

THE ULTIMATE SECRET

A sermon by Galen Guengerich
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As the confirmation hearings of Judge Neil Gorsuch for the US Supreme Court took center stage during the early part of this past week, I found myself returning to a famous dictum once uttered by the German philosopher and economist Karl Marx. “History repeats itself,” Marx said, “first as tragedy, then as farce.” I’ve been trying to figure out which cycle we’re in.

As portrayed by ancient Greek theater, what’s now unfolding on the American political stage is a tragedy. There are the two criteria for tragedy, according to the ancient Greeks. First, there must be human suffering — not caused by forces of nature or actions of the gods, but by decisions and actions of a flawed human being. Second, the suffering must be unnecessary — that is, it must have been avoidable.

Today, we are witnessing a tragedy in this sense. A deeply-flawed human being — I’m speaking of our president, not Judge Gorsuch — has made decisions and taken actions that have already caused and will continue to cause needless human suffering, notwithstanding the failure of the Trump administration to revoke the Affordable Care Act. If Judge Gorsuch is confirmed, which now seems inevitable, he will take up the Supreme Court’s originalist mantle, one also shouldered by Clarence Thomas and, until his death, Antonin Scalia. At the hands of originalists, the Constitution often gets wielded in a way that causes unnecessary suffering, especially for women, people of color, LGBTQ people, and immigrants. In Marx’s terms, history repeats as tragedy.

But history also repeats as farce. A word that originally meant “stuffing” or “forcemeat” (think sausage), the theatrical meaning of farce came into play during the 13th century with the practice of stuffing explanatory phrases into Latin church texts. Within a couple of centuries, the term came to describe the similar practice of inserting unscripted buffoonery into religious plays. On the political stage today, there’s an awful lot of nonsense being inserted into subjects that are deeply serious.

One of the most farcical is the originalist interpretation of the Constitution. It’s the judicial equivalent of what in the religious domain we call fundamentalism. Religious fundamentalists — whether Jewish, or Christian, or Islamic — insist on a literal interpretation of their sacred text: the Hebrew Bible, the Christian New Testament, or the Koran. In a similar way, judicial fundamentalists, following the lead of their religious counterparts, argue that interpreters of the Constitution should articulate what the founders had in mind, based on what the ordinary meaning of the text would have been at the time it was adopted.

On Wednesday, Judge Gorsuch responded to Senator Diane Feinstein's question about the 14th Amendment's equal protection clause by saying, "It would be a mistake to suggest that originalism turns on the secret intentions of the drafters of the language of the law. The point of originalism, textualism, whatever label you want to put on it — what a good judge always strives to do, and I think we all do — is strive to understand what the words on the page mean."

In my view, this is a disingenuous response. Judge Gorsuch tries to suggest that the debate about the originalism focuses on whether the authors of the Constitution had a secret agenda in their minds that differed from the words they put on the page. This is not the issue. Rather, the issue turns on whether good judges interpret the words on the page based on what they mean today or what they meant 230 years ago.

On that question, Judge Gorsuch's answer is clear. In a speech last year, he said that legislators should consider policy questions and moral convictions when writing laws, but judges should not. Rather, he said, "judges should instead strive to apply the law as they find it, focusing backwards, not forwards."

Like religious fundamentalists, judicial originalists spend their time trying to figure out how to stuff a retrograde political agenda into an ancient document that can't possibly contain it. Which is how farce becomes tragedy, and so history continues to repeat itself. Anytime you try to drive forward while looking only through your rearview mirror, bad things are almost certain to happen.

But there's yet another farcical aspect to the originalist perspective, and it has to do with the alternate universe of truth toward which they look back. Like religious fundamentalists, judicial originalists believe their sacred texts exist in a place of utter clarity and simplicity — the mind of God, in one case, and the mind of the founders, in the other. Time does not exist in this place, nor does change come to pass. The goal of originalist interpreters is not to triage bygone forms of wisdom to address modern challenges, but rather to make modern life conform to former ways of thinking and living.

Here's the problem: there is no eternal realm of absolute truth, as fundamentalists and originalists insist. The current issue of TIME magazine poses a question on its cover — "Is Truth Dead?" — that echoes the question on its cover exactly 50 years ago — "Is God Dead?" As it happens, the answer to both questions is the same. The answer is yes if you believe God and truth are eternal and absolute, and the answer is no if you don't. As I often say, the experience of God connects us not only with all that is past, but also with all that is present and all that is possible. The same is true of our experience of truth.

