

When freedom of expression became holier than God

Hopefully, many readers are familiar with the fact that Sweden in 1766 and as the first country in the world was granted statutory freedom of the press. The 250th anniversary attracted great attention three years ago. Freedom of the press in 1766 was not unlimited, and it was still possible to prosecute on four grounds: if anyone published something that was subversive, defamatory, immoral, or violated the established state religion.

These were no unusual exceptions. The same four areas were surrounded by restrictions in most countries that received some form of freedom of the press in the years around 1800, and even where such restrictions were not openly expressed, they were implicit.

Even today, there are limits to freedom of the press and of speech, both in Sweden and abroad – words can harm as well as deeds. Restrictions on freedom of expression are also permitted in international agreements. The European Convention on Human Rights of 1950 states that “[t]he exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society”. The Convention identifies three areas that may be protected in this way: national security, health and morals and “the protection of the reputation or rights of others”.

It is noteworthy that one area is not mentioned here, namely religion. In today’s Western democracies, religion is normally not allowed any special protection in freedom-of-speech legislation and something has obviously happened in the last 250 years – but what?

The short answer is that the eighteenth century happened. This century of Enlightenment is the great watershed in Europe’s history of ideas; when we talk about politics and society there is a before and an after the eighteenth century. A politician from the seventeenth century would have been able to talk to a politician from ancient Rome; they would have shared the same vocabulary and had the same understanding of the basic nature of politics. A twentieth century politician, on the other hand, would not understand a seventeenth century politician.

This fundamental paradigm shift – which is evident in everything from politics and society to art, science, and ideas – suggests that the main features of Europe’s intellectual life can only be understood through juxtaposition with ancient conceptions. Without understanding of the long lines, the entire Western culture and history of ideas becomes incomprehensible. The past and the present are intertwined in ways that are not always immediately apparent.

During the eighteenth century, all established conceptions of society were turned upside down. In ancient times, politics rested on authority; society was built from the top down and consisted of collective units: professional associations, families, estates, etc. Modern politics, on the other hand, rests on consent, society is built from the bottom up, and its fundamental element is the individual citizen. A prerequisite for this change was the secularization of public law, meaning that religion ceased to be a matter of state and was consigned to the private sphere. This is the single most important contribution of the Enlightenment to the history of European ideas. The secularization of public law did not mean that people became

less religious, but unity in the belief was no longer considered a prerequisite for a functioning society.

Why was the separation of religion and politics so important? The problem with a policy that rests on religious grounds is that it is unable to handle change. The divine order is preordained and it is greater than man and must therefore always have precedence. This conception is not unique to religious communities; in fact, it applies to all totalitarian systems based on an ideologically fixed view. That is why, in the post-Stalinist Soviet Union, dissidents were just as likely locked up in mental hospitals as in prison. If dissenters did not realize the superiority of the communist system, it signified that they were out of their minds. And mentally disturbed people must not be punished, they have to be cared for. This also means that a society that strives for a divine (or ideologically determined) harmony, is not served by a free and critical debate; there you just have to relate to and interpret the religious records. The truth is given in advance and does not take reasoning.

A paradoxical consequence of this in early-modern times is that those who defended the censorship did so with principled arguments, while those who wanted to abolish censorship presented pragmatic reasons. In 1695, England became the first country to abolish pre-publication censorship. The explanation was that the censorship was ineffective, and socially disruptive writings could rather be prosecuted afterwards. The abolition of censorship did not mean that book printers avoided prosecution, and it was not a vindication of freedom of the press as a principle.

Those who defended censorship, on the other hand, made the argument that it was the duty of the governing body to direct the subjects in the same way that parents guide their children. And this is an important point when we study the past: the guardians of censorship and religious purity did not necessarily act out of malice. It was their firm conviction that they acted with the best of intentions: those who know the divine truths cannot, with a quiet conscience, see their fellow human beings plunge themselves into eternal destruction out of pure ignorance.

In order to break with this rigid view of society, some kind of idea complex was needed, which maintained the respect for religion and at the same time introduced a dynamic element in politics. It was provided by natural law theory.

Natural Law was an ancient system of thought inherited from the Romans. When they created their empire, they encountered many different social and legal systems, but they also experienced that certain moral imperatives seemed common to all peoples: murder, theft, and incest, for example, were nowhere accepted. This must therefore convey an innate or *natural* legal order. Since it was innate, it must also reflect a *divine* order – only gods can mould people before birth. The Romans were polytheists and tolerant and therefore had no definite idea of exactly whose god or gods it was who ruled the world – it would be revealed eventually. The essential thing was that the provincial legal rules did not contravene the natural laws; otherwise, they could be designed in accordance with local customs. This pragmatism explains why Palestine could have both a King Herod and a Roman governor Pontius Pilate. In essence, Natural Law was just a juridical application of Plato's

Theory of Ideas and of Forms. The World of Ideas is the divine, perfect world, but in the realm that we experience with our senses, we only face its shadow images.

By resurrecting this thought complex, it was possible to remove God from politics; this process started in the seventeenth and had a major impact in the eighteenth century. Even orthodox theologians asserted that God's intentions are inaccessible for reason, but we can study their effects in the world around us, for example through what the firmly religious Carl Linnaeus called the Book of Nature. As long as the acts performed by humans were in accordance with the natural law, they were also indirectly in accordance with the divine law, as far as it was conceivable by man. God could thus be left out of deliberations on society without disrupting respect for religion.

Sweden and many other European countries saw a strong impact of these ideas during the eighteenth century. A characteristic example is Linnaeus' disciple Peter Forsskål's civil-rights manifesto *Thoughts on Civil Liberty (Tankar om Borgerliga Friheten)* from 1759; it has been called Sweden's only proper Enlightenment manifesto. Already the title reveals an influence from Natural Law. In modern parlance, the pamphlet would rather have been called "Thoughts on Civil Rights" (*Tankar om Medborgerliga Rättigheter*), but that Forsskål spoke of *civil* liberty suggests that there was another form of liberty, namely the more theoretical *natural* liberty. In his pamphlet, however, Forsskål devoted himself exclusively to specific social issues, i.e. civil liberties.

In a key paragraph, Forsskål stated that "the life and strength of civil liberty consist in *limited Government* and *unlimited freedom of the written word*; as long as serious punishment follows all writing which is indisputably indecent, contains blasphemy against God, insults private individuals and incites apparent vices". Here again blasphemy, defamation, and immorality appear, and Forsskål's tolerance in matters of faith is not obvious. In a later paragraph, however, he adopted the same forgiving attitude toward religion as once the Romans: "Conscience may often be based on false opinions. Which in no way should be tolerated, if their sole objective is the destruction of society and people, like the Jesuits' deceitful rules. However, usually those who seem to be made dangerous by a failing conscience may become good citizens, if only society adapts a little to their delusions." Not all contradictory beliefs can possibly be correct, Forsskål suggested, but who is right and who is wrong matter less if religion is reserved to the private sphere and everyone adapts a little to each other in everyday life. Religion must be combated only when it becomes pernicious.

What Forsskål thus represents is the transition from belief in a theological sense – where one *knows* – to knowing in an inquiring sense – where all knowledge is preliminary and we *believe that we know* until we are convinced by some new theory that explains the world in a better way. This has also been the epistemological conception that has gone hand in hand with secularisation for the past two hundred years, and that by consigning religion to private life more than anything else has been a prerequisite for the freedom of expression and other civil rights we today enjoy.