

The Tragedy of Democracy

'Rights', Tolerance and Moral 'Neutrality'

Samuel Gregg

It took a 19th century aristocrat to realise that democracy's greatest virtue—the elevation of individual autonomy over hereditary influence—could also be its greatest vice.

To love democracy, it is necessary to love it moderately. This phrase summarises the principal lesson of the thought of Count Alexis de Tocqueville, one of the 19th century's most significant political philosophers.

In his magisterial two-volume work, *Democracy in America*, this Catholic aristocrat asked three questions essential to our modern self-understanding. What is democracy's nature? What are democracy's effects on human nature? Lastly, how do we preserve democracy while also mitigating its worst tendencies?

Tocqueville went to America in May 1831 seeking intellectual clarity about the essence of democracy, the European view of which was obscured by the barbarism of the French Revolution. In America, Tocqueville could observe the democratic revolution working itself out, uncluttered by the deep political and cultural cleavages of Restoration France. There he could see the full extent of the democratic phenomenon and, in doing so, he discerned its 'generative fact': the equality of conditions.

By equality of conditions, Tocqueville meant a social situation where the hereditary influence of one person over another—central to the aristocratic world—has been replaced by the idea of individual consent. The victory of consent over hereditary influence, and the elevation of human autonomy closely associated with it, has had dramatic effects.

Tocqueville himself felt what he called 'religious dread' when contemplating the force of this historic mutation, which he saw as both Providential and in conformity with human nature. His exploration of the democratic world was in part an attempt to master his fear.

In reflecting upon the democratic universe, Tocqueville suggested that the pressure of individual autonomy would

result in a steady relativisation of the intellectual and moral dimensions of human life. Public opinion would replace facts and truth as the primary authoritative voice, while vague expressions such as 'feeling at peace with oneself' would usurp serious reflection upon the nature of the moral life. The passion for equality, natural to democracy, would trump every other concern, and begin its ceaseless struggle to eliminate the natural differences and natural inequalities among people.

Homo democraticus, as Tocqueville characterised him, is obsessive about rights, neglectful of duties, reluctant to believe in anything, anxious, and solitary. These defects make him prey to what Tocqueville called 'soft despotism' whereby freedom is abandoned, and a bloated central power administers to the needs of an infantilised population.

In an egalitarian, democratic but atomised society, Tocqueville believed that people would not turn to each other to meet their needs through free exchange, civic association and the pursuit of what Tocqueville called 'self-interest rightly understood'. Instead, they would look to an omnipotent state, which would remove in a paternal-like manner all the trouble of thinking and acting for oneself.

Thus, in Tocqueville's view, it appears that C.S. Lewis' 'men without chests' will eventually be the natural denizens of democracies. For although Tocqueville regarded the aristocratic regime to be unjust—based as it was on an

Samuel Gregg is Resident Scholar at The Centre for Independent Studies (CIS) and Director of the *Religion and the Free Society* research programme. This paper formed the basis of a presentation he gave at *Consilium*, CIS' inaugural public policy conference held 18-20 May 2000.



unnatural convention of hereditary superiority—its hierarchical order still preserved room for standards transcending the individual will.

The democratic regime, by contrast, threatens to obscure every reference point that transcends the sovereign individual. Once this occurs, Tocqueville suspected, democracy is in trouble. We will no longer be able to fathom the true, the good and the beautiful, and our free institutions will slowly crumble. The spectre of nihilism haunts the democratic mansion.

Tocqueville understood, then, that the tragedy of democracy is that its defects are generated by its very principles. One contemporary example is what amounts to nothing less than an obsession with rights and the problem of proliferating ‘rights-talk’ that is increasingly evident in Australia.

‘Rights-talk’

The phrase, coined by Mary Ann Glendon (1991), describes a phenomenon whereby political discourse is slowly impoverished by an explosion in the use of the word rights to the point whereby it becomes harder to define critical questions, let alone debate and resolve them.

It is a discourse through which we try to settle problems of right and wrong through articulating rights, but which repeatedly proves inadequate or leads to a stand-off of one right against another. It facilitates a rights culture noted for being prodigious in bestowing the rights label, its legalistic character, its hyper-individualism, and its deafening silence with respect to personal and civic responsibilities.

