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IN MEMORIAM  
**ANDRZEJ KAPISZEWSKI (1948–2007)**

*The issue is dedicated to the memory of Andrzej Kapiszewski, one of the founders of the Krakow University College and its flagship publication "Krakowskie Studia Międzynarodowe". Instrumental in setting up its American department, an expert and lover of things American, he was a man of innumerable talents, always uniting everyone in endeavors which promised any positive good, capturing in an instant the difference between important and trivial, someone whose great conciliatory, ecumenical and inspirational power still animates the milieu of "Krakowskie Studia Międzynarodowe". His mind, character, and kindness to all have been sorely missed.*

Andrzej Bryk

Andrzej Bryk

## **INTRODUCTION: THE TRANSATLANTIC CIVILISATION AND MODERNITY TODAY**

Disintegration of the Soviet Union and the demise of communism as a world ideology, the creation of the European Union as a global player, and the acceptance of East European, post-Soviet countries into the latter created a new dynamic in transatlantic relations. Yet the optimism that the world can finally be organized according to peaceful liberal-democratic order quickly disappeared. In 2001, in the wake of the 9/11 attacks on America, the world entered the era of a profound instability and the nervous reactions of the major players in the liberal-democratic world: the United States, the European Union, and within the latter – Eastern Europe, the new partner. These immediate political developments brought to the fore, much deeper differences, mainly of cultural nature. This brings forth a question whether the transatlantic civilization as conceived after the Second World War was just a handy name for the immediate political and military common front against the communist enemy. The differences manifested themselves both between the United States and the European Union, and within the European Union itself between the Western and newly accepted Eastern sections.

All these developments emphasized the tensions of late modernity as a cultural project; it took on a new shape at the turn of the 20th century, and corresponding developments in modernization patterns, theoretical as well as practical. These concerns especially two issues: a profound reconsideration of culture as an independent variable, and the limited validity of the so-called secularization theory.

There exists no set definition of modernity and modernization; they have no permanently set shape: there is only the constantly changing world. The essence of modernity, the meaning of this ‘constant present’, has been the question occupying the western mind since at least the 16th century. The most obvious feature of modernity is its fluidity. Modernity ends for good with things permanent at the social and cultural but also at the personal and mental levels. It considers speculations about the essence of being, man, and eventually also morality and virtue to be a futile enterprise. Philosophically, the breakthrough was prepared by the nominalist revolution of late Middle Ages. But its consequences were of double nature: individual, social or experimental, and scientific. At the individual level, modernity was born with the rise of individual consciousness as a sovereign mover of human’s orientation in the world. At the social level, the individual was to apply this insight into what was real, not speculative, what science – whether corroborated by government or a machine – could solve. The religious wars of the 16th and 17th centuries paved the way both for the rise of modern individualism and practical political philosophy and for the institutional solutions corresponding to this philosophical revolution. The main aim of human well-being was a peaceful political order, possible to achieve if the things ultimate were to be removed from the immediate political concerns. Humanity was to lower decisively its sight from nature, God, religion of command, in wit from all transcendent meaning and permanent things passed since antiquity to Christianity of the Middle Ages. At the individual level this unfolding of this inner potential and the rise of the ‘self’ was visible in Michel de Montaigne, William Shakespeare, Miguel Cervantes and René Descartes. Introspection is the name of modernity, but a peculiar one. Introspection of course looms already large at the center of the first great autobiographical work of Western civilization St Augustine’s *Confessions*, but at that time it was firmly geared to the higher moral order, captured by the Saint’s immortal line ‘love and do whatever you want’. Introspection of modernity is geared to individual freedom unbound by limitations, as a road of the mind wherever it takes itself.<sup>1</sup>

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<sup>1</sup> In the middle of the religious wars Montaigne wrote what must have been the first justification of modern individualism: “The greater thing on earth is to know how to belong to oneself. Everybody looks in front of them. But I look inside myself. I have no concerns but my own. I constantly reflect on myself; I control myself; I taste myself [...]. We owe some things to society, but the greater part to ourselves. It is necessary to lend oneself to others, but to give oneself only to oneself. M. de Montaigne, *Essais* (1580), quoted by N. Davies, *Europe. A History*, Oxford 1996, p. 483. Shakespeare was already a modern man in his *Sonnets* as well as in his great tragedies. In *Otello* (1604–1605) we find this strikingly modern line “I am nothing if not critical”. Cervantes in *Don Kichote* (1604) puts the stirring homage to human freedom into the mouth of his hero. Descartes in turn located moral authority and self-sufficiency within the individual, going in fact one step further and establishing the fully sovereign self, long before Kant turned it into a sophisticated autonomy principle, grasping for a point of moral objective support. Descartes told queen Christina of Sweden that “free will is the noblest thing we can have, because it makes us in a certain manner equal to God and exempts us from being his subjects”. Thus for the first time, the individual was required and allowed to create and originate own philosophy of life. The ‘thinking self’, the rational individual was implied in his most famous maxim ‘I think, therefore I am’. Quoted in R. Koch, Ch. Smith, *Suicide of the West*, London 2007, p. 143. Descartes ‘seized on the mind and boosted man into an angel’ – S. L. Jaki, *Angels, Apes and Men*, La Salle 1983, p. 41.

Machiavelli in the 16th and John Locke in the 17th centuries stated essentially the same observation (though they expressed it differently), namely that the human reason was the only way to appreciate reality. The English revolutions of 1640–1660 and 1688 went further than only to reject the arbitrary rule of the monarch: Protestantism destroyed the Church's authority, claiming that a sound moral judgment could be based on an independent reading of Scripture alone. Enlightenment philosophers soon developed the ideas of social contract and theories of individual rights, where an individual was the only source of legitimate authority and human happiness, the measure of good political order and public policy. Immanuel Kant developed a theory of secular morality, allegedly to be ontologically sound, where citizens had their mutual rights and obligations, and where the innate soul of each individual (with its identity) found its fuller fulfillment with relations with the other.<sup>2</sup> With Rousseau, man became autonomous with respect to duty and moral law, which came dangerously close to a statement that man became a function of his sentiments and longings, where there would be a world governed by instincts and where stability, order and logic would be perilously degraded.<sup>3</sup> This immersion in nature was considered sufficient to recover the depth of humanity, the feeling and self expression which civilization, including the arbitrary system of thought, suppressed.

Romanticism added one fiery element to individuality, namely, the notion of originality, distinctive existence, richness of life, and diversity where each individual has a certain degree of originality: incomparable, inimitable, and impossible to be repeated by anyone. The idea became the most visible modern expression of combining one's life with being noticed, thus decoupling it from the worth of earthly life as absolute in the mind and reason of God. With this idea fear crept into an individual soul but at the same time so did enormous creativity and enmity. The other person was a subconscious enemy, against which one had to distinguish himself, so his life could be considered worth living.<sup>4</sup> Then came Carl Darwin and *The Origins of the Species*, which despite Darwin's disclaimers instantly deprived man of the spiritual side of his nature.<sup>5</sup>

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<sup>2</sup> Modern liberal individualism was also developed by Romantic writers like Jean-Jacques Rousseau (1712–1778), Johann Gottfried von Herder (1744–1803) and Johann Wolfgang von Goethe (1749–1832) who perceived nature as benign, nurturing mutual human solidarity and brotherhood.

<sup>3</sup> No wonder that Rousseau threw his hands up in despair crying that 'all on earth is in a continual flux which does not allow anything to take on a constant form', Rousseau in *Emille*, quoted in S. L. Jaki, *Angels, Apes...*, p. 48. Rousseau developed Descartes' logic, but was not focused on the mind. He took the sentiments, but 'having no eyes for the head, he aimed at the heart and hit the target somewhat lower, where the beast loves to reside in man', *ibidem*, p. 41. This prompted Jacques Maritain to remark that "Rousseau's man is Descartes' angel, playing the beast"; J. Maritain, *Three Reformers: Luther – Descartes – Rousseau*, New York 1929, p. 100.

<sup>4</sup> P. Watson, *The Modern Mind: An Intellectual History of the 20th Century*, New York 2001, pp. 11–39.

<sup>5</sup> The iron logic of Darwin's norm forced one, so it seemed, to the state of absence of all norms, beckoning 'towards unfathomable whirls in which one was no more than flotsam hurled round and round by the blindest of blind fates', and in effect 'turning time into a hopeless treadmill', subverting, so it seemed at the time, first of all Christianity. S. L. Jaki, *Angels, Apes...*, pp. 50–55; P. Haffner, *Creation and Scientific Creativity: A Study in the Thought of S. L. Jaki*, Front Royal 1991, pp. 71–72. It was Judaism, but first of all Christianity, which was

Darwinian theory was a shock to the European mind, but not as strong as it might seem. The European elites were essentially careless about Christianity, having embraced the political doctrine of liberalism and assigning the fate of humanity to the Enlightenment reason, with Christianity fighting the rearguard battle. But in America it was different. The European developments had of course some implications for the United States' cultural, religious, and political landscape. European Protestantism, just a fraction of the cultural life in Europe, confronted the Darwinian theory (and Nietzsche), essentially by giving up and accepting the liberal interpretation of the Biblical teachings, turning Protestantism into a disguised department of the welfare state and tepid morality. Yet in America the issue was confronted differently. Protestantism was the very core of American identity. Its language, imagery, references, and rhetoric formed the very essence not only of religious life but of the very cultural code of the civilization. Until liberal Protestantism hit the American soil, there had been no philosophical, conceptual challenge with powerful metaphysical consequences to the very identity of American self perception. The liberal, European Protestantism hit the American counterpart ferociously, causing an enormous rupture and throwing its mainline churches into crisis, resulting with massive culture wars, both within Protestantism and with the rising secular New Humanism, still defining the contemporary American scene, influencing society and politics, and sharply distinguishing the United States from Europe.<sup>6</sup>

In relation to these developments within modernity, which worked differently on the two sides of the Atlantic, the question of modernization – in a much narrower sense of rationalization, bureaucratization, and humanization of modern societies – became a pressing issue. For Western civilization, the 20th century with its totalitarian experiences generated a profound sense of doubt, guilt, and even a celebration of self-contempt, mainly in Europe. This prompted a search for a new type of civilization in an upheaval against its own past, defined as having within itself the seeds of destruction. This insurrection against the past assumed a form of a rebellion against all absolutes, whether religious or totalitarian, finally accepting the premise that any strong value judgment may breed intolerance and – according to the ‘ad Hitlerum’ logic – may lead into barbarism. In consequence, a fetish of New To-

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challenged by Darwin, mostly by its radical different understanding of time. Christian revelation and Incarnation liberated man from a tragic and pessimistic imprisonment without end within a world-picture based on eternal and inexorable cycles in time. The ancient pagan visions crept into the European mind again, with its cyclic world views and with essentially reduction of religious belief to a convention of the terrified mind, seeking sense in home-made beliefs in face of the inexplicable cosmos. Yet, as Darwin's implications seemed to indicate, such attempts were just superstitions, the chemical reactions to the inexplicable world, creating self-explicable and circular arguments. Their efficacy of explaining human existence, and even more importantly their ability to create a valid, ontologically grounded moral system of duties and rights was a sham, just a convention of a terrified mind, a private superstition to be dismissed by the will of the rational scientific thought. S. L. Jaki, *Angels, Apes...*, pp. 66–67; P. Haffner, *Creation and Scientific Creativity...*, p. 72.

<sup>6</sup> See: *Religious Issues in American History*, ed. E. Scott Gaustead, New York 1968, pp. 173–185, 198–212; on American New Humanism see: A. R. Heinze, *Jews and the American Soul: Human Nature in the 20th century*, Princeton 2004, pp. 87–194, 261–290.

lerance has been celebrated, in the accompaniment of an extreme nervousness about any moral claim which might bear a sign of absolute truth, even if put forth just for a public discussion. Paradoxically, this signified at the same time a profound distrust of rationality, in wit of a conviction that a reasoned argument may make reasonable people agree on anything. But at the same time, the new creed was a 'religion' of human rights, rooted in the idea of human dignity. This approach has increasingly began to dominate the Western discourse, but it has also been ridden by contradictions and has played itself differently in the United States and the European Union, and within the latter in Eastern Europe, where an assertion of moral absolutes was part and parcel of the fight against communism. The distinctive cultural, religious and political traditions emphasize numerous tensions and misunderstanding within the transatlantic civilization.<sup>7</sup>

Americans responded to this challenge of modernity by a thorough revision of their religious culture and its public operation, while Western Europe essentially abandoned any pretensions that the religious language can be of any use in moral discussions or that it can be accorded a status of anything more than a mere superstition privately held. As an implication, the private, autonomous institutions, whether families or churches, would have to redefine their roles, making their claims reformulated in an acceptable language or face persecution, more or less mild, with the public, state education geared to the total neutralization of their message. For several reasons, the Americans took up this challenge in a process of a fascinating religious and political evolution, absent in Europe. It began with a different form of Enlightenment on the other side of the Atlantic. It did not pit Christianity against liberalism, the way Europeans in the French Revolution did. Second, the American tradition was a covenantal, providential one that from its very beginning blended with the republican, constitutional practices. Third, from the earliest days, the American cultural code was – at least until the beginning of the 20th century – a Protestant monolith. Unlike in Europe, there was no viable challenge to such a culture: there was never a split of the cultural identity in America. Fourth, the religious grassroots and freedom oriented culture coupled with material wealth and self organization was able to prevent pushing religion to the margins of politics and

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<sup>7</sup> A part of a problem stems from a contradiction in the very concept of contemporary human rights theory and the implicit anthropology which it takes for granted. This anthropology is essentially based on a conviction that a major source of personal and social action is rooted in the radical autonomy of each individual's moral auto-creation, decoupled from any ontological roots which have become a matter of individual choice. This conviction assumes a radical secularization of moral, public language and the gradual pushing of the religious imaginary and argument into a purely private domain, a transformation of colossal consequences. If the autonomous moral auto-creation is a source of personal obligation that has been taken for granted, and human dignity is at the same time the ultimate source of human rights as fundamental and only legitimate basis of the new political, cultural, and moral order of the liberal West, then it would follow that human dignity is nothing more than the subjective creation of the individual wishes. The tacitly accepted idea that this human rights doctrine, having rejected religious grounding, can be construed on the basis of commonly accepted cooperation of autonomous wills searching for accommodation and having as its object a fuzzy state of humanity is of course an illusion, the old Kantian and Mill's dream which has long since then become dispelled. The result being that human dignity is nothing more but an individual having rights which stem from his auto-creation, the circular argument.

society, letting it in this way retain a legitimate public role<sup>8</sup>. As a result, a discussion in religious terms has always been part of the public language, even after the most serious challenge of the 1960s. The battle which is now being waged in America, with religious language being used, shocks secularist Western Europe, although not necessarily Eastern Europe, especially Poland, which recognizes a familiar pattern of development in confrontation with West European culture after the unification of the European Union.

East European culture is considered by the dominant Western cultural elites. Not only because strong common particularities were defined as dangerous, but also because the implications of working for ‘humanity’ as such made the individual the only conceivable unit of this endeavor. Humanity not only was to transcend nations, national histories, memories, community mores, religious conflicts, but even the classical distinctions between the private and the political. It was in fact the only feasible way to create a ‘safe’ universalistic ethic, the final complete universalism available, which was allegedly to create peaceful society, based on solidarity of its citizens. Humanity was to be a kind of benevolent disposition towards every person as a human being, regardless of any distinction, be it nation, race, religion, class, opinion or recently sexual orientation. West Europeans came essentially to a conclusion that humanity had come of age and the maximum possible universalism had been achieved. With such an approach every human being was now simply a fellow human being. This was going to be the final accomplishment of Kant’s idea suggested in the 18th century, that humanity as a whole was capable of making a leap of imagination, and accomplish a moral conversion outside of the existing collective structures including the state, nation, religion and even culture. The end of history was at last to arrive and what was needed was the last effort, one final battle to end all conflicts and wars. The anticipations of the possible peace made people act as if the destination point was already known and wage internal and external wars to that end.<sup>9</sup>

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<sup>8</sup> On this story, see: N. Feldman, *Divided by God: America’s Church–State Problem and What We Should do About It*, New York 2005; F. Lambert, *Religion in American Politics*, Princeton 2007.

<sup>9</sup> Kant thus came up with a universal cosmopolitan right, or humanitarian right which he proposed in his *Project of Perpetual Peace* of 1795. The universal peace, or the rule of law, was morally desirable, so it followed that it was morally necessary. If the universal peace is desire that humanity was capable of making, a “humanitarian awakening of conscience” was necessary. This link between the internal transformation and the external behavior could thus be done through law. I. Kant, *Perpetual Peace and Other Essays*, Indianapolis 1983, p. 124. This was essentially the western equivalent of the Soviet Union fight for peace by different means. What the European Union as the avant-garde of western civilization was finally to accomplish was engagement in “a moral lie on a grand scale. We have lied to ourselves about what we were doing. Instead of telling the simple truth that we were waging war for reasons that were inseparably political and moral, we have adopted a simple moral posture. We have placed ourselves at the pinnacle of all the virtues, we were simply waging the pure fight of justice and right [...] the adversary had to appear as a criminal pure and simple [...] the Western councils were in some way awed by the pure idea of humanity on the one hand and the pure idea of crime against humanity on the other. Our leaders seemed incapable of thinking or saying anything without having recourse to this contrast. We want to envisage only a purely moral politics [...]. Torn between what is and what ought to be, we do not consider what is possible politically. In the name of humanitarianism, we are inhuman”. P. Manent, *A World beyond Politics? A Defense of the Nation-State*, Princeton 2006, pp. 184–185.



The Western elites and European Union in its capacity of a new political entity have continued to become increasingly fundamentalist: in the case of the European Union, this is the fundamentalism of righteousness. The Union turned itself into a slave of an idea. Leo Strauss summed up the paradox of such a thinking, remarking that the right and a continuous progress towards perpetual peace and order, the state of non-violence and non-discrimination amounted in fact to a state of a perpetual war, in a situation when war, conflict, all discrimination, nay, politics as such, was declared to be an unmitigated evil, a crime against the ideal of humanity already discovered.

Modern liberty in this context means that a human being is a sovereign self, and as such the maker, the author, by right and in reality, of the human world.<sup>10</sup> Once this concept of human sovereignty was turned into ‘religion’ of humanity and human rights, there came a desire to regulate this independence. Paradoxically, an escape from absolutes led to the establishment of a new one, whose sources are increasingly shaky. But respect for choice excludes any possibility of moral judgment on them. Whatever choice was made, it is accepted as good, since taken by an autonomous moral individual with dignity. An indispensable part of this dignity is moral freedom to shape one’s own life at will, which manifests itself in political, social and cultural rights whatever they might be. This is the essence of the prevailing liberal-left notion of the New Tolerance and radical multiculturalism. In essence, it is a destruction of the classical concept of truth, moral truth which essentially depends on the human capacity and need to distinguish between good and evil acts: the essence of humanity as such, enabling it to form the bonds of solidarity and focusing instead on the most radical utilitarianism, the question what is useful and working for myself. Moral freedom is essentially an invitation to hold the argument of immorality against the others, because the self will always find reasons to obey the easiest possible choice based on the principle of being useful for the individual. This is a radical rejection of Kantian autonomy principle. His respect for human dignity was respect for humanity itself. Kant wanted to discover the space of the moral precepts which would be binding for all without any reservations.

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<sup>10</sup> This idea of separation of external and internal forces to create a sovereign human space is of course long in the making, although it culminated in modernity. The Greeks already divided reality into natural world and moral world which was to be subject to reflection. See: J.-P. Vernant, *The Origins of the Greek Thought*, Ithaca 1994. Christianity introduced the concept of autonomous conscience and free will. But it was Rousseau and Kant who formulated this modern separation in a radical way, in a form a subject who determines for himself the law of the universe, because he is sovereign towards his inner liberty. The process was analyzed in P. Ma-nent, *The City of Man*, Princeton 1998, esp. pp. 183–222. All external forces: nature, gods, the Christian God, have to be banished. This existential new situation shows itself dramatically in democracy. If we can discern then the real laws of life and society and we are sovereign to do with them what we want, than reality is really, as Rousseau remarked, an enemy. We are ‘everywhere in chains’ waiting for emancipation. This was a liberating idea and at the same time a dangerous one, where the will to recreate one’s world according to the preconceived will, decoupled from any objective moral standard as e.g. the natural law, was pushing humans into hubris. This has been a constant theme of criticism of modern conservatives beginning with Burke and continuing to de Maistre and Bonald until Eliot.

The task was colossal. If the discovery that we cannot extrapolate any clear rules of what is good and bad from human behavior, what is any definite rule of what we as humans should do, then – as Kant implied – we have to search for such rules in the confines of the autonomous practical reason, and Kant was sure that it was possible. In the conditions of radical epistemological and ontological break wrought by the Enlightenment and an abandonment of Christianity's justifications, Kant wanted to rescue humanity from slipping down into the most debasing utilitarianism. A question of all questions, which since then has occupied the Western mind can be formulated as follows: can one ever pretend to discover such norms in practical reason, without rejecting the religious sources of morality and its definite distinction at the same time. Can Enlightenment rescue itself from a gradual degeneration to nihilism, having once rejected the radical ontological – and in consequence ethical – significance of the Book of Genesis and its parable about the tree of good and evil in Paradise.<sup>11</sup>

Kant answered this fundamental question positively. For him it was obvious that the order of morality had an ontological grounding, even if the road to it was torturous through an autonomous subject's reasoning. Yet, asking a question of what human dignity was, contemporary moralism in fact rejects the Kantian question.<sup>12</sup> Respect for human dignity becomes simply a respect for the 'contents of life', whatever it may be, of another human beings. The same words are used, but with an altogether different moral perspective because human dignity and morality are increasingly conflated with rights as decoupled from a moral, ontological grounding. Once human dignity is conflated with rights, this makes them the province of the administrative state and the judiciary, beyond legislative let alone executive supervision. The administrative state governed through law, not so much as a will of the sovereign, but as a ruler recognizing simply the general rules of humanity,

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<sup>11</sup> On this, see the fascinating book by Kass: L. Kass, *The Beginning of Wisdom: Reading Genesis*, Chicago 2003.

<sup>12</sup> This has been the essential question of Western philosophy. Dostoevsky rejected the Kantian effort as futile and said 'only Christianity can save us', Nietzsche rejected it too but opted for a solution to create one's life and its rules on the basis of the sheer will to be heroic in the face of meaninglessness. Darwin's late disciples sided with Nietzsche adding a sinister twist to it and – not unlike the thinkers of the Enlightenment – considering religion to be a superstition, a nice consequence of the unpredictable combination of chemical reactions in the brain. Heidegger was equally in despair thinking that the utilitarian civilization of scientific discovery makes human civilization a morally senseless enterprise, adding 'Only God can save us'. Some time later, postmodernists, as e.g. Rorty responded 'save from what, peace, pleasure, conformity'. This questions stands today. It is essentially a question whether the reality has a meaning or is it just a development of protein. A question was asked whether our civilization "can survive without faith, so the distinction between good and evil, the distinction what is ordered to and what is forbidden, does not depend on our day to day decisions, and would not be tantamount to what is useful and what is detrimental? If this what is useful for one human being or one group, is detrimental for another or other people, if it is equally obvious that what is for this human being or this community, can in the long run be useful, if, in wit, there is no criteria what is useful and detrimental in a situation, particular than the moral regulations are tantamount to utilitarian criteria, which means that there are no moral rules. Kant of course knew it, and when he rebelled against the popular utilitarianism of the Enlightenment, he also knew that what was at stake was not the fate of one or another moral codex, but the very existence of a distinction between good and evil, in wit a fate of man". L. Kołakowski, *Kant i zagrożenie cywilizacji*, [in:] idem, *Czy diabeł może zostać zbawiony*, Kraków 2006, p. 187.

means increasingly in practice the rule of the judges and the corresponding total juridization of life and castration of politics as such<sup>13</sup>.

America has been definitely affected by such developments of modernity but it has played itself there differently. In Eastern Europe, the difference is even starker. Eastern Europe did not go essentially through the modernity's Enlightenment revolution, and it did not go through a radical fulfillment of this Enlightenment impulse on a massive scale, that is the counter cultural revolution of the 1960s, which established the idea of the moral autonomous self the basis of the cultural, social and political order. These cultural differences play themselves in the immediate political realm, in a language being used and expectations expressed, visible at all levels of relations between the United States, The European Union, and – within the latter – Eastern Europe.

A major part of the present volume of the “Krakowskie Studia Międzynarodowe” is devoted to numerous aspects of modernity and modernization described above and to the way they manifest themselves in the aforementioned societies. The current issue contains a variety of material touching the issue of modernity and modernization in comparative perspective, showing how the United States, quintessentially a modern nation, is at the same time a profoundly conservative one in many aspects, which from the European, and especially the Western, perspective seems to be a striking oddity.

Kenneth Minogue, arguably the most perceptive conservative critic of liberal modernity living today, tackles the problem of social equality, one of the questions most crucial for contemporary liberal societies, standing at the very center of the most principal values of inclusion and non-discrimination. Inequality, another name for a more generic problem of discrimination of any conceivable sort, has become the main culprit of all social and economic ailments of the liberal-democratic society: the fundamental evil which stands at the very center of public policy<sup>14</sup>. This

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<sup>13</sup> This new power of judges illustrates here “the impatience with mediations, in particular political mediations, and our desire to recognize and achieve humanity immediately. This desire is natural to our democratic societies dominated by the sentiment of human resemblance, by the self evident character of the humanity of the other person [...] the ‘natural’ order of politics and the project of a new metapolitical or post-political order of unified humanity” which refuses the classical “political order [...] still largely determined, and peoples’ s lives still largely defined by political circumstance and context, by the political regime and form [...]. There are two principal ways to conceive a metapolitical humanity that has overcome or transcended its political condition. It can be humanity organized according to law or humanity living in accord with morality, which is humanity living with respect for human dignity”; P. Manent, *A World beyond Politics?*..., p. 186. This is a very deft development since it means that the judiciary is immediately transformed, and in consequence has a tendency to look at itself as an ‘impartial’, non-political power, beyond an ordinary tumble of politics, as an impartial arbiter of objective rights. This is in itself nothing new. In the European context, this trend towards confluence of justice with rights was visible in The Declaration of the Rights of Man of the French Revolution of 1789, which in the French doctrine has had “a constitutional standing and is taken as the ultimate foundation of all judgments [today]. One could say simply that the judicial power is a power that seems not to be a political power and appears to be a spiritual power. [This is] the advancement of the ‘government of judges’, within nations. Of course, an ‘empire of laws’ is not limited to the internal order but encompasses the international order”. *Ibidem*, pp. 176–178. The Charter of Fundamental Rights of the European Union reflects such way of thinking.

<sup>14</sup> On this see: J. Keke, *The Illusions of Egalitarianism*, Ithaca 2003.

is clearly visible, for instance, in the obscure and ideological language of the Charter of Fundamental Rights of the European Union, whose Art. 21 forbids all forms of discriminations: the sentiment propelled by the underlying value of equality, yet very imprecisely defined. Minogue concentrates on a narrower issue of economic inequality and contemporary aspects of the welfare state. The latter operates according to some assumptions: sometimes contradictory, sometimes ideological. It also constitutes the battling ground for many lobbying groups. In this context, Minogue brings up the 19th-century, distinction allegedly discredited between the ‘deserving’ and the ‘non-deserving’ poor, now universally abandoned in the public policy language. Such a distinction resulted from accepting interpretation of moral actions as being predominantly a function of social conditions.

The entirely new anthropology became predominant in the awareness-forming intellectual circles of the liberal-democratic West, where a human being is rarely perceived as a moral subject, responsible for its own deeds. A growing number of judgments concerning human beings has begun to be formed through the lens of constraints on social conditions in which people have come to live. This proclaimed weakening of moral autonomy of man, his alleged independence from the individual moral judgments, and the corresponding dependence of the latter on social conditions constitute together not only a crude form of behavioralism, but parallels the creeping increase of the power of the modern liberal welfare state charged with the task of combating and ameliorating inequalities. If the overreaching objective of the state is to fight all forms of discrimination in the name of the controlling and legitimizing value of equality, then the state must wield power to control human preferences. Discrimination is in this case recognized as an extreme form of injustice which contravenes the democratic principle of equal participation, and thus it is defined as ‘social exclusion’. A prevalence of this metaphor of social exclusion changes the discourse about inequality and discrimination, making the amendment of inequalities an immensely imprecise, volatile, ideological, and therefore dangerous task. To prove the existence of social inequalities that need to be leveled up, the ‘gap metaphor’ is used. This makes a task of assessing inequalities both an extremely one-dimensional, and at the same time arbitrary and subjective endeavor. The hard realities of inequality are construed with statistical data, which use approximate averages to define ‘social exclusion’, saying not only nothing about the reasons behind the inequalities themselves, but also fuelling a growing resentment.

All these may lead to solutions that absolutely miss real problems of social needs, but in turn create new categories of inequalities, which again require endlessly recurrent solutions on the basis of an extremely limited base of utilitarian calculus and a narrow anthropology – taken for granted, and in fact primitive. This metaphor of social exclusion, the amelioration of which is a task of the modern liberal state, gives rise to public policy which seeks uniformity and homogeneity by means of the bureaucratic machinery. Tocqueville in *Democracy in America* perceived this danger well, but he was not alone in this perception and apprehension of

the affinity between equality and power in the modern welfare state. It was Edmund Burke who already in *Reflections on the Revolution in France* of 1792 pointed out this passion for leveling, stating that these ‘who attempt to level, never equalize’.<sup>15</sup> Equality has thus become a kind of a preeminent modern ideology drawing upon both political and religious energies, of which the latest institutional embodiment is the modern welfare state employing a new metaphor of social exclusion and nondiscrimination as the controlling value of a legitimate society. This metaphor of social exclusion is as narrow as it is sentimental, referring to the positive aspects of human magnanimity, solidarity, and fairness. To perform its task, it employs the most crude of the tools: the bureaucratic state.

It is this state which – drawing into itself all responsibilities for securing nondiscrimination – not only teaches citizens resentment but furthermore often deprives them of these features whose lack makes the real social, moral exclusion an increasingly growing characteristic of modern societies. An antidote to this moral helplessness brought by modernity and its welfare state cannot therefore be found in a liberal, bureaucratic rationalization, Minogue seems to suggest, pointing that it begins with a recognition that there is no one simple principle which can relieve people of the duties which we owe to society and the world around us. In contemporary societies, social exclusion becomes more a moral exclusion of utter indifference. But moral exclusion is being ameliorated by wrongly conceived and applied means, the growing legal norms and the army of bureaucrats fighting discrimination and defining its instances in an exponential way, thus producing a society, in which economic and power inequalities are considered to be the preeminent ones to be battled by bureaucratic state. At the same time, battling these inequalities is tantamount to dismantling institutions, social mores, and morality as such. The last lets inequalities be diversified and rooted in the general sense of order, where everyone has a legitimate and inviolable place demanding respect. The modern equality, also in its latest version captured by metaphors of ‘social exclusion’ and ‘nondiscrimination’, has a self-propelled spiritual dynamic. A demand for it is, in fact, a demand for an upsurge of the bureaucratic state.

Equality has in such a case a built-in, revolutionary and yet centralizing potential. Once equality develops into the primary idea, it becomes insatiable in its demands, and a contemporary language of rights is a case in point. It is possible to perceive human beings as conceding, i.e. that they

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<sup>15</sup> For Burke, the French Revolution was therefore radically different from the previous ones. It introduced a new burning principle – unheard of before, foundational being a combination of eradication of social diversity on the one hand, and the increase of the political, centralized power on the other. The latter tended to a destruction of the intermediate authorities in a drive for social leveling. The same was observed by J. Fitzjames Stephen in: *Liberty, Equality and Fraternity* of 1873 – a response to John Stuart Mill’s philosophical system with its burning desire ‘to be a reformer of the world’. Stephen pointed out the incessant conflict between equality and liberty, others followed suit; their number included Henry Adams, Taine in France, and Nietzsche in Germany. They all drew attention to the dangers of the modern democratic leveling tendencies, the danger for liberty coming from the relentless drive towards equality. R. Kimball, *Mill, Stephen and the Nature of Freedom*, [in:] *The Betrayal of Liberalism*, ed. H. Kramer, R. Kimball, Chicago 1999, pp. 43–69.

have enough freedom or justice in a social order; it is not possible to imagine them ever declaring they have enough equality – once, that is, equality becomes a cornerstone of national policy.

