

The Wimbledon Philosophical Society

Meeting held on 4th December 2019 at Southside House
Presentation by Professor A. C. Grayling on Democracy and its Crisis

Professor Grayling's book *Democracy and its Crisis* was prompted by the Brexit referendum in 2016 and the election of Donald Trump. His next book which comes out in February 2020, *The Good State*, explores the underlying principles and themes concerning crisis and democracy.

In his eighth book of *The Republic*, Plato casts a pall of malediction over the very concept of democracy. Talking about different systems of government, Plato attaches a very bad odour to the idea of democracy which he thought was just ochlocracy or mob rule and the vestibule of tyranny. Because people are insufficiently informed, they are self-interested, short-termist and likely to be adversarial. Anarchy, dissention and conflict prevail if the state's authority is given to the demos of the people. The resulting chaos which is unacceptable and unproductive creates tyranny; the tyrant is welcomed into the midst of this furore to restore peace and order.

This bleak view about the capacity of the demos to be a source of both authority and efficiency was so compelling that despite the contributions made by Aristotle in theory and by the Roman Republic in practice about the possibility of shared responsibility between the aristocracy and the classical version of the 'bourgeoisie', no one thought about democracy as a real option until the middle of the 17th century.

There is a signal moment in the 17th century – the Putney debates in 1647 – when members of the New Model Army proposed to the grandees of the army a fairer reorganisation of parliamentary constituencies with authority vested in the House of Commons rather than the King and Lords. The idea of popular consent and participation began to find favour during the Civil War and triggered a debate (amongst Locke and Mill, Montesquieu in France and Jefferson in America) in which they worked out a way of dealing with the dilemma implied by Plato. Plato worked to an assumption that if the people, or whoever is enfranchised, are given authority, then Aristotle's 'sufficient government' cannot be achieved because they are intrinsically incapable. The debate fostered the idea of representative democracy. The *chosen* representatives are not merely messengers or representatives but have potentially plenary powers to act on behalf of the people. Edmund Burke said 'when you have elected me I am not merely the member for Bristol, I am a member of Parliament with the great matters of state part of the responsibility'.

As the franchise is widened to include women, for example, and representation thus becomes more democratic, those in charge of the institutions of state ensure that direct participation is controlled. In the USA the directly elected house, The House of Representatives (the lower house of the Congress), is elected on the first past the post system; the states determine the boundaries of the congressional constituencies. Gerrymandering is commonplace – and subversive from the point of view of democracy - and has resulted in about 90% of all seats in The House of Representatives never changing

hands, staying with the same party. The Senate is not elected; each State sends two Senators to Washington. The idea was that the small States' interests would be protected. But the more populous States are generally more liberal and the less populous States more conservative and this has resulted in an in-built conservative majority in the Senate which is very difficult to overcome. The Electoral College system was supposed to ensure that the electoral vote is the same as the popular vote. This was not the case in 2016. Filtering out of the popular voice increases the nearer the voting gets to the supreme executive. Add to this the powerful Appeal Courts and Supreme Court it becomes clear how such a structure ensures the increasing remoteness of the hierarchy from the popular voice itself.

Critics of this system say that it isn't a democracy at all but an elected oligarchy. On the other hand it may be argued that America is the most democratic country on the planet – albeit an extenuated one - because so many governmental and judicial bodies are elected for example, in some States, sheriffs and judges. The large number of elections leads however to poor turn out.

The American system is in fact based on the Westminster model, a model which exists today in around 50 countries, mostly ex British Empire. It is an accident of history which led to the difference between the American and original Westminster model. In *Spirit of the Laws*, Montesquieu pleads for a constitutional system of government with separation of powers but fails to recognise that Parliament is a tripartite institution of Crown, Lords and Commons together and that even though the executive power lies putatively with the Crown and legislative power with the other two components of Parliament – there is a distribution of power across all three.