For all these reasons, rights-talk destabilises the moral habits and free institutions that Tocqueville described as essential not only for maintaining a free society but also for distinguishing a free society from one of anarchy.

Rights-talk is all around us. Apart from fitting neatly into ten second sound-bites, we hear the expression ‘rights’ attached to a rapidly expanding number of words: smokers, union, children’s, employee, consumer, women’s, men’s, animal, homosexual, land etc.

As Glendon relates, not only does this often trivialise the meaning of rights, but it also leads to a tendency to frame every social controversy in terms of a clash of rights

(Glendon 1991: x). This impedes, she claims, compromise, mutual understanding, and the discovery of common ground.

It also produces a penchant for absolute formulations that we hear so often in expressions such as ‘It’s my body. I have the right to do whatever I want with it’. A moment’s thought indicates that this is simply not true. We have, for example, criminal laws that put some limits on our ability to do anything that we want with our bodies.

But rights-talk also has a more sinister dimension. In 1989, the Czech president, Václav Havel, described words like ‘human rights’ as galvanising entire societies ‘with their freedom and truthfulness’. Havel then added, however, that the very same words that at times are ‘rays of light’ may turn in other circumstances into ‘lethal arrows’ (1990).

One example of this latter tendency may be found in Articles 12 and 13 of the UN *Convention on the Rights of the Child*. These define the ‘child’s right to express an opinion in matters affecting the child and to have that opinion heard’, and ‘the right to seek, receive, and impart any information through any media’ (1989). As Russell Hittinger states, these Articles effectively declare it a human rights violation for a parent to tell a ten-year-old to turn off the television and go to bed (1995: 35).

We need not concern ourselves here with the details of how the culture of rights-talk has emerged. Suffice to say, Glendon traces it to a variety of causes, such as the American grounding of rights in tort law. Given, however, the extent to which rights-talk presently dominates so much popular and legal discourse, there is good reason to have grave reservations about the wisdom of introducing a Bill of Rights at either a state or federal level in Australia.

Apart from the immense difficulties involved in agreeing in our increasingly rights-talk culture upon what is and is not a right, a Bill of Rights would simply facilitate more rights-talks, promote unrealistic expectations, facilitate occasions for civil discord, regularly promote sporadic crisis intervention over systematic measures, provide even more opportunities for specific groups to promote particular interests over the common good, and serve to undermine concepts of duty and obligation.

Given the extent to which rights-talk presently dominates so much popular and legal discourse, there is good reason to have grave reservations about the wisdom of introducing a Bill of Rights at either a state or federal level in Australia.



Conceptions of tolerance

A second example of a potentially counterproductive principle associated with democracy is the spread of questionable conceptions of tolerance within most Western societies.

One may be called 'sceptical tolerance'. This holds that the best foundation for tolerance is to avoid having strong convictions about good and evil; thus the more you doubt, the more tolerant you are. Another is 'quantitative tolerance': the meaning of tolerance is tolerance; therefore the more you tolerate, the more tolerant you are. Lastly, there is 'apologetic tolerance': if you happen to have strong beliefs, the best expression of tolerance is to refuse to express or act upon it; therefore the more reticent you are, the more tolerant you are.

Each of these conceptions of tolerance is highly problematic. If people really believe that the meaning of tolerance is tolerating, then they ought to tolerate even intolerance. Likewise, if one really considers the best foundation for tolerance is to avoid having any strong beliefs, then one should not have a strong belief that intolerance is wrong. Lastly, if you truly believe that when you do have strong beliefs you should refuse to express or act on them, then your tolerance amounts to nothing less than intellectual self-emasculation.

Even more worryingly, the prevalence of any of these conceptions of tolerance effectively denies anyone the opportunity to say much that is meaningful about anything. Discussions about morality, for example, become reduced to the ritual reciting of bromides such as 'you have your values, and I have mine', or 'we'll just have to agree to disagree'. Until the 20th century, most philosophers, regardless of their particular moral, political and religious commitments, would have regarded such expressions as signifying nothing less than an abandonment of any claim to be engaged seriously in the life of the mind.

Yet tolerance cannot be neutral about what is good and evil because its very purpose, at least in the public domain, is to *guard* goods and *avert* evils. Certainly, as Thomas Aquinas notes, we sometimes find ourselves living in societies where, for prudential reasons, we have to tolerate certain evils or put up with injuries to the good (*Summa Theologiae*, I-II, q.96, a.2).