In this sense, the modern idea of equality coupled with its underlying justifications of non-discrimination and an intolerance of social exclusion

resembles some of the religious ideals or passions which offer, just by virtue of the impossibility of ever giving them adequate representation in the actual world, almost unlimited potentialities for continuous onslaught against institutions [...]. Equality feeds on itself as no other single social value does. It is not long before it becomes more than a value. It takes on [...] all the overtones of redemption and becomes a religious rather than a secular idea.<sup>16</sup>

It becomes the basis of an incessant *la lotta continua* of the modern welfare state, which increasingly lacks instruments to create authentic social solidarity and responsibility for the weak. Such a state increasingly begins to consider intermediate institutions, families for instance, as a site of incorrect and discriminating thinking, and has embarked on a colossal and never-ending task of making everyone part of a social engineering solution to the question of human existence. By doing this, the welfare state dismantles private institutions and subjects their tasks to the welfare state, the very institutions the existence of which is a precondition of securing the real, not administrative social inclusion, based on the inculcated moral sense. This is so, points out Minogue, because the means provided by the modern welfare state are based on statistical measures, and thus constitute a crude indicator of what the real social exclusion is. The statistical resultant gaps never solve the problem. The ultimate irony of the welfare state is that the same unfavorable situations which such means are allegedly to remedy, are constantly reproducing themselves by the unlimited provision of goods and services to the people who are convinced that their lives without the state would be impossible.

One of the defining characteristics of modernity is individualism, and David Lorenzo takes up this subject from the perspective of Alasdair MacIntyre, one of today's preeminent political philosophers. But the understanding of Lorenzo's paper requires an introduction into the thought of MacIntyre, one of the most challenging critics of contemporary liberalism and thus modernity. Individualism as a term of political philosophy is notoriously difficult to define. But modern individualism began with the birth of self-consciousness and self-reflection, the slow decoupling of the individual thinking from the culture of *Christianitas* when mental processes were directed and shaped by Christian imaginary. The issue is additionally complicated, since one can argue that modern individualism was born exactly with Christianity and its idea of individual conscience and its wandering in search of the

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<sup>16</sup> R. Nisbet, *Twilight of Authority*, Indianapolis 2000, pp. 182–184.

ultimate meaning of life.<sup>17</sup> Nevertheless, it is the Renaissance breakthrough – the rise of science and the new intellectual class – which paved the way for the modern solitary individualism in search of the meanings of life without the guidance of Christian imagery. This new sensibility combined the amazement with the unbound possibilities of the human mind with the apprehension of the wrongly chosen roads.

This idea of individual self-awareness or self-consciousness as the autonomous source of meanings gave impulse to a modern idea of freedom as a task to be won against this world, and not a duty to emulate the undeniable path to the truth. With it came a corresponding idea of moral auto-creation as a source of morality. In its inception – still bound to religious imagery – although already tied to the latter's deistic interpretation, the idea received a boost from the thinkers of the Enlightenment, especially Rousseau, and had exploded as the preeminent legitimizing idea of the modern world by the end of the 19th century.<sup>18</sup> Finally, postmodernists – symbolically represented in its tragic form by Jacques Derrida and his clownish equivalent of Richard Rorty – gave it a nice package. The spreading counterculture of the 1960s marketed it widely, making moral auto-creation the only legitimate basis of human life and political organization.

The idea of human rights, uprooted from any ontological foundation, has finally become its preeminent guiding principle. The western civilization has made individualism and its moral auto-creation the self-defining feature of modern freedom. The formation of virtue and character gave way to idolatry of the self, creating its own conception of life on the basis of choice. The political, social, and cultural institutions were to follow suit, ensuring that such an unrestrained individual choice would be secured at the expense of any institution daring to inculcate the character and virtue forming, definite morality. Choice and New Tolerance, a.k.a lack of moral gravitas of one's course of action, always seeking another option and another road to the true meaning, have become the reigning ideology of liberalism.<sup>19</sup> A new definition of the human being made the individual someone who defined own being in a process of auto-creation. This immediately raised the question of what a 'self' exactly we were supposed to affirm. Was there something ontological behind this search or, as Gertrude Stein famously said 'there is no there, there', there is nothing there.

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<sup>17</sup> This is the essence of the writings of first Christian theologians and philosophers, St. Paul and St. Augustine being the most important. The latter's *Confessions*, arguably one of the very few of the most important works of western civilization, still mesmerizes with its modern implications.

<sup>18</sup> This process accelerated with the advent of the 'debunking philosophers' of the disenchantment, beginning with Marx and Darwin, through Nietzsche to Freud.

<sup>19</sup> See: L. M. Friedman, *A Republic of Choice*, Cambridge Mass. 1996. As a consequence, the law of the state was just to reflect this state of affairs, the doctrine notoriously defined as given by the American Supreme Court in 'Casey vs Planned Parenthood' of 1992.

Political thinkers of modernity, as e.g. Thomas Hobbes or John Locke, became aware of the problem but considered it inconsequential.<sup>20</sup> What they proposed was to lower the sight, to search for procedures and institutions, and to eliminate the moral and virtuous from the realm of the state. But that entailed a hidden – and to a large extent arbitrary – notion that the moral world of norms and morals, of virtue and character belonged to each individual separately; it became a sole province of the individual's arbitrary creation. Moral notions and laws were the province of self-creation, the consequence of epistemological despair and the loss of ontological basis on which one could found a secure direction for a proper political order.

Natural law ceased to be a language of culture, it gave way to natural rights, where a solitary individual was the starting point of a legitimate political order. Historical, economic and social necessities were from now on dealt with through social contract, with a distinctive sovereign, arbitrating such necessities by means of individual rights, separating the public sphere from the private one. But individual rights, a discourse of modernity, turned out to be based on a very thin ground. They were devoid of any ontology considered to be useless. So we have a very paradoxical situation when one

cannot simultaneously destroy the ontological perspectives and then try to drive a pylon deep enough into ground you have excavated in order to sustain commitments to a regime of rights. Isn't that exactly what we have done [...]. So we content ourselves with a tautology: man is the being that defines himself by the fact of having rights. This is pretty thin [...] for with an unprecedented liberation of man we have also freed this modern person from that which alone could secure his freedom and make sturdy her liberty: we have made the modern person a creature 'now impenetrable to Being'. Thus severed from being, the notion of human rights by itself lacks ontological density. So we embrace that which we will be unable to sustain over time given what we have rejected. This [...] is our dilemma. But we refuse to recognize it as such because to do so would be to challenge the presuppositions of our own sovereignty and the sovereignty of the forces at work in, around, and through us [...]. The Triumph of the Will comes as no surprise [...]. In giving birth to ourselves, we have abandoned that which alone can nurture and sustain us.<sup>21</sup>

The chief goal of modernity was thus to unburden man, to release human beings from our own natures since humanity decided that there existed no nature. Without nature, there is only self-consciousness and moral auto-creation, since consciousness decided to abandon the version of virtue known by the ancient and Christian. The idea of the best regime was destroyed together with the idea of inculcated virtue, replaced with the authority of the present moment and an autonomous individual's response to it: an absolutely transient experience, best exemplified by ideas of interest, law, commerce, and negative liberty. This new regime of the final 'emancipation' and 'enlightenment' is based neither on Reason nor Nature, but

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<sup>20</sup> What they wanted to do was to tame, in their judgment, the unbound hubris of the virtuous mind, arrogantly usurping to itself a conviction about finding the right path to it. The religious wars of the 16th and the 17th centuries and the corresponding political chaos destroying the unity of *Christianitas* was, according to them, the result of such an arrogance.

<sup>21</sup> J. Bethke Elshaint, *Foreword*, [in:] P. Manent, *The City of Man...*, pp. X–XI.



just on the present moment, so it lacks any criteria of choice. Choice is exactly what has been chosen in the present moment. There is thus no final justification of anything in relation to something stable. Such a justification cannot survive, the present moment being replaced by the next one. We are in the midst of the shifting sands, there is a threat of de-legitimization of everything, of any stable ground, any morality, any value, it is a constant, incessant merry-go-round. With respect to duty and moral law, human beings become a function of their sentiments and longings of the moment.<sup>22</sup>

This corresponded nicely to a theory of evolution when both self-consciousness of moral auto-creation of the moment and the blind forces of evolution

beckoned toward unfathomable whirls in which one was no more than a flotsam hurled round and round by the blindest of blind fates.<sup>23</sup>

In such a situation, there was that depressing feeling that there is nothing which “saves a man from the degrading slavery of being a child of his age”.<sup>24</sup> In such a situation, a human being becomes merely a reflex of own circular self and his or her existence resembles an incessant string of revolving mirrors. Any discussion of objective reality, nay, of any communication across time – let alone across individual human existence – becomes problematic. Having destroyed virtue and objective morality grounded in natural law – which made it possible to communicate through history and through individuals, despite the fact that the traditions of virtue and natural law differed – we found ourselves in a void. Once the language of virtue has been lost, or transformed in such a way that the language of morality refers not to the universal (of what is common) but to a principle of singularity and particularity of a moment of each individual self-consciousness, communication through virtue seems impossible. There looms a danger of a total incommensurability of human beings to form any solidarity or community, in wit, a depressing notion of total anomie and ultimately despair. This is the modern situation in which we are incapable of providing any reasons why any moral norm should be held valuable and consented to if reason and passion can always find other reasons to reject them in favor of the utility principle. The conception of the human good becomes in such a situation impossible to attain, and together with it so do human community and solidarity.

It is such a modern condition that Alistair McIntyre intellectually faced, and defined such a stage of human development as a calamity. McIntyre is sometimes described as a communitarian, but this is too narrow and inadequate a description. McIntyre decided to rework the entire tradition of the hegemonic thought of the

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<sup>22</sup> This is a situation which Rousseau captured in his unintentional definition of the essence of modernity: ‘All on earth is a continual flux which does not allow anything to take on a constant form’, quoted after S. L. Jaki, *Apes, Angels...*, p. 48.

<sup>23</sup> *Ibidem*, pp. 54–55.

<sup>24</sup> Chesterton quoted in: H. Arkes, *Liberalism and the Law*, [in:] *The Betrayal of Liberalism...*, p. 118.

West, which may be loosely termed as liberalism, and which started with an individual and the individual's autonomy principle. For him, this project evidently failed. Originally given a sophisticated philosophical embodiment by Kant and Mill, this was an attempt to develop accounts of morality in the name of some impersonal standards in response to the loss of shared practices necessary for the discovery of common goods, all this under the conditions of morality based on the pursuits of an autonomous moral subject. The project was doomed to failure because it disregarded the very ancient, classical and Christian question how to explain the conditionality of humanity and above all its conditionality in history, the question which is the starting point for all transcendence. This philosophical question was disregarded in modernity, even if Kant accepted the possibility of the latter's existence.<sup>25</sup> Yet the practical problem of the common good could not be adequately explained, because no common standards can be sustained when they are abstracted from the practices and descriptions that render our lives meaningful and comprehensible. In other words, it is exactly modern moral philosophy which becomes not the solution, but the problem, claims McIntyre. Its stress on autonomy with a corresponding ethics derived from history creates people who are utterly incapable of living lives which have any narrative coherence. Such lives become essentially a response to constant impulses worked out by our autonomous consciousness, a string of events which cannot be tied to any overreaching meaning making individual life understandable to itself.

We have a situation reminiscent of the decadent ancient Rome. There were so many gods that, as Chesterton observed, it was impossible to live without offending at least some of them. This resulted, one might add, in the sigh of existential despair and reversion to what was immediately sensual and utterly practical. At the beginning of moral philosophy, which started with the reworking and systematizing of the modern practical impulse close to the end of the 18th century, a traditional moral agent – till that time construed and based on the classical and Christian sources of justification – disappeared from the philosophical platform. The character of a moral subject, the content and the structure of his desires and dispositions were pushed aside, became peripheral, ceased to stand at the center of moral philosophy. The moral philosophers from Socrates to (even) Hume had this issue at the center of their thinking, which meant that the question of character formation constituted the most important educational postulate, whether on an individual or communal level. Character was replaced by the most modern of modern words in all walks of life: choice. The rest, as the story goes, is history. A proper moral choice understood by Kant or Reid as deciding between desire and the requirements of morality, was still thought to be possible, since for Kant an objective morality was not only possible to be constructed out of the rational thinking, but somehow reproduced at

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<sup>25</sup> For the most sophisticated approach to Kant in this context, see: G. Kruger, *Philosophie und Moral in der Kantischen Kritik*, Tübingen 1931, p. 236; also: Th. L. Pangle, *The Ennobling of Democracy: The Challenge of the Postmodern Age*, Baltimore 1992, p. 13.

the social, communal level<sup>26</sup>. In the 20th century, choice, as for instance in Sartre, was defined as a condition of authenticity. It was authenticity – or, in popular parlance, self-fulfillment – that was to make character in moral philosophy, let alone at mass culture level, an obsolete, anachronistic idea. Such choice began to replace the character formation in public education, the very essence of education since Aristotle. The Ideology of the New Tolerance was the natural outcome of such a philosophical change. The corresponding blurring of the limits of human rights, the new ‘religion’ of liberal modernity, was another outcome. Since human rights are decoupled from any ontological basis, and such is the consequence of modernity and its moral doctrine of choice, the idea of human rights is simply beginning to be tantamount to individual choice. The indefinite expansion of the list of human rights is its consequence.<sup>27</sup> This replacement of character in moral formation by moral choice – or to put it bluntly, moral freedom – is the stage of modernity, on which the liberal world has found itself, singing Alleluia and smiling through the cultural catastrophe. It is in response to this critical time, a peculiar form of modernity today described as liberalism, increasingly unable to provide any means of comprehending the meaning of life and human existence, that McIntyre formulated his diagnosis. For him that liberalism’s descriptions have become totally inadequate for the human’s ability to act in a manner which would be intelligible to others as well as to individuals themselves.<sup>28</sup>

McIntyre’s critique of liberalism is as commonsensical as it is novel in late modernity, outwardly heretical, and even arrogant. It stems from a conviction that human life, enabling the cultivation of virtues necessary for the formation of community and solidarity – the values which the Western civilization is allegedly proud of and whose perfect embodiment it constitutes – can be occur only when these who are engaged in constructing and engaging in community formation are focused on goods without which such an endeavor is futile. As a doctrine and its modern social embodiment, liberalism reached a stage where an axiom that there is an ultimate human good towards which humans should strive is decisively rejected. It denies the determinative concept of the human good – and consequently to the foundation of any models of common life such a concept – a place in public discourse. Intellectually, this is nothing new, such was the modern liberal project as devised already by Hobbes or Locke. What is new is a growing disillusion that this methodological, epistemological and ontological stance, might form a community of mutual obligations sustained by means other than the minute rules of the administrative state, the problem Minogue seems to indicate in an article published in this

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<sup>26</sup> S. Hauerwas, *The Virtues of Alasdair MacIntyre*, “First Things”, October 2007, p. 36–37.

<sup>27</sup> This was already intimated by some conservative Enlightenment thinkers, as e.g. Burke and John Adams. See: A. Bryk, *Liberalism, Constitutionalism and Judicial Review*, [in:] *Historia Integra*, ed. Z. Chmiel, Toruń 2001, pp. 318–325.

<sup>28</sup> McIntyre’s seminal ideas, being among the most important for the possible recovery of the moral grounding of Western culture, are explicated essentially in three extremely influential books: *A Short History of Ethics*, the most important *After Virtue*, and *Against the Self-Images of the Age*.

volume. Despite this disillusion, liberalism nevertheless persists in claiming that this is the right foundational assumption and a course of action. This is visible in all public policy measures, for instance in public education, in construing the rigid idea of separation of state and church understood as a separation of religion from public life, or in the so-called New Tolerance becoming the main modern liberal ideology. In the most dramatic fashion such a policy measures make it a duty of the liberal state to deconstruct by law and administrative measures, i.e. force, all autonomous institutions, as e.g. churches and families to conform to the liberal state's image of the monistic good. This policy comes out of fear that such independent institutions might be so impudent as to dare to teach definite, foundational morality, based on character formation.

This liberal totalitarian impulse gives rise to a psychological and educational industry financed by the administrative state. Its goal is to guard the recalcitrant minds from committing a mistake of being not progressive and modern enough, and especially to prevent them from committing the most horrible liberal crime of 'non-tolerance'. To be non-tolerant means essentially that one is judgmental, that is making moral distinctions and creating a hierarchy of moral norms. Such a process is immediately branded as 'exclusive' and 'discriminating', and by ideological manipulation tied to its alleged consequence of igniting violence and civil war. Contemporary culture wars dividing the liberal societies defy such liberal monistic pretences. But for the liberals, culture wars are considered not an instance of reaction against false premises the liberals impose on others, but as another proof that their foundational axioms are correct. The result is a stalemate and a war of all against all, and a corresponding incessant campaign of the liberal state to wage wars on their own societies. This furthermore constitutes a clear rejection of reason in the name of which the liberals allegedly battle their enemies.<sup>29</sup>

McIntyre is perceptive enough and, like his great contemporary Charles Taylor, realizes that, as Nietzsche said, 'we burned our ships', and there is no past which we might return to as societies, at least not in the foreseeable future. We may have pockets of immunity, churches and families, but they are increasingly assuming a role of the besieged ghettos attacked from all sides by the liberal state which considers them to be a throwback to the anachronistic past. McIntyre understands thus that we are all "inescapably inhabitants of advanced modernity, bearing its social and cultural marks", thus he acknowledges that his "understanding of a tradition of virtues and the consequences for modernity of the rejection of that tradition is possible only on this side of modernity".<sup>30</sup> Nevertheless McIntyre takes up a risky task of challenging modern liberalism from a standpoint of a different

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<sup>29</sup> On the totalitarian potential of such a liberal monism, see: A. Bryk, *Akcja Afirmatywna. Doktryna różnorodności a plemienna koncepcja społeczeństwa liberalnego*, "Krakowskie Studia Międzynarodowe" 2004, No. 2; J. Hitchcock, *The Enemies of Religious Freedom*, "First Things" 2004, February; J. Bethke Elsh-tain, *Liberalism and Religion*, [in:] *The Betrayal of Liberalism...*

<sup>30</sup> S. Hauerwas, *The Virtues of Alasdair McIntyre...*, p. 38.

tradition, the classical one, as began by Aristotle. From Aristotle, McIntyre takes a simple, in fact, commonsensical, thought standing at the center of the Christian moral tradition too, that our actions require: first a conception of an end, and second the social and political conditions necessary to sustain a life formed by virtues constitutive of that end. Such a condition is utterly lacking in modern liberal moral practice and theory.

In other words, in contemporary liberalism there exists no end towards which we want to be moral, which makes morality a simple moral freedom of an individual desire. Moreover, there are no social conditions sustaining such persons and inculcating them into such ends, even if they existed. The latter case is faced especially starkly by innumerable parents teaching their children traditional or religious morality, in conditions in which such a morality is not only constantly being neutralized by the ubiquitous mass culture, but is officially treated as a problem to be rectified by the official political, educational, psychotherapeutic measures delivered by the state and pitting children against their parents.<sup>31</sup> With such an approach, claims McIntyre, in modern liberalism it is impossible to provide any justification of a human good beyond a sheer desire of moral freedom. Such moral freedom is incapable of creating any morality, except the utilitarian morality of pleasure and the war of all against all, guarded by the administrative, psychotherapeutic state armed with the minute legal regulations. For such a morality of ends to be formed, there is a need for metaphysical grounding. Only because human beings have an end towards which they are directed by means of reason of their specific nature as humans, it is possible at all to sustain practices, traditions, mores which enable us to function as we do and not to become barbarians.

McIntyre is a metaphysical realist in a tradition of Aristotle and St Thomas Aquinas, where truth is understood as a relation of an adequate mind to its object, and the very activity of inquiry is the necessary condition for discovery of the first principles. Of course, McIntyre is closer to St Thomas because – unlike Aristotle and along the lines of Aquinas – he thinks that the proper object of human knowledge is not essence qua essence, because he believes that we know essences only through effects, and thus we have no other choice and no other place but to begin in the middle.<sup>32</sup> McIntyre combines realism with empiricism, as by doing this we

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<sup>31</sup> See e.g.: M. Olasky, *Add, Don't Subtract: How Christian Conservatives Should Engage American Culture*, [in:] *The Future of Conservatism: Conflict and Consensus in the Post-Reagan Era*, ed. Ch. W. Dunn, Wilmington 2007, pp. 95–96; J. Hitchcock, *The Supreme Court and Religion in American Life*, Vol. 2, Princeton 2004, pp. 15–163; see also: the provisions of the Charter of Fundamental Rights of the European Union to that effect; see discussion on this problem *Karta Praw Podstawowych*, “Międzynarodowy Przegląd Polityczny” 2008, No. 21, pp. 239–243.

<sup>32</sup> Here, McIntyre is close to Franz Rosenzweig, a modern Jewish thinker who wanted to combine Christianity and Judaism as two separate ways of finding the same God in his *Morning Star*. For McIntyre Rosenzweig did not begin with a primordial, adequate grasp of the concepts of knowledge and truth, in order to pass judgment on the basis of these concepts, whether we know something or not at all about God as such, let alone whether or not a statement that God exists was true. It is exactly by our encounters with God, in the very ritual we do and the intellectual activity we pursue in search of him, as well as the way we encounter the world and the other people, that we learn what it is to have knowledge of what the truth as such is. Thus it is Practice and inculcation, and

learn the precepts of natural law. The first metaphysical principles are discovered through enquiry, when the precepts of natural law are

presupposed in any situation in which learning and enquiry between rational individuals about their individual and common goods can be advanced and by any relationship in which individuals can conduct themselves with rational integrity.<sup>33</sup>

But this presupposes challenge to any monistic tendencies of centralizing power, and is essentially inimical to any politics which wants to subject human mind to any ideology. In that sense such an approach is also opposed to the monistic pretensions of liberalism. McIntyre has a fundamental problem with the shallowness of the people liberalism produces, and its inability to create any type of spontaneous solidarity and moral obligations. That requires virtues. They in turn require a certain level of community, which allows ranking or ordering of goods.

This means that the little platoons, little communities of family, church, associations are necessary for sustaining virtues and should be supported. Goods of various practices have to be ordered, so an individual can find a narrative story which can connect them. It is always by reference to some concept of the overall and the final common good, claims McIntyre in the greatest classical tradition, that other goods are ordered, and we as individuals in life, in the families, churches and other communities, give expression to a concept of an overall good. Generally, then and only then when goods are ordered in terms of the adequate concept of human good, can virtues flourish. It is only in such communities, which liberalism is incapable of creating, that people may genuinely live lives which they not only understand but can find meaningful and open to others.<sup>34</sup> Teaching at Notre Dame University in Indiana, McIntyre has influenced a tremendous number of scholars, community organizers, religious people and politicians to alter some public policy measures. He himself seems to benefit from a work of his elder contemporary Edward C. Banfield (1916–1999). Communitarians, as e.g. Robert N. Bellah and Michel Sandel consider him to be their great inspiration, and so does Robert Putnam who in his influential sociological works stresses the idea of inculcating values in the community as the only means to retain moral solidarity.

In that perspective we may turn to David Lorenzo's article. He considers McIntyre to be one of thinkers who offer a viable and not anachronistic remedy against radical, debilitating individualism. For him McIntyre presents a concept of a developing person, not a static entity, defined by unchanging characteristics. But this development may also mean regression instead of flourishing, and it is only in the conditions of the latter that a coherent unity, a 'narration' of an individual life

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not choice that is instrumental to acquiring truth, also moral one. McIntyre describes Rosenzweig's thought in his book *Edith Stein*.

<sup>33</sup> A. McIntyre, *Ethics and Politics*, as quoted [in:] S. Haurewas, *The Virtues of Alasdair McIntyre...*, p. 38.

<sup>34</sup> A. McIntyre, *Dziedzictwo cnoty. Studium z teorii moralności*, Warszawa 1996, pp. 3–21.

can acquire attributes and capacity to attain 'good'. This flourishing is possible only when a proper foundation is found. In the human case this foundation is 'human nature', empowering the person with the elementary skills for further growth. The goal of development, once such a foundation has been established, is to strive for the good defined by the rules of natural law derived from the foundation of 'human nature'. McIntyre is adamant in insisting, that although we are autonomous in modernity, this autonomy operates under the influence of principles that do not originate from it. These principles can be destroyed, and with them a potential for growth and meaning. Of course, the real question is how to recognize the principles of natural law, which is obviously impossible for the average human to grasp without falling back upon good 'practices' through which virtue is acquired. Virtue as a capacity of mind that allows a recognition of relative goods and the use of skills to attain them needs cultivating. Virtues may properly develop only in individual communities with set traditions.

At the center of McIntyre's thought, stands thus a notion of a 'community' which is a generic term. This recognition of dependence on community is, for him, the key to independence and first of all to solidarity. The paramount importance of community allows individuals to exercise capacities offered by their nature to full potential. This and only this is the way to achieve meaning and to reconcile oneself with the world and the others. In this sense, McIntyre – a powerful presence at the American liberal arts colleges – is making a real difference. His thought constitutes the growing intellectual pressure on contemporary liberalism and its suicidal course of battling any idea and thought which would make a meaningful life possible, and is present at the growing number of liberal arts colleges in the United States which decided to return to a classical tradition.

Harvey C. Mansfield is one of the most distinguished American political theorists writing today, and arguably the most prominent conservative academic teaching at a major American university. He takes a subject that is both perennial and extremely controversial in American historiography and political philosophy, namely that of the relationship between freedom and virtue. The subject has attracted the attention of political philosophers at least since Aristotle, but in the American context it has found a special role. It was one of the major points of debate between the proponents of the Constitution (the Federalists) and their opponents, the so-called Anti-Federalists, the latter obsessed with the fear of virtue and corruption.<sup>35</sup> The United States is a nation torn between the initial ideals as set forth in the 18th century and the logic of modernity. The question essentially boils down to a problem whether the American political project was a purely individualistic, freedom oriented one, increasingly understood as rights oriented, or whether it assumed

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<sup>35</sup> See e.g.: H. J. Storing, *What the Anti-Federalists Were For: The Political Thought of the Opponents of the Constitution*, Chicago 1981; S. Filipowicz, *Pochwała rozumu i cnoty. Republikańskie credo Ameryki*, Kraków 1997; A. Bryk, *The Constitution and the Bill of Rights: The Case for the Anti-Federalists*, [in:] *European and American Constitutionalism in the Eighteenth Century*, ed. M. Rozbicki, Warsaw 1990, pp. 70–76.

more or less implicitly a strong component of the ethics of virtue, necessary to sustain an ordered liberty. Very roughly, we may define this opposition between two approaches as an argument between two recent American historiography schools. They can roughly be named ‘republican’ and ‘liberal’. An earnest discussion of these traditions began in the late 1960s, and a symbolic work which ignited the argument was a seminal book by Gordon Wood *The Creation of the American Republic*.<sup>36</sup> The gist of the argument can be summarized as follows: was the founding of the United States a republican endeavor, obsessed with virtue and corruption, focused on public participation in freedom and democratic spirit for the glory of the commonwealth, as allegedly projected by the Declaration of Independence of 1776 and as practiced by the Americans until the enactment of the Constitution of 1787, which turned America into a purely modern, liberal, rights obsessed project? Or was the latter course consciously implicit in the political and constitutional American ideas from the very beginning.<sup>37</sup>

Mansfield seems to be on the side of the republicans but his argument is more sophisticated. Placing himself above the aforementioned discussion, he thinks that the problem of virtue is not so much of outward aim and institutions geared to produce such aims. In other words, it is not a definite constitutional construction which produces or does not produce virtue, but a certain potential to be realized by Americans. His style of analysis is very deeply rooted in history of political philosophy stretching backwards as far away as Aristotle and, more recently, Alexis de Tocqueville. In his books *The Spirit of Liberalism* (1978) and *America's Constitutional Soul* (1991) as well as in a work on the philosophical origins of executive power *Taming the Prince* (1989), Mansfield shows in Aristotelian-Tocquevillian reflection that the strength of the American political order lies in its carefully and intelligently designed ‘constitutional soul’. What he means by this, is an idea that the politicians who created the Constitution of 1787 rejected the Machiavellian ambition to dispense with classical virtue altogether, and did not focus solely on self-interest, economic interest and rights: features commonly associated with the American, Lockean type of liberalism. For Mansfield, Machiavelli is the principal and the most articulate exponent of modernity as applied to politics. In his books *Machiavelli's New Modes and Orders: A Study of the Discourses on Livy* (1979) and a deeply original and influential collection of essays *Machiavelli's Virtue* (1996), Mansfield follows his teacher Leo Strauss, emphasizing Machiavelli's thought as the first and self-conscious ‘founder’ of a distinctively modern political and philosophical sensibility.

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<sup>36</sup> G. Wood, *The Creation of the American Republic 1776–1787*, Chapel Hill 1969.

<sup>37</sup> See: J. G. A. Pocock, *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition*, Princeton 1975, esp. pp. 389–391; J. Appleby, *Capitalism and a New Social Order: The Republican Vision of the 1790s*, New York 1984; B. Bailyn, *The Ideological Origins of the American Revolution*, Cambridge Mass. 1967; Th. L. Pangle, *The Spirit of Modern Republicanism: The Moral Vision of the American Founders and the Philosophy of Locke*, Chicago 1988.



Thus it is necessary to define the modern problem the way Machiavelli did this, since both for Mansfield and for Strauss, the recovery of virtue in the conditions of modern freedom has to start with the Machiavellian diagnosis and practical solutions. His world is our world, it is a known element of our modernity and we have to start here, if we are to engage in a meaningful and reasonable search for virtue in modernity of late liberalism to whose pressures the American constitutional system is increasingly subjected. Strauss believes that Machiavelli rejected the pre-modern classical tradition as exemplified by the ancient and Christian sense of virtuous life as a goal of political order. The tradition against which Machiavelli revolted in a premeditated and cold rebellion was characterized by certain beliefs and moral goals. Among them was an idea that political philosophy was to be understood as an incessant quest for the best political order, the order which was most conducive to the cultivation of virtue, and in which each person receives their due and occupies its proper, that is rightful, place according to his or her nature. This search for virtue was thus, by its very essence, hierarchical, distinguishing higher and lower orders of existence in the political realm. To use a modern language, this search for virtue was highly judgmental, non-tolerant, and discriminatory for the sake of elevating people above their instinctive impulses. Creation of a political order most suitable for a cultivation of the virtuous people was the main goal of politicians and political philosophers.

This idea was of course first articulated forcefully by Plato and Aristotle, albeit for different reasons. Aristotelian character was trained to acquire virtues. As he strongly insists in *The Nicomachean Ethics*, they could only be inculcated, never learned, although the essential virtues had to be recognized first by political philosophers.<sup>38</sup> The classical and Christian political philosophy recognized of course an element of chance, since it was unfortunately highly unlikely that the conditions which the political philosophers could recognize as conducive to virtue, could influence politicians, that is political power, albeit such a situation could not be entirely excluded. Yet the most important classical theme was the idea that nature, in this human nature, dictates humans the proper limits of conduct. Humans cannot overcome their nature. If they tried, the consequences for them and for a political order itself would be calamitous. The Greeks named this desire *hubris*, the Christians – the sin of conceit. This urge was recognized as a deadly sin that once committed would result, sooner or later, in total corruption of a polity and of an individual soul, leading to despair and anomie.<sup>39</sup>

Machiavelli consciously rejected these assumptions, first of all subverting the very idea of nature, unequivocally rejecting it. Nature was just a purely speculative obstacle to clear-cut thinking. For Machiavelli, it constituted a nonhuman

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<sup>38</sup> Aristotle, *Nicomachean Ethics*, [in:] *The Complete Works of Aristotle*, ed. J. Barnes, Princeton 1984, book I, p. 1743, book II, pp. 1103–1104.