The accident of history is that George I does not speak English and does not attend Cabinet meetings and powers taken in the settlement of 1688 came to be consolidated in the Cabinet. George III and Queen Victoria were to some extent contributors to Parliament but on the whole after Queen Ann, the powers and prerogatives of the Crown became those of the government. Nonetheless the absolute sovereignty of the House of Commons remains intact. In the 1970s, Lord Hailsham commented that the country had an elected dictatorship - so unlimited are the powers of Parliament. John Stuart Mill pondered constitutional morality in this context.

The voices of the people as represented in Parliament are therefore filtered and restricted by the people who run the institutions and that has been the case since the franchise was extended to all adult citizens.

That is the background picture. What then has tipped this balance of an intrinsically precarious set of structures which links the voices of the people and good enough government? The situation now is that the Brexit decision was not only the wrong decision but also from the point of view of constitutional principle and morality, it was an unacceptable one. The franchise for the referendum was a general election franchise, not a referendum franchise (which might have included 16 and 17 year olds and citizens of other countries who live in and pay taxes in the UK). 37% of that electorate voted to leave the EU. A total of 40% in a Trades Union is needed for a strike to be legal. Until the repeal of the 2011 Parliament Act, 66% of all members of the House of Commons was required to be in

favour of a dissolution of Parliament. The logic behind both of those 'super' majorities is to ensure that you have a genuinely sufficient majority given that the outcome could significantly change the lives of the people who are opposed to it.

The 2016 referendum was advisory only (House of commons library, briefing paper 07212, Section 5, 3rd June 2015). It cannot bind Parliament or the Government to act on its outcome. Section 6 recommends building in a super majority if the outcome is claimed to be constitutionally mandatory in any way.

In November 2015, the then prime minister, David Cameron, committed his government and party to "respecting" the outcome of the referendum, therefore making it politically mandatory to act on the outcome.

There has never been a debate in Parliament about the outcome of the referendum even though the 37% vote in favour of leaving was based on no costings, no plans, no impact studies. The electoral commission imposed fines of up to £0.5million on the Leave campaigners for breaking electoral law. When challenged in court, the presiding judge said that had the referendum been binding or mandatory it would have to be voided because of the electoral fraud that had been committed. But since it was advisory only, it would have to stand. The situation is a constitutional mess from beginning to end.

This can only happen if you have a system in which a government, an administration, is formed on the basis of a minority of the popular vote in any general election. Most governments now succeed in getting a majority in parliament on the basis of a vote of about 35 or 40% of votes cast. Plurality voting is very distorting – the first past the post system negates the value of a losing vote. If you vote for the losing candidate, your vote means nothing at all; if you abstain, you help the person who wins. Plurality voting squeezes out the third and other parties.

On a minority of votes cast an executive can take complete and unlimited power in our constitution and the problem with that is, for example, if the EU sceptics are very influential and can influence to a large measure the actions of the executive, they can have a very distorting effect on government in the country.

This situation is screaming out for electoral reform and some degree of codification to the electoral system and limits on power of the executive. The separation of the executive and legislature is unlikely in most of the Westminster models. Therefore some form of proportional representation which doesn't allow minority 'super influence' (Italy, Greece) and results more often in coalition governments which are empirically shown to be more successful on economic and social metrics than first past the post systems. They tend to be more moderate, more centrist, more self-restrained.

From 2008 the incomes of middle and lower income people have remained stagnant or in some cases slightly reduced. The wealthiest 2% of people in our economy have seen their wealth increase fourfold. Increasing inequality in society is toxic and when it becomes too great it becomes destabilising.

Add to this the advent and rapid development of social media and the pressure this puts on education. Access to information is now easy and instant. The internet is marvelous but it is also the biggest lavatory wall ever constructed on which people can scribble their graffiti, their nonsense, their hate speech, falsehoods, pornography. So the key thing in education today is to teach people how to be good at evaluating what they meet with in this tsunami of information and misinformation, distortion and propaganda. It is really important to teach people to be critical thinkers.