This does not, however, mean that we cease to call evil by its name, nor that we should simply accept it. Tolerance, in other words, is simply one means among others for assuring a certain civility in public discourse, and ought not to be constructed into a deity before whom we should all bow down.

The myth of neutrality

But if the views of tolerance outlined above are so fallacious, why are they so persistent? One answer is that they are *never* practiced consistently. All so-called neutralists invariably have strong convictions. *Consistent* neutralism would hold, for example, that it is just as intolerant to express views derived from a secular philosophy as it is to articulate thoughts premised on religious belief.

The inescapable paradox from which neutralists cannot escape is their inability to answer the question 'Why be neutral?' without committing themselves to particular goods—social order, peace etc.—thereby violating their claim to value-neutrality.

Politically speaking, we encounter the doctrine of neutrality on the 'right' where thinkers like Richard Posner and Michael Oakeshott tell us that the specific and limited activity of governing has 'nothing to do' with morality. Both scholars, however, rely upon unspoken understandings of what is good when articulating their ideas. Oakeshott, for example, maintained that it was *good* to minimise frustration.

Moreover, he insisted that it was *better* to be ignorant of truth rather than pestered by it (1996: 100-130). Nor are Posner's theories about law and sex any more morally neutral.

According to Posner, the great rival to his views on such matters is 'a heterogeneous cluster of moral theories' (1992: 3): in other words, any theory that acknowledges that it is based upon an understanding of the nature of the good rather than what Posner calls the 'scientifically rational'.

Yet in accurately describing his theories as '[f]unctional, secular, instrumental [and] utilitarian' (1992: 3), Posner reveals that his thinking has not, after all, managed to escape the realm of moral philosophy. For utilitarianism cannot escape taking a view about *the nature of the good*. In crude terms, what is 'good' for the utilitarian is aggregate

**Discussions about morality,
for example, become reduced
to the ritual reciting of
bromides such as 'you have
your values, and I have mine'
or 'we'll just have to
agree to disagree'.**



pleasure—what gives the greatest pleasure to the greatest number.

Neutrality is also to be found on the ‘left’ where neo-Marxists like Jurgen Habermas and left-liberals such as John Rawls invent concepts such as the ‘Veil of Ignorance’ to convince us that if we want to grasp the principles of justice, we must pretend to forget both who we are and everything that we have ever thought or learnt about good and evil.

Rawls, for example, has stated that no-one should ever act in public life—for instance as a voter—on the basis that such-and-such an opinion is true. Truth, in his view, should be supplanted as the criterion for right political action by an idea of the ‘reasonable’ (Rawls 1996: 61, 127). As John Finnis observes, this leads to the rather strange conclusion that ‘many conceptions of public policy are “reasonable” although quite untrue’ (1997: 492).

Yet it is far from obvious that reason obliges anyone to abandon attachment to the truth or to stay silent about truth. It is even more unreasonable to think that people would or should willingly do so. To favour what one believes to be true and good is certainly to favour, but it is not bias: it is the *very condition* of being practically reasonable.

From this standpoint, it becomes clear that Rawlsian ‘neutrality’ is not neutral. It is profoundly *anti-perfectionist* in orientation. Put another way, Rawlsian neutrality holds that there is something *wrong* with viewing the law as critical to the fostering of an environment that helps people to self-realise the true and the good. It does so because any such action proceeding from a perfectionist understanding of the law is considered to constitute a violation of people’s autonomy.

‘Autonomy’, then, is the Rawlsian trump card—it is the *value* that, almost always, overrides any other consideration. Needless to say, this is *not* a morally neutral position. Indeed, as Paul Campos notes, there is little doubt that some people embrace Rawls, not because of his neutralist pretensions, but precisely because they want to foreclose specific advocacy from certain quarters (1994: 1825).

The promotion of rights, a certain degree of state-sanctioned neutrality, and tolerance are, in contemporary political discourse and practice, associated with modern

liberal democracies (although their pedigree precedes the French Revolution). Hence, while one may say with Tocqueville that democracy is, to a certain extent, the ‘natural’ political society, the ease with which these concepts—if mishandled—can gradually undermine democratic procedures leads to the conclusion that democracy needs to be constitutionally, culturally and, above all, morally moderated.