<sup>39</sup> T. V. McAllister, *Revolt against Modernity: Leo Strauss, Eric Voegelin and the Search for a Post-liberal Order*, Lawrence 1995, p. 31.

standard. Its efficacy and utility for human aspirations was none. Machiavelli lowered the goals of political philosophy and human society, beginning with humans as he found them rather than as they should be, and declared that the political leaders were to take care of the basic human needs as they were, rather than their highest aspirations. With that, the role of political philosophers, in fact the role of a speculative, abstract reason as such in search of the ideal, higher order, had to be altered. No longer blazing the intellectual trails, the philosophers or theologians were reduced from the position of the leaders of society. Their place was taken up by the Prince: the state. The former were reduced just to a role of pure advisers. Not reason but power, at best contained and tamed, was now to be the pinnacle around which the very life of the polis was to revolve, possibly in the best interest of the fundamental needs of the society. As a consequence, chance, the ancient *fortuna*, was also to be drastically eliminated. Humans became sovereign, they make their own chances, leaders in turn have full control of their destinies and the destinies of the people they lead. As long as they devote their efforts to meet their subjects' immediate desires, instead of leading them toward some higher good, the political order can be stable and felicitous.

Machiavelli was the first modern, because he reduced the reach of political philosophy. It became simply not a quest for the good order or the natural, but just a technical problem of achieving a political order best suited to satisfy the basic human desires. Yet in the course of satisfying such desires, nature became an object of manipulation and understanding to conform to the human needs, which had essentially human will as its principal source. Nature became understood as an object of scientific study, which in turn meant that science itself focused solely on nature being used for immediate human needs. That is science treated nature as an obstacle, ready to remove it from its limitations. Teleological, and by implication also theological, understanding of nature grew increasingly obsolete, redundant. Since Francis Bacon, only a few generations later than Machiavelli, and the subsequent Enlightenment thinkers, science became the main mover behind human endeavors. They turned out to be ultimately rooted in the capricious human will. This Machiavellian as well as scientific revolution began to control, that is to transform, nature.<sup>40</sup>

In addition to such a treatment of nature, Machiavelli changed the meaning of political philosophy. The lessons from this change were eventually drawn by Thomas Hobbes, and later Locke, who elevated the lowest desires of human will to the legitimate desires as highest political goal. The natural right: objective and rooted in ontology, turned into individual right, at the beginning a right of self-preservation and then rights as members of a state, to relieve humans from some burdens. This was the task which John Locke completed, and it became the ulti-

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<sup>40</sup> For an excellent analysis of K. Minogue, see: *Alien Powers: The Pure Theory of Ideology*, New Brunswick 2007, pp. 20–38.

mate justification and source of liberal democracy.<sup>41</sup> After Machiavelli, Hobbes, and Locke, the second wave of modernity started with Rousseau who gave up pretences that satisfying human needs somehow corresponded to nature itself or at least it was not contradictory to it. The best we could claim was that we did not know much about it, except that science was transforming it.<sup>42</sup> There was nothing one might be certain about, except the knowledge of constant moral, political, and social fluidity, the very precondition of moral anomie and nihilism disguised with consumption. Science could organize such a civilization technically and politically into a regimen of administrative rules, but that was all it could do.

Mansfield refuses to grant Machiavelli the last word on the American constitutional system. Although America is a modern society, it was also built on a clear understanding that for this type of society to survive, real virtues have to be developed, inculcated, and defended. Yet virtue in the American constitutional system is not and cannot be inculcated directly. How could it be done when “society dedicated to liberty could [not] make much of virtue” since the one

resolved to have virtue could [not] pride itself on liberty. Yet liberty and virtue also seem necessary for each other. A free people, with greater opportunity to misbehave than a people in shackles, needs the guidance of an inner force to replace the lack of external restraint. And [since] virtue cannot come from within, or truly be virtue, unless it is voluntary and people are free to choose it, whence does it come from? Americans are, and think themselves to be, first of all a free people. Whatever virtue they have, and in what amount, is a counterpoint to the theme of liberty. But how do they manage to make virtue and liberty harmonious?

Mansfield tries to answer this fundamental question of American modernity and constitutional system, the tension between freedom and virtue, through an extensive review of different approaches, taken up by John Locke, Charles de Montesquieu, Benjamin Franklin, and finally the authors of the Federalist papers, the definite original commentary on the Constitution of 1787. Freedom understood in a modern sense is essentially unrestrained.

It is an impulse obsessed with will. Virtue is on the other hand a force of guided restraint, in a condition when guidance is increasingly being derived essentially from a sheer will of an autonomous self and its moral auto-creation. Where in such a situation, asks Mansfield, can we find thus a semblance of virtue in the American constitutional system?

For Mansfield, the only source of virtue is the very construction of the system itself. Ultimately, it is not Locke’s

self-interest generally or theoretically understood, but the interest of the office [...] through which ambition, energy, and responsibility [shines]. The interest of the office is a kind of interest

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<sup>41</sup> A sophisticated analysis of this process was given by L. Strauss in: *Natural Rights and History*, Chicago 1950.

<sup>42</sup> Rousseau was already consciously treating nature and civilization as an enemy, and linked humanity with historical development. Kant and Hegel developed this current, and Nietzsche and Heidegger completed its logic.

that permits and requires the cooperation of virtue. The lesson overall is that moral philosophy is incomplete without political philosophy.

If so, Mansfield seems to suggest, political philosophy understood as wisdom gained from constitutional experience of the free people may lead us into gaining an insight into things permanent, a certain *déjà vu* for a modern philosopher. It is political philosophy again, which might lure us into turning our lives around and set them on a path of searching for truth. This would be done voluntarily and with the full understanding that this choice is free, although it brings happy rewards. Mansfield's appeal is as much a call for a resurrection of a certain political philosophy, as for a return to a classical, liberal education. In the liberal-democratic society, the latter was once the basis of knowledge, and is now being buried under the debilitating idea that the goal of education is no more than utilitarian preparation of young people into the market. Inadvertently, Mansfield is defending here a great tradition of the West's self understanding, forming a bridge to the university of *Christianitas* and the Academy of the ancient, a cry in the wilderness. This cry in the wilderness is unfortunately applicable in the context of Harvard University: Mansfield's *alma mater* and his academic turf for the last five decades. Being the first American university (est. in 1636), despite brilliant history and the highest market value of its diplomas, Harvard has become – in the judgments of many and in the company of other great American universities – an institution deserting the idea for which universities were found. It has worryingly begun to increase in its humanities departments: an epiphany of useless, porridge-like, ideological and acedic education to nothingness.<sup>43</sup>

It is against this broad background of modernity that Andrzej Bryk attempts a comparative analysis of different responses to it, and of the corresponding models of modernization in the United States and the European Union. Inside the European Union, the different responses to late modernity are shown between the original, West European countries and the new countries of the Central and Eastern Europe which joined the Union in 2004 and 2007. This cultural and political federation of the aforementioned countries might be called, with an understanding of tentative utility of such a phrase, a 'transatlantic civilization'. The analysis begins with immediate political feuds inside this civilization in the wake of the post 9/11 traumas and the United States' Iraqi invasion in 2003. The latter pitted America dramatically against the European Union and also strained relations between the 'old' and the 'new' Europe. But the violent argument which then erupted, ostensibly over the immediate political goals, signified much deeper cultural differences which seem to be growing, and have not disappeared despite the fact that the immediate political clashes between the United States and the European Union have dramatically dec-

<sup>43</sup> On this problem see: J. Hart, *Smiling through a Cultural Catastrophe*, Wilmington 2004; on Mansfield's and other academics', both liberal and conservative, cultural battles at Harvard University in relation to a diminishing of the humanistic education see: J. Tasswel, *The 30 Years' War: Cultural Conservatives Struggle with the Harvard They Love*, "Harvard Magazine" 1999, September–October, pp. 56–66, 99.

lined. The cultural rift was suppressed when there was a communist threat to Western Europe, which was neutralized by the American military power. Yet once the common enemy in the form of the Soviet Union disappeared, the hidden differences between America and the European Union showed up, only to be exacerbated by the inclusion of the formerly communist states of Eastern Europe into the latter.

The opening of the European Union to the post-Yalta, post-Soviet countries of Eastern Europe, was done due to the sheer optimistic momentum after the fall of the Berlin wall in 1990. Its mood was related to illusions about 'the end of history' that was finally to arrive at a station named liberal democracy and free market. However, once the unification of the continent had been achieved, immediately there surfaced differences in approaches to the problem of what exactly the unification of the continent meant, how the inclusion of Eastern Europe was to proceed, and last but not the least what the meaning of modernization of backward Eastern Europe was going to be and how to accomplish it. The very term 'modernization' seemed to be understood ideologically from the very beginning. The liberal elites of the old European Union, and the liberal elites together with the post-communist elites in Eastern Europe, believed and wanted that modernization of the East to resemble thoroughly the West European pattern. This approach was pushed forward despite the fact that Western modernization had not been completed, was bringing not only salutary effects and was, in the case of Eastern Europe, to be implemented in different cultural conditions. It was more or less a conscious choice that this modernization was to be of the liberal-left variety, the combination of market mechanism and cultural transformation as had been executed in the West since the cultural revolution of the 1960s. Thus these elites defined the dominant language, the institutions and the course of transformation, eliminating alternative visions. In this view, the European Union was looked upon as a comprehensive economic, social, and cultural yardstick to be implemented or simply imposed on the new post-communist world in Eastern Europe by the professionals, the experts.

Liberalism has in this context a generic meaning, comprising a wide range of liberal politics, associated with the European, mainly French and German evolution of the Enlightenment, which has become the hegemonic western idea after the 1968. In politics, it means different models of representative democracy. In economy, it means liberalism of the free market but drastically limited by the administrative welfare state, which thus rejects the classical liberal economy. In culture, it means the liberal left's idea of an autonomous individual, who in a process of moral auto-creation has to liberate itself from the prevailing notions of any communal cultural code, defined essentially as an oppressive structure from which an emancipation must be conducted by means of law and the media.

This liberation was to be guaranteed in a nondiscriminatory way by the legal system. The cultural code of Western Europe rooted in the Enlightenment and radicalized after 1968, defining its mode of modernity and modernization, was faced by Eastern Europe immediately after the unification of Europe after 1989, and

especially after Eastern Europe entered the administrative and political structures of the European Communities in 2004 and 2007. The East European culture, except the elites, was basically unaffected by the Enlightenment of the French or German type. The region has also been subject to different economic modernizing experiments since the 18th century. All in all, the unification of Europe after 1989 proceeded with a tacit understanding that liberal democracy, free market, the rule of law, and cultural code were there, just waiting to be implemented in Eastern Europe. ‘No experiments’ was the battle cry of the liberal reformers, the methods and the means were known, and political, legal and economic modernization was to be imposed from above. Experts were to supplant politicians, and only the clear-cut rules of administrative governance mattered. Additional justification was added. To simplify the image somehow, one may say that after the fall of communism the liberal elites both in Western and Eastern Europe were apprehensive that the post-soviet societies, not having been able to experience the ‘normal’ and ‘civilized’ development would, by default, return to the most horrible patterns of their nationalistic, xenophobic and intolerant past ‘frozen’ by communism, the traits which were successfully, so the argument went, eradicated after 1945 in Western Europe. The populisms emerging in Eastern Europe could introduce such features into political life in Eastern Europe, threatening the only valid and set model of West European modernization.

Thus the liberal elites used all feasible tactics to take advantage of a sense of urgency trying to monopolize the language of public discussion, the media and the formation of a particular type of civil society. The objective was to block the emergence of a pluralistic political process which might threaten the modernization model: allegedly already settled and just to be implemented. This pattern was especially visible in Poland, but was characteristic as well for all the countries of the region.<sup>44</sup> This model was quickly challenged. Such a liberal modernizing approach was considered to be too primitive, representing a kind of post-colonial model and mentality. It did not recognize the distinctive nature of a new political and economic regime, tentatively called post-communism.<sup>45</sup> It also neglected cultural identity, permanence of historical memory in the capacity of a political factor, and the attempts of East European societies to define themselves anew. After communism, Eastern Europe was trying to recover its sense of identity. Its states searched their traditions looking for a solid ground exactly at the moment when such traditions in the European Union were increasingly defined as useless, since they are ridden with potential conflicts, as for instance such traditions as a robust sense of national identity, collective memory, heroism, patriotism or a sense of freedom. In this way many features of East European collective national identities were resembling not so much the post-metaphysical, post-national cultures of West European countries

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<sup>44</sup> See, e.g.: Z. Krasnodębski, *Czy Polska potrzebuje modernizacji?*, “Nowe Państwo” 2006, No. 4, pp. 27–32.

<sup>45</sup> J. Staniszkis, *Postkomunizm*, Gdańsk 2001; R. Skidelsky, *Świat po komunizmie*, Kraków 1995.

but rather the culture of the United States. Siding with the United States on many current political issues and considering it an ally not only in military but also in cultural sense, was in this case an instinctual choice. This seemed to be mainly the case of Poland being the largest East European state, but was also visible to a various degree in Czech Republic, Slovakia, the Baltic States, Romania, and Hungary. The inclusion of Eastern Europe into the European Union thus posed a real challenge to the set theories of modernization and its relation to modernity, causing in Eastern Europe counter reactions against a postcolonial pattern of thinking, demonstrated both by the dominant liberal left West European elites and the East European ones corresponding to them mentally.

The article proceeds then to a cultural and political comparison between Western Europe and the United States, and their different responses to modernity and modernization. Despite common Enlightenment roots, they have had distinctive models of political, social, and cultural responses to challenges of modernity and modernization, which from the beginning continued to influence their present differences. Europe was built inside state structure by privileged classes from top down, and – despite the revolutionary Enlightenment upheavals – continues to think this way about its identity and its transformations even today. America was essentially built by immigrants, beginning with the colonists, from a scratch. As a result, albeit with significant modifications in the 20th century, history of Western Europe has produced dependence of the ruled from those who govern, whereas the Americans believe that it is government's responsibility to protect freedom of the individual, not to limit that freedom even for the best of the collective reasons conceivable. The divisions along the aforementioned lines are visible also inside West European and American societies in the phenomenon known as 'culture wars'. Such a picture has recently been complicated by the inclusion of the post-Soviet part of the continent into the European Union. East European societies show an instinctive mistrust of the state and governing elites, and a corresponding desire of self-management of their affairs, without the paternalistic overview of the elites and the states.

The United States is a much more ideological nation than Europe, relating constantly to the foundational ideals of the Declaration of Independence and republican constitutionalism, although it has very distinctive cultural traits inherited from the protestant heritage or the common-law English culture. Nevertheless, it is this feeling of exceptional foundational creed which enables Americans to adapt to the challenges of modernity without losing a sense of collective identity despite enormous diversity. This conviction of being the new and exemplary nation, rooted in the robust individualism from bottom up, has given Americans a spectacular dynamic and flexibility. There was thus a profound difference between the American and the French Enlightenments. The West European Enlightenment became gradually culturally dominant in post-1789 Europe. The Enlightenment had of course a common foundation, rooted in individual autonomous will, attacking the established feudal institutions as e.g. the Church, and feudal obligations. Ame-

ricans, on the other hand, never had any feudalism in the first place, so they did not show enmity towards the political and social reality as such, which was to be destroyed and transformed so that the new order could be created. Their colonial society built from the bottom up was at the moment of the Revolution (1775) and the Declaration of Independence (1776) considered a 'good' one. Americans just wanted to secure constitutionally what they had achieved and independence was the means for this goal.

The French revolutionaries of 1789 wanted to destroy the entire order so as to build a new one on its ruins. Thus an incessant struggle against surrounding political and social reality understood as a recalcitrant domain of surviving reaction, and resulting from it need for a real revolution, transforming everything which resisted the progress of democracy and liberalism. The American Enlightenment was at ease with itself, its revolution was to a large degree conservative, and its eschatological objective of the new order was already immanent in the American civilization as such. The Americans were not fighting against reality but against a concrete political enemy and for concrete rights. The revolutionaries were not to capture the state and transform it totally, but to ensure the inclusion of the excluded, so as to let everyone participate in a good society already present: the subconscious idea propelling all the American reformers since the 18th century to this day. Some additional differences materialized. The American Enlightenment was rooted in its Scottish branch, more commonsensical and skeptical than the French. The latter was purely rational, speculative, and radically monistic, with reason elevated to a primary role in human affairs. The Scots, the British, and consequently the Americans never sanctified the speculative reason, concocting its ideal schemes of human organization, but attached a real value to virtue, personal and social compassion, benevolence and sympathy which bred charity from bottom up as an ingredient of the social order, and not from top down, as a duty of the paternalistic state.

For this reason, religion in America, which has been overwhelmingly Christian, has never been considered an enemy of democracy and liberalism but its main ally. America never had a single state church. The federal First Amendment of the Bill of Rights to the Constitution of 1791, guaranteeing the separation of the federal government from religious denominations, was at the same time a guarantee of a full freedom of participation of churches in social (and, generally, public) realm and discourse. In a tradition of the continental French Enlightenment elites, religion, mainly Christianity, was not only defined as superstition, but as a competitor to the rational vision of a good society. Last but not least, there has always been a different relationship between the West European and American elites and their respective societies. French philosophers and the subsequent European literati felt superior to their masses degraded by feudalism, they experienced an utter alienation from the ordinary ways of life. Their rational mind was thus fuelled by resentment of insignificance and at the same time of its potential usefulness to the new Prince: the state.



The United States never had such an alienation of the intellectual elites from their societies. They were part and parcel of them: practical people who engaged in intellectual pursuit not because they were morally better than their societies, but simply more knowledgeable. The rational sense of understanding was never considered as giving a better understanding of reality than common sense, practical way of building society from the bottom up. Thus unlike the European modern elites, there has never been a temptation to feel better than their people on the part of the American elites and, at least not until the 1960s, a temptation to manipulate them and lead them to the preordained rational future. The question was not in the inability of the American elites to develop such an attitude, it was just impossible to acquire political space to execute it, they have been largely kept on a short leash by the bottom-to-top democratic process. Thus there was neither a sense of the *noblesse oblige* paternalistic attitude of the European elites, nor a desire to lead despite the wishes of their societies in the United States. All the aforementioned cultural differences have made the American and the West European attitudes towards modernity and modernization different. These differences surfaced forcefully after the disintegration of their common Soviet enemy, when they had no longer to be muted for the sake of immediate, political, and military defense. What the United States and the European Union will do with them in the future, the latter also with the differences between its Western and Eastern parts, will be decisive for the future of the transatlantic civilization.

Maciej Brachowicz takes up a similar problem, trying to show the basic pre-constitutional differences between the United States and the European Union in a slightly different context. He rejects a commonly repeated opinion, being both a certain description and hope, that the member states of the European Union should follow the example from the American experiment in order to build a durable, efficient and competitive super-state. Brachowicz considers such an inflated hope or fear inappropriate for historical as well as political reasons. He claims that it is wrong to apply American lessons to the European Union dilemmas of cohesiveness. It is impossible to create Europe-wide democracy by a sheer political act.

The analysis of the Treaty establishing the so-called Constitution for Europe (2003), and its cosmetically altered version, the Lisbon Treaty of 2007 provides in this context grounds for Brachowicz's analysis. He treats the American and EU's constitutional aims, and institutional and political tools used as essentially different experiences. On the part of the European Union's elites, the creation of the democratic framework seems not only to be impossible, due to the resistance of national identifications, but outwardly undesirable for a fear of losing control over the decision making processes at the expense of the nations of Europe.<sup>46</sup> In the United States, such a stance has always been politically a kiss of death for any governing

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<sup>46</sup> P. Manent analyzes this problem comprehensively in his unorthodox *Democracy without Nations?*, Wilmington 2007.

elite.<sup>47</sup> One of the most fascinating contemporary debates in the United States and the European Union, is a fate of religion and a question of mutual relations between liberal-democratic state and a public role of religious language and institutions. Christopher Wolfe, the preeminent American authority on constitutional law takes up this topic in the context of the Church–State debate in the United States. Wolfe begins, as usual done, with an analysis of two clauses contained within the First Amendment to the US Constitution concerning the relations between the church and the federal government: the ‘Free Exercise’ clause which guaranteed freedom of worship, and the ‘Non-Establishment’ clause which prohibited the establishment of state religion, originally at the federal level and since mid-20th century, through the incorporation doctrine, at any level, federal or state. Wolfe shows how the ongoing Supreme Court interpretation of the First Amendment has shaped its original and historical meaning, trying to eliminate any trait of religious, mainly Christian presence from public presence. This stance of the Supreme Court resulted, for instance, in such decisions as banning a display of the Decalogue in court buildings and performance of Christian nativity plays in schools. Wolfe considers such an interpretation of the First Amendment to be an ideological usurpation of power by the Supreme Court. The prohibitions mentioned can be reconciled with freedom of public manifestation of religion only with the most sophisticated casuistry. The problem goes naturally beyond constitutional discourse. Searching for a proper interpretative perspective, Wolfe refers to the original, foundational position and goes to the thought of the American Founding Fathers, believing them to have followed rather John Locke, for whom the guarantee for religious freedom was first of all extended to the believing people, not to the atheists. In other words, the freedom of religious clause was put into the Constitution to protect religious believers from the intrusion of the state in the first place, not to guard the state against the religious people.

In this way, Locke was reflecting the sorry state of persecution of dissenters during the religious wars in Europe by particular states. These states were at the same time the executors of the religious orthodoxy, whether the Catholic absolutist state or the Anglican Church in England. The atheists, barely existing at the time, were there, but were considered insignificant. The modern, liberal concept of constitutional law as presented by the Supreme Court has begun to interpret a phenomenon of ‘religion’ along the lines of the Free Exercise choice in a much broader, revolutionary sense. In the Supreme Court’s reading of the Free Exercise clause, it was put there to protect first of all the public space against the religious people and denominations, the latter being potentially dangerous to the rational people. The latter want, so the argument goes, to establish a religion-free public space, the only conceivable and rational one. But the Supreme Court also seems to define

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<sup>47</sup> For a forceful argument against the dissolution of national American sovereignty, see: J. A. Rabkin, *Law without Nations: Why Constitutional Government Requires Sovereign States*, Princeton 2005, and for an international tendency to push the United States in this direction: R. Hirschl, *Towards Juristocracy: The Origins and Consequences of the New Constitutionalism*, Cambridge Mass. 2004.

a term 'religion' in an extremely expansive and fuzzy way, as referring to any, even the most bizarre value system. In such a view religion becomes tantamount to any 'potential answers to the question of faith', including its negation in the form of atheism or agnosticism.

Such a far-reaching assumption, based on a definition of faith through the radical autonomy principle, is in Wolfe's view entirely mistaken and dangerous. Not only does it subvert the original intensions of the authors of the Constitution, but in fact it puts a burden of proving that the demands of the atheists and agnostics are not compromised by the religious people on these very people, and considers this fact the ruling principle of constitutional legitimacy. This way, a small minority of non-religious people dictate the very terms of the public debate, which is in principle formulated in the language inimical to religion and religious people. Such a stance of the US Supreme Court reflects a new mode of liberal thinking in America, corresponding in fact with the pushing of religion and denominational institutions into a position of being a threat to social peace and conducive to social divides. The term 'divisive' has become here a battle cry of the new interpretations of the Constitution. This is a new view of secular intellectual elites and their specific outlook on religion, which ranges from total ignorance or indifference to radical hostility and even contempt to it, in the latter case especially towards evangelical Christianity.<sup>48</sup> Such a view is absolutely 'not tainted by the acquaintance with numerous believers', the overwhelming majority of the American people. Thus, concludes Wolfe, the radical separationist model looks at religion as a threat to constitutional order and society that should be guarded against it. Yet, this is a stark reversal of a traditional constitutional stance and American historical experience, where the essence of the First Amendment was to protect unrestrained religious freedom against the state intrusion. Such a reversal constitutes thus to be a dire threat to American democracy.

The real democratic and republican spirit and distinctiveness of America, as Tocqueville observed already in 1835, was in fact founded on the unrestrained worship of God by various Christian denominations, forming robust public ethic, inseparable from its Christian foundation. Wolfe writes in a tradition of constitutional interpretation which analyzed such a trend in the Supreme Court verdicts concerning religious freedom as an usurpation of power, not only against American tradition but first of all against the very essence of human freedom as such, of which religious freedom of public worship is the very basis.<sup>49</sup> The aim of such

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<sup>48</sup> See: R. Hittinger, *The Supreme Court v. Religion*, [in:] idem, *The First Grace: Rediscovering the Natural Law in a Post-Christian World*, Wilmington 2003, pp. 163–182; J. Bethke Elshtain, *Religion and American Democracy*, [in:] *Religion, Politics and the American Experience: Reflections on Religion and the American Public Life*, ed. E. L. Blumhofer, Tuscaloosa 2002, pp. 16–26; P. M. Gary, *The Cultural Hostility to Religion*, "Modern Age" 2005, Spring, pp. 121–130.

<sup>49</sup> On a danger of such an attitude to liberty as such, see: H. J. Berman, *Religious Freedom and the Challenge of the Modern State*, [in:] *Articles of Faith, Articles of Peace: The Religious Liberty Clauses and the Public Philosophy*, ed. J. D. Hunter, O. Guinness, Washington D.C. 1990, pp. 40–53.

a judicial interpretation of the First Amendment is to push religion out of the public space altogether, and to make it a domain of a purely private affair. This constitutes essentially a constitutional interpretation along the lines of the French Enlightenment tradition, and threatens to change, by judicial fiat, the very nature of American culture and polity. It would make the United States a country with a totally ‘naked public square’, beyond a democratic mandate and beyond any common sense.<sup>50</sup>

Robert A. Sirico, a scholar of a liberal conservative Acton Institute in Michigan, its former director and a Jesuit priest (SJ) at the same time, focuses on a fascinating figure, barely known in Europe, of father John Courtney Murray SJ. Murray (1904–1967) became famous in the 1950s, when the ‘entrance’ of Catholics into the mainstream of American life had been completed. For centuries Catholics had been considered the Pope’s treacherous agents in the United States, having a double loyalty and subverting a predominantly protestant society. They were on the one hand persecuted by some extremist groups, and on the other not recognized as a legitimate faith by the mainstream Protestant denominations. By secular intelligentsia they were considered, at best, to be incurable half-wits. But in the 1950s and the early 1960s, due to the sheer numbers and the political, economic, and cultural success they were recognized as the cream of the crop of intellectual America. It was then that Catholic politicians, theologians, and writers achieved public prominence, with such influential figures among them as Clare Boothe Luce (1903–1987), Cardinal Fulton J. Sheenan (1895–1979), writer Flannery O’Connor (1925–1964) and the young Walker Percy (1916–1990). This period also constituted a heyday and a fascinating incorporation of the European Catholic Renaissance into American culture, beginning with such writers as Evelyn Waugh (1903–1966), Gilbert Keith Chesterton (1894–1936), Georges Bernanos (1888–1948), Clive Staples Lewis (1898–1963), John Ronald Reuel Tolkien (1892–1973), philosophers and theologians Charles Peguy (1873–1914), Jacques Maritain (1882–1973) and historians including Christopher Dawson (1889–1970).<sup>51</sup> That was also the time of the spectacular revival of Thomistic studies and a fascination with natural law tradition, both in Europe and in America, for reasons having to do both with the Catholic Renaissance as well with a revulsion against the calamity of the Second World War.

Murray was an exception even among such prominent figures. He set out to do something intellectually extraordinary by American standards. Together with his spiritual heir, much younger Richard J. Neuhaus (b. 1936), a Lutheran pastor turned Catholic priest and a founder of “First Things” (1990), a powerful influential monthly surveying a religious and cultural life, they redirected the religious

<sup>50</sup> For an influential argument that is still valid although was made as early as 1984, see: R. J. Neuhaus, *The Naked Public Square: Religion and Democracy in America*, Michigan 1984.

<sup>51</sup> See: P. Allitt, *Catholic Intellectuals and Conservative Politics in America 1850–1985*, Ithaca 1993; G. Nash, *The Conservative Intellectual Movement in America since 1945*, New York 1976; D. O’Brien, *The Renewal of American Catholicism*, New York 1972; J. T. Fisher, *The Catholic Counterculture in America. 1933–1962*, Chapel Hill 1989.

thinking in the United States, giving it not only prominence and intellectual respectability but forming an entirely new religious language of discussing challenges of modernity, the language of modern natural law. In other words, they made Catholics in America the intellectual leaders of argument with modernity: a feat of an extraordinary dimension in an essentially Protestant culture. Murray wanted not only to reconcile Catholics with the United States pluralistic tradition. He moreover wanted to show that the very American tradition as set forth in the Declaration of Independence of 1776 was in fact commensurate with the natural law tradition. In wit, he argued that Catholics are not only good American citizens, but that they are good instinctually, habitually, thanks to their natural-law thinking which had always been the very basis of Catholic reasoning and at the same time the heart of the American creed. This was an extraordinary task, since it was taken up against the prevailing grain of cultural Protestantism, which does not in general recognize the natural law sources of biblical understanding. Protestantism not only fails to recognize natural law as a useful interpretative tool of biblical hermeneutic, but for a long time considered Catholics to be inimical to the very order of America, the latter entirely commensurate with the millenarian Protestant covenantal theology.

Murray totally reversed the argument. He argued that the Catholics were not only the true and conscious guardians of the very creed as sealed in the founding documents. He also implied that in conditions of secular modernity soon to be battling religious metaphysics at every level of liberal society, Protestants would be helpless. Even if they did recognize the dangers of secular modernity they did not possess any intellectual tools to engage and challenge it on equal terms. In other words, Murray claimed, the Protestants were battling essentially a rearguard battle soon to be lost, unable to engage modernity on its own terms from a religious, metaphysical perspective, but in a language which was non-religious, yet at the same time not inimical to religion, as the increasingly postmodernist language of modernity turned out to be. History of the 20th-century Protestantism seemed to have corroborate this diagnosis. Protestantism began to split into two powerful, separate wings. One was the wing of the mainline churches, still dominant into the 1960s, playing essentially social and cultural role. It gave up on engaging secular modernity head on in a rational way, and focusing essentially on charity and civil religion ritual in the service of progressivism.<sup>52</sup> The other wing was comprised of Fundamentalists, slowly augmented by all kinds of evangelicals and born-again Christians. They were terrified by modernity since the liberal Protestantism ascendance, and public humiliation connected with the Scopes trial of 1925. These Protestants closed themselves in anti-intellectual ghettos, socially numerous and soon to be politically powerful, but incapable of engaging the public in an intellectually accepted way. Protestantism was heading for a crisis whose essence was a lack of modern rational language to engage secular modernity and the culture it produced.

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<sup>52</sup> See: R. M. Gamble, *The War for Righteousness: Progressive Christianity, the Great War, and the Rise of the Messianic Nation*, Wilmington 2003, esp. pp. 25–68.

American Catholicism had its hour of triumph in the 1950s. From the margins of society it was elevated by the sheer power of the intellectual argument of Luce, Sheenan, and Murray into the mainstream. Murray outlined his position in the best-known collection of essays put out in a book form in 1960. The book entitled memorably *We Hold These Truths: Catholic Reflections on the American Proposition*, thus connecting in the very title the

sacred American words of the Declaration of Independence of 1776: 'We hold these truths to be self evident [...]' and Catholicism, was a blockbuster, giving intellectual credence also to the presidency of John F. Kennedy, the first Catholic, at least nominally, ever to be elected to the office. Murray's thesis was much more sophisticated in fact. He argued that American democratic experiment could not be sustained without a public philosophy which was capable of disciplining a widely pluralistic, American national discourse, and it needed a more fundamental grounding. This grounding and justification was natural law. A thesis that America could not do without a shared public philosophy which was grounded in some fundamental, not-of-this-world moral principles, was not new in American political history not new.

