

Introduction

Our moral distinctions have meaning. In the big picture, moral distinctions mark the difference between civilized and uncivilized countries. Towards that end, democracy is no mere moral system; it is morality itself. Our moral character is drawn from our capacity to function within a democracy. We recognize that it is better to lose fair-and-square than win by cheating. We understand that our opinions could be wrong, even about ultimate and fundamental things. We respect the will of the majority and adhere to it. In a word, we are *governable*. When we succeed at bringing democratic precepts to life, we open the door to freedom; when we fail, we create space for tyranny.

It is considered, in some quarters, the height of civic wisdom to claim that “we are a republic, not a democracy.” This sounds smart, but it is not. Just as the cart comes after horse, laws are the product of legislation. Whatever our “inalienable rights,” they are secured by government which derives its “just powers from the consent of the governed.” It is genuinely odd that our Constitution, which was “established and ordained” by “the People of the United States,” is given as a reason for negating democracy.

The tendency to discount democratic moral reasoning stems from a misconception about “the rule of law.” In our litigious country, there is a conceit that, if we are willing to let the police do their job, the law provides all the teeth necessary to ensure civilized order. But human beings are corrupt, and in the absence of the moral standards required by good citizenship, public institutions fail under the weight of their own bullshit.

Democracy has always been the moral standard in our country. Even when elitists, in the earliest days of the federal republic, sought to reestablish aristocratic governance, Americans were not having it. It is no accident that the Democratic Republicans, not the Federalists, dominated the earliest decades of American politics. The Founding Generation did not risk everything just to be ruled by a new set of self-appointed tyrants. All men are created equal in this country—and go fuck the know-it-all who says otherwise.

Our purpose here is to not degrade the Constitution. Quite the contrary, we are obliged to uphold the rule of law. But we must also remember that democracy is our “unwritten constitution.” Just as laws originate with lawmakers, the Constitution originates with democratic citizenship. One cannot understand our Constitution without understanding the moral impulses which led to it. Those impulses, like every single moral impulse beneath the patriotic sweep that is our civic heritage, were anti-tyrannical and, what is the same thing, pro-democracy.

Democracy is the Principle

The great philosopher of the Enlightenment, Immanuel Kant, said that two things filled his mind with wonder: the starry skies above and the moral law within. The “starry skies above” are indeed wondrous, but is the same true for the “moral law within?” After all, we seem to apply those “laws” when it suits our fancy. We want to fudge our taxes, so we tell ourselves that the government just wastes money. We want to cheat on our spouses, so we tell ourselves that we have a right to be happy. We want to steal things, so we tell

ourselves that we are raging against the machine. Each of these—reducing waste, finding happiness, and fighting injustice—are important ideals, but there is nothing principled about simply doing what one wants.

We know that, just as there is such a thing as “civilization,” there are such things as “moral standards.” Morality has a factual basis because civilized order has a factual basis. The principles underlying civilized order are no less real than the nations of earth. Each country occupies a spot along the moral continuum, and when standards are disrespected, life becomes nastier and more savage.

There is a romantic view that religion creates morality, which in turn produces civilization. In the more classical conception, our rational faculties create a moral alternative to our unbridled savagery. Using “civic reasoning,” we organize coercion in a manner that differs from the rest of the animal kingdom. In effect, we “recode” ourselves. While coercive activity still exists, it answers to a standard other than itself. Since most of us have an instinct for the Almighty, that standard may incorporate elements of religious faith, but the ordering process flows from civics to morality to religion, not the other way around.*

Why would the governmental instruments of physical coercion be concerned with moral standards? In many cases, they are not. Nature itself, being “red of tooth and claw,” does not care about justice, but moral standards do not come from nature, and morality *does* care. We see the moral reality of civilized order, and so, together with other citizens, we suppress our natural impulses to obtain its benefits.

As Americans, our version of civilization is the moral universe known as the United States. Its virtues are our virtues, and its sins are our sins. Since the United States lives on, even as its citizens are born and die, our citizenship is the consequential extension of our country. To use the British constitutional categories of “the dignified” and “the efficient,” American citizens are the “dignified” product of our “efficient” country. The United States is “efficient” in the sense that it applies power in the world to the benefit of American citizens.