Tocqueville’s own recommendations were twofold: that we all consciously cultivate the virtues and the free *moeurs* required by a free people; and that we strengthen civil associational life at every level. In each of these areas, Tocqueville believed that religion (by which he meant formal organised credal religion rather than a vague spirituality accompanied by a smorgasbord approach to morality) had a crucial role to play.

Reflection upon contemporary Western and Australian culture suggests that its capacity to promote Tocqueville’s remedies to counter democracy’s negative tendencies is, in many respects, weak. We need a serious discussion of the moral and cultural preconditions required by a democratic and truly free society that is resistant to the spectre of majoritarianism as well as what Alasdair MacIntyre denotes as the emotivism that drives so much contemporary Western political discussion (1981: 6-34).

Yet in much of Western society, there is a distinct tendency to label anyone who, for instance, has the audacity to maintain that some acts are always and in every case evil, as ‘intolerant’ or a ‘fundamentalist’. This being the case, it is extremely difficult even to begin the type of conversation that is sorely needed.

Conclusion

So, one might ask, what is to be done? We cannot return to aristocracy. But at the same time we cannot stop democracy because it is, to a large extent, natural to society. Perhaps our best starting point is to begin by explaining the limits of democracy and, more specifically, that it is simply not equipped to perform certain functions or answer certain questions.

As Europe’s foremost Tocquevillian scholar Pierre Manent points out (1996: 142), democracy cannot answer what is perhaps the most important philosophical question

We need a serious discussion of the moral and cultural preconditions required by a democratic and truly free society that is resistant to the spectre of majoritarianism as well as the emotivism that drives so much contemporary Western political discussion.



facing us—*Quid sit Homo*—i.e., what is man? It can therefore provide no coherent answer to the question of the limits to human will. It can, at best, only provide a certain pragmatic means for responding to issues of truth and falsity—and a pragmatic response is not always the type of answer required.

In short, we need to convince others that we must love democracy moderately, since it does not deserve our absolute devotion, and that more attention needs to be given to nurturing the type of moral and cultural milieu required by democracy along the lines suggested by Tocqueville over 160 years ago.

As Tocqueville noted, if we want to preserve democracy and allow it to flourish, then we need to cultivate the virtues as well as the familial, religious, commercial, and civil associations that draw the individual out of his isolation, rescuing him from the prospect of soft despotism.

The qualities of honour, self-restraint, self-reliance, and determination that were once considered the attributes of a privileged hereditary caste need to be transmitted to as many people as possible. In this sense, a 19th century aristocrat may have understood us and our dilemmas better than we understand them ourselves. ■

References

- Aquinas, T. 1975, *Summa Theologiae*, Blackfriars, London.
- Campose, P. 1994, 'Secular Fundamentalism', *Columbia Law Review* 94: 1825-138.
- Convention on the Rights of the Child*. 1998, Adopted by the United Nations General Assembly, 20 November 1989.
- Finnis, J. 1997, 'On the Practical Meaning of Secularism', *Notre Dame Law Review* 73 (3): 492-515.
- Glendon, M.A. 1991, *Rights Talk: The Impoverishment of Political Discourse*, Free Press, New York.
- Havel, V. 1990, 'Words on Words', *New York Review of Books*, January 18.
- Hittinger, R. 1995, 'The Gospel of Life: A Symposium', *First Things* 56, October: 35-36.
- MacIntyre, A. 1981, *After Virtue: A Study in Moral Theory*, University of Notre Dame Press, Notre Dame: 6-34.
- Manent, P. 1996, *Tocqueville and the Nature of Democracy*, trans. J. Waggoner, Rowman and Littlefield, Lanham, MD.
- Oakeshott, M. 1996, *The Politics of Faith and the Politics of Scepticism: Selected Writings of Michael Oakeshott*, T. Fuller (ed), Yale University Press, New Haven.
- Posner, R. 1992, *Sex and Reason*, Harvard University Press, Harvard.
- Rawls, J. 1996, *Political Liberalism*, Columbia University Press, New York.
- Tocqueville, A. de. 1951, *Oeuvres complètes*, J. Mayer (ed), Fayard, Paris.