For instance, it was visible in the pronouncements of American presidents beginning with Washington, via Lincoln to Murray's contemporary Eisenhower – but it was mainly rhetoric, a certain public ritual. With the Cold War in progress, this view was shared by a large spectrum of the public opinion and acquired a gravity going beyond the civil religion: the let's get together under God, argument. As a reasoned argument it could yet be useful not only to justify a fight against communism but also to explain its reasons. America was fighting communism, argued Murray, not because it was another hegemonic power, threatening the United States. America was fighting it, because communism was inimical to the natural order of things, it was against nature as such, and it was America's duty to take up the fight in the name of moral civilization against essentially immoral civilization.

Murray was repeating here the central argument of an earlier book by Whitaker Chambers *Witness* published in 1952, one of the books most influential for the birth of the modern American conservative movement.<sup>53</sup> Chambers, a former communist turned Catholic, was a fierce anticommunist on existential and moral ground. His personal history made him implicated in one of the most bitter and long ideological battles in American history, as a witness against Alger Hiss, accused by Chambers to be a soviet spy. The duel-like case held in front of the Senate commission, pitted the former obscure communist against a scion of the American liberal elite, the very epitome of this upper crust. For this reason Chambers was discredited among the progressive liberal intelligentsia as a slanderer, the verdict which has stood to a large extent till today, although the evidence that Hiss was a traitor was proved beyond the reasonable doubt after the opening of the Soviet archives. But at the time of Chambers-Hiss hearings and the Joseph R. McCarthy's blunders in the Senate, anticommunism was discredited and thus Chambers's argument was

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<sup>53</sup> W. Chambers, *Witness*, Washington D.C. 1952.

popular only within a narrow circle of his friends and committed anticommunists, not among the culturally dominant and politically liberal elites.

With Murray it was different. Not only was his book published later, when at least some of information about Stalin's genocide had been confirmed by the Soviets themselves in 1956 during the 20th Congress of the Soviet Party. Communism was condemned somehow by default, by being contrary not to natural law but to America as the bearer of the natural law tradition sketched by its founding documents. It was this language of natural rights which was then turned to the human rights language across the world, and was crucial to the collapse of communism. Murray was also instrumental in giving intellectual justification to the 2nd Vatican Council's (1962–1965) *Declaration on Religious Freedom*, subsequently used by John Paul II in defense of human rights and democracy, as a political system most likely to secure those rights under modern conditions. Murray was crucial here, because he worked in the 1940s and 1950s on the Church–State relations profusely, and tried to disengage the Catholic teaching and the Church on this point, from the latter's principled preference for the altar-and-throne arrangements of the European ancient regime.

Sirico does not deal with the aforementioned aspect of Murray's thought, but undertakes to apply Murray's argument concerning religious freedom to economic activity. Despite all appearances to the contrary, economic freedom according to Sirico displays plenty of features common with the creedal freedom, since in both "the consciousness, choice, and human nature play crucial roles in the moral drama of social life". Without these two freedoms, the free society is impossible: argues Sirico. Murray's teaching were founded on two principles deeply established in the Catholic tradition: the principle of freedom as tied to the principle of subsidiarity; by two ideas of equally deep roots: the principle of consent and the free institutions. The principle of consent goes back to the medieval monarchy, when the king, to rule effectively, had to acquire a consent of his subjects, or at least lack of their resistance. Free institutions, in turn, are the foundation of a crucial distinction between the society and the state. The latter has a strictly prescribed sphere of operation and could not go any further. The First Amendment concerning the religious freedom to the US Constitution applies these principles. Murray noticed, as Sirico quotes him, that the First Amendment did not answer any

eternal question about the nature of truth or freedom, or the way the spiritual order of human life should follow [...]. It does not need expressing religious consent, but only the guarantee of rational civil obedience.

In such a situation a vast benefit for the Church is a fact that the area of its operation lies beyond the competences of the state, which guarantees it a broad freedom of religion. This system of reasoning can be applied to economic activity for a simple reason. Much like an internal realm of the human activity (also business)

must operate in the conditions of freedom to be able to come to full fruition. The role of state is simply to ensure the conditions for the good-will cooperation between free subjects. Such conditions will be beneficial for a society as a whole. For this very reason, the market – in the same way as the constitutional framework of the state – is not so much a particular creed, but the very condition for peace.

Marta du Vall tries to analyze sources of the astounding popularity of the neoconservatives' thought in the American foreign policy at the turn of the 21st century. They took advantage of the 11th November attack on the United States to take control over the American foreign policy. During a previous decade they became the forceful critics of its course, without much practical influence. Implementing the new policy, the neoconservatives wanted to establish the dominant position of the United States in the new, post-Cold War geopolitical situation. The Cold War forced the neoconservatives, claims the author, to reformulate the major aims of the American policy, once their strategy of fighting communists turned out to be an astounding success. The discussion caused a split in the Republican Party. The supporters of the so-called 'Enlightenment rationalism' wanted the foreign policy to be based on the principle of non-intervention. On the other side were the neoconservatives who did not want to return to the classical rules of conducting policy from the past, and wanted to conduct an active, interventionist policy focused on spreading democracy in the world and enlarging a sphere of liberal freedom. According to the neoconservatives, the United States foreign policy in the post-Cold War period was to be based on an axiom that American security diminishes, once the sphere of liberal democracy in the world diminishes. Democracy and individual freedom were the universal human rights, thus their active support was justified. For this very reason, the United States was to be a leader in this endeavor, being the only country which had a military, diplomatic, political, and economic potential to do it. Contemporary imperial policy of America is, according to du Vall, a natural consequence of the acceptance of this neoconservative principle. The basis of the American security, in this sense, was to be the imperial strength, and the consolidated and enlightened leadership: a precondition for increasing the world security, democracy and freedom.

Kazimierz Dadak, an economist working in the United States, takes up a fascinating topic of the extent to which the Europe's monetary union could be a lesson for the United States, both as a warning and as an inspiration. He begins with a question whether the single currency and a central bank make a nation powerful. The American experience would suggest that the positive answer is not necessarily the only one available. The United States during the first century of its existence had neither, and despite this fact it was becoming an economic and political superpower fast, it reached the central-bank stage at the turn of the 20th century. If the European Union decided to create one currency and one central bank, it thus had to be convinced that such a centralization in the modern global world was a precondition for development and survival. That would suggest that a similar course would seem to



be natural in case of creating such a union as was the case with the United States in the 19th century.

The author stresses the fundamental differences in economic environments during the American and European unifications, and its corresponding different impacts on growth and employment. In the late 19th century, markets for economic resources, and especially for labor, were extremely flexible, therefore economic crises and different shocks were easily absorbed by these markets. Recessions, resulting in significant decline in prices and wages, led to a new equilibrium. Discretionary monetary policy and flexible exchange rates were not necessary in such a situation. By the end of the 20th century, the situation had radically changed. Markets for all the diverse factors defining production became much more rigid, and discretionary monetary policy and currency depreciations turned out to be effective tools of response to negative economic shocks, especially on the demand side of the equation. The European Union's economic zone is yet not economically integrated enough and does not constitute, as Dadak says, an optimum currency area, that is it is still vulnerable to asymmetric shocks, affecting some regions and leaving others intact. Because of this danger, economic decentralization seems to be a much more flexible way of responding to such situations. The European monetary integration, an introduction of the euro and the central bank, resulted in such a dangerous situation: in irrevocable fixing of the exchange rate among the member currencies and thus shifted the management of monetary policy to a supranational level. As a result, concludes Dadak, the European Union's monetary integration and centralization has become more rather than less vulnerable to the asymmetric demand-side shocks, which has consequently led to unintended consequences: a lower rate of economic growth and more unemployment than would have been experienced if the flexibility of currencies and banks had been retained.

The conclusions which might be drawn from Dadak's analysis, and which he does not state directly are striking. The creation of euro changed the international market and turned out to be a real success, dethroning the dollar as the only global currency. It also gave other countries, who would like to distance themselves from dependence on the dollar and American influence, a certain salutary field of maneuver, since they can conduct international transactions in euros, not dollars. Some countries, for various reasons, play this card consciously. According to many scholars, Saddam Hussain's decision to switch from dollars to euros in oil transactions was the last straw which made the Americans decide to invade Iraq. Iran is today playing the same game. For other states, a partial switch from dollars to euros in international transactions might be a form of economic diversification in an unpredictable, turbulent global economy. In that sense, the creation of euro and one central European bank elevated the European Union in the international market as an economic and political power. Paradoxically yet, a durability of this new political power in the international market, depends very much on the European Union's ability to sustain its economic growth across Europe, to keep up with the

outside world. And that is exactly a problem which a new monetary union might hinder, instead of facilitating. Unless one assumes – and that would be a rather dire consequence for the less developed countries – that the European Union would have two zones of development. The leaders and the less developed followers, in a permanent state of postcolonial dependency, unable to respond in a more flexible way to different economic and political challenges. If so, the monetary union in Europe at this particular historical stage, has to be looked upon less as a rational tool of economic development, but more as a means of building a political super-state, an equal player in relation with the United States and other potential contenders, with Germany being its dominant core.

One of the astonishing features of America, at least looking from the European perspective, is an experimental character of religious life there and the way religious people, mainly Christians, face the utterly unpredictable challenges of modernity. In one sense this has always been the very essence of American robust, pluralistic, and maddeningly confusing religious life, and thus the contemporary conditions of late modernity make the study of religious responses to it both familiar and original.<sup>54</sup> Ewa Grzeszczyk focuses on two contemporary Christian religious movements that originated in the United States. One is the so-called the Promise Keepers, gathering men, the other – Aglow International – gathers women. Both movements share similar goals. They focus on spiritual and moral revival through devotion of life to Christ, strengthening of family ties, and formation of community of people sharing similar values. Both the Promise Keepers and Aglow International oppose the dangerous phenomena of contemporary culture with its excessive individualism, a decreasing importance of local organic communities, destruction of a traditional family, a corresponding general decline of morality, rise of violence, racism, a corrupting media influence, and last but not least a decomposition of the traditional models of femininity and masculinity. This last symptom especially, is considered by both organizations to have a pernicious influence on the mutual relation between men and women, a rise of violence between sexes and the decomposition of the families.

It should be added as an introduction to the author's article that both the Promise Keepers and Aglow International constitute one of the most interesting, even if widely misunderstood and chaotic, grass roots efforts, of mainly religious people, to challenge the dysfunctional tendencies of late modernity, in which the dissolution of family, traditional marriage, and natural relations between men and women are not only consequences of a spontaneous, out-of-control developments, but these developments have been consciously promulgated by a variety of ideological lobbying groups. These groups, as e.g. the radical feminist movement or the gay movement are soliciting the aid of the state to impose their own, radically new

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<sup>54</sup> A recent excellent overview of this development: H. Hecl, *Christianity and American Democracy*, with responses by M. J. Bane, M. Kazin, A. Wolfe, Cambridge Mass. 2007; see also: W. Russell Mead, *God's Country*, [www.foreignaffairs.org/mead.reading](http://www.foreignaffairs.org/mead.reading).

vision of family life, as well as relations between men and women. The issue is not only that of individual autonomy vs. collective sense of uniformity. The issue stands at the center of contemporary liberal society where the state, by means of all instruments available, one of them being the public education, tries to impose a certain uniform system of ‘politically correct’ monistic images how a proper model of marriage and relations between women and men should look like. What is at stake is something much more fundamental and absolutely crucial to a liberal society, a right to retain control over autonomous institutions like churches and families so they can sustain their freedom and ability to teach their creeds and sovereignty of parenting.<sup>55</sup> One may argue that the proponents of such a liberal state want only to implement the principle of neutrality of the state where community ‘is continually being recreated by acts of the will’, whereas conservatives, including the religious and family conservatives are de-legitimized, by the very fact that they allegedly want to interpret the constitution and public policy within a framework of ‘a single community of meaning’.<sup>56</sup> But to put this issue in terms of such a dichotomy is a falsification or, to apply a milder accusation, an anachronism.

The problem is no longer whether society as such, including the conservative groups, religious and otherwise, has power to impose its will on the liberal state and each individual’s will which is supreme, and this morally sovereign autonomous self will be guaranteed as inviolable by the liberal state. The issue is whether the monistic image of liberal state – how the society should be organized – will be considered the only legitimate one at every level of society, preventing any autonomous institutions, as e.g. churches or families, to inculcate voluntarily their moral systems. The issue is just the ability to retain a distinction between the private and political society and the operation of the state by the means of the rule of law. If not, then this distinction is obliterated, by a more or less conscious incorporation of the New Left’s idea of ‘private is political’. In such a situation the liberal state in a monistic, ideological fashion would impose one ideology on all.<sup>57</sup> Thus, the problem ultimately, is not the issue of religious or family freedom for just conservatives, but the issue of freedom as such, and ultimately of the freedom, which the liberals

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<sup>55</sup> On such a mechanism of neutralizing by parental and church teachings means of public education and to stigmatize it as ‘wrong’ to be corrected by the ‘proper one’, especially in relation to religious instruction related to marriage, sexual life, and relations between women and men in marriage in connection with the so-called ‘same-sex marriage’, see e.g.: M. Olasky, *Add, Don’t Subtract...*, pp. 96–97; D. Mack, *The Assault on Parenthood: How our Culture Undermines Parenthood*, San Francisco 1997; R. J. Neuhaus, *The Public Square*, “First Things” 2007, April, p. 64; a different perspective showing how the modern liberal state excludes the autonomous institutions as e.g. churches and families from having an impact on public policy, see an excellent book by J. Hitchcock, *The Supreme Court and Religion in American Life...*, Vol. 2, pp. 142–163.

<sup>56</sup> M. V. Tushnett, a leading separationist, put forth this standard liberal argument in *Red, White, and Blue: A Critical Analysis of Constitutional Law*, Cambridge Mass. 1988, p. 65.

<sup>57</sup> See: J. Bethke Elshstain, *The Bright Line: Liberalism and Religion*, [in:] *The Betrayal of Liberalism...*, pp. 139–156; on the advocacy of social engineering task of the liberal state to create monistic ideology, in the field of religious life, see: A. Gutman, D. Thompson, *Democracy and Disagreement*, Cambridge Mass. 1996, p. 56–58, 66–68.

allegedly defend, namely that of an autonomous individual.<sup>58</sup> In response to such monistic, ideological efforts on the part of the liberal state, many movements were organized in defense of their autonomy, one of them being the religious Right in the United States.

Contrary to the majority of the liberal commentators, it entered public life not because it wanted to impose particular religious views on others but because the liberal space provoked religious people, trying to impose a monistic ideology on their autonomous world. The issues of traditional family and marriage, and the relationship between women and men are crucial here. Traditional family and marriage as institutions have been battered by the legal and cultural system since the 1960s, but there have been forces which took up the challenge. These are especially private pro-marriage and family forces doing important work through churches think tanks, lobbies and other institutions. Much damage has been done especially to the critically important marriage culture by bad legislation and policy, always in the name of reform and equality. The idea that marriage is barely a consent institution without any social, let alone natural, value for the operation of viable society, has become dominant in liberal culture, especially in the United States. For this reason, it was to be privatized, with the concomitant consequences of allowing the so-called ‘same-sex marriage’ and all possible combinations of human unions, and also giving the liberal state the right to enact laws conducive to such unions inside culture. But this culture has been challenged forcefully not only by the grass roots, mainly religious and traditional organizations, but also adamantly by some of the most respected scholars inside the liberal camp.<sup>59</sup> Yet, this antifamily and anti traditional marriage culture has also destroyed traditional roles between men and women, to which destruction feminism contributed enormously. At the surface, the issue is simple: the roles change as everything does, and the role of women and men has to respond to it, especially in the light of the equality culture. Yet, there is a much more deeper issue involved here.

Ideological feminism begins with two basic ideas which need to be proven, and have so far been proven negatively. Nevertheless, they are being pursued relentlessly by lobbying groups, legal advocate groups, foundations, mass culture, and public policy: a particular liberal-left ideology in the name of alleged equality. The first ideological idea is the idea, most prominent in all kinds of gender feminism, that there are no natural differences between men and women. The other idea never clearly stated but implicit is an assumption that the fates men and women are to

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<sup>58</sup> A fascinating account of this conscious effort of the liberal state to prevent a religious freedom of moral teaching in America and the leading liberal academics’ justifications of such measures as the only commensurate with a liberal society, see: J. Hitchcock, *The Enemies of Religious Freedom*, “First Things” 2004, February, pp. 26–27.

<sup>59</sup> An important and very influential book, showing travails of marriage in Western liberal society and demolishing the spurious arguments of the gay movement to claim the institution for itself was written by one of the most respected liberal academic sociologists, D. Blankenhorn, *The Future of Marriage*, New York 2007. Blankenhorn is also the author of an earlier widely read book showing the disintegration of fatherhood as one of the reasons of social disintegration *Fatherless America: Confronting our Most Social Problem*, New York 1995.

be in fact separate, based on power relations that is rights.<sup>60</sup> Such subconscious axioms lie behind the relentless pursuit of equality by feminists and their political allies who argue that the increasing prevalence of violence between men and women, i.e. mutual violence, validates such assumptions. Thus necessary further steps have thus to be taken to make equality in all [sic!] walks of life mandatory by administrative means, where a definition of equality is purely statistical and mechanical. Such a policy has incredible consequences for relations between men and women in the private realm, also in terms of autonomous institutions. They simply make the whole world of relations between women and men, in public as well as in private, including family and marriage, an object of incessant micromanagement of state regulations in a relentless pursuit of equality understood in the light of the textbooks by feminists ideologues.

It seems that the problem of men's and women's mutual relations has been wrongly stated. It has been based on false feminist assumptions. For these very reason the countermeasures cannot produce the allegedly required goal of reducing damaged relations, despite the fact, that the programs and money devoted to rectify them have been exponentially increasing. Feminism and the liberal state which is increasingly assuming the role of the hostage to its clamor, does not solve the problem, because it is a problem itself. Men and women cannot talk to each other in a complementary way because manhood was criminalized, or to put it differently, there are fewer and fewer fields of mutual encounter between men and women when manhood can be used. A feminist cringes hearing such a statement, but there is an increasing wave of studies showing how contemporary liberal culture is focused on destroying manhood and men. The issue is not one of changing roles and equality, the issue is one of uselessness of manhood, the corresponding uselessness of fatherhood, and their replacement with the ideology of parenting being put in its place, a corresponding derision of chivalric attitudes and behavior towards women, and the general anesthesia of natural differences leading to loneliness and utter indifference, with mutual callousness. The evident spread of homosexuality and the culture supporting it is another instance of this situation. It cripples both men and women, but it is exactly such a goal that feminism and the corresponding public programs seek using all the psychotherapeutic, educational, and administrative means to sustain it.

The rebuilding of roles and, together with it, of responsibility seems to be needed. In case of manhood this would probably result with a decline of patholo-

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<sup>60</sup> See: K. Minogue, *How Civilizations Fall*, "The New Criterion" 2001, April, p. 12; W. Shalit, *A Return to Modesty: Discovering the Lost Virtue*, New York 1999. Shalit wrote one of the most influential books which caused a continuous rebellion among the young generation of educated women against gender feminism. By the same author see also: *Girls Gone Mild: Young Women Reclaim Self-Respect and Find it's Not Bad to Be Good*, New York 2007; A. Bryk, *Neokonserwatywna krytyka feminizmu i rewolucji seksualnej w amerykańskim neokonserwatywnym*, "Krakowskie Studia Międzynarodowe" 2006, No. 2, pp. 9–78; Ch. Hoff Sommers, *Who Stole Feminism: How Women Have Betrayed Women*, New York 1994; also from a conservative perspective: C. Graglia, *Domestic Tranquility: A Brief against Feminism*, Dallas 1998.

gies which are substitutes for it. The desertion of women, families and children; violence, extreme sports, senseless promiscuity available on the market, and just the not properly recognized indifference towards women, which masks an utter contempt for them are just some examples of such pathologies. The same of course affects women too, but their response is more nuanced.<sup>61</sup> It is in this light that the movements like the Promise Keepers and Aglow International, and Marriage Savers should be looked upon, so that the most extensive context is exposed. Such movements are among the many grass roots challenges to a culture, which – behind the language of equality and fairness – created in fact a world of insecurity and total confusion between the sexes, and incidentally – hell for countless children.

Grzeszczyk shows these mass organizations as fierce critics of modern radical feminism. They point out that there is an urgent need to rebuild the traditional roles. Men's violence towards women, and the corresponding increasing violence of women towards men, understood not only as a physical brutality but also as desertion of families and an increasing inability to take up responsibility, stem, in both the Promise Keepers' and Aglow International's judgment, from a simple lack of moral Christian impulse and confusion of roles. Yet they represent another instance of a subconscious protest against an inability of the contemporary culture and institutions to recognize the uniqueness of traditional family as a civilizing force and not, as a large part of the feminist movement and the culture of equality claim, as a subconscious source of oppression, and also a protest against the cultural inability to accept in fact a persecution of any idea that one could legitimize any role for manliness and femininity. The major problem is a problem of unused, or wrongly used sexual roles, defined by the feminists and of the mass culture, as the major gain on the road to equality, based on wrongly stated initial axioms. From the Christian perspective, such a definition of the mutual roles is not only theologically wrong, it is pernicious and destructive for the very sustenance of a truly Christian personal and family life. The aforementioned movements, of mass character in America, form an antidote to such destructive tendencies, and propose a return to Christian principles, traditional values and traditional sexual roles to their members.

The movements, portrayed by the liberal media and feminist organizations as conservative, reactionary religious revival groups against liberal culture – a standard term of abuse, contempt and stigmatization of other thinking people, so profusely employed by the contemporary liberal left – constitute nevertheless an interesting self defensive response to the utter license of the liberal culture and its corruptive influence on all aspects of personal and communal life in late liberal modernity. In this sense, they are a potent reminder of the American bottom-up ability of self-

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<sup>61</sup> On the problem of attack on men and boys in contemporary liberal culture, especially in mass culture and public education, see: Ch. Hoff Sommers, *The War against Boys: How Misguided Feminism is Harming our Young Men*, New York 2000; D. Mack, *The Assault on Parenthood...*; on the concept of unused manhood as a source of dysfunctional relations between men and women see: H. Mansfield, *Manliness*, New Haven 2006; W. Shalit, *A Return to Modesty...*

help and self-organization to face new challenges. Despite all the eccentric features of the movements involved, they constitute an example of a robust plurality and vitality of the American civil society. Even if, in some doctrinal aspects and concrete social practices, both Promise Keepers and Aglow International seem to succumb to the very culture they so valiantly oppose.

The last article in a section devoted to the various American and European responses to modernity, tries to look at contemporary subcultures in the United States. Studies of contemporary subcultures stem from a number of sources. One is a modern liberal-left fascination with societal rebels living on the margins, the ubiquitous experience of the first generations of the liberal left contestants, especially of the radical counter-cultural, new left type. Their key battle cry was ‘liberation’, a way to a final emancipation from the constraints of the oppressive American society and a means of secular salvation through communes, sex, drugs, crime and ‘opting out’. This romantic-decadent type of rebellion made subculture as such and its hero a staple of mass culture. This was visible in the writings of such writers as Norman Mailer and Jack Kerouac, and in cult films including *The Easy Rider*, *Bullitt*, and *One Flew over the Cuckoo’s Nest*. Such artistic genre, although popular for some time, was quickly bought by the mass market as an excellent commodity, and simply became a caricature of itself.<sup>62</sup> Yet the total rebel as a hero, escaping into drugs, sex, abnegation and withdrawal, managed in the meantime to condemn to hell innumerable lives of young people, seduced by an image of an unrestrained life. The legacy of this rebellion, which afflicted overwhelmingly the young people from the lower classes, since they had no safety net behind them, is still visible in the ghettos of the American cities and in an obsession with the psychotherapeutic approach to life.<sup>63</sup>

But the other approach to subcultures, in its wider sociological aspects, stresses the essentially modern character of them, one of the consequences of a gradual dissolution of small, homogenous, organic communities. These communities have been replaced by more diverse and complex societies, with individualism being the king, and moral auto-creation – the source of the only legitimate behavior, turning people into a more and more disintegrated mass. They progressively recede to smaller and smaller communities, finally of one, and change identities of choice, fluctuating between institutions, groups, partners, and religions. Choice of an autonomous subject is the absolute criterion of good living. It is in relation to this second understanding of subcultures, which contains also the first form mentioned above, that Katarzyna Skawińska tries to answer what they look like in contemporary America, and how they can be measured. She shows such societies as being composed of numerous smaller and smaller groups, sharing different beliefs,

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<sup>62</sup> For an excellent analysis of this phenomenon as early as in 1958, see: N. Podhoretz, *The Know-Nothing Bohemians*, [in:] *The Norman Podhoretz Reader*, ed. Th. L. Jeffers, New York 2004, pp. 29–40.

<sup>63</sup> Ch. Woltermann, *Reflections on the Therapeutic Safe*, [in:] *Making Sense of Modernity*, ed. P. Gottfried, “This World. An Annual of Religion and Public Policy” 1993, No. 28, pp. 18–27.

customs and interests of their autonomous choice, distinct from the larger society. Although a destruction of the very idea of the overwhelming, controlling social norm for all is today an assumption taken for granted, and we might say that everybody is a member of a particular subculture, Skawińska focuses essentially on the common sense observation that there are groups which are off the mainstream society. Such groups may have many cultural aspects which connect them to the mainstream culture, but they are definitely distinct and diverse, establishing boundaries which set them off and also isolate from the rest of society. They form entities which sociologists refer to as subcultures, on the basis of particular norms, values and behaviors. Skawińska looks into diverse interactions and patterns of behavior within subcultures, and analyzes different theories of subcultures, focusing particularly on their youth and delinquency-related forms. At the end, she tries to contrast her understanding of counterculture with subculture, and discusses the latter's different styles. Subcultures have always been present within human societies, not necessarily always frowned upon. They have played different roles, and were tolerated, if only out of an understanding of fragility of life and its imperfectability. Nevertheless, they were never looked upon as value neutral entities, since societies were based on a formation of character as its goal, which made hierarchy of virtues a prerequisite for noble and good life. The present modern society seems to withdraw value qualifications. It seems incapable, out of fear of oppression and symbolic violence and out of a lack of any universal moral point of view, to pass judgment on any behavior which contravenes any social norms, treating all of them just as arbitrarily as any subculture norms. A doctrine of modern New Tolerance and the commercial potential of the subculture image, seem thus to be conducive to a general anomie and lack of resistance towards disintegration and atomization of a modern liberal society, the mood brilliantly captured by one of the most perceptive analysts of subcultures writing today, Theodore Dalrymple.<sup>64</sup>

How to face Western modernity and modernization has always been a painful, dramatic problem and a challenge for peoples who have not experienced the Enlightenment and have been remote to the western cultural pattern. It is a fascinating problem for the scholars, the very essence of postcolonial thinking, globalization, and multiculturalism. Among the western nations it has also been visible in the context of Western and Eastern Europe after the latter was accepted to the European Union. Eastern Europe belonged to the West for a millennium, but has barely been touched by the cultural pattern of the Enlightenment characterizing only liberal elites. Modernization in its western model, the scientific and rational model most successful in transforming and controlling the world during the last half of the millennium – is basically a story of a clash between two incompatible cultures. One has considered itself technically and organizationally stronger, at a higher stage of development and planning to accomplish a modernizing conquest of the inferior one. The other, resisting, trying to find ways of accommodation and

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<sup>64</sup> Th. Dalrymple, *Our Culture, What's Left of it: The Mandarins and the Masses*, Chicago 2005.



survival, was brewing with resentment. Therefore, modernization has long been considered by many scholars, at least since Michel Mann or Hans Jonas, a violent process, physically as well as symbolically. Such studies put aside the rosy self-images of the Western world bringing benevolent progress to other non-Western people, the idea of the Enlightenment as an essentially optimistic march of progress. Modernization has thus long been recognized not only as a harmonious and happy process of incessant economic, political, cultural, even moral progress, where all are victors in the end and no one becomes a victim, but an ambiguous and torturous experience. It has often been a history of incredible violence, rape and plundering, often by war and conquest, where the weak were simply exterminated or reduced to a state of dependency, at best transformed to become new people. Such modernization has always been a part of the internal story of the West. One has only to remember the modernization of the East in medieval Europe, especially of Prussia and Lithuania, a process of civilizational progress mixed with the acts of merciless conquest and colonization.

The most dramatic question for a weaker civilization which has to face the stronger even if a benevolent one, has always been whether the iron law of history is inexorable, whether a submission has to be total, and last but not least – whether there are parts of a weaker civilization which can or must be saved, and what the best means of doing that are. And finally, whether the stronger civilization, even the benevolent one, is ready to negotiate and accommodate the wishes of the weaker ones, or whether it demands only an unconditional surrender. Whatever a face of modernization and the intensions of the stronger civilization, the weaker one has a limited choice. It faces destruction or intelligent adaptation to a new situation, trying to test in practice which parts of its traditions can be carried towards the future intact and which have to be abandoned, and what methods of adaptation are the most efficient.

The eternal question of the main protagonist of Giuseppe Lampedusa's *Leopard*: "how to change everything so everything can stay the same" is also the question of the modernized and the modernizing elites. The non-Western colonized people faced a real drama here. Nowhere was the such a modernization more visible than in the case of the North American Indians. The Indians faced it acutely but for the majority it was an instinctual resistance. Modernization *vis a vis* colonial and then state and federal United States imposition, was mainly thought of as a case of conquest, and a corresponding burning desire of resentment and resistance. The enemy's power was simply not clearly recognized, or simply a question of identity and honor was the overwhelming value worth dying for. The Sitting Bulls and Crazy Horses of the Plains fed the heroic imagination of the succeeding generations, but their resistance did not save their people. There were Indians, however, who were able to face this danger and decided to modernize along the Western, white man's path in order to survive.

Although their efforts turned out to be to a large extent futile, it is worth considering them an interesting case of adaptation in the face of a stronger enemy. Some North American Indian tribes at the beginning of the 19th century took up such a challenge.

Magdalena Butrymowicz analyzes such a problem of modernization and survival in the context of the Cherokee Indian People and their attempt to transform and adapt to the white man's modes of organization and thinking, without rejecting own cultural identity at the same time. The Cherokee Indian People belongs to the Five Civilized Nations of North America. They were named thus by colonists, because they chose to modernize along the white man's path. The Cherokee Nation was the first which started transformation in this direction. Yet, the change, although altering the tribe's certain features, was also to preserve its culture, language, tradition, and ancestors' law. A decision to transform along a modern, American way was taken up at the beginning of the 19th century. Then, the Cherokee nation enacted numerable written laws, established the capital of their state, organized state financial structure, created the judicial system, and finally wrote and passed state constitution. The first written constitution of native North Americans was a compilation of English and tribal law. It was based on the American model, especially in the parts that concerned the power sharing and taxation system. The Cherokee effort of twenty eight years of state building crowned with a written constitution, was a dramatic attempt to create a constitutional state as the only way to survive modernization of the western, white man's type. It constituted an interesting example of a nation that – in the face of the overwhelming odds of hostile colonization, and facing cultural annihilation – took up a task of thinking through the ways of how to survive and retain their identity at the same time.

The last articles in the volume deal with various specific aspects of American history. Piotr Michalik analyzes the Charter of Maryland as a particular type of English colonial charters, issued by the Crown since the end of the 15th century, depending on the character of the subject at hand. He depicts two types of charters, corporate and proprietary ones, showing how they were based, in form and in content, on medieval models and treated as privileges, gradually strictly limited in England, but used in the colonies. The Charter of Maryland occupied a special place among such charters, being the exemplary case of the so-called Durham type. The author analyzes its text in detail, focusing on the structure and the content of this proprietary charter, which provides an additional insight into important political, social, and economic issues shaping the character of the 17th-century English colonialism.

