PUBLIC MORALITY AND THE CULTURE WARS

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The Triple Divide

By

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ENFORCING MORALS

Alexis de Tocqueville in *Democracy in America* wrote that rights, liberties and toleration provided an insufficient basis for a viable social contract. It was also necessary for the state to cultivate what he called 'habits of restraint'.[1] It did so by passing laws that affirm and enshrine particular norms and values. Laws didn't just prohibit or punish something. These could also symbolically proclaim the shared values and worldview of a community.[2] All societies have customs and social norms that influence how their members interact with one another. Public moralities are enforceable versions of these.

Public moralities are as old as the first laws and religious codes enacted by humankind. All throughout recorded history social norms and values of one kind or another have been policed and enforced. Public moralities are integral to all cultures and civilisations. Those who breach the norms, taboos and orthodoxies of a particular community, church or social movement may find themselves sanctioned, expelled, excommunicated, blocked or subject to a pile-on of mass criticism. Public moralities have a coercive aspect that can variously marshal bigotry, bias, intolerance, prejudice and stigma to serve some dominant conception of the greater good or be aimed at curbing individual behaviour that is considered to be morally wrong. Public morality finds expression in laws focused on shaping or nudging the conduct of individual members of a society. It is often concerned with 'character' or habits and the perceived implications of these for the moral ecology of society.[3] At various times and places religious conservatives, secular liberals and, more recently, so-called progressives have sought to impose their beliefs and values on society as a whole.

Various laws are to be found in democratic societies that limit certain forms of conduct on the grounds that these are considered to be morally wrong or indecent.[4] The introduction of some such legislation has been

based on the presumption that people take their moral ideas about what constitutes acceptable behaviour from what is enshrined as law. As claimed by Harry Clor in *Obscenity and Public Morality* (1969):

> *Law cannot force men to be good, but it can prevent some of the worst forms of evil, and it can point the way toward moral improvement by holding up a standard somewhat higher than that upon which many persons are acting.*[5]

Public morality, insofar as this seeks to regulate individual behaviour or social practices by means of legislation, rules and sanctions, can be a tool of social engineering. Legislation can seek to institutionalise particular religious, liberal or social justice values as societal rules. Laws that sanction certain kinds of behaviour such as expressions of same sex love, public nudity, drinking alcohol whilst driving or drinking alcohol at all, taking recreational drugs, smoking in public places, contraception, abortion, divorce, duelling or pornography can be seen to have changed over time. Many of these issues have become politicised by interest groups who might be variously described as conservative, liberal or progressive. We can see that some societies have become more socially liberal over time and that some efforts to promote public morality by conservatives have been rear-guard actions aimed at preserving preferred standards of behaviour and social values.

Recent decades have also witnessed political projects of levering public morality to promote new forms of 'progressive' social justice aimed at addressing discrimination or inequalities experienced by some people on the basis of their gender or sexual orientation. Many of the drives to impose laws aimed at promoting some kind of public morality examined in this book were influenced by religious and other kinds of moral fervour. Secular twenty-first century secular evangelists for social justice are sometimes referred to as 'woke' whilst earlier religious evangelical awakenings in the United States provided an impetus for public morality campaigns to prohibit the sale and consumption of alcohol.

We associate democratic societies with individual rights and free speech yet people in such societies also believe themselves to the constrained by various societal rules and norms. Laws that are put in place to influence the behaviour of people may be rooted in such established norms. Sometimes new rules emerge, such as the prohibition of smoking in public venues, that are designed to discourage certain kinds of behaviour and to engineer the general climate of opinion about what is proper behaviour. Efforts to impose

prevailing understandings of morality upon society through legislation, the promotion of particular social mores and the stigmatisation of various kinds of behaviour are perhaps common to all past and present human societies including those that value free speech and individual autonomy. It may often be the case that laws that enforce public morality are not controversial because these reflect the beliefs and values of a majority.