While there are always questions whether the application of power is truly beneficial, it is undeniably true that governmental power *will* be applied, in one form or another. It can be as democratically construed government, authoritarian street gangs, or something in between, but coercion and the threat of coercion is the physical reality of our lives. Civic reasoning—and especially “democracy”—creates the moral prospect that coercive power will rise above animal appetites and help produce prosperous and flourishing human beings. If civic reasoning is like Kant’s “moral law within,” then democracy is like Kant’s “categorical imperative.” Together, civic reasoning and democracy provide the moral equipment needed for a successful order of liberty.

This makes citizenship our most important responsibility; more important, even, than our responsibilities as spouses, parents, employees, vendors, or disciples of God. Citizenship

* This earthly assumption does not make religion less important. It may be that civic reasoning was implanted in our brains by the Lord Himself, but it is virtually impossible for any religion to survive without the “safe space” excavated by civics.

is what enables those other roles. As citizens, we are obliged to think rationally about the world. This is especially true for *American* citizens: we may have been Christian colonies, but it took the Enlightenment to make us a republic. Since our country grew out of the British Enlightenment, American citizenship has a special foundation in reason and science

People who grow up in rational, civilized countries are taught to see their coextensive lives democratically, without an excess of physical coercion. Government may be, first and foremost, coercive authority, but when it is constituted with the consent of the governed, then it is moral. Conversely, when government coerces without the consent of the governed, then it is “tyranny.”

Tyranny is not overlarge government. It is not taxation. It is not government we dislike. Tyranny occurs when government ceases to be representative. This can happen when some clique seizes the reins of authority and discontinues legitimate elections. It can happen when the constitutional mechanisms in a country lead to fundamentally non-representative governmental institutions. But it does not happen simply because we disagree with the majority.

We may live in a “constitutional republic,” but a constitution is no excuse for tyranny. And while “constitutionalists,” taking their lead from a French aristocrat who toured our country in the early 1830s, may argue that a majority can also be tyrannical, the very definition of tyranny is when a minority exercises *its* will upon the majority. “Tyranny of the majority” is a cute piece of linguistic jujitsu, but it is nothing more than the claim that ordinary people cannot manage their own affairs. Our republic was *founded* to contradict that claim.

Elections have meaning. They have power and moral force. The only requirement is that the elected government accurately reflects the will of the people. Identifying that will is not a complicated task: it is expressed by the votes of the majority. Not a plurality, not a gerrymandered fabrication, not an intervention from the judiciary, but by 50% plus one.

Why is majority rule so important? Because the opinion of the majority is our closest and best approximation of the will of the people. Americans tend to conflate respect for *minority* opinion with moral decency, but the morality is in respecting the *majority* opinion. We have a duty to abide by it and not complain too much when it is expressed as sovereign power. In a democracy, the majority has an obligation to check that it is *still* the majority, which it does by periodically holding elections, but when government governs with the consent of the governed, it is morally entitled to engage the economy, and the culture, in whatever way it wishes, from setting labor and environmental standards to banning flag-burning and starting each school day with a prayer.

The United States is not a salad bowl, with distinct segments and pieces; when a family becomes American, it joins the melting pot. In this country, “all men are created equal.” Our voices, at least at the ballot box, count equally. The United States of America may be broad and far-flung, characterized by a “rich diversity”, but we are also one nation and one people. In other words, democracy is *the* principle in our country, and its civic discipline informs every moral truth.

Many Americans regard civil rights as underpinning our democracy, but that is exactly wrong: democracy underpins our civil rights. Our right to think, to speak, to write, to assemble, to worship (or not worship, as the case may be), to own property, to a fair trial, and so on, grow out of the democratic precepts of majority rule, frequent and fair elections, and one person, one vote. When we adhere to democratic precepts, our civil rights flow organically; after all, democracy is, as much as anything, an empirical testing ground for constructive ideas. When we violate democratic precepts, our liberties become morally deformed. Given our nature as human animals, we become nihilistic and destructive. Any self-respecting country has a right to defend itself from that misuse of freedom. The mechanisms of democracy cannot be allowed to destroy democracy.