Michał Chlipała, is the only *polonicum* in the volume. His work is devoted to the Polish contribution to the formation of the US Army beginning with the War of Independence (1775–1781) and continuing to the Civil War (1861–1865), with a special stress put on the latter. The Civil War stays at the center of the author's narrative. The Polish Americans fought on both sides of the Civil War, or as the

Southerners prefer to call it, the War between the States, the largest and the bloodiest conflict on the territory of the United States. Chlipała shows the origins and motivations of particular Polish immigrant groups that decided to take part in the conflict on the side of the Union and the Confederacy, trying to assess their real contribution to the war. He indicates that the real number of soldiers of Polish origin on both sides of the conflict is difficult to assess but concludes that Polish historians have probably a tendency to underestimate their total number. The article concludes with a predictable observation, that the Polish soldiers' primary motivation in the war was to fight for freedom that they understood the best way they could in particular conditions, and at the time when their state did not exist. This was done in the conditions of strong intolerance and many prejudices towards the Poles on the part of the American society.

A new part of the American issue of the Kraków International Studies introduced in this volume is a section called "Archive". Its aim is to commemorate significant authors and books which decisively influenced the course of American history in the 20th century. We publish here an excerpt from a book by Russell Kirk, *The Conservative Mind. From Burke to Eliot*, of which the 55th anniversary is just passing. The book, published in 1953 is universally acclaimed to be the intellectual stepping stone for the modern American conservative movement. The revolt against the dominant progressive and statist course of American liberalism was intellectually prepared several years earlier when Friedrich Hayek (1899–1992) published *The Road to Serfdom* in 1944, Richard Weaver (1910–1963) issued his *Ideas have Consequences* in 1948, and Peter Viereck's (1916–2006) *Conservatism: From John Adams to Churchill* was published in 1956. Hayek tried to show the calamitous consequences of the ubiquitous state intervention in the economy, warning against its totalitarian potential, irrespective of an ideological banner under which this has been done, whether liberalism, fascism or communism. Weaver located sources of the loss of cohesion and disintegration of the Christianitas, and a consequential loss of freedom in the medieval nominalist revolution. Both extremely challenging and stimulating his work made a huge intellectual impact but barely rippled the surface of American political life at the time of their publishing. Hayek was universally considered a crank, hopelessly geared to a reactionary past of the anarchistic free market by the new Keynesian economic orthodoxy, busily creating the New Deal welfare state. Weaver was considered to be so hopelessly philosophical and out-of-touch with the American optimistic spirit that his book was just considered a nice utopian cry in the wilderness, comparable to the ghetto of the Southern Agrarians, of whom he was considered to be the late son. Viereck in turn was too academic and aloof, too Olympian, and in fact too damn aristocratically British. The aforementioned books stirred the intellectual imagination but never touched the heart. With Kirk it was different. Kirk (1918–1994) seemed to be the least suited candidate for resurrecting American conservatism which, since the rise of progressive liberalism at the turn of the 20th century, through the Great Cri-

sis and the rise of the New Deal, was considered to be brain dead, intellectually as well as politically. Moreover, Kirk was far away from the only branch of traditional liberalism most likely to be revived, one that had a venerable tradition in America. The latter, challenged by progressive liberalism of state intervention, soon changed its name to more proper conservative liberalism of the free market opposing the welfare state. Hayek was the most prominent representative of this type of conservatism. Yet Kirk was a classical European traditionalist in a true sense of the word, which meant he was an American reactionary. For this reason, he seemed to be least likely to make any impact.

At face value, his brand of conservatism looked hopelessly anti-American. It was nostalgic and pessimistic, more akin to the Southern school of melancholic Agrarians, out-of-touch with industrial, urban America of the mid-20th century. Nevertheless, he made a tremendous difference, cultural as well as political. For one, he represented one of the several streams of the conservative coalition soon-to-be-risen-from-ashes, comprising all anti-progressive, anti-state, and anti-communist forces. For two reasons some find mysterious, Kirk's book touched the heart and the nerve of these Americans resisting the progressive temptation of the modern state. It also captured the imagination of the young conservatives. He clearly stated the creed of real conservatism, which was antipodal to modern debilitating individualism leading to anarchy, and as a result to the totalitarianism of a regulatory state. This was conservatism which cherished an ordered liberty. With such an initial definition, Kirk tied conservatism to the whole tradition of American republicanism of the founding, constitutional generation. This part of the American tradition was buried under the Lockean monism of Louis Hartz's type liberalism, as exemplified in the latter's seminal book *The Liberal Tradition in America* of 1955.<sup>65</sup> This new, but as Kirk argued, in fact recovered tradition of American conservative republicanism, stretching from still English, but already pro-American Edmund Burke, through Alexander Hamilton and John Adams, to George Santayana and again English Thomas S. Eliot, attacked the progressive and statist liberalism as a form of debasing relativism. Kirk attacked this brand of liberalism in the name of natural law, which he popularized under the banner of 'moral imagination'. The term having been coined by Burke and later used by a host of conservative cultural critics in America including Paul Elmer More and Irving Babbitt, was a philosophical concept to be applied in response to modern ideological, relativist and statist challenges. It referred to man's intuitive power to perceive ethical truths and abiding law in the midst of the seeming chaos of the surrounding experience. According to Kirk, it is imagination and not calculating reason that elevates man above the animals. Kirk stressed an indispensable role of religion and mores which were the preconditions for a civilized life and free society. He firmly stood by the fundamental moral principles staring in the face of modernity's chaos and professing belief in

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<sup>65</sup> L. Hartz, *The Liberal Tradition in America: An Interpretation of American Political Thought since the Founding*, New York 1955.

an adage of his English brother in spirit John Ronald Reuel Tolkien, one of whose heroes, Gandalf, remarked: 'we choose only how we live our life, and not the times in which it passes'. Kirk's book seemed to be too utopian, too romantic and too out-of-this-world, as another American conservative, Willmoore Kendall (1909–1967), remarked, and apparently at face value seemed useless in America. This prediction, however, turned out to be wrong. The book became immensely popular, conveying an image of American civilization as a part of the universal Western civilization, it tied American conservatism to the very depth of its heritage and put the liberal progressive thought on the defensive.

It also made conservatism respectable again. This applied especially to the American youth of a conservative disposition. The deadening monopoly and conformity of American postwar progressive liberalism, its self-obsession with rationalization, planning, and consumption was soon to unravel and liberalism went down in smoke. For a substantial part of the American youth, a rebellion took on a form of counter cultural and anti-American immolation. But for another, less colorful and less exhibitionist, but nevertheless substantial part, for whom progressive liberalism was dead, but the anti-American and antinomian counterculture was a road to nowhere, "The Conservative Mind" formulated a certain alternative. It searched for the reinvigoration of the American tradition in this tradition itself, coupling it with the universal framework of western heritage. It formulated the intellectual dream of a better society in a conservative language. These two silently flowing streams of the American cultural war, exploded in the 1960s.

The book was beautifully written, a real transforming experience for a pragmatic intellectual tradition in America, with its post-war sober, technocratic, process-oriented liberalism. It recovered the metaphysical language and the metaphysical dream in the best tradition of American millenarian and covenantal sensibility. Even if the political reality of the next generation America rarely mirrored the dream of the book, for the generation which was brought up on it, its memory has remained to this day. For the conservative young it was a gem of fresh air in a technocratic society. The book was a call to more than conservatism. It was a call to recover a classical tradition of political philosophy against materialism, logic, and technological regimentation of the American liberal mind obsessed with 'science', a call for a cultivation of the mind and soul in increasingly mindless circumstances. The book was inspired by the same spark of rebelliousness that soon brought America's youth to the countercultural barricades. Kirk was a spark of conservative counterculture which a generation later brought to power Ronald Reagan, and America was never the same again. For this reason his book changed America, and that is why it is duly reminded here in the form of a reprint of Kirk's principles of conservatism found at the end of his book.

The very last part of the issue is a short "Note", focused on one of the most important Supreme Court decisions, namely, *Dartmouth College v Woodward* of 1819. Monika Zbrojewska shows how this decision formulated the judicial basis for the

explosive expansion of American institutions and corporations, and contributed to a rapid economic development, making the expansion to the West possible. In the annals of American history the case is well known, while outside America it is, if noticed, grossly underestimated. The analysis of the 'Dartmouth College v Woodward' case in this issue is a bow towards the wider popularization of American history and its civilization. Beginning with this issue, Archive and Note are permanently added to the content of each of the American issues.

Kenneth Minogue

## **SOCIAL JUSTICE AND THE METAPHOR OF GAPS**

The doctrine of social justice is a rather curious name for the project of equalising the access of all citizens to whatever is valuable. It is a curious name because justice traditionally means that individuals have rights to something they are entitled to, and this is commonly defined in terms of custom and law, though justice may also be used as a moral judgement based on a less definite kind of value. Social justice however argues injustice on the mere fact of inequality. To be human is to deserve to enjoy whatever anyone else enjoys. The element of desert has dropped out, though some qualifications based on economic functionality may often be recognised. A great deal of modern political philosophy consists in variations on this theme.

In this argument, I firstly want to comment on one version of the social justice argument, as advanced in terms of the metaphor of gaps. And secondly, I want to suggest that the most powerful recent version of social justice – namely the idea of “social inclusion” – cannot avoid collapsing into practical impossibility.

The basic egalitarian argument of 19th-century socialism distinguished between the deserving and the undeserving poor. Valuing desert as the basis of “respectability” was a moral judgement shared by most of the poor themselves. In such a moral world, the poor would expend great efforts not to lose the moral quality of “respectability.”<sup>1</sup> The socialists of that period did, of course, recognise that some social conditions might make achieving independence – for example, by getting a job – impossible, but any concern with the defects of society itself was subordinate to the

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<sup>1</sup> See: G. Himmelfarb, *The De-moralization of Society: From Victorian Virtues to Modern Values*, London 1995 (esp. Chapt. I).

moral duty individuals had to sustain their own independence. If social conditions did indeed make independence impossible, the state ought to act, but the moral issue was basic. In most modern thought about social justice, however, the entire field of moral endeavour has been interpreted as a function of social conditions. Why, after all, are some people brighter or more energetic than others? Such talents are not the effects of moral agency. They are determined by genetic endowment, accident, parental involvement or some other external determination of personal achievement.

The distinction between the deserving and the undeserving poor is an individualistic moral judgement that takes no account of disputable matters of social causation. Each individual is construed as an independent bundle of qualities for which he or she is responsible in confronting the demands of life. Individualism condemns as less worthy those who are lazy, wilfully ignorant and unable to resist temptation. An idea such as “addiction” is understood simply as a lack of the virtue of self-control. By a sequence of modifications of the conditions of what it is to be “just”, the autonomy of the individual is successively chipped away until human beings are conceived as being increasingly less self-determining. At the end of this process, in which mitigating circumstances become entirely external causes, the theorist is dealing with a concept of human beings as no less subject to external determination than a leaf or a cloud. One might well call this a process of “reification”. It certainly “thingifies” human beings in a pretty literal sense. We are what we are by virtue of the social conditions we have experienced.

In individualistic terms, then, the poor ought to take active steps to improve their condition. This is not quite the classic Chinese principle of the “iron rice” bowl, by which who does not work does not eat. It is however a clear judgement about moral deserving. Whoever does not respond to the challenge of poverty can hardly be understood as a full moral agent. Some individuals in this class dramatise their incapacity by taking to drink or drugs, in which case they become objects of a certain therapy, which is again to lose moral agency. And it is to avoid this degenerating sequence of events that traditional moral conviction imposes the heavy burden of moral agency on people. It is a responsibility that constitutes an incentive to respond positively to one’s situation. In what welfare states practice, the failure of this incentive can be measured through the large number of individuals who are only marginally disabled yet who are live disability pensions. In individualistic terms, a moral fault passes itself off as a physical condition.

The argument that interprets poverty as a form of social injustice thus has the effect of “de-moralising” those who are taken to be excluded. That might suggest that the moral issue simply disappears altogether into some version of the old Stoic truism that “people and things are what they are.” But it is not at all the case that the moral issue disappears. Moral issues never do. They are merely transferred. And in the case of this doctrine, the moral judgement moves from the individual to the society which is understood to cause the injustice. In the case of more recent versions of the social justice argument, specifying it as a form of “exclusion”, an



even more active role is attributed to “society.” It is the agency that actually does the excluding. Social exclusion is thus a moral judgement on society itself.

Indeed, the moral aspect of social exclusion is even more extensive than this suggests. The selling point of social exclusion lies in the claim that it is a superior form of welfarism. It claims the advantage of including the marginalized in society by the act of bringing them into the workforce, and it is sometimes argued<sup>2</sup> that this is an “economic imperative.” The reason is that Western societies are aging, and need to maximize the contribution that everyone can make to economic prosperity. Social inclusion thus turns out to be not only a way of creating “a fair and decent society”, but also of getting people back to work.

The paradigm case of social exclusion is, of course, likely to be ethnic. It is not so much the poor as so-called “visible” minorities who in modern European societies may find themselves being pushed to the margins of society. This has often been the case with blacks as minorities, but exclusion is by no means a phenomenon limited to European states. Indeed, it is a commonplace of social division. Harijans (ie. the so-called “Untouchables”) among Hindus have been in a similar position, and this kind of marginality (or exclusion) is common in African societies dominated by a single tribe.

The extension of the concept of social inclusion to Western societies as encompassing the poor is an interesting stage in the march of a new concept of society as a single community in which each individual in it has, merely by virtue of status as a human being, a recognised claim on benefits. The provision of universal rights is one way of formulating this desirability, but rights are merely abstract claims, and may not correspond to social realities. Wherever the members of society may exercise their unfettered discretion – in deciding who to marry, in choosing their friends, in deciding whom they will employ – social exclusion might well come into play. Human beings are discriminating animals, and there is no limit to the thoughts they may have that may lead to discrimination. In Britain over the years Jews, Catholics, Irish, Blacks and many other classes have at one point or another being objects of discrimination by some – but hardly ever by all – of their fellow citizens. It would be extremely difficult to imagine a society in which one or another form of such discrimination never occurs.

What follows from this last judgement is that the project of social inclusion cannot occur spontaneously in a society, but must require a government following policies that will override the unfettered discretion of fellow citizens. The most elementary criticism of any such “if ... then ...” argument is simply to bring out the political implications by reversing it. In other words: “If discrimination is to be prevented, then the state must have the power to control human preferences”, becomes:

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<sup>2</sup> Politicians in all modern welfare states are very keen on ideas of social exclusion and the same doctrine appears everywhere. I am taking as a model “The Economics of Social Exclusion” by J. Gillard who is the Deputy Leader of the Australian Labour Party, which came to power in late 2007. Her remarks appear in: “The Sydney Papers” 2007, Vol. 19, No. 3.

“if the state is to acquire this further power, then discrimination must be recognised as the injustice called ‘social exclusion’”. In other words, two distinct social processes are in play: firstly welfarism, and secondly the advance of state power.

Most Western countries now have employment legislation that limits excluding individuals from jobs on any judgement of category membership. In multicultural societies, racial discrimination is against the law. But the concept of social exclusion is nothing else if not open-ended. It does not cover jobs merely, but can refer to any social relationship at all. What might be its natural limits? Complaints are often made in multicultural societies that many people have too narrow a circle of friends. They keep to their own ethnicity. Some attention has been focussed on intermarriage. In some societies, individuals marry across cultures and ethnicities a good deal more often than in others. What would then be the optimal range for these sensitive measurements of discrimination? In answering this question, we come to the idea of gaps between different groups in society.

A gap is a statistical variation in the circumstances of one category by contrast with another. Any such gap is, within the context of social inclusion theory, *prima facie* evidence of injustice. A gap in these cases is, of course, merely an average, and the mere fact of a gap tells us little or nothing about distribution around that average. Nor of course does such a statistic tell us anything directly about the cause or causes of any such gap. Perhaps the favourite gap in current rhetoric is to be found in the difference in life expectancy between social classes in Western societies. Working class expectation of life in Britain varies from that of the middle class by up to 10 years on average between the highest and lowest percentiles. Is this not a condemnation of a society in which the “advantaged” or “privileged” not only enjoy more in the way of material benefits, and in social prestige, but even enjoy these things for longer? How does it happen? Or perhaps one should ask how it is allowed to happen? What ought we to be doing about it?

The explanation for the gap itself might well include a great variety of factors, some of slight and others of key importance, ranging from the higher incidence of violence, and violent death, in working class areas, to higher indulgence in smoking, and indeed in drinking in the lower percentile. I suspect one important difference is that “middle class” people read newspapers and pay attention to the mass of information about diet that constantly pours forth from research institutes. Much epidemiological information is worthless but it does generate a certain attention to the benefits of fruit and vegetables. It is a fascinating irony of modern progress that whereas in the past we often imagined the poor to be thin and undernourished, the current reality is that they are often fat and have supped too much on the wrong kinds of food. None of this, of course, constitutes an argument for blaming, or indeed praising, anyone. It is simply how things are, and there are many variations within whatever class one likes to examine. Nevertheless, there is a temptation to interpret any mention of these factors as a form of moral condemnation. To make such suggestions is sometimes thought to be “blaming the

victim.” But in exploring this reality, seeking causes is neither “blaming” anyone, nor dealing with “victims.” It might, however, leave “society” open to the charge of imposing on some classes of people the kind of life that “drives them” to drink, drugs, smoking, bad diet and so on.

Consider another famous gap. Less research money is spent by pharmaceutical companies (so it is said) on research into illnesses of the poor, especially the Third World poor, than on the diseases of the rich, and those affecting Europeans. The force of this judgement is the charge that these companies are selfish, and that a properly just and moral distribution of research resources would be proportionate to the demographic incidence of the disease through the world. Why should research into disease specialise in focussing on what happens to have an impact upon Europeans, who are in any case a “privileged” class. Instead of justice, these companies are responding to prospects of profit. In this case too, we find that a simple statistic about a “gap” is being made to bear a great moral (and to some extent social) weight. There are many things the poor in the Third World might themselves do to improve their health. Evidence suggests for example that more washing of hands is in fact one simple mechanism to reduce the incidence of some diseases everywhere, and especially in the Third World. Again, malaria can be removed by the use of DDT, but that has other consequences for the environment of which Western environmentalists do not approve. Again, AIDS infection can be diminished by a more responsible attitude to sexual encounters. These issues do not surface in the discussion of gaps. The moral weight of these statistics is designed to bear heavily upon our Western conscience, and the Western propensity to direct its own resources towards its own benefit rather more than towards those of others.

There are, needless to say, constant complains about “gender gaps” The Swedish Green MEP Eva Britt Svensson has written a report to the European Parliament detailing the ways in which men and women with the same disease are differently treated. Clinical trials apparently concentrate on studying the effects of new drugs on men rather than women, while in France, nearly twice as many women take psychotropic and anti-depressant drugs as men.

Once gap thinking gets going there is hardly anything that might slow down its progress. A research group at the University of Kent has discovered, remarkably, that “independent schools in Britain employ a disproportionate share of teachers relative to the number of pupils they educate, and the gap between independent schools and the state sectors has been increasing.”<sup>3</sup> The conclusion drawn is that “private schools have served to reproduce inequalities in British society.” On the same theme, another group at the London School of Economics has revealed that “intergenerational mobility” in Britain remains low.<sup>4</sup> The research consisted of test-

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<sup>3</sup> S. Machin, R. Murphy, F. Green, Y. Zhu, *Competition for Private and State School Teachers and the Changing Economic Returns to Private Education*, “LSE Newsletter” 2008, January 21.

<sup>4</sup> J. Blanden, S. Machin, *Recent Changes in Intergenerational Mobility in Britain*, “LSE Newsletter” 2008, January 21.

ing three-year old children for intelligence, and discovering that those who were bright at that age had on average fallen behind less bright children from middle class homes by the age of five, the latter children being less intelligent at three. Quite how seriously one would take this kind of research depends, no doubt, on whether one thinks that a child's intellectual capacity can seriously be tested at these early ages.

Another version of gap rhetoric consists in looking to variations in medical or other sorts of outcome across local boundaries. That medical care is better in some places than elsewhere is known in Britain as a "postcode lottery". It seems irrational that our health should depend on accidents of geography.

Gap thinking has many aspects as a tool for smoking out occurrences of justice, because it assumes that every individual has exactly the same claim on the skills and resources of the world as any other. No moral issue about how individuals conduct themselves is involved. Judgement has moved from the individual to the society, which is to say, from morality to politics. This means that individuals lose their quality of being moral agents. The question must immediately arise: on whom falls the duty to supply these rights? In the most abstract sense, of course, the duty falls on society, but what is here being understood as "society"? It is the entire population of the globe understood as equal demanders of resources, in economic terms, a kind of demand fundamentalism so extreme that the entire question of supply is left entirely out of account.

The problem fits in some respects into John Rawls's worst-case-scenario version of rational choice<sup>5</sup>: if X might turn out to be at the bottom of any of the gaps, then the rational choice in constituting a society might well be to embrace an ideal of total inclusion – on the assumption that to be at the bottom of any one gap meant that one was at the bottom of all of them. This "coherence of evils" theory is one of the assumptions of the social inclusion school of thought, but other thoughts are possible. The slogan that "freedom as just another way of saying you've nothing left to lose" might well locate a person at the bottom of one exclusion gap, but at the top of the freedom scale.

The question must be pressed: on whom falls the duty to supply these rights? For it happens that welfare states have actually lived through vastly less extreme versions of such a view of the poor and the vulnerable, and the striking fact is that welfare demand can diminish the supply, and bring them to their knees. This is what happened, for example, in Britain during the winter of 1978–1979. We might guess that it would bring down any regime at all. But this is not, of course, the end of the matter. The responsibility for actualising this remarkable form of social justice must rest with the state, or ultimately with a global authority. In pursuing such a responsibility, the authority would have to do whatever is necessary for success. And what is it that would be necessary to success? There is no doubt that it could not be done without the most extensive central direction, and short of total despotism, that policy could only be successful by the provision of incentives and

<sup>5</sup> J. Rawls, *A Theory of Justice*, Oxford 1971 (esp. Chapt. 1, 4).

advantages for the industrious and the skilful to create the necessary resources to bring this about.

The necessary provision of the incentives necessary to supply the materials for the limitless demand for egalitarian welfare would, of course, reproduce exactly the imperfect situation in which we now find ourselves. The abolition of social exclusion could only work by the recreation of social exclusion. What we encounter here, then, is not a logical paradox but unmistakably a practical one: that the only way to bring about alleviation of the social injustice revealed by the rhetoric of gaps must be to re-establish those very gaps.



David Lorenzo Izquierdo

## ALASDAIR MACINTYRE: AN ALTERNATIVE TO INDIVIDUALISM

### Introduction<sup>1</sup>

Alasdair MacIntyre is a key figure in the Liberalism-Communitarianism debate, one of the most important and fruitful in the field of Moral and Political Philosophy in the second half of the 20th century. In spite of his resistance to being labeled as a ‘communitarianist’, MacIntyre has been considered one of the most important representatives (with others like Walzer, Sandel, Taylor, Etzioni, et al.) of this current,<sup>2</sup> one that developed to a great extent as a response to Rawls’ Liberalism in his

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<sup>1</sup> This paper summarizes the content of a PhD dissertation finished in 2005. A short summary of this work was delivered as a communication at the international conference “Alasdair MacIntyre’s Revolutionary Aristotelianism”, held by the London Metropolitan University (London, June 29–July 1, 2007). The entire content of this dissertation was published in 2007 (December) in Spanish under the title *Comunitarismo contra individualismo: una revisión de los valores de Occidente desde el pensamiento de A. MacIntyre*. We thank Dr. MacIntyre for his comments and conversations during a stay at Notre Dame University in 2004. The bibliography used in this paper is that published until 2005. We indicate the complete information of the bibliographic references (with the name of the author with capital letters) only the first time that we cite the reference.

<sup>2</sup> There are many communitarianist authors. The most famous of them are M. Walzer, M. Sandel, C. Taylor, MacIntyre, R. Bellah and A. Etzioni (who founded in 1990 the communitarianist journal “The Responsive Community”), although there are more (R. Unger, P. Selznick, B. Barber, R. Ketcham, J. Auerbach, C. Bay, J. B. Abramson, W. M. Sullivan); M. Giusti, *Contextualizando el contextualismo. Reflexiones generales sobre el debate entre comunitaristas y liberales*, “Estudios de filosofía” 1996, (Venezuela), agosto, pp. 33–43; P. Nepi, *Individui e persona. L’identità del soggetto morale in Taylor, MacIntyre, e Jonas*, Roma 2000, p. 50; H. B. Tam, *Communitarianism. A New Agenda for Politics and Citizenship*, New York 1998, p. 23; D. L. Phillips, *Looking Backward: A Critical Appraisal of Communitarian Thought*, Princeton 1993, p. 197; E. López Castellón, *Autonomía y Comunidad. Sobre el debate entre comunitaristas y liberales*, “Revista de filosofía” 1996, Vol. 9, No. 15, pp. 183–207.

book *A Theory of Justice* (1971).<sup>3</sup> One of the most important points of Communitarianism is its critique of the liberal view of the self and Ethics and Politics, that is to say, a critique of an individualistic view of the human being (an idea maintained by MacIntyre throughout his intellectual evolution). MacIntyre's thought has been studied from many points of view, but there is no research on his global critique and alternative to Individualism. For that reason, the aim of this paper is to study and analyze such an alternative. The questions that we have had to answer are two: 1) Which are the concepts on which MacIntyre bases his alternative to Individualism?, 2) Does this alternative overcome Individualism?

In order to answer these questions, we have focused on MacIntyre's last period. It is known that his intellectual path includes different periods: Marxism, Freudianism, Christianity, etc. The most important one is that started in 1981 with *After Virtue*, a stage that opened his Aristotelic-Thomistic period, in which he continues to develop his thought.<sup>4</sup>

MacIntyre's thought has changed through these different stages. This fact makes any researcher develop a special work of analysis and 'reconstruction'. In order to show a coherent and unitary image of MacIntyre's concepts, we have made an attempt at 'reconstruction', so MacIntyre does not usually explain his ideas in a unitary way. Besides, we have made this reconstruction from the end, that is to say, from his last book (until 2005), *Dependent Rational Animals*, as well as from his last papers. Personal meetings with MacIntyre (during a stay at Notre Dame University in 2004) have been very helpful for us in writing this paper.

## The concept of 'individualism'

The content of this part is a methodological requirement: in order to analyze MacIntyre's alternative to Individualism, we need, first of all, to define what is individualism: what do we mean when we use this word.

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<sup>3</sup> M. Giusti, *Contextualizando el contextualismo...*, p. 35; P. Nepi, *Individui e persona...*, p. 50; H. B. Tam, *Communitarianism...*, p. 23; D. L. Phillips, *Looking Backward...*, p. 197; E. López Castellón, *Autonomía y Comunidad...*, p. 189.

<sup>4</sup> Therefore, this paper is based on the books *After Virtue* (1981), *Whose Justice? Which Rationality?* (1988), *Three Rival Versions of Moral Enquiry* (1990), *First Principles, Final Ends and Contemporary Philosophical Issues* (1990) and *Dependent Rational Animals* (1999), and also on some papers published since 1981 (although, complementarily, we have used also some books and papers published before 1981). We focus on this period because is perhaps the most important period in MacIntyre's thought, and also because it is a 'whole' that can be studied independently, as MacIntyre and some critics have said (A. MacIntyre, *An Interview with Alasdair MacIntyre* by G. Reddiford and W. Watts Miller, "Cogito" 1991, Vol. 5, No. 2, pp. 67-77, reprinted in: (1) *The MacIntyre Reader*, ed. K. Knight, Cambridge 1998, pp. 267-275. In this paper, we indicate the page of this reprint but the year of the first edition: (2) *Key Philosophers in Conversation: The 'Cogito' Interviews*, ed. A. Pyle, London and New York 1999, pp. 75-84; *Alasdair MacIntyre*, ed. M. C. Murphy, New York 2003, p. 1; A. Tulio Espinosa, *Alasdair MacIntyre: Ética Contextualizada*, Caracas 2000, p. 3; D. W. Solomon, *MacIntyre and Contemporary Moral Philosophy*, [in:] *Alasdair MacIntyre...*, pp. 114-151. In fact, M. C. Murphy calls this period the "'after virtue' project".



‘Individualism’ is a word with different meanings and signs throughout history.<sup>5</sup> In this field – Ethics and Political Philosophy – Individualism is often related to Liberalism, in such a way that MacIntyre, for instance, sometimes does not distinguish between them.<sup>6</sup> However, in an interview published in the journal *Cogito* in 1991, he distinguishes between the ‘individualistic culture of modernity’ and Liberalism as a changing political theory.<sup>7</sup> We think that this distinction is appropriate for our aim in this first section, and want to find – for a methodological reason – the essence of Individualism independently of the forms or signs that it can take according to specific theories, societies or periods. We are trying, therefore, to define ethical and political Individualism.<sup>8</sup> This does not imply, however – as we will see – that we think that Individualism can be understood only from Philosophy.

The origin of Individualism comes from a set of different facts which began to appear in Europe during the 14th century. In that century (and later), economic, religious, social and political changes brought about the birth of a new European culture. During that time and later, European nations emerged (with their princes), the unitary idea of ‘Christianity’ disappeared definitively, cities increased remarkably, and capitalist economy began to spread. In Philosophy, Nominalism proposed a new view of knowledge and reality, etc.<sup>9</sup>

Luther and Machiavelli played an important role in configuring that new culture.<sup>10</sup> Individual autonomy took an outstanding position both in religion and society, in economics, etc., since Individualism is a current (or rather an ‘attitude’) defined by theoretical and practical matters narrowly related to each other. In Philosophy, Individualism was defined by Contractualism (with figures like Hobbes, Locke, Rousseau and Kant) and Utilitarianism (with Hume, Bentham, James Mill, John Stuart Mill and Sidgwick).<sup>11</sup>

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<sup>5</sup> S. Lukes, *El individualismo*, transl. by J. L. Álvarez, Barcelona 1975, p. 11. Original English version: *Individualism*, Oxford 1973; A. Laurent, *Histoire de l'individualisme*, Paris 1993, p. 4.

<sup>6</sup> A. MacIntyre, *Individual and Social Morality in Japan and the United States: Rival Conceptions of the Self*, “Philosophy East and West” 1991, Vol. 40, No. 4 (Oct.), pp. 489–497.

<sup>7</sup> *Idem*, *An Interview with Alasdair MacIntyre...*, pp. 67–77. In his book *Humanismo cívico*, also the Spanish philosopher Alejandro Llano relates modernity to Individualism (A. Llano, *Humanismo cívico*, Barcelona 1999, p. 110).

<sup>8</sup> About this point and the following description, we thank Dr. Michael Zuckert, Dr. Javier De La Torre, Dra. Begoña Román, Dr. Carles Llinás, Dr. Jeff Langan, Dr. John Finnis and Dra. Mary Keys for their comments.

<sup>9</sup> C. Velarde, *Liberalismo y liberalismos*, “Cuadernos de anuario filosófico. Serie universitaria” 1997, No. 40, pp. 20, 44.

<sup>10</sup> L. Dumont, *Ensayos sobre el individualismo*, transl. by R. Tusón, Madrid 1987, pp. 87–92; S. Lukes, *El individualismo...*, p. 128.

<sup>11</sup> C. B. Macpherson, *La teoría política del individualismo posesivo: de Hobbes a Locke*, transl. J.-R. Capella Fontanella, Barcelona 1979, original version: *The Political Theory of Possessive Individualism: Hobbes to Locke*, Oxford 1962, pp. 16–17; F. Vallespín Oña, *Nuevas teorías del contrato social: J. Rawls, R. Nozick y J. Buchanan*, Madrid 1985, p. 38; L. Dumont, *Ensayos sobre el individualismo...*, pp. 93–94.