Social media can be deeply subversive of democracy. Google's algorithms are specifically targeting individuals. A Google email account may be 'free' but we are paying with our personal data. We are profiled with incredibly sophisticated psychometric profiling which tend to be very accurate: it's called big data analytics. Fabulously useful in medicine such as epidemiology but in politics targeting messages to the individual are private. Groups of people can be aggregated on the basis of micro targeting to one choice of vote. And it is the undecided voters who are targeted because every election is won on very small margins – literally tens of thousands (or hundreds of thousands in the case of the USA) out of millions and millions. Micro targeting can produce the desired swing. This is what happened in the case of the Trump election. Trump got over three million votes fewer than Hilary Clinton. But he got the votes in the right place for the Electoral College. Similarly in the Brexit referendum, Dominic Cummings, specifically targeted, and spent most money in the last few days of campaigning on, those people who were worried about for example massive Turkish immigration or the NHS.

Micro targeting is subversive because in a democracy the availability of reliable information is key so that people can make a proper judgment about how they are going to use their vote. Social media has weaponised spin and propaganda.

The whole fabric of our constitutional order is under a great deal of pressure. Our unwritten constitution is actually uncodified – it's a set of understandings that nobody understands and is no longer good enough in the contemporary world given the high stakes if we get people in government who are irresponsible and unreliable. We need safeguards.

Back in the Qin dynasty when the legalist philosophers were very influential, one of them, Han Fei, said 'we cannot rely on the next Emperor being as good as the present one (or on his son being any use) because we would be like the farmer who chancing upon a hare which killed itself running into a tree, skinned it, ate it, threw away his plough and waited for another hare to do the same. This would be like hoping that the next government or ruler would be any good. Han Fei said that you cannot rely on this; you can only rely on your laws and institutions.

Two centuries later, Livy writing his history of Rome, says 'When we Romans threw out the haughty Tarquins, we substituted the rule of law for the rule of man. The rule of law instead of the happenstance of individual people and their whims and appetites. That's what we need to do to protect our country and our political order by codifying our constitution and limiting the powers of executive and legislative, making arrangements better and introducing something that will protect us from the great risk that social media now represents to us in our political arrangements.

Questions:

- If parliament serves the people and the people therefore are sovereign, can it not be argued that the referendum was a very good corrective to the political class who would be well advised to not just see it as advisory but actually binding otherwise it only serves to alienate the political class from the people again?

ACG – Technically speaking, even given the vagaries of our constitution, the people are not sovereign; parliament is the sovereign body. That aside, the whole point of representative democracy is that there are many complex questions and the whole point of having representatives is that we task them and pay their salaries and send them off to Westminster to find and discuss the facts and take decisions on our behalf. And if we don't like a decision they reach then we chuck them out. One of the essential things about a democracy is that our representatives only have temporary license to do this job on our behalf. In a representative democracy there just simply shouldn't be referendums.

- But even parliament can't agree; there's been absolute deadlock. So where do you go from there.

ACG – Up until the recent dissolution, parliament has displayed what parliament should be for. Parliament has asserted itself against the over-weening power that the executive has accumulated over time. If parliament cannot decide, if a board of directors cannot decide then you stick with the status quo.

- If social media is so clever at targeting, why don't we already know the outcome of the election?

- Do you think that David Cameron was so complacent he thought he had it in the bag, and didn't want to press the point about the referendum being advisory only?

- And for the future, you have Mr Johnson and Mr Corbyn, what will be their fates?

ACG – Voltaire said prophecy is always very difficult, especially if it's about the future! Social media cannot give you a sure way of predicting the outcome of an election – it gives a powerful way of making use of the old techniques of propaganda and spin to influence more vigorously and accurately.