We have said that there are moral standards enabling civilization and civilized order, and that those standards are reducible to democracy itself. Think, for a moment, about a game of pick-up football. There is no referee, just a football, a field, and a group of players. There is also a preconception of the game—endzones, sidelines, number of downs, points awarded—but the rules for the game at hand must be determined. Are we playing “tackle” or “touch?” If we are playing touch, is it “two hands below the waist” or “two hands below the shoulders?” Can the quarterback run with the ball, or does he have to pass it? Are there “first downs?” How might they be achieved? These rules, and others, must be sorted out before the game can even begin. And then, once the game *has* begun, we still must adjudicate disputes as they arise: “I caught that ball,” “no you didn’t,” and so on. When the disputes are not resolved, the game—with all its fun and glory—dissolves.

Democratic countries function in much this way, where citizens simultaneously compete and cooperate. Competition produces behavioral excellence while cooperation involves our duty to see that the “game” itself does not break down in failure. We meet that duty when we adhere to the rules, and we fail in that duty when we do not. Over time, through hard trial-and-error, we refine those rules to enable a better “game.” The eternal verities of civics and morality do not change, of course, but our imperfect knowledge of them hopefully becomes less imperfect.

Like Kant, the Founders had little use for *direct* democracy, where citizens explicitly decide on the multitude of issues. They expected the *Constitution* to be the basis of our civil society. But Kant pointed out that the constitution and rule of law has *its* basis in the moral character of those being governed, *and* that a bad constitution and bad laws contribute to their bad character. Citizens indulge in widespread immorality when the constitutional order is inherently immoral, and the constitutional order is inherently immoral when it is not democratically representative. This is arguably the situation in our country today.

We do not need direct democracy to meet the moral requirements of democracy itself—we can vest our representatives with broad and consequential powers—but those representatives must be truly representative. It does not matter if executive authority is selected from the legislative authority or directly from the people. It does not matter if the legislative authority is chosen at large or by district. It *does* matter when the votes of some citizens count more than the votes of other citizens. It matters because it obstructs

majority rule, and tyranny is the only beneficiary when democracy is haphazardly organized.[†]

Government which does not—or cannot, due to its constitutional mechanisms—reflect the will of the people is tyrannically coercive because minorities—usually *rich* minorities—find ways to finagle ill-conceived rules to their own advantage. When governmental institutions are congenitally unable to accurately reflect the will of the people, it is a failure of the constitution and not democracy.

In the moral universe known as the United States, changing the Constitution is virtually impossible. There were few examples of democratic republics at the time of its Framing and the Framers thought that broad consensus was a more legitimate threshold for fundamental civic change than a bare majority. It made intuitive sense, and does not breach democratic principles per se, but as a practical matter, it meant that determined minorities could stop democracy in its tracks. New policies could not be tried, old problems could not be fixed, knowledge could not be added to our toolkit, and national failure would linger for decades and even centuries. Social cohesion is stretched to the breaking point, as Americans are constitutionally blocked from self-government.

There is moral arrogance to minority prerogative. The constitutional mechanisms which skew our country away from democracy and towards tyranny occurred from an accident of history, but the idea that our Constitution contains extra wisdom *because* it keeps power out of the hands of the majority, giving some voters more representation than others, is the precise source of the moral confusion in our country today. When manipulating the law towards foreordained outcomes is more important than democracy itself, it will reflect in the character of the people.

The Founders knew that they were living a social contract moment during the long decade of American genesis from 1776 to 1788, but just as history determines what is and is not possible today, they too were driven by historic circumstances. The American Revolution was technically an uprising of the several colonies, not the American people per se. The first constitution, the “Articles of Confederation and Perpetual Union,” enacted in 1777, reflected the reality that the “United States of America” was not a nation-state, but a confederation of thirteen nation-states. Each “country,” regardless of size, was a coequal member in the confederation, and held constitutional veto-power over the other twelve.