In the light of this brief explanation and following various authors,<sup>12</sup> we can define Individualism as an ethical theory based on three points:

- 1) The essence of human being is freedom, freedom based on autonomy, autonomy which is understood mainly as ‘independence’. This independence means independence ‘of’ anything that is not the own autonomy, and it is the aim or objective to be protected in every field of individual life. In this way, the individual is both the author and the owner of his qualities.
- 2) Through that autonomy, the individual defines his particular interests, changing interests whose value is based only on the fact that they come from an independent choice. Moral values depend only on this autonomy and Politics depends on the maximization of those individual interests.
- 3) Society is understood, consequently, as an association of independent individuals united by utilitarian relationships. Society is only a means to the maximization of individual interests, and individual autonomy can be reduced only because of this maximization. Thus laws would be just a restrictive means to harmonize the search for that maximization.

### **‘Narrative person’: flourishing, virtue and community**

This is the first part in this paper dedicated to the set of concepts on which MacIntyre bases his alternative to Individualism. The aim of this section is to define what he considers to constitute a human being, which is the first question that has to be answered.

We have reconstructed that set of concepts starting from the concept of ‘flourishing’, which was developed in 1999 in *Dependent Rational Animals*. We have used it to put in order his former thought. This concept is so important that, in fact, MacIntyre’s view of human view can be called, in our opinion, an ‘anthropology of flourishing’.

MacIntyre does not think of a human being as a static being. He does not deal with ‘the’ human being but rather with ‘every/each’ human being, with ‘this’ person. That is why the first fact we state is that the human being is a being that develops itself, is always changing, progressing: the human being ‘flourishes’. According to MacIntyre, someone flourishes as a human being when he has achieved independence in practical reasoning. This includes two features:

- to achieve an appropriate idea of good
- to achieve virtues to some extent.<sup>13</sup>

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<sup>12</sup> C. B. Macpherson, *La teoría política del individualismo posesivo...*, pp. 225–226; C. Velarde, *Liberalismo y liberalismos...*, pp. 44–45; A. Laurent, *Histoire de l’individualisme...*, pp. 4–5; R. S. Devane, *The Failure of Individualism*, Dublin 1948, p. 28.

<sup>13</sup> A. MacIntyre, *Dependent Rational Animals: Why Human Beings Need the Virtues*, London 1999.

For this reason, in ‘anthropology of flourishing’, independence is not the purpose but only a means to an appropriate definition of good, what virtue requires. The human being’s greatest good and final end is its flourishing (something impossible, for instance, for Rawls, who thinks that a ‘final’ end for a human being cannot exist).<sup>14</sup> Flourishing is the best development of a human being as a human being, development which includes a physical/biological field and also an intellectual/moral one. In *Dependent Rational Animals*, MacIntyre pays attention to that biological part of a human being’s flourishing. Human identity is a bodily/corporal identity, as is the case also in animals. Body is something essential in both human beings and animals.<sup>15</sup> This is so important for MacIntyre that he can say that human identity is an “animal identity”.<sup>16</sup> However human flourishing is different from animal development because of its intellectual/moral part, because of the independence in practical reasoning.

The concept of ‘flourishing’ makes it possible to see individual life as a narration, as a “narrative unity”, a term coined and developed in *After Virtue*.<sup>17</sup> This concept is perhaps one of the most famous in MacIntyre’s thought. MacIntyre says in this book that individual life can be understood as a ‘unity’, as a whole (with a beginning, a development and an end). And it can be understood as a whole theoretically because it is already understood like this ‘practically’, in particular actions.<sup>18</sup> Putting together both concepts (‘flourishing’ and ‘narrative unity’), we can say that human life is just the narration of individual flourishing (that is to say: the development of an individual as an independent practical reasoner).

In this way, human actions can be understood as a means to human flourishing, a development which is both a theoretical and a practical process. Although MacIntyre does not talk about ‘eudaimonia’, it can be said that the concept of ‘flourishing’ assumes the structure of the Aristotelian theory of happiness. As Corral notes, if an action is a good action when it contributes to human unity (to human flourishing), “it leads us to the question about happiness and to the way to achieve it”.<sup>19</sup>

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<sup>14</sup> J. Rawls, *A Theory of Justice*, Cambridge–Massachusetts 1978, Spanish transl.: *Una teoría de la justicia*, transl. by M. Dolores González, México–Madrid 1995, p. 554.

<sup>15</sup> A. MacIntyre, *Three Rival Versions of Moral Enquiry: Encyclopaedia, Genealogy, and Tradition*, Notre Dame 1998, pp. 196–197; *idem*, *Dependent Rational Animals...*, pp. 8–9.

<sup>16</sup> *Ibidem*, pp. 8–9. MacIntyre dedicates some chapters in *Dependent Rational Animals* (pp. 31–36, 43–46, 56–61) to thinking about whether animals can have beliefs. He deals with many authors (Norman Malcolm, Donald Davidson, Stephen Stich, John Searle, Martin Heidegger, Hans-Georg Gadamer, John McDowell, et al.) and concludes that some animals can have beliefs. We agree with MacIntyre that the relationship between animals and human beings can be useful in order to better understand human identity, although we think that there are some gaps in his argument (for example, reflection on the foundation of human rationality).

<sup>17</sup> MacIntyre does not relate these concepts to each other in *Dependent Rational Animals* (where he explains the flourishing), although we think that they are complementary concepts: there can be a narrow relationship between them. In fact, in our opinion, the concept of ‘flourishing’ is useful for understanding MacIntyre’s concepts previous to *Dependent Rational Animals...* We thank Dr. Fulvio Di Blasi for his comments on this issue.

<sup>18</sup> A. MacIntyre, *After Virtue...*, pp. 118, 130.

<sup>19</sup> C. Corral, *Acción, identidad y tradición: el argumento narrativo*, [in:] *Crisis de valores. Modernidad y tradición (Un profundo estudio de la obra de A. MacIntyre)*, ed. M. Mauri, B. Román et al., Barcelona

In fact, MacIntyre argues in his paper “Plain Persons and Moral Philosophy: Rules, Virtues and Goods”, that the structure of every individual life is a “proto-Aristotelian” structure.<sup>20</sup> And, in that structure, everything which exists by nature tends to develop itself in its best possible way.<sup>21</sup> And the best for the human being is happiness, its greatest good,<sup>22</sup> so that it unifies and ‘leads’ every action.<sup>23</sup>

Flourishing, as a ‘development’ of some capacities (faculties, powers), is a process, therefore, in which ‘something’ grows (develops itself). For this reason, we think that flourishing needs a basis, a ‘ground’ from which it begins. We think that this basis is the ‘human nature’, human essence understood as a principle of operations. This common essence provides human being with faculties (powers) that realize their operations through the habits, the virtues. The statement of this basis makes the anthropology of flourishing more coherent. MacIntyre is not a metaphysician, but there are in his works – mainly in some of those written during the last 10–15 years – some references to metaphysical concepts (like the concept of ‘human nature’).<sup>24</sup>

Following Aquinas, MacIntyre places the basis of the individual’s unity in his psyche’s unity.<sup>25</sup> Nevertheless, we have to note that there is no ‘theory of the psyche’ in his works. Sometimes MacIntyre makes references to metaphysical concepts, and he acknowledges that these concepts are necessary to his thought.<sup>26</sup> MacIntyre talks about ‘being’, ‘essence’, etc. (although he does not do so in a systematic way).<sup>27</sup> He

1997, pp. 115–142. Rawls, for instance, thinks that there cannot be ‘one’ final end in a human being: “The self is disfigured and put in the service of one of its ends for the sake of system” (J. Rawls, *A Theory of Justice...*, p. 554).

<sup>20</sup> A. MacIntyre, *Plain Persons and Moral Philosophy: Rules, Virtues and Goods*, „American Catholic Philosophical Quarterly” 1992, Vol. 66, No. 1, pp. 3–20. We use this reprint in this paper but we indicate the year of the first edition (in this reprint, there are some small changes). We can find a similar idea in the “Preface” to the 2<sup>nd</sup> edition of *A Short History of Ethics: A Short History of Ethics*, New York 1966.

<sup>21</sup> Aristotle, *Nicomachean Ethics*, 1099b, 22. We use this Spanish edition: *Ética nicomáquea*, transl. P. Bonet, Madrid 1998.

<sup>22</sup> *Ibidem*, 1095a, 15; 1097a, 20; 1099a, 25.

<sup>23</sup> *Ibidem*, 1097b, 21. Nevertheless, MacIntyre does not use the word ‘happiness’ but ‘flourishing’. When he published *After Virtue*, he did not know about the debate on the best translation of the Aristotelian concept of ‘eudaimonia’. Apart from this, he thinks that the word ‘flourishing’ is a good translation because it is coherent with Aristotle’s thought (and he refers to *Nicomachean Ethics*, 1098b, 20–22); A. MacIntyre, *Moral Rationality, Tradition, and Aristotle: a Reply to O. O’Neill, R. Gaita and Stephen R.L. Clark*, “Inquiry” 1983, Vol. 26, pp. 458, 462. This issue includes the contributions delivered in a conference on *After Virtue*.

<sup>24</sup> The word ‘nature’ (‘fisis’, ‘natura’) can have different meanings (see: Aristotle, *Metaphysics*, 1014b15–1015a20; Aquinas, *Summa Theologica*, I, q. 82, a. 1; I, q. 80, a. 1; I–II, q. 10, a. 1). About this books, we use the following editions: Aristotle, *Metafisica*, transl. G. Yebra, Madrid 1998; Aquinas, *Summa Theologica*, transl. by Fathers of the English Dominican Province, 3 vols., New York 1947. Spanish translation used: *Suma de teología*, Madrid 2001; R. Luño, *Ética general*, 3rd ed., Pamplona 1998. Here we mean by ‘human nature’ the form of human being as a principle of operations. We take its metaphysical meaning: the being of a thing (Aquinas, *Summa Theologica*, I, q. 82, a. 1; I, q. 80, a. 1), what defines a being specifically (I–II, q. 51, a. 1), the foundation of its faculties/powers (*ibidem*, I–II, q. 10, a. 1, ad 1; Aristotle, *Metaphysics* 1014b15–1015a20).

<sup>25</sup> A. MacIntyre, *Three Rival Versions of Moral Enquiry...*, pp. 197–200.

<sup>26</sup> For instance, in his paper *Plain Persons and Moral Philosophy: Rules, Virtues and Goods...*, p. 152.

<sup>27</sup> *Idem*, *Three Rival Versions of Moral Enquiry...*, pp. 121–122; *First Principles, Final Ends and*

says that an Aristotelian Ethics needs a concept of ‘human nature’,<sup>28</sup> and talks about a human being’s teleology, about flourishing, etc. However, he does not define a substantial concept of ‘human nature’, although we think that this is implicit (‘behind’) his thought. In fact, he says that Metaphysics (with concepts like ‘potentia’, ‘substantia’, etc.) is necessary for an Aristotelian-Thomistic framework,<sup>29</sup> within which he has developed his thought since he published *After Virtue*.<sup>30</sup>

Let us remember that, in *After Virtue*, MacIntyre said that the best explanation of Ethics was the Aristotelian one, an explanation based on a structure with three points: 1) human nature as it is; 2) human nature as it must be (‘telos’) according to its essence; 3) the way between both stages: Ethics.<sup>31</sup> We agree, therefore, with critics like J. L. A. García, T. Hibbs, Perreau-Saussine, J. Russell, C. Taylor or Lutz,<sup>32</sup> that there is in MacIntyre’s thought a metaphysical concept of ‘human nature’,<sup>33</sup>

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*Contemporary Philosophical Issues...*, Milwaukee 1990, pp. 46–47. Spanish transl.: *Primeros principios, fines últimos y cuestiones filosóficas contemporáneas*, by A. Bayer, Madrid 2003.

<sup>28</sup> Idem, *After Virtue...*, pp. 52–53; *Three Rival Versions of Moral Enquiry...*, pp. 138–139.

<sup>29</sup> *Plain Persons and Moral Philosophy: Rules, Virtues and Goods...*, p. 152. A good example of this necessity is the change in MacIntyre’s thought since *After Virtue*. Montoya and Matteini say that, in this book, he follows Aristotelian Ethics from a ‘sociological’ point of view, without accepting his ‘biological metaphysics’ (J. Montoya, *A propósito de “After Virtue”*, “Revista de filosofía” 1983, No. 6, p. 316; M. Matteini, *MacIntyre e la rifondazione dell’etica*, Roma 1995, p. 111). In fact, Gutting thinks that MacIntyre is not a true Aristotelian in *After Virtue* (G. Gutting, *Pragmatic Liberalism and the Critique of Modernity*, Cambridge 1999, p. 99). But, in *Dependent Rational Animals* (pp. ix–x), MacIntyre realized that it is a mistake to separate Ethics from Metaphysics in Aristotle. And he explained the same idea in an interview with Prof. Ricardo Yepes some years before, in 1990 (*Después de “Tras la virtud”*. Interview with R. Yepes, “Atlántida” 1990, Vol. 1, No. 4, p. 88).

<sup>30</sup> Lutz says that this same idea was explained by MacIntyre during a course on *After Virtue* in 1995 at Notre Dame University. In this same course, MacIntyre said that *After Virtue* did not include a good explanation on the concept of ‘human nature’ (C. S. Lutz, *Tradition in Ethics of Alasdair MacIntyre*, New York 2004, p. 134). We thank Dr. David Solomon, Dr. Dan McInerney and Dr. John O’Callaghan for their comments on this issue.

<sup>31</sup> A. MacIntyre, *After Virtue...*, pp. 52–53.

<sup>32</sup> J. L. A. García, *Modern(ist) Moral Philosophy and MacIntyrean Critique*, [in:] *Alasdair MacIntyre...*, p. 108; T. S. Hibbs, *MacIntyre’s postmodern Thomism: reflections on “Three Rival Versions of Moral Enquiry”*, “The Thomist” 1993, Vol. 57, p. 285; É. Perreau-Saussine, *Alasdair MacIntyre between Aristotle and Marx*, [in:] [www.src.uchicago.edu/politicaltheory.sausine99.pdf](http://www.src.uchicago.edu/politicaltheory.sausine99.pdf); J. Russell, *On MacIntyre*, Belmont 2003, p. 36; C. Taylor, *Justice After Virtue*, [in:] *After MacIntyre: Critical Perspectives on the Work of Alasdair MacIntyre*, eds. J. Horton and S. Mendus, Cambridge 1994; C. S. Lutz, *Tradition in Ethics of Alasdair MacIntyre...*, pp. 120, 139–140.

<sup>33</sup> Some reasons for stating this idea:

- 1) The change in MacIntyre’s thought since *After Virtue* in accepting Aristotelian metaphysics (and Thomistic metaphysics later).
- 2) The idea – already explained – that the human being has/shows, in its acts and life, a ‘proto-Aristotelian’ structure. An Aristotelian Ethics, therefore, implies an Aristotelian metaphysics (A. MacIntyre, *On Not Having the Last Word: Thoughts on our Debts to Gadamer*, [in:] *Gadamer’s Century. Essays in Honour of H.-G. Gadamer*, eds. J. Malpas, U. von Amswald and J. Kertscher, Boston 2002, p. 169).
- 3) The idea that flourishing is the development of faculties/capacities that the human being has as a human being. This idea assumes (perhaps implicitly) the conceptual structure through which Aquinas explains the human being, a structure based on the concepts of ‘essence’, ‘faculty/power’ and ‘operation’ (Aquinas, *Summa Theologica*, I, q. 75, a. 1).
- 4) Sometimes MacIntyre talks about ‘human nature’ as the foundation of natural law and also as the basis of human capacities and inclinations (idem, *Three Rival Versions of Moral Enquiry...*, p. 134; *Plain Persons and Moral Philosophy: Rules, Virtues and Goods...*, p. 139; *How Can We Learn What “Veritatis Splendor” Has to*

Nevertheless, human nature acts and develops itself in specific practices. Another important feature of flourishing is that it is mainly a ‘practical’ process, i.e. it takes place in specific practices. The concept of ‘practice’ is very important in MacIntyre’s thought.

In *After Virtue*, MacIntyre defines the practice as “any coherent and complex form of socially established cooperative human activity through which goods internal to that form of activity are realized in the course of trying to achieve those standards of excellence which are appropriate to, and partially definitive of, that form of activity, with the result that human powers to achieve excellence, and human conceptions of the ends and goods involved, are systematically extended”. Sciences, architecture, and farming are examples of practices.<sup>34</sup>

The elements of a practice according to MacIntyre are three: goods, models of excellence (or authorities) and rules.<sup>35</sup> Let us briefly consider each one of them. Regarding goods, he distinguishes between two kinds of them: “external goods” and “internal goods”. The internal ones are those goods referred to the proper excellence of a concrete practice. The best building and the best way to design it are internal goods to architecture. Moreover, the external ones are those goods not related directly to the proper excellence of a practice. This kind of goods can be achieved through many kinds of practices and can be independent of the achievement of the internal goods to the practice. These goods are money, power, prestige and so on. Therefore, internal goods are the proper or essential ‘telos’ of a practice.<sup>36</sup>

Rules are necessary elements of a practice because they are the guidelines or the norms to be followed by the individual if he wants to achieve the internal goods to the practices.<sup>37</sup> Some rules have to be observed because they take the individual to excellence in a practice. It is necessary, for instance, to train weekly if we want to form a good football team.

The third element of practices is models or authorities. According to MacIntyre, they are necessary because the individual needs to know the rules and the goods of the practices, and also has to learn to apply the rules and realize the internal good. Individuals need some people to learn and to practice these elements: they

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*Teach?*, “The Thomist” 1994, Vol. 58, p. 173; *Aquinas’s Critique of Education: Against His Own Age, Against Ours*, [in:] *Philosophers on Education: New Historical Perspectives*, ed. A. Oksenberg Rorty, London–New York 1998, p. 98; *Theories of Natural Law in the Culture of Advanced Modernity*, [in:] *Common Truths: New Perspectives on Natural Law*, ed. E. B. McLean, Delaware 2000, pp. 108, 109, 113). Nevertheless, we have to say MacIntyre’s references to the concept of ‘human nature’ are not always clear or systematic. For instance, when he describes different fields or aspects of human existence (biological, social, etc.), sometimes he talks about ‘human natures’: “in ihrer Anwendung auf mensch Wesen...”, “menschliche Wesen” – he says in an interview with D. Nikulin (A. MacIntyre, “Wahre Selbsterkenntnis durch Verstehen unserer selbst aus der Perspektive anderer”. Interview with Dmitri Nikulin, “Deutsche Zeitschrift für Philosophie” 1996, Vol. 44, No. 4, p. 676), or also we can read “our natures” in *How Can We Learn What “Veritatis Splendor” Has to Teach?...*, p. 177.

<sup>34</sup> *Idem*, *After Virtue...*, pp. 187–188, 200–201.

<sup>35</sup> *Ibidem*, pp. 189–190.

<sup>36</sup> *Ibidem*, pp. 184–194; *Three Rival Versions of Moral Enquiry...*, pp. 64–65.

<sup>37</sup> *Idem*, *After Virtue...*, pp. 194–195; *Whose Justice? Which Rationality?*, London 1998, pp. 31–32.

are the models or authorities.<sup>38</sup> Finally, we can mention that virtues are the qualities through which the individual can distinguish and realize the internal goods to the practice, and follow the models and the rules related to it. According to MacIntyre, there are some virtues without which the individual cannot achieve the internal goods to the practice: justice, prudence, etc.<sup>39</sup>

For MacIntyre, practices are the natural field or place where individuals act and live. Social and individual life is structured by practices, which take place in some institutions and in a specific history or tradition. Every practice is part of a history and a tradition. An individual life is composed of many practices: someone can act as a father, as a lawyer, as a member of different associations, and so on. This is why human action cannot be explained from an individualistic point of view, i.e. as a result of 'independent' individual choices.

The relationship between practice, with its internal good, and flourishing is very important. In *After Virtue*, MacIntyre of course realizes that there are practices which are evil in themselves: for instance, torture, sadomasochistic sexuality, etc. A thief can be good as a thief and, as a result, he is bad as a human being. Technical perfection does not imply moral perfection.<sup>40</sup> And this distinction is based on the concept of flourishing, from which we can judge practices.

Because of this, MacIntyre distinguishes between three meanings of the concept of *good*:

- 1) *Good* as a means to another good, which is a good in itself.
- 2) *Good* according to a specific practice. In this sense, an individual is good as a father, as a teacher and so on.<sup>41</sup>
- 3) *Good* as a human being, as a member of human species. In this sense, an individual is good if he is flourishing as such.<sup>42</sup> In fact, this third sense of the concept is the main one for MacIntyre: something is good for an individual if it contributes to his flourishing.<sup>43</sup>

For MacIntyre, a judgment on human flourishing is a judgment about whether an individual has developed human faculties. Because of this, he says that his concept of good is a 'functional' concept. This is a factual statement: it is a judgment on the fact of the flourishing itself, rather than a subjective judgment. He argues that we cannot define what a 'watch' is without the idea of a 'good watch', which implies a specific function. So just as we cannot define 'watch' without the

<sup>38</sup> *Idem*, *After Virtue...*, p. 195.

<sup>39</sup> *Ibidem*, pp. 195–196; *Nietzsche O Aristotele?*, [in:] *Conversazioni Americane*, ed. G. Borradori, Roma–Bari 1991, pp. 169–187. English transl.: *Nietzsche or Aristotle?*, [in:] *The American Philosopher: Conversations with Quine, Davidson, Putnam, Nozick, Danto, Rorty, Cavell, MacIntyre, and Kuhn*, ed. G. Borradori, Chicago 1994, pp. 137–152. Spanish transl.: *Nietzsche o Aristóteles?*, [in:] *Conversaciones filosóficas (El nuevo pensamiento norteamericano)*, transl. J. A. Mejía, Santafé de Bogotá 1996, pp. 199–219.

<sup>40</sup> A. MacIntyre, *After Virtue...*, pp. 200–203.

<sup>41</sup> *Idem*, *Dependent Rational Animals...*, pp. 65–66.

<sup>42</sup> *Idem*, *Plain Persons and Moral Philosophy: Rules, Virtues and Goods...*, p. 151; *Dependent Rational Animals...*, p. 66.

<sup>43</sup> I would like to thank Prof. MacIntyre for a personal conversation on this issue.

concept of ‘good watch’, it is impossible to define what a human being is without the idea of a ‘good human being’, i.e. without the idea of flourishing, which is its proper function.<sup>44</sup> For this reason MacIntyre says that we cannot separate ‘to be’ and ‘ought to be’, at least in ‘functional’ concepts.<sup>45</sup>

Fuller calls this scheme the *‘form-function-virtue scheme’*, and says that MacIntyre takes it from Plato, Aristotle and Aquinas. They share the same scheme: a natural form (‘*eidōs*’) implies a function (‘*ergon*’) proper of the being that possesses this form, a function whose fulfillment is its final good (‘happiness’), good that is achieved through virtues.<sup>46</sup> According to Wong, an important point in Greek and Medieval philosophy is that the human being “is understood to have an essential nature or function”.<sup>47</sup> This would be the only basis for moral objectivity that MacIntyre searches for.<sup>48</sup> Let us remember that, for Aristotle, human nature is not only an essence but also an end, the ‘*telos*’ of the human being.<sup>49</sup>

We have said that every practice has its own rules. The individual has to assume them and follow them if he wants to achieve the internal good to the practice. We have seen that practices can be judged and understood only from flourishing. Just as there are rules for practices, there are also rules for flourishing. These rules are the rules of natural law.<sup>50</sup> The individual has to observe them in order to achieve flourishing as a human being.<sup>51</sup> Just as flourishing is the reference from which to judge practices, natural law is the reference from which to judge practices’ rules. For MacIntyre, the good is the sense of rules: without the idea of good to be achieved, rules do not make sense.<sup>52</sup> According to the MacIntyrean scheme, we can

<sup>44</sup> *Idem*, *After Virtue...*, pp. 57–61.

<sup>45</sup> *Idem*, pp. 57–61; *Three Rival Versions of Moral Enquiry...*, pp. 134–135; see also: *Plain Persons and Moral Philosophy: Rules, Virtues and Goods...*, pp. 138–139; *Wahre Selbsterkenntnis durch Verstehen unserer selbst aus der Perspektive anderer...*, pp. 676–677.

<sup>46</sup> M. Fuller, *Making Sense of MacIntyre*, Aldershot 1998, p. 5.

<sup>47</sup> D. B. Wong, *Virtue-Centered and Rights-Centered Moralities*, [in:] *Moral Relativity*, Berkeley 1984, p. 136.

<sup>48</sup> *Ibidem*.

<sup>49</sup> Aristotle, *Politics*, 1252b 8–9; we use this Spanish edition: *Política*, transl. G. Valdés, Madrid 1999, 2nd ed. We think that, for MacIntyre (although he does not use these words), finally the good is essentially what perfects or improves a nature (like for Aquinas, *Summa Theologica*, I–II, q. 54, a. 3, ad 2), and, therefore, that towards which this nature tends (*ibidem*, I–II, q. 1, a. 4; Aristotle, *Metaphysics*, I, 983a, 32; *Nicomachean Ethics*, I, 1094a, 2–3; X, 1173a, 1).

<sup>50</sup> Natural law is a topic with which MacIntyre has dealt mainly in papers or articles.

<sup>51</sup> A. MacIntyre, *Three Rival Versions of Moral Enquiry...*, p. 139; *Plain Persons and Moral Philosophy: Rules, Virtues and Goods...*, p. 143; *How Can We Learn What “Veritatis Splendor” Has to Teach?...*, p. 173; *Wahre Selbsterkenntnis durch Verstehen unserer selbst aus der Perspektive anderer...*, pp. 676–677; *Dependent Rational Animals...*, pp. ix–x; *The Privatization of Good. An Inaugural Lecture*, “The Review of Politics” 1994, Vol. 52, No. 3, p. 344. Inaugural lecture for MacMahon-Hank Chair of University Notre Dame, reprinted in: *The Liberalism-Communitarianism Debate: Liberty and Community Values*, ed. C. F. Delaney, Lanham 1994, pp. 1–17. German transl.: *Die Privatisierung des Guten*, [in:] *Pathologien des Sozialen: Die Aufgaben der Sozialphilosophie*, ed. A. Honneth, Frankfurt a. M. 1994, pp. 163–83.

<sup>52</sup> A. MacIntyre, *After Virtue...*, pp. 194–195; *The Privatization of Good. An Inaugural Lecture...*, p. 344; *Three Rival Versions of Moral Enquiry...*, p. 139; *Plain Persons and Moral Philosophy: Rules, Virtues and Goods...*, p. 143; *Dependent Rational Animals...*, pp. ix–x.



see that human autonomy acts under the guide of rules that do not come from it (from individual autonomy).

MacIntyre, following Aquinas, thinks that common human nature is the only foundation for natural law, and that this law implies and is directed to the final ‘telos’ of human being.<sup>53</sup> However, he thinks that the most difficult thing in the reflection on natural law is perhaps how to know and to define the precepts of that natural law.<sup>54</sup>

For our author, natural law can be known and defined only from social practices, that is to say, from those activities in which the individual participates and which take place in a community.<sup>55</sup> In his paper “Natural Law Reconsidered” (of 1997), MacIntyre agrees with Aquinas in deriving natural law from inclinations of human nature,<sup>56</sup> as we can read in *Summa Theologica*.<sup>57</sup> Nevertheless, he prefers another way to natural law.<sup>58</sup>

MacIntyre tells us that, for Aquinas,<sup>59</sup> an essential feature of any precept which is a law is that it is a rule of reason directed to the common good. MacIntyre derives from this idea that, in order to define the good – and the goods – and the rules, the very inclinations of human nature are not enough. Perhaps it is better to start with actions, debates and discussions about goods and rules which happen in practices when people are concerned about any common good.<sup>60</sup> Reflection and enquiry come after this fact, the *fact of the practice*, and then goods and rules necessary for everybody are found by people involved in these practices.<sup>61</sup>

In fact, MacIntyre thinks that this argument was proposed implicitly by Aquinas, since ordinary people at first do not derive natural law from metaphysical premises.<sup>62</sup> If human nature is known through its operations and through the actions

<sup>53</sup> Idem, *Three Rival Versions of Moral Enquiry...*, p. 133; *Theories of Natural Law in the Culture of Advanced Modernity...*, p. 113.

<sup>54</sup> Idem, *Natural Law Reconsidered. Review of “Aquinas’s Theory of Natural Law: An Analytic Reconstruction”*, by A. J. Lisska, “International Philosophical Quarterly” 1994, Vol. 37, No. 1, issue 145, p. 98; *Theories of Natural Law in the Culture of Advanced Modernity...*, p. 95.

<sup>55</sup> Idem, *Community, Law, and the Idiom and Rhetoric of Rights*, “Listening: Journal of Religion and Culture” 1994, Vol. 26, No. 2, p. 110; *The Theses on Feuerbach: A Road Not Taken*, [in:] *Artifacts, Representations and Social Practice*, eds. C. C. Gould and R. S. Cohen, Dordrecht 1998, pp. 277–290. Also: *Natural Law As Subversive: The Case of Aquinas*, “Journal of Medieval and Early Modern Studies” 1998, Vol. 26, No. 1, pp. 80–81; *Theories of Natural Law in the Culture of Advanced Modernity...*, pp. 109–110.

<sup>56</sup> Idem, *Natural Law Reconsidered...*, pp. 98–99.

<sup>57</sup> Aquinas, *Summa theologica*, I–II, q. 94, a. 2. He describes that argument in his paper *Natural Law Reconsidered...* (pp. 98–99): the human being has some “dispositional properties”, which tend to some goods and “fulfillments”, but only through reason and will. The rules of natural law are the references for this process, for human flourishing.

<sup>58</sup> I would like to thank Prof. MacIntyre for a personal conversation about this issue (August 2004).

<sup>59</sup> Aquinas, *Summa theologica*, I–II, q. 90, a. 1–2.

<sup>60</sup> A. MacIntyre, *Natural Law Reconsidered...*, pp. 98–99.

<sup>61</sup> Idem, *Después de Tras la virtud...*, p. 93; *Theories of Natural Law in the Culture of Advanced Modernity...*, pp. 94–95. MacIntyre mentions the role of the ‘sinderesis’ (in *Three Rival Versions of Moral Enquiry...*, p. 194), but he does not analyzes it.

<sup>62</sup> Idem, *Natural Law Reconsidered...*, p. 98.

realized by an individual, the practices are really important because they are the field or the context of those actions.<sup>63</sup> This is why MacIntyre concludes that: “the recognition of natural law is a matter of how such practices are structured”.<sup>64</sup>

The MacIntyrean concept of ‘virtue’ can be understood only from the concepts explained so far: ‘practice’ and ‘flourishing’. Starting from the concepts of ‘flourishing’ (‘narrative unity’) and ‘practice’, MacIntyre gradually defines the concept of ‘virtue’ in *After Virtue* and *Dependent Rational Animals*.<sup>65</sup> Virtues help human beings both in practices and in searching for the good: “The virtues therefore are to be understood as those dispositions which will not only sustain practices and enable us to achieve the goods internal to practices, but which will also sustain us in the relevant kind of quest for good, by enabling us to overcome the harms, dangers, temptations and distractions which we encounter, and which will furnish us with increasing self-knowledge and increasing knowledge of good”.<sup>66</sup>

Complementarily, MacIntyre says, in *Dependent Rational Animals*, that virtues are ‘excellences’; they are “those qualities of mind and character that enable someone both to recognize the relevant goods and to use the relevant skills in achieving them”.<sup>67</sup> We can see, therefore, that virtues are shown and have influence on all fields of individual life. Virtues are developed in practices, but their influence goes beyond them: life as a whole (with its ‘telos’).<sup>68</sup> Virtues, therefore, are necessary qualities for humans in order to see (to grasp) the good and also to apply the rules, in the fields of both practices and flourishing. The individual can define flourishing as the greatest good and the specific goods related to it only through its virtues, among which ‘phronesis’ plays an essential role.<sup>69</sup>

<sup>63</sup> *Idem*, *The Theses on Feuerbach: A Road Not Taken...*, p. 234; *Natural Law As Subversive: The Case of Aquinas...*, pp. 80–81; *Theories of Natural Law in the Culture of Advanced Modernity...*, pp. 94–95, 109–110.