Yes, Mr Cameron regarded himself as a lucky individual and didn't think it would go the way that it did. We, the people, have been extremely lazy about choosing our representatives carefully. We just vote for the party label as a whole; we don't dig into the real qualifications of people to be our representatives. Individual MPs are relatively powerless, they are lobby fodder on the whole. There are 650 MPs, about 20 Cabinet ministers and one Prime Minister and getting up the greasy pole is difficult. MPs are put forward because they are acceptable to the people and to the Party. Mistakes can be made in an era of complacency. In 2012 for example following the Olympics, the national mood was one of self-satisfaction. This complacency allowed two very bad decisions: first the decision to have a referendum given that the EU project has produced peace in Europe for the longest time. Second it allowed Ed Milliband to make a bad decision about how the leadership of the Labour Party would be determined, allowing Jeremy Corbyn in.

- There will surely be push back in the Labour Party?

ACG – Jeremy Corbyn is pretty universally hated in the Party. He will claim it as victory if the Conservatives are denied a majority by tactical voting, but that won't wash. One hopes for a sufficient infusion of good sense and responsibility and core values. I would like to see a hung parliament out of which would come another opportunity to discuss the question of our EU membership. There is a solid and growing majority in favour of remaining in the EU. I would also like to see a serious discussion about our voting system and our constitution.

- Could you talk about the relationship between turnout and democracy and what do we do between elections?

ACG – Democracy is not just elections, it's everything that happens in between. Democracy is argument and debate and criticism. The sound of democracy is noise whereas the sound of tyranny is silence. The public conversation between elections is incredibly important. Turnout is also very important. In the USA members of the House of Representatives are elected every two years so immediately after the election they have to start raising funds and campaigning for the next one which impugns their ability to be good legislators. In mid term elections, turnout is about 35% and for presidential elections it's about 50%. That is hopeless! That in itself undermines democracy. Compulsory voting - and reducing the voting age to 16 would be my choice.

Philosophical Conversation introduced and moderated by Leslie Dighton

Leslie – Themes we might want to discuss following the talk are: the 4th December is the feast day of St John of Damascus who had his hand cut off for spreading false news. How do we avoid being manipulated by false news today? Professor Grayling's talk which painted our current system as a failure of democracy included fake news as part of the problem. He also talked about what needed to be done – constitutional reform, more informed electorate etc. The question is how – what is the power source (outside of those that are already in power and have entrenched interests) - that can conceivably make those changes?

We didn't discuss the binary system being about polarisation and we didn't talk about the short termism of the political process when the issues we have today are long term, pluralistic and require massive consensus between opposing parties and interests. Populism, representing the voice of the people – the current system is an ochlocracy. With Brexit we have an example of a political process which is potentially in the act of corrupting itself.

Comment - the Professor's entire premise on Brexit was flawed. The Referendum was a rebellion against all political parties and the establishment and described the view of the majority. In Wales, the Referendum on Devolution had a 50.6% in favour and 49.4% against a Welsh Parliament. The outcome was accepted with very little argument.

Leslie – your point is that a difference of just one vote suffices to make fundamental constitutional changes.

Comment – a referendum in any representative democracy is such a serious constitutional matter that we should have a referendum about it! They cannot coexist. In some countries, such as Switzerland, they have referenda about everything and the executive just carry out the instructions of the people.

Comment – the system in Switzerland is different, there is a culture of referenda but the most surprising aspect is how very well informed is the electorate.

Leslie – most of those multiple referenda are single-issue focused, upon which people can have a clear view. The difference with Brexit is that it affected a totality of constitutional arrangements. And because of its enormous importance, it could be argued that it needed a different system of thinking.

Comment – none of this can work unless you have compulsory voting.

Comment – it doesn't make much difference if people are poorly informed.

Comment – the vote itself led to some positive side effects in the rest of Europe and there is a much more dynamic debate in the rest of Europe about for example the Common Agricultural Policy or payments to countries in eastern Europe.

Leslie – the word that really interested me was 'voice' and its negative 'voicelessness'. A large part of Brexit was the voice of those who felt they were excluded. The exclusion was not just political, it was primarily economic. We don't talk as much about economic democracy – we see democracy as a set of polarised party positions. A society that doesn't cohere because of a perceived lack of fairness in the outcome of economic effort and fair opportunity to participate is not a stable society and not one that's going to preserve itself. The Brexit process exhibited a political deficit in terms of its processes, its reaching out, its institutional base, its numbers, the failure to achieve a super majority all of which represents voicelessness. There is a reverse side of this voicelessness and that's the large political deficit in the EU.

