

Does the Arc of History Bend Towards Justice ... or Madness?

The arc of history is long, and it sometimes bends towards insanity. A society can go backwards as well as forwards. Russia and Germany were worse places in the 1930s and 1940s than they were in 1910, as illustrated by the Holocaust and [the Holodomor](#). The Holodomor was Russian Communist dictator Joseph Stalin's genocide: A man-made famine in the Ukraine in 1932-33, which caused millions of ethnic Ukrainians to starve even as officials confiscated their grain.

America as a whole has never been more prosperous (although this is not true of all regions within the U.S.). But America's political and legal system has deteriorated for decades. The budget [deficit is rising](#) due to self-indulgent spending increases and excessive tax cuts. And civil liberties, and basic civility, have taken a beating.

Protections for private property have waned. The Magna Carta recognized back in the 13th Century that property rights extend beyond land, by specifically protecting people's personal property, such as their "corn." But federal judges have often ruled that the Constitution's Takings Clause affords [less protection](#) to personal than [to real](#) property, even though the [text](#) of the Takings Clause doesn't distinguish between personal property and real property. It says that "private property [shall not be] taken for public use, without just compensation." Indeed, one of the principal purposes of the Takings Clause was to curb armies from [taking private property](#) to supply soldiers during wars. Personal property, such as food and clothing, were the primary targets of such seizures.

Protections against double jeopardy have waned even more. Such protections [were found](#) not only in English common law, but

also ancient Jewish law, and early Greek and Roman law. But the Supreme Court has gutted such protections, which are found in the Double Jeopardy Clause of the Fifth Amendment. It provides: “[N]or shall any person be subject for the same offense to be twice put in jeopardy of life or limb.” The Supreme Court has disregarded such categorical language by creating a “[dual sovereignty](#)” loophole that allows people to be retried in federal court for essentially the same offense they were found not guilty of in state court. Lawmakers take advantage of this loophole to pass federal laws duplicating state laws. Federal prosecutors can then prosecute people previously found not guilty in state court. This can lead to bankruptcy for even a prosperous middle-class family: Few people can afford to hire a legal defense team to defend them in two successive trials. A backer of the Matthew Shepard federal hate-crimes law claimed prior to its passage that “the federal hate crimes bill serves as a vital safety valve in case a state hate-crimes prosecution fails.” But as a lawyer noted in response, this “claim that the justice system has ‘failed’ when a jury returns a not-guilty verdict is truly scary and contrary to the constitutional presumption of innocence and the right to trial by jury.” Allowing two trials for the same offense also gives prosecutors an immense tactical advantage over the defendant in the second trial, from knowing the defense’s likely trial strategy in advance.

Civility has declined as well. It used to be understood that deliberately taking offense at people was a bad thing, and that publicly hounding them over it was an act of incivility. The great Renaissance [thinker Erasmus](#), in his 1530 book on manners titled *On Civility in Children*, wrote, “if one of your comrades unknowingly gives offense, tell him so alone and say it kindly. That is civility.”

But in today’s society, conscientious people’s livelihoods are deliberately destroyed merely because they unknowingly give others offense – even when they were only doing their jobs. A

progressive bakery in Portland [fired two of its employees](#) after they followed the bakery's own policy by declining to serve a woman who came into the bakery after it had already closed – because the woman in question is black, and took offense based on the erroneous assumption that it was due to her race. As journalist [Andy Ngo noted](#), “the woman, a professional equity activist, took out a video camera & claimed she was a victim of racism.” As a TV station [reports](#):

In a statement, the bakery said that although the employees were following protocol and they do not consider the two employees to be racist, they were fired because “sometimes impact outweighs intent.”

The bakery also said in the statement that the way the employees approached denying the woman service “lacked sensitivity and understanding of the racial implications at work.”

The two employees were fired because the woman and the “clamoring public” demanded they be fired, the bakery said in the statement.

This sort of scapegoating of employees simply doing their job is the very [opposite of civility and decency](#).

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