outside of and above and beyond the Constitution, then the Constitution is meaningless. And then, in effect, you do have an arbitrary rule whereby it's merely the party and whatever the party is deciding at a given time—those are the rules, and that's how they'll be enforced.

Now, this gets really tricky if you think about Cultural Revolutions in socialist society. What happens then? Well [*laughs*] revolutions are revolutions—a lot of things get suspended, but they have to be reconstituted. And there has to be some sort of leading core and rules even within that. That was the point of the Circulars that were put out by the party leadership in the Great Proletarian Cultural Revolution in China, for example. But on a more ongoing basis, you can't simply run society in such a way that whoever gets control of the party at a given time sets and enforces the rules according to whatever they think the rules should be at a given time. Or else the masses will not feel at ease and, in fact, you will open the gates much more widely to the restoration of capitalism and a bourgeois dictatorship, a dictatorship of exploiters and oppressors of the masses. So there's real tension, and you can concentrate it in that formulation—that the army, for example, should be responsible to the party and led by the party, but it should also be responsible and accountable to the Constitution, and if people rally against the party, for example, in mass dissent, it should not be that the party can mobilize the army to carry out bloody suppression of those masses, or to suppress their right to raise that dissent against the party. So this has a lot of acute tension, or potentially acute tension, built into it. But again I am firmly convinced that, in order for the masses to really increasingly become masters of society, these kind of principles, and the institutionalization of these principles, are necessary in socialist society.

This, then, raises the question that I call the “Islamic Republic of Iran question.” People will say: “Well, okay, that sounds good—Constitutional rights, even the army can't violate the Constitution, yes, have some contested elections—but how are you going to be different than Iran where they have the Supreme Islamic Council and it has final veto power over what happens. You're not really going to be different than that, are you?” Well, we *aren't* and we *are*. We aren't in the sense that we don't intend to have the fundamental question of state power put up for whoever can grab it. In fact, *a Constitution has to embody what the character of the state power is*—not only what the role of the army is in relation to the party, for example, but what is the character of the production relations, in addition to having a whole dimension of the rights of the people and, yes, of individuals.

Why do you need a Constitution? Because as Mao pointed out—this was an important thing that he brought forward—in socialist society there remains a contradiction between the people and the government, or the people and the state. This was not well understood before Mao. He pointed this out, if I remember correctly, in “On the Correct Handling of the Contradictions Among the People.” And the need for a Constitution and for constitutional provisions, protections and rights is an expression of the recognition of that reality—that even where the state is in the hands of the proletariat, and is a positive

state, is a good state, is a state that's maintaining the rule of the proletariat and putting its weight behind the further revolutionization of society and support of the world revolution—even there, there has to be protection against simply trampling on individuals or sections of society in the name of, or even in the legitimate pursuit of, the larger social and worldwide good.

So this is an important contradiction, and this is why you need a Constitution. And in my opinion, it is why you also do need a “rule of law.” This has to do with the criticism that I raised in “Two Great Humps” (a talk I gave in the latter half of the 1990s) [21] of Lenin’s formulation that dictatorship is rule, unrestricted rule, and specifically rule unrestricted by law. Now, to be fair to Lenin, he was saying this in the very, very early stages of the new Soviet republic, when not that much experience had been accumulated about the nature of the dictatorship of the proletariat, and under very urgent and desperate circumstances. And he was not putting this forward as a general conclusion about what the character of the governance should be throughout the transition to communism. He didn’t even fully understand what that transition would look like yet. But, reflecting on it with historical perspective, that is not a correct statement of what a dictatorship is or should be. There do need to be laws. And there does need to be a “rule of law,” or else there are no laws. I mean this in the sense that the law does have to be applied according to the actual character of the society and what is provided for in the Constitution and the laws themselves—it has to be applied in the same way to everybody and everything. Now, part of the law, an essential part of the law, must be and will be an expression of dictatorship over the bourgeoisie, and suppression of counter-revolutionaries. But then you do not simply declare somebody a counter-revolutionary and deprive them of rights without any process of law, or else you’re again opening the gates to arbitrary rule and the restoration of bourgeois dictatorship. So that’s another intense contradiction.

What about independent judiciary? In my opinion, the judiciary, as to whether it should be independent—it should and it shouldn’t. In one real sense, it should be independent—in the sense that it shouldn’t be, in any proximate, immediate sense simply following the dictates of the party. There should be law, and things should operate according to the law. On the other hand, and in an overall sense, and especially the more we are talking about a court whose decisions influence things on a large scale, and especially courts whose decisions affect all of society, this, too, has to be under the leadership of the party at the same time as it is beholden not only to the party but to the Constitution. Once again, intense contradiction.

