

**LIBERTY IN THE AGE OF TERROR:  
A DEFENCE OF CIVIL LIBERTIES AND ENLIGHTENMENT  
VALUES**

**A.C. Grayling**  
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**Introduction**

The western world of Liberty and Democracy is in grave danger according to Professor Grayling. Not only are we threatened from the outside by terrorism, but within us there is an even greater threat: the self-harm inflicted in response to the real and perceived threats of terrorism. The civil liberties that are the foundational principles of the Western democracies have been in trouble ever since September the 11<sup>th</sup> and the subsequent call for security . Terror is undoubtedly a threat, but “[...] the self-harm of inappropriate response to terrorism is less obvious, more insidious, and in the long term greatly more damaging.” This is the real political catastrophe of our age, according to Grayling.

The pressure on Civil Liberties<sup>1</sup> comes mainly from the mistaken belief that the right action against terror and crime is to dismantle aspects of our civil liberties: they are needed for protection against arbitrary state power. With 24/7 surveillance by Closed-circuit television cameras (CCTV), centralised identity card registries, large scale collection of communications and the possibility of imprisonment without trial, the liberal democracies of the west are slowly turning into police states. As Abraham Lincoln has said, “Those who desire to give up freedom in order to gain security, will not have, nor do they deserve, either one.”

The history of today fits into the category of the irony of human folly, Grayling says, because abroad we’re fighting a war to promote freedom, while at home this war has changed into a war on civil liberties which threatens to destroy the very foundation western democracies are founded on: the Enlightenment. We’re doing the terrorist’s work. We are diminishing the very principles the terrorists supposedly hate us for. But the sad thing is this is happening with little to no awareness, discussion and accountability.

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<sup>1</sup> I will not list the legal details pertaining to the reduction of liberties as it is outside the scope of this review. But I do wish to refer to the documentary ‘Taking Liberties, since 1997’ (2007), which can be viewed on [video.google.com](http://video.google.com), which shows the some of the effects of recent legislation.

Grayling's book attempts to fill this niche by placing contemporary developments in the perspective of their genesis in Enlightenment, how and why they are threatened today, and why we should not accept these developments. Grayling also engages in debate with contemporary thinkers in the second part of the book to further his points with Slavoj Žižek, John Gray, John Ralston Saul, Isaiah Berlin, Roger Scruton and Tzvetan Todorov.

### **I. Changes**

In the first part of Grayling's book he discusses the way in which civil liberties are undermined today, the motivations that are given for it, and how these justifications conflict with the principles of Enlightenment.

One reason why politicians are reducing the liberties of our democracies, according to Grayling, is tokenism; they think they have to be seen as doing something in the face of crime and terror. Another part of the problem is full-time legislators who legislate to justify their salaries. This is made worse by the bureaucratic belief that another regulation, another prohibition or more police power will help solve the problem. At the same time, this is fuelled by what he calls 'mission creep', the tendency to increase the use of existing legislation in a wider scope than intended. For example, more and more people are arrested under the new terrorism laws who are obviously not terrorists.

It is not just the politicians who are the problem; the technological industries that envision large commercial interests in the maintenance and control of these invasive technologies, are lobbying in the corridors of politics to get the politicians behind these plans. This is a problem for democracy according to Grayling, as these lobby groups sometimes appear to be more influential than the electorate.

Another major problem according to Grayling is the change in the relationship between the state and the citizens as a result of these new laws. He is no longer a citizen subscribing to membership of the state but a "number plated conscript of the state". The instruments of surveillance and control rest on the idea that every citizen is a potential suspect and must be treated as such. Proponents use the phrase "if you have nothing to hide then you have nothing to fear" as a justification. The problem with this is the underlying assumption that future authority will always be benign. A short lesson in history will tell you this is not something you can count on, which also shows why individual liberties could be an inconvenience for the state and their security services. Something that was strangely missing in Grayling's book is the obvious reference to Bentham's 'panopticon': the ideal prison where no one knows when they're being watched, only that they could be watched at any given time. This way people will internalise external pressure and police themselves. This is at odds with our ideal of freedom and shows what is wrong with ubiquitous CCTV cameras more fundamentally.

There have been comparable instances in British history during the Second World War when civil liberties were reduced and identity cards were introduced. Back then they were very reluctant to do so, and included a 'sunset clause' that made it necessary to re-vote on the law after a fixed amount of time. Today the legislation is permanent and more invasive for a problem which is much less dramatic than those faced during the Second World War.

These changes rest on the false assumption that security matters above all else. Security does matter, Grayling concludes, but just not above justice and liberty. Liberty necessarily carries risks. The courage to face these risks is what makes one worthy of liberty.

