

cuss the major policy failures that have led to the ruinous situation of the underclass today.

**THE NEW FREEDOM: INDIVIDUALISM AND COLLECTIVISM IN THE SOCIAL LIVES OF AMERICANS.**

By William A. Donohue.<sup>1</sup> New Brunswick: Transaction Publishers. 1990. Pp. 250. Cloth, \$29.95.

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The motto of the Invincible Order of Assassins, an eleventh century Islamic sect described by Nietzsche as “that order of free spirits *par excellence*,” was: “Nothing is true, everything is permitted.”<sup>3</sup> According to Professor William Donohue, this has become the effective motto of “the ascendant idea” of contemporary American morality. His studied conclusion: “Something has gone wrong.” Indeed!

For a sociologist Professor Donohue is unusually insightful in his analysis of the root causes of the “new freedom” that he deplores. But his account of the new American morality is more than insightful: it is written with a verve that is altogether rare in academic works. It is also infused with something that is even rarer in academia—a genuine moral outrage about the condition of American society. In fact the book as a whole might be characterized as a refreshingly honest (and sustained) *cri de coeur*, culminating in a lament that the new freedom has destroyed our capacity for moral outrage. But as Donohue rightly points out, the capacity to feel and express moral outrage inspired by what James Madison called “a consciousness of unjust or dishonorable purposes”<sup>4</sup> is the necessary cement of any civilized society. The new freedom has simply provided the solvent that will dissolve the moral connections that form the basis of every decent society. Yet it is precisely this spiritedness or thumos which leads men to sustain and protect the values of the community that ideological liberalism—the source of the new morality—views as the greatest obstacle to progress.

The revolution that produced the new morality, according to

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3. Friedrich Nietzsche, 3 *Genealogy of Morals* sec. 24 (tr. Walter Kaufman and R.J. Hollingdale, Vintage Books, 1967).

4. Federalist 10 (Madison) in Jacob E. Cooke, ed., *The Federalist* 56, 64 (Wesleyan U. Press, 1961).

Donohue, is unique: "Previous revolutions have been motivated out of despair against poverty, misery, and injustice. This revolution is different: it is motivated out of despair against the limitations of the human condition. It is the ultimate revolution." It is, in fact, a revolt against the limits of human nature. The watchword of the "new" revolution is "liberation"—liberation against all restraints, natural or conventional. But as Donohue cogently notes, "man is essentially going to war against himself. It is a war he cannot hope to win."

None of this is exactly a mystery. The whole course of modern science and philosophy has been the progressive denial of either natural or divine limits to the human condition. What we are witnessing today in liberation ethics and liberation theology is the beginning of the end of the modern project. "What makes the new freedom so unique," Donohue writes, "is its insistence that every individual has a right to be totally liberated from everything that constrains him." Donohue traces the powerful impact of this ethos on various aspects of American society: the family, schools, religion, law, sexuality, children's rights, and so on. As readers of this journal know, all of these topics have constitutional dimensions. If the work seems too ambitious, Donohue cogently sticks to the narrow theme of the "new freedom" and its influence in shaping the various relations of society. He is a shrewd observer and a trenchant critic; his critics no doubt will accuse him of indulging in "pop" sociology—but if so, Donohue will simply have proven that this is sociology at its best.

The revolt against nature is, of course, the defining characteristic of all "liberation" movements. Donohue quotes radical feminist Shulamith Firestone's diatribe against the two strongest forces conspiring to oppress women: convention and nature. "Feminists have to question, not just all of Western culture, but the organization of culture itself, and further, even the very organization of nature." Donohue laconically comments that "[t]here is no better description of what the new freedom is all about than this."

The bulk of Donohue's critique of the "new freedom" is directed against what he sees as the development of radical individualism. Radical individualism manifested as a kind of moral autonomy stands in contrast to the "authority, tradition, and custom" that are the essential ingredients of every civilized society. As Donohue notes, the "belief in a society of total, uninhibited expressions of individuality is a contradiction in terms; society demands at least some subordination of the individual to the social." In the quest for individual autonomy there is no regard for the public

good, those things—principles, values and traditions—that define the community itself.

“The new freedom,” Donohue laments, “tolerates no abridgments of liberty and regards appeals to the common good as unconscionable infringements on the rights of the individual.” Donohue maintains that liberalism once inculcated a strong sense of responsibility as the necessary counterpart to rights. The idea of responsibility has, however, been entirely lost in what Donohue calls the “rights mania” shuffle. Responsibility was once part of the idea of self-interest rightly understood, a recognition that one’s individual interest was intimately connected to the interest of society as a whole. This sense of responsibility—however minimal it might have been—has been virtually extinguished in the most self-serving pursuit of private interest. And this private interest is only thinly disguised as the pursuit of rights. “The single-minded pursuit of rights,” Donohue observes, “has jettisoned an interest in serving the common good. . . . We have come to think of rights as nothing more than a weapon of self-interest.”