So these are some things I’m wrestling with, and here the “Islamic Republic of Iran question” does arise, once again. Now there are some fundamental differences between us and what I’m envisioning in speaking of the Islamic Republic of Iran (as the embodiment of a certain kind of rule). First of all, we’re not theocratic fundamentalists! That is not merely a statement without content, but makes a profound difference—our world outlook, our political objectives, are profoundly different. But as true and as important as that is, that’s still not enough, there is still more to be wrestled with in the sense of: the party cannot, simply and arbitrarily and by going “outside of the rules,” overturn what may be happening in society, according to the “rules” of society at any given time—mobilizing the army, once again, or other organs of the state, to do that. If

revolutionaries in the party, or the party collectively, feel that the society is going in the direction back to capitalism, and there's no way to prevent this other than through the kind of thing that Mao unleashed in the Cultural Revolution, then that's what the Party will have to unleash—and then everything is up for grabs, “all bets are off,” so to speak. But, in my opinion, if you allow the party to simply and arbitrarily decide what the rules are, what the law is, how the judiciary should operate, whether or not constitutional provisions should be extended or whether rights should be taken away, without any due process of law; if you allow that, you are increasing the potential and strengthening the basis for the rise of a bourgeois clique to power and for the restoration of capitalism.

So these are all things that need to be further wrangled with. But the contradictions that are being touched on here have to do with the character of socialism as a transition to communism, and not yet communist society itself, and with the need to draw the masses into—first of all, the need to draw the masses more fully into the running of and the transforming of society; and second of all, it has to do with the whole new synthesis and, in particular, the epistemological dimension of that and how that interpenetrates with the political dimension. In other words, to put it in concentrated terms, how are the masses going to come to know the world as fully as possible, in order to actually transform it; how are they going to more fully understand the complexity of things and what is right and wrong, what is true and not true, in order to be able to become more fully the masters of society and to transform it toward the goal of communism? The things that I'm wrestling with have to do with and are being taken up in *that* kind of framework. But we can't get away from the fact that *there is one thing that CANNOT be done*, and that is: the proletariat *cannot, in a fundamental sense, share power* with other classes—that is, the state in socialist society cannot be a state that serves different class interests—because, even while the proletariat must maintain and apply the strategic orientation of building a united front under its leadership, all the way to the achievement of communism, it remains a profound truth that only the proletariat, as a class, has a fundamental interest in abolishing all class distinctions and everything bound up with class divisions, in both the economic base and the political and ideological superstructure of society. What exists and is concretized in law, in a Constitution, in the nature of the state, has to reflect not only the rule of the proletariat but also the objectives of the proletariat in advancing toward the abolition of class distinctions and the “4 Alls”^{****} and thereby the need for the state. And this has to take concrete forms, which will get embodied in *successive* Constitutions. But, as important as that is, on another level that is only the outward, superstructural expression of what needs to be going on in terms of transforming those “4 Alls”—continuing to transform the economic base, to revolutionize the world outlook of the people, within the party as well as in society overall, and to transform the political institutions to draw more and more masses into them, and to move to continually narrow and eventually eliminate the difference between the party and the broader masses in the running of the state and in the determination of the direction of society.

This is the way in which the proletarian state has to be firmly in the hands of the proletariat; but, at the same time, in accordance with the interests of the proletariat, it has to be different than every other kind of state: it has to be not only *reinforcing* the existing economic base and superstructure, but actually *transforming* the economic base

and the superstructure, together with the advance of the world revolution, toward the goal of communism. This has to be reflected in all these institutions I'm talking about—of the state and of government, of law and Constitution. And all this, once again, involves very acute contradictions. As I have pointed out many times, it is very easy to promulgate, to theoretically conceive of and popularize, the idea of all elasticity—which is another way of saying bourgeois democracy, because that is what it will devolve into, that is what it will become. And we've also learned from experience that it is easy to veer in the direction of all solid core and a linear view of how you advance toward communism, how you carry forward the socialist transition: linear in the sense that everything is extended out as a line from the party—it's the party leading the masses to do this, the party leading the masses to do that. Yes, in an overall sense, it is necessary for the party to lead the masses, as long as there is a need for a vanguard party; but it is a very complex and contradictory process that I think we have to envision and that is envisioned in this new synthesis, which has to do with unleashing a lot of mass upheaval, turmoil, tumult, debate, dissent, and thrashing it through among and together with the masses, in order for *the masses*, in growing numbers, to synthesize what's true and correct and revolutionary out of all that. And, yes, on that basis, to suppress what actually needs to be suppressed, but also to carry forward what needs to be carried forward, and to deal correctly, at any point, with the two different types of contradictions (contradictions among the people and contradictions between the people and the enemy). This is a different way, a not so linear way. It's not like you're fly-fishing [*laughing*] and throwing a line out—it's much more “throwing out” a process that goes in many different directions and then working through, together with the masses, to synthesize it, without letting go of the core of everything. And that's the very difficult part, to do that *without letting go of the core of everything*.