Conflicts about public morality become amplified when societies are changing and there is no longer a clear consensus about moral values. In various countries, secularisation resulted in challenges to forms of public morality aimed at bolstering religiosity as have changing sexual mores. The unsettling of consensus about moral values can find expression in what Stanley Cohen referred to as 'moral panic', the perception that the morals, values or interests of a society are endangered by the some hitherto marginalised group or some previously prescribed form of behaviour.[6] Every moral panic has its scapegoats whether these were the women accused of witchcraft in Salem who inspired Arthur Miller's play *The Crucible*, or those who were the subject of anti-communist 'witch-hunts' of the mid twentieth century. More recent moral panics include responses to the AIDs crisis in the United Kingdom which sought to 'demonise' homosexuality as a moral threat to children within the education system.

Women who were deemed to be in breach of moral codes have often been the focus of coercive measures. Over the centuries these have included the harsh treatment of unmarried mothers though punitive poor laws (the United Kingdom), incarceration and forcible adoption of their children (Ireland) or forcible sterilisation (the United States and Sweden). Moral panics tend to cast 'deviant' minorities as folk devils, as symptoms of some moral threat from which society must be defended. These groups can become explicitly targeted by laws and policies aimed at protecting others from their presumed corrupting influence.

The focus of this book is upon the main strands of public morality that have come to be institutionalised in Anglophone democratic countries. Three of these are emphasised:

- Those derived from Christian beliefs and theology characterised by beliefs in individual moral responsibility and a sinful human nature.
- Those derived from a liberal individualism, rooted in the Protestant Reformation, which emphasises the need to distinguish between private morality and public morality and which values tolerance.
- Those derived from post-Enlightenment rejections of God-given moral law or beliefs in fixed human nature.

Anglophone democracies share religious traditions and trajectories of secularisation and liberal individualism as well similar (common law) legal systems that have similarly engaged with debates about free speech, privacy and tolerance. The examples and case studies set out in subsequent chapters address the influence of strongly-held beliefs about human nature, sexuality, gender and when life begins that are invoked in debates about public morality and the rights of individuals.

Such debates about public morality tend to be examined as manifestations of what James Davison Hunter influentially described as a culture war. In *Culture Wars: The Struggle to Define America* (1991), Hunter examined what he described as fundamental conflicts between two sets of protagonists: 'traditionalists' and 'progressives'. The former is exemplified by beliefs in transcendent religiously-derived authority whilst the latter are 'defined by the spirit of the modern age, a spirit of rationalism and subjectivism'.[7]

In this book, I emphasise a triple divide between three sets of protagonists each with distinct perspectives on social and moral issues. My first category is the same as Hunter's. The world view of those he refers to as traditionalists is derived from Christian thinking about morality. My other two categories highlight disagreements between liberals and progressives about individual freedoms and about the enforcement of public morality. This book includes a focus on conflicts between liberal champions of private morality and progressive advocates of public morality who have become increasingly prominent in Anglophone countries since the turn of this century. My contention is that the culture wars of the twenty-first century have become asymmetric. Throughout the twentieth century, these appeared to express dualistic conflicts between conservatives and an alliance of progressives and those committed to classic liberal values. However, new alliances can be identified between conservatives and liberals against progressives who now appear to be sufficiently influential to enforce their values as public morality.

Much academic writing about public morality has focused on conflicts that have been addressed by the courts. The best-known such literature has focused on decriminalisation of homosexuality in the United Kingdom. This classic teachable debate (examined in Chapter 8) addressed arguments for (by H.L.A. Hart) and against (by Patrick Devlin) the proposition that the law should recognise a realm of private morality that was not subject to public morality. Devlin argued that no society could exist without certain shared moral principles to hold them together like a kind of glue and that, as such,

society had a right to defend its existence, using the law, against individual behaviour that might undermine public morality.[8] Devlin likened certain private moral offences and vices to acts of treason because he believed that these, if not reprimanded, might corrupt the moral codes that held society. Devlin argued that most people's personal moral codes were built like a house of cards: remove one or two that held the others up and the lot came crashing down.[9]