<sup>64</sup> *Idem*, *Natural Law As Subversive: The Case of Aquinas...*, pp. 80–81. Although MacIntyre does not talk about natural law in his paper published in 1978, and published again in 1985, *The Right to Die Garrulously*, he pays attention to the fact that rules exist in specific practices and communities (*idem*, *The Right to Die Garrulously*, [in:] *Death and Decision*, ed. E. McMullin, Boulder 1985, pp. 76, 83–84). As an example of this argument, we can look at what MacIntyre calls the “ethics of enquiry”, which is involved in the practice of moral and political debate. He defines it as “an additional authority that is independent of moral standpoint” (*idem*, *Toleration and the goods of conflict*, [in:] *The Politics of Toleration in Modern Life*, ed. S. Mendus, Durham 2000, pp. 133–155). We thank the author for a copy of this paper and also his comments on it. And it is part of natural law (*idem*, *How Can We Learn What “Veritatis Splendor” Has to Teach?*..., pp. 171–195). (We use here references taken from different papers. MacIntyre does not unify them explicitly but the relationship between them seems coherent with his arguments.) The liberty to express an opinion, the respect for people participating in the debate and so on: all of these are principles or virtues which form that ‘ethics of enquiry’. MacIntyre says that a true dialogue, a proper human dialogue, implies the acceptance of the ethics of enquiry. Perhaps someone does not define or state explicitly these rules but he is implicitly accepting them when he joins a public debate on moral or political issues (*idem*, *Toleration and the goods of conflict...*, p. 7).

<sup>65</sup> *Idem*, *After Virtue...*, p. 181; *Dependent Rational Animals...*, pp. 91–92. For an analysis of MacIntyrean concept of ‘virtue’ in *After Virtue*, *Whose Justice?* and *Three Rival Versions*, see: M. Mauri, *Liberalisme i llibertat. Alasdair MacIntyre: la tradició de les virtuts*, “Qüestions de vida cristiana” 1997, No. 194, pp. 45–56.

<sup>66</sup> A. MacIntyre, *After Virtue...*, p. 219.

<sup>67</sup> *Idem*, *Dependent Rational Animals...*, pp. 91–92.

<sup>68</sup> *Idem*, *After Virtue...*, pp. 201–203.

<sup>69</sup> *Idem*, *Whose Justice? Which Rationality?*..., pp. 115–116; *Three Rival Versions of Moral Enquiry...*,

We can see, therefore, that MacIntyrean ‘independence’ is not an individualistic independence. We can say that it is a ‘dependent independence’. And it is dependent in its basis/grounds (the common human nature), in its end (flourishing) and in its means (virtues). Because of the features of the concepts of ‘practice’ and ‘flourishing’, the individual needs the help of others in order to define and to realize the good. The individual needs the help of others to learn the rules of practices (and how to apply them) and also to develop virtues (something necessary in order to achieve the internal goods to practices). The same happens in the whole process of flourishing. That is why, according to MacIntyre, human actions cannot be explained fully from an individualistic point of view.

We can thus understand the importance of the concept of ‘community’ in MacIntyre’s thought. According to him, community is the natural context of human flourishing. Without a community, the individual cannot achieve independence in practical reasoning. In this section, we will analyze why MacIntyre says this.

The MacIntyrean concept of ‘community’ comes from the Greek ‘polis’.<sup>70</sup> In *Whose Justice? Which Rationality?* he defines it as follows: “The ‘polis’ is defined functionally as that form of human association whose peculiar ‘telos’ is the realization of good as such, a form of association therefore inclusive of all forms of association whose ‘telos’ is the realization of this or that particular good”.<sup>71</sup> ‘Society’, therefore, is also a functional concept. MacIntyre defines it from its proper function, which is the realization of good as such (its ‘telos’).

Flourishing is a process of physical and intellectual development in which the individual develops faculties as a human being and also as an individual, something impossible without the help of others. In order to achieve maturity, the individual needs the care of many people (relatives, friends, etc.) Corporal and intellectual maturity would be impossible without this care. The individual starts learning about good, practices, virtues, etc. in that context. This is why MacIntyre says that the individual’s moral is primarily a particular/communitarian moral.<sup>72</sup>

Besides, once the individual has achieved corporal and moral maturity (once he has achieved independence in practical reasoning), there is always danger of damaging it. In the corporal field, the individual’s integrity can be hurt at any time, even to the extent that he loses his natural independence. The same happens in the intellectual/moral field: the individual can always make mistakes that damage his flourishing. This fact is called ‘vulnerability’ by MacIntyre: the individual always lives in a ‘vulnerability condition’. This is why ‘disability’ is an essential feature of the human being. Consequently, the human being is always a ‘dependent’ being.

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pp. 130–131, 139; *First Principles, Final Ends and Contemporary Philosophical Issues...*, pp. 35–36, 41–42; *Dependent Rational Animals...*, pp. 159–161.

<sup>70</sup> Idem, *Whose Justice? Which Rationality?...*, pp. 122–123; *Politics, Philosophy and the Common Good*, [in:] *The MacIntyre Reader*, ed. K. Knight, Cambridge 1998, pp. 241–243. In this paper, we indicate the pages of the English translation but indicate the year of the original version.

<sup>71</sup> Idem, *Whose Justice? Which Rationality?...*, pp. 122–123.

<sup>72</sup> Idem, *After Virtue...*, pp. 265–267.

Vulnerability and dependency are, therefore, essential features of human existence.<sup>73</sup> It is worth remembering the title of the book – *‘Dependent’ Rational Animals*.

Individual identity is, consequently, an identity which is formed socially. The self develops within a context of personal relationships.<sup>74</sup> Other people help the individual in his self-knowledge: the individual knows himself because others know him.<sup>75</sup> Because of these facts, MacIntyre says that the individual never possesses himself totally, and is never totally independent from the rest, as Individualism states. That is why our author says: “Acknowledgment of dependence is the key to independence”.<sup>76</sup>

Besides, within the community, the proper and specific context of individual flourishing is what MacIntyre calls “relationships of giving and receiving”. He also talks about another kind of relationship: “hierarchies of power” (or relationships of “distribution of power”). These last relationships are those dedicated to the community’s government (or management), and they have their own rules. They are instrumental relationships and they are necessary to maintain order and institutions in society.<sup>77</sup> However ‘relationships of giving and receiving’ are much more important because they are ‘personal’ relationships: family, friends, etc. They are the primary context of human flourishing. Only in these relationships can the individual receive the necessary care to be able to flourish. Human vulnerability and dependency require relationships ‘of giving and receiving’. Only through these relationships may the human being overcome his natural vulnerability.<sup>78</sup> This is possible because these relationships are ruled by the virtue of ‘just generosity’.

The virtue of ‘just generosity’ is an essential virtue for understanding human flourishing. It unifies justice and generosity. The relationships based on this virtue include affections. In them, the individual can give or receive more than he gives or receives; individual capacities, necessity and circumstances are taken into account, etc.<sup>79</sup> Thus we can understand that, according to MacIntyre, the individual good and the common good are not opposite to each other, but have a close need for each other. In the anthropology of flourishing, common good is not a summing of individual interests – as Individualism states – but a way of communitarian life that helps individuals to achieve their flourishing.<sup>80</sup> “That common good is always the good of some whole of which the individuals are parts and it is more and other than a summing of individual goods”.<sup>81</sup>

<sup>73</sup> *Idem*, *Dependent Rational Animals...*, pp. 2–3, 72–73, 84–85, 91–92.

<sup>74</sup> *Ibidem*, pp. 94–95; *Medicine Aimed at the Care of Persons Rather Than What...?*, [in:] *Changing Values in Medicine*, eds. E. J. Cassell and M. Siegler, Maryland 1979, p. 95.

<sup>75</sup> *Idem*, *Dependent Rational Animals...*, pp. 94–95.

<sup>76</sup> *Ibidem*, pp. 84–85.

<sup>77</sup> *Ibidem*, pp. 102–103.

<sup>78</sup> *Ibidem*, pp. 99, 103, 128.

<sup>79</sup> *Ibidem*, pp. 99–100, 119–121, 123–126.

<sup>80</sup> *Idem*, *Aquinas’s Critique of Education...*, p. 100; *Dependent Rational Animals...*, pp. 109–110, 119.

<sup>81</sup> *Idem*, *Aquinas’s Critique of Education...*, p. 100.

Therefore, the community flourishes also as a whole, and it flourishes insofar as its individuals flourish, that is to say, insofar as virtues are embodied in social relationships (just generosity specially). Society's 'telos' is not only the realization of good as such.<sup>82</sup> "So the good of each cannot be pursued without also pursuing the good of all those who participate in those relationships. For we cannot have a practically adequate understanding of our own good, of our own flourishing, apart from and independently of the flourishing of that whole set of social relationships in which we have found our place".<sup>83</sup>

Relationships 'of giving and receiving' are the proper relationships of Tönnies' *Gemeinschaft*, and they can exist only in small communities, which cannot take place – argues MacIntyre – in modern State structures (which are related to Tönnies' *Gesellschaft*). The values and relationships of communities cannot be embodied by the State's institutions. MacIntyre says that some communitarianist authors think that it is possible that the modern State's institutions embody or assume the values of 'community', something impossible according to him. That is why MacIntyre, in his famous paper "I'm not a communitarian, but...", does not accept that critics consider him to be a communitarianist.<sup>84</sup>

According to MacIntyre, communities cannot exist in a modern State as they existed (albeit in an imperfect way) in previous societies. Nevertheless, it is possible to try to reinforce and to develop relationships in small groups that share a good on a particular level (like hospitals, parishes, workplaces, etc.), or even in small groups with different moralities but in search of any specific good.<sup>85</sup> Communitarian moral (what Hegel called *Sittlichkeit*) is essentially different from state moral (*Moralität*).<sup>86</sup>

The MacIntyrean concept of 'community', therefore, has a narrower meaning than the communitarianist concept – as J. C. Elvira notes.<sup>87</sup> We agree with De la Torre that the population in a MacIntyrean community can be made up of hundreds

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<sup>82</sup> Idem, *Dependent Rational Animals...*, pp. 108–109. On the contrary, Rawls defines 'society' in his book *A Theory of Justice* (p. 4) as follows: "a society is a more or less self-sufficient association of persons who in their relations to one another recognize certain rules of conduct as binding and who for the most part act in accordance with them. Suppose further that these rules specify a system of cooperation designed to advance the good of those taking part in it. Then, although a society is a cooperative venture for mutual advantage, it is typically marked by a conflict as well as by an identity of interests. [...] A set of principles is required for choosing among the various social arrangements which determine this division of advantages and for underwriting and agreement on the proper distributive shares. These principles are the principles of social justice: they provide a way of assigning rights and duties in the basic institutions of society and they define the appropriate distribution of the benefits and burdens of social cooperation".

<sup>83</sup> Idem, *Dependent Rational Animals...*, pp. 107–108.

<sup>84</sup> Idem, *I'm Not a Communitarian, but...*, "The Responsive Community", Vol. 1, No. 3, pp. 91–92; *Después de Tras la virtud...*, pp. 91–92.

<sup>85</sup> Idem, *I'm Not a Communitarian...*

<sup>86</sup> Idem, *Dependent Rational Animals...*, pp. 142–143.

<sup>87</sup> J. C. Elvira, *Práctica de la virtud e ideal ilustrado*, [in:] *Crisis de valores. Modernidad y tradición (Un profundo estudio de la obra de A. MacIntyre)*, eds. M. Mauri, B. Román et al., Barcelona 1997, p. 25.

or thousands of people, but not of a million.<sup>88</sup> According to MacIntyre, this kind of community is a group between family and State, since the family needs a bigger group to exist, but this ‘group’ is not the modern State.<sup>89</sup> Although MacIntyre sometimes does not provide good examples in order to explain better his concept of ‘community’, we think that it is clear that it implies a new paradigm, one called by Etzioni “the I and We paradigm”.<sup>90</sup> And we agree with Carsillo that this paradigm implies a “redefinition of the individual” (“una ridefinizione del soggetto”).<sup>91</sup>

In part II, we have seen that, in the anthropology of flourishing, individual autonomy cannot be an ‘end’ (‘telos’) in an individualistic sense. In the light of the concept of ‘community’ explained in this part, we can again say that individual autonomy cannot be the ‘principle’ of human development. The principle of flourishing is not an independent autonomy but, we can say, a set of ‘co-principles’: human nature – explained in the previous section – and also a family, a community. The human being’s independence cannot be, therefore, an individualistic independence.

Nevertheless, community cannot be understood on its own. According to MacIntyre, community (with its practices and concepts) can be understood only in the light of a particular history. MacIntyre deals with this fact through his concept of ‘tradition’.

### **Tradition: ‘narrative rationality’**

The concept of ‘tradition’ is perhaps the most famous concept in MacIntyre’s thought. In his book *Whose Justice? Which Rationality?*, he defines ‘tradition’ with the following words: “an argument extended through time in which certain fundamental agreements are defined and redefined in terms of two kinds of conflict: those with critics and enemies external to the tradition [...], and those internal”.<sup>92</sup> The elements of a tradition are, therefore, three: an argument through time, and some fundamental agreements and conflicts (external and internal).

For MacIntyre, tradition is the global context from which a community’s concepts and practices can be understood. Although ‘tradition’ can have a narrow meaning, related only to a specific field (science, arts etc.), we think that it offers rather a ‘worldview’, i.e. a global view of the human being and the world.<sup>93</sup> This view includes, for example, religious, scientific, practical elements.<sup>94</sup>

<sup>88</sup> Fco. J. de la Torre Díaz, *El modelo de diálogo intercultural de A. MacIntyre*, Madrid 2001, p. 38.

<sup>89</sup> A. MacIntyre, *Dependent Rational Animals...*, pp. 134–136.

<sup>90</sup> A. Etzioni, *Toward an I & We Paradigm*, “Contemporary Sociology” 1989, Vol. 18, p. 173.

<sup>91</sup> R. Carsillo, *Il problema morale in MacIntyre*, Bari 2000, p. 349.

<sup>92</sup> A. MacIntyre, *Whose Justice? Which Rationality?...*, pp. 12–13.

<sup>93</sup> We think that ‘worldview’ is the best translation into English of the German concept ‘Weltanschauung’ (‘cosmovisión’ in Spanish).

<sup>94</sup> Because of that ‘global’ character, some critics think that MacIntyre does not define accurately what a ‘tradition’ is, but rather he only puts some examples related to different fields (J. Annas, *MacIntyre on Tradi-*

A worldview, because of its global character, does not have a meaning related only to one part of reality: it is a whole which unifies many kinds of elements so that, at the same time, it is formed by them (scientific and ethical theories, practices, religion, etc.). This whole is what MacIntyre tries to show and analyze through the concept of ‘tradition’ and also through his reflection on different traditions. We are dealing, therefore, with a ‘flexible’ and dynamic concept; a concept that can be defined so that, at the same time, it is not a ‘closed’ but an ‘open’ concept. That is why we disagree with some critics in relating this concept only to one field or aspect of reality.<sup>95</sup>

A tradition explains the theoretical and practical concepts of a community. The individual learns about the good and carries out the realization of that good in a communitarian debate, which includes both theoretical and practical elements that can be understood only within a specific tradition.<sup>96</sup> We think that this fact can be called the individual’s ‘extended and secondary dependency’: in order to achieve flourishing, the individual depends on a community, and, at the same time, it depends on a tradition, which is ‘embodied’ in its community.

According to MacIntyre, that fact implies clearly that theoretical and practical principles of human rationality are ‘principles’ only within/for a specific tradition: they make sense only in this context.<sup>97</sup> In this sense, MacIntyrean ‘tradition’ would be similar to Kuhn’s ‘scientific paradigm’.<sup>98</sup> At the same time, MacIntyre thinks that human rationality is a virtues-informed rationality. And individual virtues are developed in practices, which take place in a tradition. That is why Ma-

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*tions. Review of Whose Justice? Which Rationality?*, “Philosophy and Public Affairs 1989”, Vol. 18, No. 4, p. 389; J. Porter, *Tradition in the Recent Work of Alasdair MacIntyre*, [in:] *Alasdair MacIntyre...*, p. 38; P. de Greiff, *MacIntyre: narrativa y tradición*, “Sistema” 1989, Vol. 92, pp. 113–115. Apart from this, some critics think that, although he defines a tradition, he is not accurate in describing some specific traditions. Fco J. De La Torre, *El modelo de diálogo intercultural de A. MacIntyre...*, p. 25; S. Mulhall, *Liberalism, Morality and Rationality: MacIntyre, Rawls and Cavell*, [in:] *After MacIntyre: Critical Perspectives on the Work of Alasdair MacIntyre*, eds. J. Horton and S. Mendus, Cambridge 1994, p. 224; C. Thiebaut, *Los límites de la comunidad*, Madrid 1992, p. 111; M. Herrera, *Racionalidad y justicia: en torno a la obra de MacIntyre*, “Sistema” 1989, Vol. 91, p. 45; J. Annas, *MacIntyre on Traditions...*, pp. 391–392; B. W. Ballard, *Understanding MacIntyre*, Lanham 2000, p. 59; A. Bielsa, *Crítica a MacIntyre: una lectura kantiana*, [in:] *Crisis de valores...*, pp. 107–112; P. Kelly, *MacIntyre’s Critique of Utilitarianism*, [in:] *After MacIntyre...*, p. 132; T. H. Irwin, *Tradition and Reason in the History of Ethics*, “Social Philosophy and Policy” 1989, Vol. 7, issue 1, pp. 66–67. We agree, to some extent, with these critics, although, on the contrary, we think – like M. Mauri, *Autoridad y tradición*, [in:] *Crisis de valores...* p. 7 – that through MacIntyre’s examples and explanations (and the definition quoted above) we can reach (at least) a general view of what he means by ‘tradition’.

<sup>95</sup> Fco J. De La Torre, *El modelo de diálogo intercultural de A. MacIntyre...*, p. 25; J. Porter, *Tradition in the Recent Work of Alasdair MacIntyre...*, pp. 53–56.

<sup>96</sup> A. MacIntyre, *Epistemological Crises, Dramatic Narrative and the Philosophy of Science*, “The Monist” 1977, Vol. 60, p. 462; *After Virtue...*, pp. 219–222; *Three Rival Versions of Moral Enquiry...*, pp. 201–202.

<sup>97</sup> Idem, *Are there any natural rights?*, Brunswick 1983, p. 15; *Whose Justice? Which Rationality?...*, pp. 252–253; *First Principles, Final Ends and Contemporary Philosophical Issues...*, p. 30.

<sup>98</sup> Fco J. De La Torre, *El modelo de diálogo intercultural de A. MacIntyre...*, p. 115; R. Stern, *MacIntyre and Historicism*, [in:] *After MacIntyre...*, pp. 146–147; A. Llano, *Presentación to Tres versiones rivales de la ética*, Spanish version of *Three Rival Versions of Moral Enquiry...*, p. 16.

MacIntyre says that any Ethics is an Ethics of a particular tradition:<sup>99</sup> “Morality which is no particular society’s morality is to be found nowhere”.<sup>100</sup>

These ideas have led some critics to consider MacIntyre to be a historicist.<sup>101</sup> If this is right, MacIntyre would have replaced ‘sociologism’ or ‘communitarianism’ by something more general, ‘traditionalism’; but it is not only a kind of historicism. Thus MacIntyre would not overcome relativism, since, in traditionalism, tradition would play the same role as culture or society in relativism. In this way, what we have called ‘anthropology of flourishing’ (with its universal moral principles) would not be able to show what a human being is, but would show only what a human being is in the particular tradition that MacIntyre shares, the Aristotelian-Thomistic tradition.

This important critique would be coherent with one of the most important features of traditions according to MacIntyre: every tradition is justified by its own (internal) moral and practical principles.<sup>102</sup> And the strongest and most coherent tradition so far would be the Thomistic tradition.<sup>103</sup> In this way, the world would be composed by a set of closed, ‘untranslatable’ and independent traditions in conflict.

However we think that this view is only a partial view of the MacIntyrean concept of ‘tradition’. Although it is true that a tradition survives because of its resources to solve (internal and external) problems, the main criterion/reference for a tradition would be reality, that is to say, the being of the things. Internal consistency would be necessary but not enough. Therefore, a specific tradition overcomes other traditions because it finally offers the best and a more complete explanation about reality and the human being.<sup>104</sup>

In his book *First Principles, Final Ends and Contemporary Philosophical Issues*, discussing different kinds of rational justification, MacIntyre says that the final ‘telos’ for a demonstrative theory is the truth. According to MacIntyre, to understand is the necessary coincidence between the form of intellect and the form of the thing understood.<sup>105</sup> He takes, therefore, the Aristotelian-Thomistic conception

<sup>99</sup> A. MacIntyre, *After Virtue*..., pp. 221–222.

<sup>100</sup> *Ibidem*, pp. 265–267.

<sup>101</sup> A. Bielsa, *Crítica a MacIntyre: una lectura kantiana*..., p. 84; C. Thiebaut, *Los límites de la comunidad*..., p. 117; J. Haldane, *MacIntyre’s Thomist Revival: What Next?*, [in:] *After MacIntyre*..., p. 105; B. Román, *La propuesta comunitarista de A. MacIntyre*, [in:] *Crisis de valores*..., p. 80.

<sup>102</sup> A. MacIntyre, *Whose Justice? Which Rationality?*..., pp. 252–253, 357–358; *Three Rival Versions of Moral Enquiry*..., pp. 124–125; *First Principles, Final Ends and Contemporary Philosophical Issues*..., p. 15, 32; *Dependent Rational Animals*..., pp. 77–78, 156–157.

<sup>103</sup> *Idem*, *Whose Justice? Which Rationality?*..., p. 403; *First Principles, Final Ends and Contemporary Philosophical Issues*..., pp. 47–48, 55–56; *A Partial Response to My Critics*, [in:] *After MacIntyre*..., p. 298.

<sup>104</sup> *Idem*, *Whose Justice? Which Rationality?*..., pp. 357–358; *Three Rival Versions of Moral Enquiry*..., pp. 121–122; *First Principles, Final Ends and Contemporary Philosophical Issues*..., p. 44; *Aquinas’s Critique of Education*..., p. 104; *Moral Pluralism Without Moral Relativism*, “Proceedings of the Twentieth World Congress of Philosophy” 1999, Vol. 1, pp. 5–6; *Truth as a Good: a reflection on “Fides et Ratio”*, [in:] *Thomas Aquinas: Approaches to Truth*, eds. J. McEvoy and M. Dunne, Dublin 2002, pp. 153–154. We thank Prof. MacIntyre for a manuscript of this paper and his comments on it and help.

<sup>105</sup> A. MacIntyre, *First Principles, Final Ends and Contemporary Philosophical Issues*..., pp. 44, 28.



of the truth: “the adequacy of the intellect to its objects”.<sup>106</sup> This is the proper ‘telos’ of every theoretical activity of human reason.<sup>107</sup>

“Adequatio intellectus et rei”: This is the second meaning of ‘truth’ that Aquinas describes in *De veritate* (q. I, a. 1), because something can be true with respect to divine intellect and also with respect to human intellect.<sup>108</sup> Therefore, MacIntyre’s philosophical enquiry is a traditional enquiry whose ‘telos’ is “a relationship of the mind to its objects which would be wholly adequate in respect to the capacities of that mind”.<sup>109</sup> Truth is the proper and essential good of human intellect and, consequently, the proper good of a tradition.<sup>110</sup>

Regarding Ethics and practical reasoning, the conclusion that can be deduced from these ideas is clear for MacIntyre: moral principles (both positive and negative) are at the same time both universal and traditional principles. That is to say: natural law affects all human beings but knowledge, definition and application of its principles depend on (and occur in) a particular tradition. This is why MacIntyre thinks that the individual can know universal moral principles only through practices, which are always particular and traditional (think of the example of the ‘ethics of enquiry’). For MacIntyre, that is the true/correct Thomistic view of natural law.

For this reason, there are traditions that make easier than others the individual’s moral development and knowledge of reality. That is why we say that MacIntyrean rationality is a ‘narrative rationality’: it tends to the definition of universal principles, but its way or process of stating them is not universal but particular, and it depends on the features and on the development of a particular tradition. We can say that, for MacIntyre, the access to being is not language but tradition.

In the anthropology of flourishing, therefore, the individual is not ‘shut’ in his community and tradition (although this can happen), but can go beyond them. If it were like this, MacIntyre could not define a concept of ‘tradition’ that can be applied to different traditions in a ‘transtraditional’ way – as many critics have noted.<sup>111</sup>

In our opinion, this process of abstraction and reflection as well as the universal applicability of some concepts are based only on a common concept of ‘human nature’. MacIntyre does not state it explicitly, but we think that this idea is coherent

<sup>106</sup> Idem, *Truth as a Good: a reflection on “Fides et Ratio”*..., pp. 153–154.

<sup>107</sup> Aristotle, *Metaphysics*..., 993b 20–21.

<sup>108</sup> A. MacIntyre, *First Principles, Final Ends and Contemporary Philosophical Issues*..., p. 33. In Aquinas, this ‘logical’ sense of the truth is based on its ‘ontological’ sense (L. Figueiredo, *La filosofía narrativa de Alasdair MacIntyre*, Pamplona 1999, pp. 96–98).

<sup>109</sup> A. MacIntyre, *Whose Justice? Which Rationality?*..., pp. 360–361.

<sup>110</sup> Idem, *Aquinas’s Critique of Education*..., p. 104; *Moral Pluralism Without Moral Relativism*..., pp. 5–6.

<sup>111</sup> B. Román, *La propuesta comunitarista de A. MacIntyre*..., pp. 74–75; P. Kelly, *MacIntyre’s Critique of Utilitarianism*..., p. 137; Fco J. De La Torre, *El modelo de diálogo intercultural de A. MacIntyre*..., p. 97; C. Corral, *Acción, identidad y tradición: el argumento narrativo*..., pp. 123, 141; J. Stout, *Virtue among the ruins: An Essay on MacIntyre*, “Neue Zeitschrift für systematische Theologie und Religionphilosophie” 1984, Vol. 26, No. 3, pp. 256–273; G. Graham, *MacIntyre’s Fusion of History and Philosophy*, [in:] *After MacIntyre*..., p. 174.

with his works and also with his current intellectual stage. ‘Human nature’ is common to all human beings but, at the same time and because of it, it is embodied in every individual. The opposition between ‘universalism’ and ‘particularism’ can be solved in this way. As stated above, human rationality can reach universal principles, but only through particular/traditional means.

Crosti thinks that this way is the proper Aristotelian way, which he calls “universalism at the end” (‘universalismo di arrivo’), in opposition to “universalism at the beginning” (‘universalismo di partenza’). For this reason, we think that the anthropology of flourishing is based on what we call a ‘traditionalist universalism’. Thus moral values would not depend (totally) on individual autonomy – as we see from the individualistic point of view – but they would depend on human nature, community and tradition.

## Conclusion

Here we must recall the questions to be answered in order to relate them to the concepts that we have dealt with so far. The questions were: 1) Which are the concepts on which MacIntyre bases his alternative to individualism? 2) Does this alternative overcome individualism? The answers to both are related to each other.

We have seen that the concepts that we can take from MacIntyre’s thought are three: ‘narrative person’, ‘community’ and ‘tradition’ (‘narrative rationality’). In dealing with the first one, we have developed the ‘anthropology of flourishing’. We have seen that the final end for a human being is its flourishing, which is based on independence in practical reasoning. However such independence is not the same as in the individualistic point of view.

MacIntyrean independence is a ‘dependent’ independence, and it is like this in its basis, its development and in its end. It is a ‘dependent’ independence in its basis because ‘human nature’ provides the individual with some powers/faculties and inclinations that do not depend on his autonomy. It is a ‘dependent’ independence in its end (‘telos’) because its end is not itself but the good (the realization of the good). And, finally, it is a ‘dependent’ independence in its development because it would not be possible without virtues, without taking into account human vulnerability (and dependency) and, consequently, without community. The individualistic concept of independence (and freedom), therefore, is not enough to explain the whole human development.

The second feature of ‘Individualism’ is that moral and political values depend only on individual autonomy. We have seen that human flourishing – individual flourishing – is ruled by laws related to the biological and moral individual’s development. There are rules for practices and there are also rules for flourishing, which are the rules of natural law. At the same time, moral debate and practices can take place only in a communitarian and traditional context. Because of all these

reasons, individual autonomy cannot be the (only) basis from which to define moral principles.

Society would not be, therefore, an association of independent individuals united because of utilitarian relationships – as Individualism states. To talk about ‘individual flourishing’ and ‘communitarian flourishing’ implies that human flourishing is naturally an ‘interpersonal’ process: ‘my’ flourishing is ‘our’ flourishing. The sense or ‘telos’ of civil laws is that flourishing.

We can conclude, therefore, by saying that the MacIntyrean anthropology of flourishing offers a serious alternative to Individualism because, finally, it can offer a more coherent and true explanation of what human beings and community are.<sup>112</sup> In order to do this, MacIntyre does not start from theories but rather from specific and particular facts: human actions in specific practices and communities. He starts from them and, since “action follows being” (“operatio sequitur esse”), he then accesses the being.

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<sup>112</sup> There are, of course, some gaps in MacIntyrean thought and, consequently, there are concepts that can be improved in order to make that thought more coherent: ‘human nature’, ‘community’, ‘psyche’, etc.



Harvey C. Mansfield

## **LIBERTY AND VIRTUE IN THE AMERICAN FOUNDING**

Liberty and virtue are not a likely pair. At first sight they seem to be contraries, for liberty appears to mean living as you please and virtue to mean living not as you please but as you ought. It does not seem likely that a society dedicated to liberty could make much of virtue, nor that one resolved to have virtue could pride itself on liberty. Yet liberty and virtue also seem necessary to each other. A free people, with greater opportunity to misbehave than a people in shackles, needs the guidance of an inner force to replace the lack of external restraint. And virtue cannot come from within, or truly be virtue, unless it is voluntary and people are free to choose it. Americans are, and think themselves to be, a free people first of all. Whatever virtue they have, and however much, is a counterpoint to the theme of liberty. But how do they manage to make virtue and liberty harmonious?

### **Locke and the American Founding**

The answer is: in their Founding. The American Founding is an historical period that runs from the outbreak of the American Revolution in 1775 to the end of George Washington's presidency in 1801. This is a period of 25 years punctuated by two great events at which two great documents were produced: the Declaration of Independence in 1776 and the Constitution in 1787. The United States of America has a written founding, of which the Declaration provides the principle and the Constitution the formal structure. Behind the Declaration and the Constitution stands

the political thought of John Locke, an Englishman who is America's philosopher. To Locke, or to Locke's contemporary audience, virtue seemed always to be in the company of religion; and, favored by this association, virtue seemed to have the upper hand over liberty. Locke's task was to promote liberty, giving it priority over virtue, while not destroying virtue or denying religion. If he could accomplish this feat, his readers, first among them Americans, could frame a free constitution and found a free country in good conscience with the aid and comfort of God, or, in the less pious words of the Declaration, "nature's god".

For Locke, then, the harmonizing of liberty and virtue begins from the harmonizing of liberty and religion. In the face of the apparent fact that the Christian religion tells men how to live, he must show, if he can, that it actually permits them to live in freedom. How does he proceed?