It is certainly true that the tension between individual rights and the public good is most evident in liberal democracies. The emphasis on private rights does tend to make the citizens of liberal democracies self-centered. Thus the existence of the common good will always be in some sense problematic. Yet, as Donohue clearly points out, the public good does not exist at the expense of private rights, nor does the existence of private rights render the existence of the public interest impossible. It was Marx who, most notably in *On the Jewish Question*, argued for the abolition of rights in the name of community. The existence of liberty in the form of rights translated the individual into an “isolated nomad”—a “circumscribed individual”—incapable of community life.<sup>5</sup> But as Donohue makes quite clear, there is no necessity of choosing between the extremes of communism and radical individualism. Indeed, Donohue rightly maintains that private rights flourish when citizens share a well-defined sense of public purpose and public-spiritedness. For it is in the presence of the common good that the ideas of rights and responsibilities go hand in hand. In simple terms, no one’s rights are secure unless the rights of all are secure. The obligation to secure one’s own rights therefore simultaneously imposes the obligation to secure the rights of all. This is the necessary but not sufficient condition of the common good in liberal democracies.

Donohue is not the first nor the most incisive critic of the con-

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5. Karl Marx, *On the Jewish Question*, in Robert C. Tucker, ed., *The Marx-Engels Reader* 26, 42 (W.W. Norton, 2d ed., 1978).

temporary "rights industry." But he does succeed admirably in clarifying its relationship to his principal thesis. In the rights mania that obviously exists today, no one speaks for the common good or the public interest. Rights are seen as simply private interests or claims without the necessity of responsibility. The ethos of the new freedom is liberation without responsibility. Civil rights groups have simply become private interest groups engaged in lobbying for special privileges or exemptions which they deign to call "civil rights." As Donohue shows, the civil rights industry indulges a conception of rights without responsibility, a conception that endangers the existence of civil rights because at bottom it translates rights into nothing more than self-interested claims.

One legal writer has described this new conception of rights with unabashed clarity: rights are claims "made by or on behalf of an individual or group of individuals to some condition or power."<sup>6</sup> Rights are thus merely positive claims to entitlements or positions of power. And there are no limits either to what can be claimed as a right or as to what might be claimed as its source. As this same writer notes, "the right may be a 'liberty,' 'prerogative,' 'privilege,' 'power,' 'exemption,' or 'immunity,' [and] may have its source in law or morals or custom; it may be comparative or noncomparative; it may consist of a principle or a policy; it may be absolute or defeasible."<sup>7</sup> It is no longer possible to speak of the rights of citizens; one must instead speak of the rights of gays, blacks, Hispanics, women, *ad infinitum*.

But while the rhetoric of rights is still intact it is clear that the special pleadings of these various groups no longer have anything to do with rights properly understood. In the end, the concept of rights as claims to privileges or entitlements is governed only by the interest of the stronger, where there are only claims of preferment but none of justice. Justice is the provenance of the commonweal—rights understood as merely claims or privileges are the dissolution of the commonweal and therefore the dissolution of justice. In the *Federalist*, Madison spoke of the new society envisioned by the Constitution as one animated by "principles . . . of justice and the general good."<sup>8</sup> Justice—as opposed to the interest of the stronger—is intimately connected to the general good. It is the architectonic principle which defines the idea of rights. To claim a right is simultaneously to accept the responsibilities of the common interest of society. Otherwise, the exercise of rights will be as non-

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6. Peter Westen, *The Empty Idea of Equality*, 95 Harv. L. Rev. 537, 540 (1982).

7. *Id.* at 540-41 (footnotes omitted).

8. *Federalist* 51 (Madison) in Cooke, ed., *The Federalist* at 347, 353 (cited in note 4).

existent in civil society as they are in the state of nature. Madison cogently remarked that:

[J]ustice is the end of government. It is the end of civil society. It ever has been, and ever will be pursued, until it be obtained, or until liberty be lost in the pursuit. In a society under the forms of which the stronger faction can readily unite and oppress the weaker, anarchy may as truly be said to reign, as in a state of nature where the weaker individual is not secured against the violence of the stronger.<sup>9</sup>

But justice can never be simply the sum of the various claims to preference made on behalf of the various groups in society. The claims themselves must be moderated by a sense of the public good—at a minimum, the claims must be informed by a concept of self-interest rightly understood. But the rights mania that prevails today has no regard for the community. Madison taught us that justice is the necessary ingredient of liberal democracy; without it there is no hope of avoiding majority faction. Donohue reminds us in a very timely and useful fashion of the importance of Madison's lesson. We may blithely go about our business of extending rights, only to find that in the end we have become the slaves of our own passions. No self-governing and free people can be ruled by "the tyranny of their own passions."<sup>10</sup> It almost goes without saying that the morality of today's new freedom has nothing to do with self-government. Liberation is the submission to tyranny under the guise of freedom. Donohue sees this clearly. His insight is all too rare—among academics it is virtually non-existent.

**THE HOLLOW MEN: POLITICS AND CORRUPTION IN HIGHER EDUCATION.** By Charles J. Sykes.<sup>1</sup> Washington, D. C: Regnery Gateway. 1991. Pp. xii, 356. Cloth \$19.95.

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Although its author mercifully refrains from quoting those overused lines of Yeats, this book brings to mind the ones about the

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9. Id. at 352.

10. Federalist 63 (Madison) in Cooke, ed., *The Federalist* at 422, 425 (cited in note 4).

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