Devlin's presumptions, like many other stances on public morality examined in this book, were derived from underlying beliefs about human nature and good and evil. My focus is very much on conflicts between different systems of belief that influence efforts to impose or shore up particular social values though public policy or passing laws. Early chapters emphasise how public morality draws upon prevalent understandings of human nature or personhood. Chapter 2 examines those derived from Christian theology that have influenced conservative public moralities whist Chapter 3 addresses psychological understandings of the self that broke with earlier theological ones. Christian beliefs about original sin became intertwined with beliefs about flaws in human nature that might be seen to necessitate strict external controls on human behaviour. Beliefs that people are intrinsically good have very different implications for public policy.

Chapter 4 examines liberal perspectives on tolerance and individual rights which distinguish between public morality and private morality. Liberalism, as this developed under the intellectual influence of John Stuart Mill, was rooted in Christian morality. However, it became a foundation upon which alternatives to Christian morality were built. Twentieth-century 'social liberalism' emphasised bodily autonomy and sexual liberation as well as free speech. In doing so it broke with approaches to sexual morality and sex roles that were promoted alongside religious faith by various Christian churches. Social liberalism became, as Richard Rorty put it, a value culture that functioned as a cultural identity. In much of the democratic West liberalism became the dominant societal culture. Its core value was tolerance but it has proven to be more than capable of being intolerant towards those deemed, from a liberal perspective, to be intolerant. The proposition that society must be defended is by no means restricted to conservatives. The main way in which liberalism has sought to influence public morality has been by removing the influence of religion from the public square. Core liberal doctrines include the separation of church and state and the relegation of religion to the private sphere.

Later chapters address particular issues such as the censorship of movies, the prohibition of the sale and consumption of alcohol, abortion and the rights of women and LGBT+ people. These cases highlight conflicts between apparently incommensurable conceptions of morality that are often sincerely rooted in deeply-held beliefs. As well as some focus upon how such ideas and beliefs have influenced legislation there is an emphasis on how particular moral orthodoxies have shifted and developed over time within some organisations that have sought to influence public morality including the Catholic Church, the Southern Baptist Convention, feminist organisations and those representing LBGT + communities. There are considerable similarities between how various ideological and faith communities have sought to impose their beliefs and values as public morality across time and space.

Public morality is often derived from religious ideas of what should be held to be sacred but it can also reflect the secular equivalents of these that Jean-Jacques Rousseau referred to as civil religion. In the absence of binding spiritually-derived moral rules other beliefs can become the basis of public moralities. These can include democratic ideals, particular understandings of justice and fairness and values seen to be associated with patriotism or national identity.[10] Only when beliefs are sufficiently shared – when these to some extent transcend social divisions enough to create a sense of wider communal solidarity – might these amount to a civic religion.[11] A public morality does not necessarily need to be explicitly grounded in religion but it does need to be rooted in beliefs and values that are sufficiently shared for the curbs and restrictions it advocates to be accepted as legitimate.

Sociologists distinguish between the operative principles – beliefs, values and communal relationships – of traditional communities and those of modernity where diversity, individualism and complex interdependencies between people with different knowledge, beliefs and skills became necessary. The traditional society as depicted by the late-nineteenth century sociologist Emile Durkheim was characterised by homogeneity. Members of typical rural communities lived very similar lives to one another, did the same kinds of work, had the same kinds of experiences and beliefs and lived out their lives in a solidarity based upon the similarity of their lives.[12] In such communities, there may be little scope for individuals to express a private morality that deviates from prevailing customs, norms and beliefs without being rejected, shunned or punished. Those who broke with the conventions of village life, perhaps by not going to church, forming an unsanctioned

relationship or having a child out of wedlock might be read from the pulpit or shunned by their neighbours. Durkheim's contemporary Ferdinand Toinnes used the term *Gemeinschaft* to refer to this kind of communalism.