By 1787, the inefficiencies and inequities of this arrangement had made it untenable. In the first place, no one really saw the thirteen states as countries. To the world, and to ourselves, we were “Americans.” Equally, though, and notwithstanding revolutionary rhetoric to the contrary, Americans now realized that government-too-weak threatened liberty as much as government-too-strong. As the young country struggled to find its

[†] In the “Virginia Plan,” which was the rough draft of the constitution we have today, the House of Representatives was projected to select the Senate as well as the President. This manner of “layered democracy” is much more aligned with the principle of “one person, one vote” than the system which was ultimately enacted.

footing, there was gathering appreciation that vigorous central government was required to protect our independence and safeguard our freedoms.

The problem was that small states were not going to relinquish the special privileges conferred on them by the Articles of Confederation. And the Articles, being the constitution at the time, required unanimous consent to be changed (ultimately the Framers simply circumvented that rule, declaring that they only needed nine states for the Constitution to replace the Articles). The supermajority bar to constitutional change meant the Framers had to make a series of anti-democratic concessions to the small states, who had little problem with national consolidation, but wanted to maintain their disproportionate power under the “one state, one vote” rule.

Still, and unlike the Articles, the new Constitution was “established and ordained” by “the people of the United States.” Americans were now directly related to their national government. That relationship was no longer mediated by state government. This meant—and means—that the national government was—and is—morally responsible to the American people. And yet, between the Senate, the Electoral College, systematic gerrymandering, voter suppression, and the judicial hijacking of democracy itself, the inability of constitutional institutions to accurately represent those who created the Constitution—the American people—is a fatal flaw. It is the civic failure which leads to the widespread moral failures of Americans generally. After all, how can law and equity be important virtues when our own Constitution does not even respect the sanctity of self-government?

Law and equity matter deeply to the youngsters organizing a pickup game of football. As the game is played, they are duty-bound to adhere to the rules, but they also learn as they go. Using civic reasoning, they may come up with better rules, creating a more enriching game. Or they may try some rules which do not work well. One might think of civic reasoning as a kind of “a priori democracy,” where each American has the capacity to process the “big picture” rationally, beginning with his regard for the capacity of other Americans to do the same. This democratic capability not only enables *better* laws and *more* equity, but creates a foundation of respect for the rules which already exist.

In the Judeo-Christian conception, a priori principles come to us in the form of Scripture. Christians guide their behavior with biblical text, where certain forms of behavior are sanctioned, and others rejected. The problem is that the Bible is not a rationally coherent set of moral precepts. *This* Christian emphasizes “an eye for an eye” while *that* Christian emphasizes “turning the other cheek;” they use the same broad text to spiral into radically different directions. Both are supremely confident they are on the side of angels, so it is no accident that Christianity is highly schismatic, with new sects being formed all the time.

The reason for Christian moral failure is not that there are a set of laws which command our obedience, but that those laws answer to sovereign belief. We have been trained to think that personal beliefs cast legitimacy to one’s moral reasoning: “I do not agree with that man, but I admire his conviction.” This is also precisely wrong. There is no moral reasoning without rational principles, and principles are not beliefs. As a civic matter, principles can be tested, and they *are* tested in democracy. We are allowed our convictions, of course, we

are just not allowed to treat them—or any part of our personhood—as morally decisive. Where civics is concerned (and again, citizenship is the most important thing we do), our beliefs do not amount to a hill of beans.

We know that moral distinctions matter. It is our nature to want to feel morally superior—and to resent it when others act morally superior to us. The idea that we are in rough moral equilibrium to the world around us is a difficult truth for most people to confess. We may be sinners in a sinful world, but are we not morally superior to criminals? Perhaps so, but the belief in moral superiority makes us susceptible to bullshit. We want credit for our moral outrage, as though our anger about pedophiles, say, or murderers, puts us on the side of the angels. Our moral outrage is taken as a sign that we are morally authentic, that we at least have the decency to be pissed-off about serious transgressions. In fairness, our moral outrage does not make us morally *inauthentic*, but moral authenticity itself is reducible to principled (or civic) reasoning. Moral *passions* are easily faked, even by pedophiles and murderers themselves.