There is only this world — the one right in front of us, where truth is often partial and always fragile, where we figure out what is right not by looking behind us, but by looking around us and before us. In this context, justice can only be defined not by ancient dogma, but by our present-day efforts to treat each other fairly and the natural world responsibly.

Let me illustrate this point in the following way, which may seem far-fetched at first, but ends up illustrating the challenge beautifully. At the start of each year, literary agent John Brockman poses a provocative question to more than a hundred leading scientists and science writers, and asks them to respond. Brockman posts the results on his website, edge.org. This year, he asked, “What scientific term or concept ought to be more widely known?”

Steven Pinker, who teaches psychology at Harvard, says the Second Law of Thermodynamics should be more widely known. The Second Law says that a system that is not taking in energy will, over time, become less structured, less organized, and less able to accomplish interesting and useful outcomes. It says that things will naturally fall apart and what can go wrong will go wrong. This applies to everything — even truth and justice, and maybe especially to them.

Why does Pinker think the Second Law is so important? He says that the Second Law defines the ultimate purpose of life, which is to use energy and information to fight back the naturally-occurring tide of disorder and decline and instead carve out places of refuge and sources of hope. “Not only does the universe not care about our desires,” Pinker says, “but in the natural course of events it will appear to thwart them, because there are so many more ways for things to go wrong than to go right. Houses burn down, ships sink, battles are lost for the want of horseshoe nail.”

Pinker concludes, “An underappreciation of the Second Law lures people into seeing every unsolved social problem as a sign that their country is being driven off a cliff.” He continues, “It’s in the very nature of the universe that life has problems. But it’s better to figure out how to solve them — to apply information and energy to expand our refuge of beneficial order — than to start a conflagration and hope for the best.”

Pinker’s analysis applies directly to the defeat of efforts to repeal the Affordable Care Act. Enlightened citizens and legislators knew that, absent their energetic efforts, things would fall apart, and tens of millions of people would lose insurance coverage. These citizens and legislators put their energy into the system, and order was maintained, at least for now.

In this sense, human history will not be defined by our efforts to plumb the mind of God or the mind of the founders for eternal truths. It will be defined by the energy we put into the world right in front of us, the one where truth is partial and fragile, where things fall apart and go wrong, where we figure out what is right not by looking behind us, but by looking around us and before us.

The renowned Catholic reformer James Kavanaugh put it this way. “I am one of the searchers,” he said. “There are, I believe, millions of us. We are not unhappy, but neither are we content. We continue to explore life, hoping to uncover the ultimate secret. We continue to explore ourselves, hoping to understand.”

From my perspective, the ultimate secret of life lies not in the mind of God or the mind of the founders, but within us and around us — within our own bodies, our own lives, and our own world.

In her response to John Brockton's question, the Stanford psychologist Barbara Tversky puts this insight into scientific terms. She says that the scientific concept that ought to be more widely known is embodied thinking. "How did Einstein arrive at his cosmic revelations?" she asks. Not through equations that eventually proved his theories or words he used to explain them. Rather, she says, he made his discoveries by imagining his body being hurled through space at cosmic speed.

The very foundation of science, she says, is made up of bodies moving through space — "from the cosmic, bright stars and black holes and cold planets, to the tiny and tinier reverberating particles inside particles inside particles. The foundation of the arts, figures swirling or erect on a canvas, dancers leaping or motionless on a stage, musical notes ascending and descending, *staccato* or *adagio*. The foundation of sports and wars and games. And the foundation of us. We are bodies moving in space."

She adds, "Our most noble aspirations and emotions, and our most base, crave embodiment, actions of bodies in space, close or distant. Love, from which spring poetry and sacrifice, yearns to be close and to intertwine, lovers, mothers suckling infants, roughhousing, handshakes, and hugs."

This is the point I most want us to remember today. We are bodies moving through space, not minds moving through eternity. What we make of our time here on earth depends on how we invest our energy — our efforts to construct order where there is chaos, foster growth where there is decay, create beauty where there is ugliness, and achieve justice where there is inequity. Left to their own devices, or to the machinations of those who have another world in mind, things will naturally fall apart and inevitably devolve.

The ultimate secret, at least in this universe, is that the first fruits of human civilization — among them truth, beauty, justice, adventure, and peace — are the products not of divine intention but of human energy. You are a body moving through space. Invest your best energies in building a place for goodness in our time.