Contrast this with modernity as archetypically portrayed by sociologists. Durkheim argued that the division of labour in complex industrial societies resulted in people living beside others with different knowledge, skills and beliefs, who were far more loosely bound together in communities that they would have been in the villages and rural areas from which they or their parents migrated from. They were not as bound by the norms of their neighbours although they were perhaps affiliated to churches that reproduced elements of rural or village communalism in urban settings. They were free, to a greater extent than those living in rural monocultures, to go their own way and live lives that were somewhat different from those of their neighbours without facing some kinds of social pressure to conform.[13]

One of the curious features of the present-day politics of public morality is how many people have come to experience a form of electronic *gemeinschaft* as result of their membership of communities that mostly exist online. Many such identity communities have specific norms and values which if breached can result in forms of shunning or excommunication. There is nothing new about the phenomena of cancel culture. While much of the literature on public morality is focused on how this is influenced by legislation it is also the case that public morality can be enforced or levered without legislation. Examples include (see Chapter 5) the censorship of movies in the United States where between the 1920s and 1960s Hollywood studios voluntarily followed a code of conduct designed to avoid offending clergy who might otherwise instruct their congregations to boycott particular films. At the time of writing various progressive civil society pressure groups encourage people to boycott newspapers and other businesses accused of promoting racism or transphobia. All cultures are cancel cultures.

The democratic societies within which the politics of public morality play out have also become secular ones, even the United States where a large proportion of the population is still religious. Charles Taylor in *A Secular Age* (2007) distinguished between three understandings of secularism that have a bearing on how the influence of religion upon public morality might be understood.[14] The first of these defines secularism as a process that removes religion from public spaces. Many people may be religious but the constitution and/or law separates church from state and

denies the former direct influence or control of the latter. Public spaces are secularised. This kind of secularism emerged, at a time when religion was ubiquitous, as a means of addressing sectarian conflicts between different branches of Christianity. The second meaning of the term considers secularism as the decline of religious belief and its practice. The United States became secular in the first sense but not in the second. Its constitution separates church from state but the religious beliefs of many of its citizens continue to influence politics.

The third kind of secularism lamented by Taylor, a philosopher whose writings were aimed at those who take religion seriously, was either aggressive towards or utterly indifferent to religious beliefs. In places where such post-Christian secularism predominated it could no longer be presumed that most people knew much about the kinds of religious beliefs and doctrines examined in Chapter 2.[15]

Rorty, an American pragmatist philosopher who advocated just such a dismissal of religion, exemplifies the kind of intolerant secularism that Taylor lamented had become widespread. Rorty exhorted liberal secularists to unsentimentally disregard beliefs that were once held sacred. Heavily influenced by Friedrich Nietzsche's insistence that God is dead so deal with it, Rorty argued that secular liberal progressives, having dismissed the idea of and authority of God should 'kick away the ladder' from Christian theology and outmoded beliefs in human nature. That vocabulary was, he argued:

> *[…] a useful one for our ancestors' purposes, but…* we *have different purposes, which will be better served by employing a different vocabulary. Our ancestors climbed up a ladder which we are now in a position to throw away. We can throw it away not because we have reached a final resting place, but because we have different problems to solve than those which perplexed our ancestors'.*[16]

The term pragmatism was derived from a lecture given by Charles Sanders Pierce in 1898 in which he argued that beliefs were important as rules for action rather than as attempts to represent reality.[17] Pragmatism as a philosophy had no dogmas, and no doctrines save its method. It discarded the usual quests for meaning that preoccupied most philosophy.[18] Pierce understood theory as a tool to serve human purposes.[19] It was no more wedded to empiricism than it was to metaphysics. As such, pragmatists depicted philosophy and religion as malleable instruments to be placed at the service of the will. William James in *Pragmatism* (1907) wrote that theological ideas could have