So there is the challenge of *continuing the revolution under the dictatorship of the proletariat*, to dig up the soil—materially and ideologically, in the economic base and the superstructure—that must be uprooted and abolished, in order to get to communism, to the realization of the “4 Alls,” in relation—and yes this definitely involves contradiction—to continually giving fuller expression to the ways in which the socialist state actually is radically different from all previous kinds of states and actually is moving toward its own eventual abolition, even while—and here's another contradiction—even while that abolition will require a whole process, constituting a whole world-historical epoch, through which the necessary material and ideological conditions for communism are created, not just in a particular country but on a world scale.

I think we have come to see, from the experience of the dictatorship of the proletariat so far—in sifting through and summing up this first stage of proletarian revolutions and socialist society and projecting to the future, we've come to understand more fully, and have much more a sense of the complexity, of the fact that this is a long-term process, involving a whole historical epoch, as contrasted even with what Lenin understood at the time he died in 1924, and certainly in contrast with what we would have to say, with historical perspective, were the more naive views of Marx and Engels concerning the abolition or the “withering away” of the state. Marx and Engels more or less thought that once you socialize things—they were looking at this happening first in a more capitalistically developed society—that once you socialize ownership of the means of

production under the rule of the proletariat, it would be not that long of a period, and not that profound and complex a struggle, to get to where more and more of the people would be drawn into the administration of society, and the state could accordingly wither away. And we've learned that this is rather naive, not surprisingly. [*Using a deliberately sarcastic sounding voice:*] "He said Marx and Engels were *naive*." [*laughter*] Yes, he did. Because we're historical materialists and not religious and idealist people; and in this aspect, the understanding of Marx and Engels was very undeveloped, not surprisingly. But we've learned much more through, first (after the very short-lived and limited experience of the Paris Commune), the Soviet Revolution and then the Chinese Revolution and the Cultural Revolution in China—and looking at the international dimension of this much more fully in dialectical relation with the advance in any particular socialist country—how complex this will be, and how repeatedly the contradictions that are driving this will assume acute expression and there will have to be another leap forward, in order, first of all, to preserve proletarian rule, but much more fully in order to advance it further, to carry out further transformations in the base and the superstructure, together with supporting and advancing revolutionary struggles throughout the world.

So, in this context I want to come back and speak more directly to the solid core with a lot of elasticity—and elasticity *on the basis of the necessary solid core*. Now in talks I've given on "Elections, Democracy and Dictatorship, Resistance and Revolution," [22] I spoke about four objectives in relation to the solid core with state power. Now, the whole thing can be characterized, and I have characterized it, in the formulation that the point is "to hold on to state power while making sure that this state power is worth holding on to." And of course that's a boiled down, or basic and simple, concentration of a much more complex phenomenon and process. But the four objectives that relate to that are: 1) holding on to power; 2) making sure that the solid core is expanded to the greatest degree possible, and is not a static thing, but is continually expanding to the greatest degree possible at every point; 3) working consistently toward the point where that solid core will no longer be necessary, and there will no longer be a distinction between that and the rest of society; and 4) giving expression to the greatest amount of elasticity at any given time on the basis of that solid core.

The dialectical interplay of these things is another way of expressing what's involved in what I've described as a nonlinear process of, on the one hand, continuing to exercise the dictatorship of the proletariat, and on the other hand—through this whole tumultuous and wrenching process, and through a succession of leaps—not only holding on to power, but transforming the character of that power, as the economic base and the superstructure as a whole are transformed, in dialectical relation with each other and in dialectical relation with the advance of the overall world revolution toward the goal of communism on a world scale.

*** This selection is from Bob Avakian, "Views on Socialism and Communism: A Radically New Kind of State, A Radically Different and Far Greater Vision of Freedom." From a talk given in 2005. Available at revcom.us.

20. This polemic, titled “Democracy: More Than Ever We Can and Must Do Better Than That,” appears as an Appendix to the book *Phony Communism Is Dead...Long Live Real Communism!*, 2nd edition, by Bob Avakian (Chicago: RCP Publications, 2004). The polemic originally appeared in the 1992/17 issue of the magazine *A World to Win*.

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21. The full title of the talk is *Getting Over the Two Great Humps: Further Thoughts on Conquering the World*. Excerpts from this talk appeared in the *Revolutionary Worker* newspaper (now *Revolution*) and are available online at revcom.us. The series “On Proletarian Democracy and Proletarian Dictatorship—A Radically Different View of Leading Society” appeared in *RW* #1214 through 1226 (Oct. 5, 2003-Jan. 25, 2004). The series “Getting Over the Hump” appeared in *RW* #927, 930, 932, and 936-940 (Oct. 12, Nov. 2, Nov. 16, and Dec. 14, 1997 through Jan. 18, 1998). Two additional excerpts from this talk are “Materialism and Romanticism: Can We Do Without Myth?” in *RW* #1211 (Aug. 24, 2003) and “Re-reading George Jackson” in *RW* #968 (Aug. 9, 1998). All of these articles can be found online at revcom.us.

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22. This was a talk given by Bob Avakian before the elections in 2004. Audio file of this talk is available online for listening and downloading at revcom.us.