Comment – the most common attribute in man according to Nietzsche is sloth: political apathy and moral cowardice. Freedom to use land, labour, and capital is the answer.

Comment – technology is controlling all our lives and has taken away the voice of the individual.

Leslie – there are factors of production in addition to technology which demand a full and participatory share in the well being of society. Technology is a mindless course without any moral compass.

Comment – the stability of a society is related to its demographic and age. Societies with older demographics like the US and UK are much less likely to have a revolution tomorrow than younger societies. I may be voiceless but also I might not be bothered to do much about it and it becomes a meaningless voice. Do we underestimate the stability of our society because of these disenfranchised voices.

Leslie – Another word when looking at stability is resistance; things stay as they are either because they are inherently stable or because forces within that structure have the power to resist significant change.

Comment – Hegel said that we move on a pendulum swing between democracies and autocracies so from an American point of view, wasn't the election of Trump necessary to break out of the oligarchic system that has existed in the US at least since the end of WW2?

Leslie – that links back to the point made earlier that America is a stable society and yet it has undergone a revolution in political values and leadership style.

Comment – isn't Trump just an aberration, a moment in time? He will be forgotten in moments.

Comment - the structure in America hasn't changed – it's still run by the same companies. What's changed is the front line.

Leslie – one word we haven't used is globalisation. One of the great unravelings of society is the sense of voicelessness that comes from those groups of people who have suffered the consequences of globalisation. We can talk about the virtues of economic systems but workers in, for example, the steel industry are angry about the effect of global trade on their livelihoods. Globalisation has brought enormous benefits but potentially can be rigged unfairly.

Comment – it could be argued that the Chinese are creating more economic activity for the world.

Leslie – China has only been able to secure its competitive position through unilateral determination of exchange rates and the unilateral decision not to attribute value to labour or the environment.

Comment – if the Chinese can take over the steel industry, then they can dominate this country and disrupt the employment situation.

Leslie – Trump saw that the competitive power of China was a falsely based economic capability and decided not to tolerate that deliberate disfunctionality recognizing that it was tearing everything out of the 'rust belt' in the States just like the UK's ship yards and steel industry. Globalisation can become just a political tool whereby governments can influence fundamentally the competitive ability of an economy to win in its national markets. So maybe Brexit does hand back power to the UK, unburdened by agreements.

Comment – globalisation isn't only to do with trade. It's about being able to spread wealth more evenly across the world and share culture. Globalisation started a long time ago – the Spanish in South America for example.

Comment – globalisation is an attitude of mind. Everyone who enters this country illegally does so because they want the freedom to be able to think like the people in this country. They are escaping from a lack of freedom to think. Speaking to some Russian visitors before perestroika, they explained that in the USSR no one dared to think for fear of expressing those thoughts out loud.

Leslie – A C Grayling identified a number of areas for improvement within our democratic global systems: wider embrace of the electorate; a removal or diminution of the whipping process in parliament; better representatives being brought forward; more multiple parties and coalitions. These may all be very desirable but how are these changes ever going to take place within a political system where the authority for making such changes would be disadvantaged by them.

Comment – it needs an educated electorate and a desire for change from the bottom upwards.

Comment – there are in fact more people now engaged in the political process. The three recent elections and the Referendum have not turned people off politics and the leaders of the two main parties are 'relateable'.

Comment – the internet may be dangerous in that it can disseminate covert falsehoods via facebook but the internet has also promoted democracy in the sense that anyone can become a source of new ideas and movements can be developed by people with having to have recourse to conventional media.

Comment – critical thought is all important in the conversation.

Leslie – Grayling's point was that democracy is no more than a process of continuous conversation between opposed interests. Solutions cannot be found without it.