## **II. Identity**

By analysing John Stuart Mill, Grayling argues why personal liberty matters for the free development of individuality and for personal well-being. While conformism is repressive and stagnant, liberalism has been a part of the immense social change since the Enlightenment. Today this has changed to the opposite direction.

Liberal values like free speech have come under threat due to controversies that turn on 'feeling offended', like the Danish cartoon drama. The problem here is that anyone can incite themselves to outrage. This should not be a reason to silence others or oneself. The underlying issue, according to Grayling, is the tendency for people to identify themselves solely with 'singular overriding identities'.

Drawing on the work of Amartya Sen, Grayling says that "Describing others, or thinking of oneself, in terms of 'a choiceless singularity of human identity' is the mistake and the danger which not only diminishes individuals, but fuels the flames on conflict between them". Humanity is deeply divided within itself, mainly by chosen differences of ideology, religion, politics and economic self interest. These divisions turn on using ideological affiliation as the central feature of identity. This process was behind the cold war, and is at work today in the division between the Islamic east and the liberal democratic west. It is these overriding identities people are willing to die for.

These problems of identity are also at work in the problems facing integration of migrated people into our societies. Both the multiculturalists' and the assimilationists' approaches seemed to work at first. But, as their populations grew, the singular ethnic and religious identities trumped the allegiance to the host country, which increased tension and segregation between the groups. We should refuse to allow people to hide behind these overriding identities. The only identity that should matter is being human.

## **III. Civil Liberties**

The 'Patriot Act' was passed just 43 days after 9/11, with little debate, greatly increasing the power of the security services. It is now possible to view without warrant the telephone, email, finance, medical and library records without informing the suspects. The 'Protect America' Act made unrestricted untargeted 'dragnet' collection of international communications possible without court order or supervision. There have also been Orwellian cases of 'Newspeak' in the redefinition of terrorism, bringing more under its net.

Grayling deems some of these changes acceptable only when they have sunset clauses, have carefully circumscribed provisions targeted at terror threats, are under a scrupulous definition of terror and have proper juridical review as safeguard. But none of this is the case. He therefore calls for the need for a written constitution which can make permanent limitations to the restrictions of civil liberties.

Free speech is the most fundamental of all civil liberties, and without it all the others cannot properly be claimed or defended. Today's pressure on free speech comes from two sides. One is the government, other lobby groups, or religions who wish to prohibit publications because of fear its interests will be harmed. Another more insidious form is self-censorship out of fear of reprisal. Here, Grayling questions whether free speech carries an obligation to exercise it. In a climate of inflamed sensitivity it seems prudent to refrain from willingly causing violence. But the main question is if it is acceptable for a minority who wants to be exempted from that which all our institutions are subjected to: satire and criticism. No one would accept exempting politics from this treatment. As social organisations, religious bodies have no greater rights than others.

Liberty is not divisible. If you can only practice your liberty in certain proscribed areas it is not liberty. That is why we should resist the early assault of well-meaning politicians who wish to protect us from bad people and ourselves. Some restrictions on free speech are justified: like shouting 'fire!' in a crowded public space. But the UK recently criminalised the 'glorification of terror', and 'incitement to religious hatred'. A point Grayling repeats throughout the book is that the price for liberty is eternal vigilance. Free speech necessarily entails bad, offensive and dangerous speech. But the correct response should be better speech, not prohibitions. A problem here is the media circuses, who are the main purveyors of bad speech. Their desire for scoops has replaced their desire for truth, and sensation has replaced analysis. This raises the question of the rights and duties of the media, as intelligent monitors of government, and their essential role in a liberal democracy.

Tolerance is also essential because people are diverse. However, there's a paradox here: tolerant societies are at risk of tolerating those who are intolerant and allowing them to grow in their midst. It seems in contradiction with itself that tolerance must not permit intolerance to protect itself. For

Grayling, tolerance is not a warm attitude, but a principle: an ethical demand that everyone should respect everyone else's rights and liberties. This has two dimensions: 1) Tolerance does not mean not criticising and 2) being tolerated carries an acceptance of having to tolerate critique.

#### **IV. The 'War on Terror'**

The chief excuse for the self-inflicted erosion of our civil liberties is the real and perceived threat of terrorism, says Grayling. The idea of 'being at war' is used to justify these reductions. For Grayling, this is a rhetorical avowal of determination that became a policy, or better: a substitute for one. One effect it has is that it lumps together all non-state, self-constituted groups who use violence as a means. The result is a twofold problem: it offers disparate groups a common identity, and it leads to a uniform approach in dealing with them, which in fact needs a tailored approach for each case. Grayling here uses the distinction between hard and soft power. Hard power wins battles; soft power fosters peace and prosperity. For many, soft power seems too soft when they picture a Kalashnikov bearing suicide bomber. But these terrorists are symptoms of a variety of underlying problems: a historical complex of humiliation, suspicion and treachery. These causes are not addressed in our current solutions.