In a sense, that is our quandary: morality matters, and we can, when we are honest, speak to our own character, but despite living in a world driven by moral distinctions, we have no way of knowing, really, the true moral character of others. Our moral passions are parallel to moral reasoning, neither adding nor subtracting from its content. The presence of emotion does not mean that reason is absent, nor does the absence of emotion mean that reason is present. In this world, though, saints are self-tormenting while evil sleeps like a baby. And yet, despite the opacity of moral truth, all is not lost. We know that rational souls share common perception, that great nations are built from shared perception, and that rational perception, which alone captures abiding moral truth, is greatness which endures.

Rational souls may be liberal or conservative, or they may mix-and-match their liberalism and conservatism. They may disagree with one another, even about ultimate and fundamental things. But they see the world in much the same way, they acknowledge that they *could* be wrong, even about ultimate and fundamental things, and they never, *ever*, assume that philosophical and political differences speak to differences in moral character. The differences in character arise from whether one is a wannabe tyrant or a small “d” democrat. And *that* difference is made plain by the respect one has for his fellow citizens. Either one thinks that Americans are up to the task of self-governance, or one holds the haughty conviction that he, and those he supports, know better.

Majority rule may seem like a frightening prospect to citizens trained to think in the language of individual rights, but those values are not rescinded simply because we adhere to the moral discipline of democracy. When democracy is the principle, like children looking for ways to make the ballgame better, we find ways to “form a more perfect union.” But the key is democracy itself. If we only care about democracy when it generates the outcomes we want, then we are tyrants-in-the-making. We become cheats and louses, not even fit for a pickup game of football.

Naturally enough, we blame our transgressions on the transgressions of our opponents, as though *their* lack of standards is properly *our* standard. There is a maxim that where

winning is the religion, cheating is a sacrament. Many Americans simply cannot acknowledge, even as a thought experiment, that it is better to lose an election fair and square than win unjustly. This represents a failure of our Constitution and the type of civic reasoning it engenders. In this world, it is an ironclad law of nature that you win some and you lose some. While there are those who think that if “you are not cheating, you are not trying;” the truth is that winning is for losers. Winning is more joyful than losing, no doubt, and it is fun to celebrate well-earned success, but it is naive to think that a *civic* framework can be built around victory and glory. Good times fade, even as moral challenges, and civic principles, endure.

The stakes are admittedly high in politics—privilege or powerlessness, poverty or prosperity, war or peace, even life or death—but those high stakes are no excuse to abandon the moral compass, perhaps planted by God Himself, to guide our lives in a manner that is rational, decent, equitable, and just. While most romantic Americans are entirely willing to fuck with democracy for the sake of power, we only restore our classical, middle-class, Jeffersonian country when we hold to the moral reality of democratic principle. When that happens, we will *actually* make America great again (AMAGA). But it starts with prioritizing majorities over minorities, and with recognizing that, pious assertions to the contrary, our Constitution, to the extent it is anti-democratic, discourages honorable behavior.

Summary of Key Points

- Democracy is not a moral system, it is morality itself
- Morality has a factual basis because civilization has a factual basis.
- Civics creates morality, which creates religion, and not the other way around
- We live in a moral universe known as the United States
- Like all true countries, the United States is a melting pot, not a salad bowl
- As citizens of an Enlightenment nation, Americans know that, whatever their political differences, rational people see the world in the same way
- The United States is, by intent and design, a democratic republic
- Our civil rights come from democracy and not the other way around
- A functioning democracy is characterized by respect for majority rule
- The mechanisms of democracy, such as free speech and free religion, cannot be allowed to destroy democracy.
- Tyranny is what happens when government is run by minority opinion
- The systemic failures of the American Constitution are accidents of history, but they undermine the character of Americans themselves.
- The way to fix the Constitution with national referenda.‡

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‡ This was not included in the paper, but it is true, and a topic for another day.