

Is Ocasio-Cortez Right About Rights?

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Colin I. Bradford writes fawningly that Alexandria Ocasio-Cortez, a member of the Democratic Socialists of America, reaffirms “the centrality of the individual, individual rights, liberty, and freedom in which respect, trust, fairness and responsibility loom large.” He depicts Ocasio-Cortez as the embodied union of individualism and collectivism, someone who, in his words, “sees the individual as both a solitary being with certain inalienable rights and as a citizen and member of society.”

There's much to unpack in Bradford's frightfully grand statements, but let's briefly consider some historical context for them.

“Modern Western ‘democracies,’” says [John W. Danford](#), “are actually better described as liberal commercial societies. They rest on principles of individualism and individual rights—especially legal rights—which are more fundamental than democracy, and also much newer.”

Individual Rights Came from Christianity

The belief that humans by their nature possess “rights” against which governments may not transgress has not always been commonly held. Larry Siedentop's *Inventing the Individual: The Origins of Western Liberalism* (2014) made the compelling case that natural rights theories are distinctively Christian in origin. He presents the ancient pagans as tribal and patriarchal, characterized by fierce loyalty to kin and clan and lacking conscientious differentiations between public and private life. (The operative differentiation was between public and domestic life.) Inequality was accepted as a given; the notion of rights was practically nonexistent. What mattered was the family unit: secure lineage, child bearing, and glorification of the paterfamilias as the powerful hero. Cities emerged from familial corporate associations around which property relations were structured according to class hierarchies.

Correlated with the rise and spread of Christianity in the West was the proliferation of the concept of the individual as a rights-bearing creature with inherent dignity, which any legal order properly so called must recognize and protect. The teachings of Jesus Christ and St. Paul redirected political thought away from the material, phenomenal world and toward the afterlife, eternity, and the soul. The message that grace through Christ was available to anyone, not just rulers or the highborn, underscored the autonomy of the individual, the self-aware subject. A Christian emphasis on personal moral agency and responsibility, moreover, undercut Greek and Roman aristocratic culture and its attendant traditions of ancestor worship.

Siedentop contends, therefore, that Christianity, not the Renaissance, was the fountain of individualism. If the Enlightenment was the height of philosophizing about the relationship of the individual to society, then it was also the natural outflow of earlier eras shaped by Christianity. This narrative runs counter to the portrayal of medieval Christianity as closed and authoritarian and of the Enlightenment as predominately secular. It illuminates Danford's description of modern liberal societies as fundamentally committed to individual rights embedded in the law.

Mutual Submission, Similar Ethics

A distinguishing feature of Enlightenment thinking was social contract theory, which is particularly important to the Anglo-American legal tradition as manifest in Magna Carta (1215), the English Bill of Rights (1689), the Virginia Declaration of Rights (1776), the Declaration of Independence (1776), and the U.S. Bill of Rights (1789–91). These documents enshrine the principles of equality under the law, basic human dignity, rule of law, consent of the governed, popular sovereignty, and natural rights.

The most celebrated delineations of social contract theory belong to Hobbes, Locke, and Rousseau. A simplistically synthesized account of their three hypothetical origins of political society runs like this: humans once existed as free agents in an ungoverned state of nature and eventually banded together in protective social units to enforce claims to property and defend against outside threats; voluntarily entering into these social units required individuals to give up unfettered liberty by consenting to the authority of a superintending body—a government—that exercised only those powers to which the individuals in the society corporately assented, either expressly or impliedly.

The social contract for a mature, successful society involves a collection of individuals wise enough to appreciate the reciprocal advantage of mutual submission and similar enough in ethics and morals to prescribe the proper scope, limits, and structure of the approved ruling authority. The U.S. Constitution, in theory, represents

a social contract: a pact between citizens and its rulers that restrains government, divides power, and sets competing interests against one another with offsetting effect.

U.S. Supreme Court “Expansions”

The U.S. Supreme Court, in cases regarding the Fourteenth Amendment, began in the twentieth century to evaluate claims of unremunerated, allegedly fundamental rights in light of the history of judicial safeguards. A purported right was deemed presumptively fundamental if it enjoyed an established tradition of formal recognition by Anglo-American courts. Under this interpretive scheme, when the Supreme Court determined that an alleged right was nonfundamental, the alleged right would not be incorporated (via the doctrine of substantive due process) to apply against the states. The Supreme Court, however, gradually recognized particular suspect rights within broader categories of long-established rights. The so-called right to privacy, for example, that had valid antecedents in the common law was repurposed to include phenomena unknown at the common law.

The tendency of the Supreme Court in the twentieth century to expand (and, in some cases, to limit) the scope of alleged rights reveals, I think, that a privileged group of robed lawyers are inadequately equipped to philosophize about rights. The validity of alleged rights accrues socially, from the bottom up, when they can be traced over time to long-standing, if not immemorial, usage, customs, mores, and traditions, and when their practical applications have been tested by successive generations. Certain rights are natural, that is, prior to government promulgation, but their intelligibility is deeply historical, rooted, contextual, situational, and embedded.

Rights or Privileges?

One could argue, and Siedentop suggests, that Christianity’s institutionalization of rights discourse created the conditions necessary for secularization, in effect that Christianity ushered in a culture that led to its gradual removal from civic society. Siedentop postulates, in other words, that the success of Christianity eventuated its demise in the Western public sphere. The story of rights discourse in U.S. Supreme Court decisions lends credence to this perspective, revealing that prevailing notions of rights have grown to encompass what were once merely privileges.

If institutions follow culture, however, then a constitution that contemplates individual rights is only as good as the people it controls: a populace without extensive virtue will weaken or decline regardless of its organizational governance and administrative framework. Christianity may not have promoted ideas that caused its erasure from our governing institutions; rather, the people of the United States may have drifted away from the Christian ideas that made those institutions effective and stable.

Bradford recognizes that “individualist values of liberty, property rights, freedom and sovereignty worked well in the 20th century as the foundations of competition, free markets, democracy and the nation state.” Yet he sees these concepts as inadequate today, lacking something he believes Ocasio-Cortez can supply, to wit, a form of collectivism that in his representation facilitates community and social harmony. He simply fails to see that the unique individualism that emerged out of Christianity generated the community and social harmony he now desires.

There is no individualism absent the recognition that every human life, anywhere and everywhere, is precious and important. It follows from that premise that no one may violate the rights of others who themselves have not violated another’s rights. This principle, extended to society writ large, creates the conditions necessary for community to flourish. Individualism in Christian societies aided the growth of cities, institutionalized the dignity of the human person as a bearer of rights, and challenged rather than empowered abusive government. Ocasio-Cortez should not hope to eradicate this kind of individualism, for it has accomplished more good for humanity than the socialism she purportedly embraces.

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