The first thing that is needed to combat these causes is a correct description of the problem. One essential point is that we understand and emphasise that this is not a war between the west and the Islam. Many Islamic countries suffer the same violence, and Islamic ethics also oppose atrocities like 9/11. Another part of the problem is the energy crisis. There is a direct relation between the price of oil and tyranny, which is often supported by the West in its hunger for oil. There are alternative energy sources needed to combat the huge weight of investments that keep the world at war in its effort to keep the economic wheels turning.

#### **V. Technology**

"The means of defence against foreign danger historically have become the instruments of tyranny at home," quotes Grayling from James Madison. The justification that is given for the implementation of new technology like biometric identity cards reveals a peculiar mindset. Tony Blair said it is not an issue of civil liberties, but one of modernity; that we must use these new technologies to fight new forms of crime. But the mere existence of new technology is not enough to justify its use. Each needs a separate case of its acceptability.

By asking who stands to gain from a decision, much can be revealed. In the case of these new technologies, Grayling lists 1) the security services 2) new criminal markets (identity fraud and data mining) and 3) the companies who deliver these new technologies. Given the prospects of large revenues, companies will do anything in their power to influence politicians in their

favour. Commercial imperatives, however, should not be allowed to take the public debate hostage. Furthermore, the access to these databases may be restricted at first. But 'mission creep' will ensure these will be more open in the future. The fact that Blair and other politicians are not concerned with questions of principle is deeply troubling for Grayling.

## VI. Democracy

Grayling notes that the British democracy today made a swing towards authoritarianism in reaction to a perceived national decline, but its institutions were always quick and careful in its unobtrusive dissipation of the effects of democracy. In Britain, they can put the largest minority in power for what is essentially an oligarchy changing every few years. Grayling suspects that with the growing complexity of international affairs, the secret and managed hostility towards democratic ideas will become less secret and more managed again. There are many threats to the fragile promise of democracy.

Politicians that have learned the art of manipulation, combined with public weariness created through the gap that exists between promise and reality and the vested interest of thoroughly organised lobby groups, all work together in disempowering the electorate. Using Hannah Arendt, Grayling warns for the risk of the political disengagement of the masses - implicit also in modern day materialistic obsessions - because a morally superficial mass is more easily rallied behind simplistic ideology, with all the dangers of totalitarianism that goes with it. The only real help here is a good and responsible free press that can chasten the public debate.

Contemporary democracies are by and large disenchanted and demoralised and "all too well adjusted to lives organised around the struggle for maximised personal income." Grayling questions if there is an answer to this perception of its failure. It is not enough to hope for improvement, we need to stand up and actively engage in its development. New constitutional settlements should be implemented to protect the principles of Enlightenment that have brought us where we are today.

The *Universal Declaration of Human Rights* fits the bill, according to Grayling. The main problem is that it is not considered in any way binding on governments. This is why Grayling ends his book on a hopeful note with institution of the International Criminal Court. Although it is still in its infancy and lacks any real power, it is a good first step. Here the distinction between utopian and meliorist tendency is helpful. We should not despair because the ideal utopian society seems so far away; we should be hopeful because we improve every step of the way.

## VII. Engaging debate

In the second part of the book, Grayling engages in a debate with other key thinkers on the subjects discussed in the first part of the book and takes on the defence of the legacy of Enlightenment.

Grayling uses Isaiah Berlin's notion of a liberal society that is, by nature, a plurality of mutually irreconcilable and conflicting values. The Enlightenment believed that reason can resolve this problem premised on the idea that all values are derived from a single set of facts about human nature. But Berlin also recognised the force of the arguments brought forth by the romantics, that there is no universal standard and that there are thus no universal solutions, and we should be tolerant as a result. Grayling calls for a revision of Berlin, in which we should reject the idea that liberalism should always be tolerant, and cannot be demanding. This is because of the paradox of tolerance: it tolerates the intolerant. According to Grayling, the failing of the arch-liberal ideal of multiculturalism is the empirical refutation of the idea that tolerance should be absolute. A liberal society is justified in being intolerant towards intolerance.

Grayling rejects Roger Scruton's sentimental reaction in which he blames 9/11 on the West's political decadence. Instead of saying that 'the East' should benefit from our nuisance, Scruton thinks we should be more like the Islamic countries in this respect and keep to ourselves. Grayling is surprised by this nationalistic conservatism, as the problem is that they came to us and are causing problems inside our societies.

Grayling opposes John Gray's pessimism, in which Gray rejects the idea that humans are in any way more special than animals and more capable of improving their lot than animals. Humans are animals that suffer the same determinism of growth decline and extinction as other animals do and are just as impotent in the face of the dictation of our genes. This is not the case, Grayling asserts, as dogs are able to learn and our technological development shows that we are capable of changing a great deal. Gray traces this idea of exceptionalism back to Christianity and humanism, which is incorrect according to Grayling. Gray's analysis rests on a fallacy of equivocation, in which he commingles the use of humanism with speciesism making any view the equivalent of a religion. This results in the incorrect idea that Enlightenment is a monolithic religion.

Grayling thinks it is a mistake to view Slavoj Žižek as an ally in the critique of the modern-day tendency to reduce liberties in the name of security. For Žižek, human rights and liberalism are an ideological sham which amount to the right of white male property owners to exchange freely on the market and exploit their workers. For Grayling this totally ignores the struggle that was undertaken to gain these rights and ignores the fact that those are the rights that give Žižek the freedom to write in the first place. Žižek bases his thought on a distinction he makes between *subjective violence*, the violent acts of certain individuals and groups, and *objective violence*, the power that is enforced

by the totality of a capitalistic system. For Žižek, terrorism and corruption are but contingent instances of subjective violence, compared to the true enemies of progress that are embedded in the system and that enact the true violence of today: the liberal capitalists. Grayling thinks it is right to complain about the wrongs of capitalism, but thinks it is mistaken to call it all violence, as it makes it impossible to distinguish the difference between the violence of security forces that enforce the laws of a non-violent political process, and the violence of tyrannies and terrorists. For Grayling, it is wrong to view the hard-won dispensation of civil liberties as a mere disguise hiding the face of exploitation. He does not accept this ‘inversion of values’.

John Ralston Saul thinks the West is in crisis due to its belief in reason and the utopian ideal of a rational society. This did not result in a liberal society, but in one in which humanity is enslaved to bureaucratic corporatism, stumbling unconstrained by moral purpose from one disaster into another. Our dream of liberty through reason ended up increasing the power of the technological elite, who alone can manipulate the structural complexities of modern society. Grayling thinks of this as an intellectual auto-immune disease: the west attacking itself, using the very advantages of that which they now oppose. Grayling thinks Saul is correct in pointing to the hypocrisies of our time, i.e.: preaching peace and freedom while selling guns to many corrupt regimes. But Saul is wrong in his diagnosis of the source: reason as a technocratic amoral and blind principle. Grayling says the blame lies not in the principle, but on how humans employ the principle. Reason has to be married to and constrained by experience to be effective.

Grayling considers Tzvetan Todorov as the best corrective to put against Gray Žižek and Saul. He rejects any final knowledge, any ‘isms’. There can be no paradise on earth because there is evil in man, arising out of the freedom to choose. But people are also sociable creatures that are capable of cherishing each other. So there is hope, but there is risk as well, and so there can be no utopia or any ultimate solution: the world is an *imperfect garden*. Todorov sees humanism and democracy as the best options for the flourishing of community and fraternity. But we also need strong memory so we can learn from our mistakes and learn to moderate our pride with humility. We need to choose the way we remember to help in facing the future.

## Conclusion

Grayling succeeds in showing how troubling the implications are of the way we combat terrorism and how it endangers the very foundations of western liberal democracies. He does so without falling in the trap of conspiracy theory, which often happens on the Internet when people discuss the same changes in society as Grayling addresses here. But the question does come to mind, who really is using fear as an instrument of politics today?

Grayling is not wrong in his analysis and he makes valid points against his opponents. I think it just fails to grasp what has kept standing in the way of Enlightenment the last couple of centuries. In a sense Grayling is subject to the same kind of nostalgia he complains about in the case of Roger Scruton. Grayling keeps going back to the principles of Enlightenment and how they are right and why we should fight for them. The problem today is that questions of principle matter only for the image they create. Underlying this are economical/utilitarian imperatives. In practice, almost every social issue today is reduced to an economical question. I think Grayling is wrong to say that this is not a consequence of Enlightenment. It may be true that it does not necessarily follow from Enlightenment, but it cannot be viewed apart from it, as it is intimately connected to the process of secularisation and rationalisation. I doubt that just pointing back to those principles answers the problems that face us today.

Nevertheless, the questions he raises are very important, especially since these questions barely live in the minds of the people who shape our world today. It would serve them well to read this book.