Locke gives two descriptions of the character of men in their fundamental relation to liberty. He says that they are the "workmanship" of God, that men are "his [God's] property" and so belong to God; but he also says that "every man has a property in his own person."<sup>1</sup> These appear to be direct contraries because the "workmanship argument" (as it is called by Locke's interpreters) would make man a slave of God,<sup>2</sup> while the idea of property in one's own person sets him free to do with himself what he wishes. Thus Locke says, in accordance with the former, that men have no right to commit suicide ("everyone is bound [...] not to quit his Station wilfully"<sup>3</sup>), but in accordance with the latter, though saying nothing directly about a right of suicide, he pronounces that in the state of nature man is "absolute lord of his own person and possessions."<sup>4</sup> Yet Locke does not make a point of the contradiction between these two descriptions. It is rather as if he had forgotten what he said earlier or perhaps lost his train of thought. Yet Locke does not seem to be a woolly-minded fellow, and his reputation shows that both his friends and his enemies take him seriously. His political thought typically contains contradictions, of which this one is perhaps the most important, but he leaves the reader to do the work of establishing the contradictions and working out their implications. In this case and in others, Locke does not simply leave the contradiction as flat as I have reported it; he teases the reader with possible routes by which it might be harmonized.<sup>5</sup> But most of all, Locke lets the reader do his own harmonizing by allowing

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<sup>1</sup> See: J. Locke, *Two Treatises of Government*, Ch. II 6, p. 27; also: Ch. I, p. 30, 52–54, 85–86; Ch. II, p. 56.

<sup>2</sup> See: Aristotle, *Politics* 1254a, pp. 10–12: a slave is one who belongs wholly to his master.

<sup>3</sup> J. Locke, *op. cit.*, Ch. II, p. 6.

<sup>4</sup> *Ibidem*, Ch. II, p. 123.

<sup>5</sup> Locke deprecates the power of fathers over the children they beget; a father gets no right over his child by "the bare act of begetting." ("That's a joke, son," as Senator Claghorn of Allen's Alley used to say.) Children are not the property of fathers. One wonders, therefore, what the power of the Creator is over his creatures. Man being made in the image of his maker, he cannot but suppose he follows the will of his maker when he seeks his own self-preservation. Man has a self to preserve, and preserving it is in accordance with God's will. Well, then: God cannot have property in the image He made of Himself any more than a parent can have property in a child. Even if man is the workmanship of God, he cannot be the property of God; and in fact he follows the

him to combine two things he wants to believe. Almost all of Locke's readers would have wanted to believe in the truth of Scripture, and many of them would have liked to think, or might be persuaded to think, that their belief is compatible with, or even entails, the notion of liberty that Locke sets forth.

The difference between belonging to God or to oneself is not a small one. The opening question of the Heidelberg Catechism, a Reformation statement of Calvinist doctrine, says: "Q: What is your only comfort, in life and in death? A: That I belong – body and soul, in life and in death – not to myself but to my faithful Savior." Locke is sometimes said to have been a Calvinist, and here is evidence of it; but the trouble is that he also shows evidence to the contrary. When he says that "every man has a property in his own person" he is starting the chapter on private property and opening his argument on the labor theory of value. Private property, it turns out, means property that belongs to human beings and not to God. When Locke speaks of charity from the rich to the poor, he does not make it a duty commanded by God, but a right of the starving poor to the "surplusage" of the rich.<sup>6</sup> Here again he leaves a point to be noticed by those who can and want to notice, but he does not insist on it. How wise of him not to do so! The peace and prosperity of America depend on the peculiarly successful equivocation that Locke initiated between man's looking up to God and his striking out on his own. What suffers somewhat is America's reputation for philosophical study and awareness of its principles.<sup>7</sup> "But a nation of philosophers is as little to be expected as the philosophical race of kings wished for by Plato."<sup>8</sup> This truth from the pen of Publius is a kind of guarantee that the harmonization between religion and liberty drawn from Locke by Americans was not the reasoning that Locke had in mind for himself.

Let us summarize the problem and its solution as Locke saw them. The workmanship argument makes man the work of God and thus establishes a divine right over man, who though made in His image remains the property of God, hence a slave. The self-ownership argument, by contrast, asserts that man is his own property, thus free and not a slave. The workmanship argument needs a notion of the soul to serve as the conduit from God to man and the window through which man can see God (indistinctly of course). But Locke hardly speaks of the "soul" in his work on

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will of God when he regards himself as his own property. This is harmonization, not in the interest of religion, that submits the Bible to an argument for human liberty. See: J. Locke, *op. cit.*, Ch. II, p. 65, and the references in note 1 above.

<sup>6</sup> *Ibidem*, Ch. I, p. 42. See also: T. L. Pangle, *The Spirit of Modern Republicanism: the Moral Vision of the American Founders and of Locke*, Chicago 1988, p. 144.

<sup>7</sup> "The Americans have no philosophic school of their own, and they worry very little about all those that divide Europe; they hardly know their names." A. de Tocqueville, *Democracy in America*, transl. H. C. Mansfield and D. Winthrop, Chicago 2000, Ch. II 1.3, p. 403. In extenuation of Americans, however, it should be said that most Locke scholars today, for all their study and awareness of Locke, and despite their own lack of Christian faith, believe credulously in the credulity of Locke as if he in his harmonizing of faith and reason were no more perceptive than the average American.

<sup>8</sup> J. Locke, *The Federalist*, p. 49.

political principles, the *Two Treatises of Government*<sup>9</sup>. For Locke, it seems, soul is the instrument of man's enslavement to an entity above himself insufficiently concerned with man's necessities, the necessities that require him to leave the state of nature and enter civil society. If man has a soul, then in Locke's view it would follow that he is neither free nor virtuous (for a slave has no virtue since virtue requires freedom). Instead of a soul, Locke supposes that man may have a "self," for the strongest desire in man is the desire for self-preservation.<sup>10</sup> And in the desire for preservation, the self is concerned with the body and seems limited by the wayward attractions of the bodily senses. The senses are passive and receptive rather than active, and they seem to lack any direction or integrity of their own. Every time we think we are attending to something we are actually merely being distracted by it, bombarded by impressions of sense. Just as the soul is questionable because it yearns for something divine invisible to us, so the self is dubious because it seems to be not a whole but a bundle of distractions. But Locke in effect declares the self to have the substance that previously was claimed for the soul, and in this way he combines divine right and non-divine right. He seems to say: you can have self-preservation without risking the salvation of your soul – or even instead of it. Whichever. It is up to you.

Locke left a twofold legacy to America in regard to virtue and liberty, offering compatibility and substitution. Virtue and liberty could be compatible even if virtue is understood as obedience to religion, because man can be seen both as the workmanship of God and as owner of himself. This appealed to the many devout people and to their preachers who wanted to both believe in God and live in liberty. But also, as the self began quietly to substitute for the soul, religion came to be subordinated to liberty. At the time of the American Revolution several American colonies, turned into states, abolished the established Church in their domains. Following Locke, they could understand this measure as a requirement of true Christianity or an undermining of true Christianity.

I will leave to others the description of Christian virtue as it evolved to fit the requirements and enticements of Lockean liberty.<sup>11</sup> It must be stressed that the American virtue I am going to discuss was not the only, the average, or the majority virtue at the time of the Founding. It was, however, the most typically American virtue because it was created by Americans at the time of the Founding. Later on, this virtue was called by Tocqueville "self-interest well understood" and attributed to Americans as theirs.<sup>12</sup> In its private aspect we find it in Benjamin Franklin's *Autobiography*; the public virtue can be seen in *The Federalist*.

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<sup>9</sup> The two uses of the word in the *Two Treatises* refer to the soul of the legislature (Ch. II, p. 212) and to "mean souls" of slaves (Ch. II, p. 239).

<sup>10</sup> J. Locke, *op. cit.*, Ch. I, p. 86, 88; Ch. II, p. 56.

<sup>11</sup> See especially: B. Shain, *The Myth of American Individualism: The Protestant Origins of American Political Thought*, Princeton 1994.

<sup>12</sup> A. de Tocqueville, *op. cit.*, Ch. II 2.8, p. 502.



## Benjamin Franklin's Bourgeois Virtue

“Bourgeois” is not a word that Benjamin Franklin used to describe virtue. If he had, it would have been one of the few times that “bourgeois” has been used as a term of praise.<sup>13</sup> Bourgeois virtue was subjected to withering criticism from left and right throughout the nineteenth century, and the origin of it was a footnote in Jean-Jacques Rousseau's *Social Contract*, published in 1762, just nine years before Franklin started writing his autobiography. In the footnote Rousseau distinguished a bourgeois from a citizen – a bourgeois being a town-dweller in the Middle Ages who received his freedom from a royal charter, and a citizen being one who gave himself his own laws and who therefore had true, republican virtue.<sup>14</sup> Whereas republican virtue is honest, straightforward and naïve (and thus requires much strict education), bourgeois virtue is based on self-interest. Self-interest, according to Rousseau, sees itself as single-minded, sober and sure, but in fact it is not. Self-interest is not one thing. If you think about it, you see that it is divided between what you yourself really want and what others want for you – and the latter tends to dominate. Thus, says Rousseau, you live for the sake of reputation with others rather than for self-satisfaction. A society devoted to self-interest actually turns into its opposite. You end up living in a society characterized by hypocritical politeness and pretence as opposed to liberty and virtue.<sup>15</sup> Now, although Franklin did not refer to Rousseau, his *Autobiography* constitutes a kind of answer to him. For Franklin thinks it is possible to be both self-interested and public-spirited.

Franklin's *Autobiography* is a book designed to teach moral lessons. It is not merely an account of Franklin's life, and as such would be quite inadequate. It is written with reports and stories, mixing narration and dialogue like Franklin's favorite John Bunyan's *Pilgrim's Progress*; and like that work it is also full of moral lessons, though much more worldly ones.

Following John Locke, who besides his political and philosophical works wrote *Some Thoughts Concerning Education*, Franklin believed in liberty but did not leave to chance how liberty would be exercised. He saw that liberal society needed virtue and that for virtue it needed an education. One could not simply set men free and let them choose uninstructed. And while Locke argued for a private

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<sup>13</sup> I once remarked to my late colleague Judith Shklar that Americans' virtue is merely bourgeois virtue – to which she responded: “Is there any other kind?” I do not know whether she meant to praise the bourgeois or to denigrate virtue.

<sup>14</sup> J.-J. Rousseau, *On the Social Contract*, Ch. I, p. 6.

<sup>15</sup> Two subsequent haters of the bourgeoisie, Max Weber and D. H. Lawrence, were virulent critics of Franklin's *Autobiography*. See M. Weber, *The Protestant Ethic and the Spirit of Capitalism*, ed. S. Kalberg, Los Angeles 2002 (German text originally published in 1904–1905), pp. 14–20; D. H. Lawrence, *Studies in American Literature...* For fine recent studies of the *Autobiography*, see R. Lerner, *The Thinking Revolutionary; Principle and Practice in the New Republic*, Ithaca 1987, pp. 41–59, and *Revolutions Revisited; Two Faces of the Politics of Enlightenment*, Chapel Hill 1994, pp. 3–18; S. Forde, *Benjamin Franklin's Autobiography and the Education of America*, “American Political Science Review” 1992, No. 86, pp. 357–368.

education by tutors for gentlemen, Franklin wanted a public education in public schools.<sup>16</sup> A private citizen, he takes it upon himself – a free act of public spiritedness – to set himself up as an example, his book being addressed at first to his son but then, we see later, when Franklin includes two letters from friends praising what he had written in extravagant terms, intended for everyone (“think of bettering the whole race of men,” says one friend).<sup>17</sup> A touch of vanity in Franklin, perhaps, to set himself as an example for mankind? But Franklin had anticipated this objection and had said at the beginning that he gives vanity “fair quarter wherever I meet with it,” as it is “often productive of good” to the possessors and to those around him in his sphere of action.<sup>18</sup>

With this apology that is not an apology but a lesson, Franklin goes back over his life, just as a printer goes back over a book looking for typographical errors. It is customary to speak of the *sins* of one’s past life, but Franklin calls them *errata*, finds five of them, and corrects them. He performs the office of St. Peter (or of God), judging his life and finding errors that were not so bad that they cannot be – not forgiven, but corrected. There is no display of vanity by Franklin, but also no show of humility.

What sort of virtue does Franklin teach, then? He features sociability and public-spirited projects. He does not teach religion, though he does not oppose the teaching of religion. As a youth he wrote and printed a dissertation against religion, but luckily – or providentially – he did not suffer for it. He began to “suspect that this [necessitarian] doctrine tho’ it might be true, was not very useful.”<sup>19</sup>

Franklin had “some religious principles”; he “never doubted” (despite what he admitted about his youthful disbelief) the existence of God, and other essentials.<sup>20</sup> But he also had an objection to religion as such: that it is contentious and polemical. He noticed that from the first he was infected by books of “polemical divinity” in his father’s library that gave him a “disputatious turn,” a very bad habit making people often “very disagreeable in company.”<sup>21</sup>

In short, religion tends to be unsociable. It sets people at odds and sends nations to war. By contrast, human virtue is this-worldly, which means mundane; it is about how to live in this world with a view not to the next world but to this world. Virtue is not harsh; it is sociable and conversational.

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<sup>16</sup> For Franklin’s educational writings see L. Smith Pangle and T. Pangle, *The Learning of Liberty: the Educational Ideas of the American Founders*, Lawrence 1993, Ch. 4.

<sup>17</sup> B. Franklin, *The Autobiography and Other Writings*, ed. K. Silverman, New York 1986, p. 84.

<sup>18</sup> *Ibidem*, p. 4.

<sup>19</sup> *Ibidem*, p. 63.

<sup>20</sup> *Ibidem*, p. 89; the five essentials specified are the existence of God, God’s Providence, that man’s most acceptable service to God is doing good to man; that souls are immortal; that crime will be punished and virtue rewarded here or hereafter. Note public spirit sitting comfortably and inconspicuously in the center of the list.

<sup>21</sup> *Ibidem*, p. 15.

Franklin says he learned how to converse by reading about Socrates, who, he observed, preferred to ask questions rather than contradict his interlocutors.<sup>22</sup> But Franklin, going one better on Socrates, sought rather “information” than learning, and while hiding his own view and raising sly objections to another’s, he made philosophy compatible with, or even tantamount to, sociability. This modesty that is not really modesty is just the sort of politeness that Rousseau detested.

Franklin’s subtle modesty is on view in a passage where, soon after admitting that he would have been “a very bad poet,” (14) he presumes to correct the lines of the greatest poet of the age, Alexander Pope. Pope had written:

Immodest words admit of no defense,  
For want of modesty is want of sense.

Franklin suggests that they would read better as:

Immodest Words admit but this Defense  
That Want of Modesty is Want of Sense.

With this change modesty receives “some apology,” he says. In agreement with Socrates, Franklin implies that virtue is knowledge, and in disagreement with Socrates, that knowledge is about how to be sociable, and so virtue is sociability. Sociability is useful, like religion.

There are many more beauties in Franklin’s *Autobiography* that ought to be left to the reader to discover. Its theme is utility, and the constant way to utility is through the suppression of one’s ego, for that is the way to satisfy one’s ego. Utility means utility to oneself, but not only to oneself – also to the public and to mankind. In his exemplary book Franklin recounts a marvelous variety of useful projects in which he took the lead or provided the inspiration. It is as if he wanted to illustrate what Tocqueville was going to say about the art or science of association in America.<sup>23</sup> He could not have done all these things successfully, however, if he had done them out of crude, unadorned utility in the rule-bound manner of later utilitarians. When swimming, he said that he was “always aiming at the graceful & easy, as well as the Useful.”<sup>24</sup> He himself was a man of style, and he wanted to give style to utility, or combine style with utility, lest life be made dull and crass.

The best part of style is not to attract attention. Franklin learned the impropriety of “presenting one’s self as the Proposer of any useful Project”; it is much better to keep out of sight. “The present little Sacrifice of your Vanity will afterwar-

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<sup>22</sup> *Ibidem*, pp. 18–19. And Socrates never embarrassed or exposed the ignorance of anyone while asking his questions? And was never put on trial and sentenced to death? Franklin, unlike Socrates, was able to embarrass foolish acquaintances without risking death; see the incident in which he used the “Socratic method” with Keimer, pp. 39–40.

<sup>23</sup> A. de Tocqueville, *op. cit.*, Ch. I 2.4; Ch. II 2.5–8.

<sup>24</sup> B. Franklin, *op. cit.*, p. 53; see R. Lerner, *The Thinking Revolutionary*, p. 43.

ds be amply repaid” when people find out that the credit belongs to you.<sup>25</sup> Yet three pages after saying this Franklin presents as his own “the bold and arduous Project of arriving at moral perfection.” He had intended to write a book on the Art of Virtue, but instead he inserts only a couple of pages on twelve or thirteen virtues and precepts. He is no pompous Mr. Perfect, for these virtues are designed to improve him as well as others. They are formed on a method that seeks to prevent the usual fault of such a list that in focusing on one virtue a person tends to forget the other virtues. Franklin has a little book in which to record his faults, methodical fellow that he is. His list consists of bourgeois virtues to be sure, but also of citizen virtues such as justice and sincerity – thus spanning the distinction between bourgeois and citizen on which Rousseau insisted.

If we compare Franklin’s list to the eleven virtues that Aristotle discusses in his *Ethics*, we see that Franklin has omitted courage, ambition, generosity, magnificence, magnanimity (Aristotle’s magnanimous man, possessed of all the virtues and aware of it, would not keep a little book in which to write down his faults), friendliness and wit. These are the virtues of nobility (together with friendliness and wit, virtues of sociability for its own sake rather than for utility), virtues that are out of the ordinary. To Aristotle’s list Franklin adds virtues that are instrumental, such as order and cleanliness, which are beneath Aristotle’s moral virtues. Franklin replaces Aristotle’s generosity with frugality, the bourgeois virtue par excellence. Why so? He was a generous man, and if he was frugal it was so as to be generous. He was more than generous; he was a great man. But he does not “present himself” as such. His seventh virtue is sincerity, defined as “Use no hurtful deceit.” Hmm. Is harmless or well-intended deceit what we usually mean by “sincerity”?

The *Autobiography* is stock full of deceits that Franklin found not hurtful but useful.<sup>26</sup> It stops at 1757, just when Franklin was about to become a great man, and entering the period of his life on which a *biography* would say the most. For Franklin’s purpose it stops just at the right moment, for he did not want to look back on his life as from above. Even the scientific experiments he records show the human side of science – the vanity of scientists.<sup>27</sup> Franklin’s cure for the vanity of the great man is to be kind and humane by disguising one’s greatness. His book records what is today called the American Dream, a peculiar dream that can be realized. You make it real when you rise from poverty and obscurity by doing good to your fellow citizens. Franklin records the *method* for realizing the dream, which is to relax strict morality, not so much as to get ahead by fair means or foul, as with Machiavelli, but to get the approbation of other citizens, finally the public, who in general do not find strict morality attractive. Thus can a great man manage to survive among so many who are not great, and also benefit the community with many useful insights and inventions. But are these many useful benefits *great* be-

<sup>25</sup> B. Franklin, *op. cit.*, p. 87.

<sup>26</sup> R. Lerner, *op. cit.*, pp. 50–53.

<sup>27</sup> B. Franklin, *op. cit.*, pp. 172–173.

nefits? On the first page of *The Federalist* it is said that America is an experiment for mankind to see whether good government can be established by reflection and choice, meaning republican government, rather than by accident and force. Here America is a great country because it provides a great benefit to mankind. We need to see how greatness presents itself in republican government.

### Montesquieu on Republican Virtue

It might seem that republican government is not hospitable to greatness. Greatness is rare and great men are few; but republican government puts power in the hands of many rather than few. Republican government is above all distinguished from monarchy, which is government by one person. Traditionally, it was thought that republics would have to be small, because only in a small country could the people run the government directly by meeting in a single popular assembly. The Anti-Federalists, who opposed the Constitution, accepted this “small-republic argument” while modifying it to allow a representative assembly elected by the people. So long as the terms of representatives were short and the turnover high, government would be close to the people, if not identical with the people. To support their modified version of traditional republicanism, the Anti-Federalists relied for intellectual authority on Montesquieu, who in his *Spirit of the Laws* described the Greek cities as the paradigm of republicanism. In order to live peacefully these cities had to be united, and for unity they needed to have one homogeneous people without ethnic or national divisions and a strict education to prevent factions from arising. Republics depend on virtue to stay united and to defend themselves against enemies, in contrast to monarchies that have their unity in the monarch and do not require virtue either from their subjects or, for that matter, in the monarch.

What is this republican virtue? Montesquieu defined it as being strict, stern, austere, and even ascetic. He compared the virtue of republican citizens to the love that monks have for their order. Just as monks subordinate their particular interests when living together, so do citizens for the general good of the republic.<sup>28</sup> Virtue in this view is self-sacrifice, the very contrary of self-interest. After praising the republican virtue of the ancients, Montesquieu begins at this point a critique of it that the Anti-Federalists failed to notice. Self-sacrifice, Montesquieu shows, requires an education that hardens citizens against enemies, producing martial virtue that he goes so far as to call “ferocity,” followed by a counter-education in music that softens these same bellicose citizens so that they can live with one another.<sup>29</sup> Montesquieu’s idea of republican virtue perfects it by contrast to the virtue spoken of in the classical sources, because Plato and Aristotle always left room for a virtue above anything that could be achieved in politics. Montesquieu, making a similar

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<sup>28</sup> Montesquieu, *Spirit of the Laws*, Ch. IV, p. 6; Ch. V, p. 2; Ch. XIV, p. 7.

<sup>29</sup> *Ibidem*, Ch. IV, p. 8.

point for a different end, shows through careful stages of his argument that republican virtue cannot sustain itself, and in the end destroys itself by trying to renounce and repress human interests and passions.<sup>30</sup> His solution is not to show the way to the higher virtue of philosophy, but rather to lead his readers, disillusioned with republican virtue, toward a politics of liberty. In this new politics, no longer sought in the imagination but “found” in modern Britain, laws are mild, passions are loosed, interests are pursued, and commerce brings peace. The Anti-Federalists, wishing to follow Montesquieu but not quite taking his meaning, combined virtue and liberty by adding them together. They wanted both martial virtue and individual rights, and they did not fully appreciate the extent to which liberty was meant to *replace* virtue. They can be excused by the fact that Montesquieu did not make it clear either, and perhaps deliberately. A certain nostalgia for “ancient virtue” provides a prudent check on the selfish exploitation of commercial interests, on the one hand; and on the other, toleration of selfish passion takes the hard edge off righteous virtue. No matter that the boundary between virtue and liberty is not precisely defined.

### Publius on Ambition

In *The Federalist*, however, a new outlook on “the extended republic” as opposed to the small republic permits a new republican virtue, one that can accommodate greatness. *Ambition* is the focus of this new republicanism, and ambition leads to a new conception of *responsibility*. In one of many famous phrases in *The Federalist*, its pseudonymous author Publius says: “Ambition must be made to counteract ambition.”<sup>31</sup> The context is a defense of the new form of separation of powers in the American Constitution, but the words might be quoted outside the context to apply to the whole society over which the Constitution will preside. Thus abstracted, we have a new principle connecting virtue to liberty. Franklin’s *Autobiography* was all about ambition, but he left it off his list of virtues because he wanted ambitious people to defer to the doubt and envy of society, and feared appearing too demanding himself of his fellow citizens’ approbation. Publius, one could say, returns to Aristotle’s promotion of ambition. Aristotle had noticed that people are sometimes blamed for too much, sometimes for too little ambition, as if there were an inconspicuous mean defining the right amount of ambition, and the right degree of love of honor; so he proposed that this hitherto nameless quality be counted as a virtue.<sup>32</sup>

Publius differs from Aristotle, however, in connecting ambition to interest rather than calling it a virtue. Just after saying that ambition must be made to counteract ambition, he adds that “the interest of the man must be connected to the constitutional rights” of the office, as if ambition were in one’s interest. But is it in

<sup>30</sup> The stages are summarized in my book, *Taming the Prince*, Baltimore 1993, pp. 225–228.

<sup>31</sup> *Federalist*, p. 51.

<sup>32</sup> Aristotle, *Nicomachean Ethics*, 1125b1–25.

your interest to seek and accept public office? Many ambitious people decide not to run, as we know today; and there are theorists of “rational choice” who aver that following your own ambition is less rational than foregoing the honor yourself and taking a free ride on someone else’s ambition. It does seem that ambition requires an expenditure of energy that might distinguish it from self-interest in its ordinary, less demanding forms, such as self-interest in a higher wage. In connecting ambition to interest, Publius shares Franklin’s deference to popular, republican distrust of that quality (which he does not name a virtue); but in referring to ambition by name he goes beyond Franklin too. He seems to want to teach Americans that outstanding men of ambition are not so far from ordinary men as traditional republican suspicion supposes. Here is an example of what Tocqueville called the American doctrine of “self-interest well understood.” Tocqueville remarked that in promoting that doctrine, Americans “would rather do honor to their philosophy than to themselves.”<sup>33</sup> But in naming ambition, Publius goes a certain distance toward honoring it, because he implies that it deserves to be singled out and provided for.

Let us recall that Publius mentions ambition while making a defense of the separation of powers. Ambition is asserted to be in the interest of the ambitious man, and his interest is connected to the constitutional rights of the office. *The Federalist* is renowned for the realism of its analysis, and especially for the famous argument in *Federalist* 10 regarding “clashing interests.” But the remedy proposed there is the extended republic, as opposed to a small, homogeneous democracy that allows one majority interest to dominate and oppress the country. This means that the play of interests is determined by the *form of government*. The interest of a faction differs in the two contexts: in the small republic it seeks to dominate and lord it over others, in the large, to conciliate and combine. These are two very different behaviors. An outside observer might want to call both of them self-interested, but if you were actually living in these two republics, you would say in the first that not to dominate is against your interest, and in the second that domination is against your interest. The universality of self-interest, it seems, is too weak to specify how one should live. We also need to know what the political regime makes our interest be. As a work of political science *The Federalist* could have been a dull tract of public law, for in outline all it does is to explain the various parts and clauses of a formal document. Yet in saying why the Constitution was written as it was, Publius shows how he expects its offices to work. The realistic analysis enlivens, but also emerges from, the formal structure of the new proposed government.

In *Federalist* 10 Publius warns against not only interests but also passions – against the “propensity of mankind to fall into mutual animosities . . . [over] the most frivolous and fanciful distinctions.” This might make one suppose that interests are solid and substantial while passions are the contrary. In the eighteenth century it was common, as Albert Hirschman has shown, for philosophers and publicists to rely on solid interests to soothe excited passions. Hirschman begins his analysis from this

<sup>33</sup> A. de Tocqueville, *op. cit.*, Ch. II 2.8, p. 502.

leading quotation of Montesquieu: “Happily men are in a situation such that, though their passions inspire in them the thought of being wicked, they nevertheless have an interest in not being so.”<sup>34</sup> But Montesquieu, sly fellow that he was, noted that passions might also inspire virtue, particularly the martial virtue characteristic of republics. This was the republican “ferocity” we have seen. He therefore took care in his book *The Spirit of the Laws* gradually to replace martial republican virtue with modern commercial self-interest. This is what Peter Berkowitz has nicely called “the healthy liberal impulse to economize on virtue.”<sup>35</sup>

*The Federalist* goes along with the impulse for a considerable distance, as Publius expects the American republic to be devoted to commerce rather than defensive or offensive war. But virtue will not be made obsolete. When discussing the House of Representatives, Publius declares that the aim of every political constitution is first to get rulers who discern and have the “virtue to pursue” the common good, and second to make precautions for “keeping them virtuous.”<sup>36</sup> The virtue in question can only be public spirit or ambition. You might think that a virtuous person does not have to be *kept* virtuous, that virtue means being virtuous without external compulsion; but while this may be true of a few rare souls, it is too much to ask of the good people that voters can ordinarily hope to find, and above all with respect to the virtue of ambition. Ambitious men, we have seen, need to be *counteracted* by other ambitious men, but still perhaps as much to bring out their virtue as to prevent them from doing wrong.

When we come to the executive branch, Publius expands on the meaning of ambition, for the new American republic is not to have for its executive a committee chosen by the states, as in the Articles of Confederation, but a single person elected directly by the people. The U.S. Constitution establishes the first republic with a strong executive, and this office calls for a certain kind of person that is described in some detail. Publius goes so far as to deny directly “the maxim of republican jealousy which considers power as safer in the hands of a number of men than of a single man” – at least in regard to the emergencies that executive power must deal with.<sup>37</sup> But this advantage of one-man rule does not arise from superior virtue in him. The executive is held to be on the same level as ambitious men in the other branches, and though he might have “the stern virtue [that] is the growth of few soils” – like George Washington – it should be assumed that his virtue will not be so exalted that he does not have to be “kept virtuous.”<sup>38</sup> Accordingly, Publius organizes his account of the executive around a quality that has become very American, that most Americans today would consider a virtue – energy. “Energy in the exe-

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<sup>34</sup> Montesquieu, *op. cit.*, Ch. XXI, p. 20; A. O. Hirschman, *The Passions and the Interests*, Princeton 1977. For my comments, see: H. C. Mansfield, *Self-Interest Rightly Understood*, “Political Theory” 1995, No. 123, pp. 48–66.

<sup>35</sup> P. Berkowitz, *Virtue and the Making of Modern Liberalism*, Princeton 1999, p. 33.

<sup>36</sup> *Federalist*, p. 57.

<sup>37</sup> *Ibidem*, p. 70.

<sup>38</sup> *Ibidem*, p. 73.



cutive is a leading character in the definition of good government.” Again we see that the office calls for a certain character in the office-holder. Energy is a morally neutral term that comes from physics, and in the *Federalist* it is paired with its counterpart, stability. Any government, says Publius, needs both energy and stability, and the Framers had to make a special effort to combine them with the republican form, which in its traditional understanding had rarely achieved either.<sup>39</sup> Energy is something like ambition, except that ambition is ambivalent (you can have too much or too little, implying a mean that is the right amount and therefore a virtue) while energy is neutral and may be used for virtue or vice. Yet Publius uses the word as if energy were a virtue or led to virtue. One could say that, for him, energy is understated virtue. To be a good executive you need to call on your own capacity for energy, and those who find themselves to be energetic will be the best for the job. The U.S. Constitution as a whole works through “job-based” virtues required for its various acting – or better to say, *counteracting* – roles. It is not that nothing gets done, for though the government sometimes comes to a halt, the Constitution is not designed, as is sometimes said, for inaction or gridlock. The executive power is always ready to act in an emergency. And the supposed inaction of American government is better described as action against a backdrop of counteraction by the two other branches of government.

What are the characteristics of energy that make for a good president? Speaking of the office, Publius says that the executive needs to have unity: it must be one person rather than a committee. The reasons are that one person can act in emergencies without dissension and that one person is more visible, hence more accountable, than a committee. One could object that a committee could be unanimous and that one person might be of several minds and indecisive. Very true, and this shows that the office requires a person who is decisive in emergencies, not merely one person of no particular character. One could go further and say that “decisive” is also not enough, because the executive must decide well. At this point energy stops being neutral and becomes a virtue.

The next characteristic of energy is duration. “Duration” refers in the first place to time in office, the president having a four-year term that in the original Constitution could be extended indefinitely. Like unity, however, duration refers also to the character of the office-holder, to the fact that he will not be a pushover but will have “personal firmness.”<sup>40</sup> He will have this because, having a long term, he may as well have it. Publius pronounces a “general principle of human nature” that a man will be “interested in whatever he possesses in proportion to the [...] firmness of the tenure by which he holds it.” A firm tenure does not merely call for, but makes a firm man. The Constitution does not say of the executive: only firm men need apply! It works through interest, using interest to produce virtue. Or would one again object that personal firmness is not necessarily a virtue because a person of this character might

<sup>39</sup> *Ibidem*, p. 37.

<sup>40</sup> *Ibidem*, p. 71.

be a stubborn fool? The answer is that the executive will be enabled by the duration (and hence the independence) of his office to oppose the legislature, which, being closer to the people, is more likely to reflect “every sudden passion” or “every transient impulse” that may take hold of the people. The executive’s personal firmness will prevent him from feeling or showing a “servile pliancy [...] to a prevailing current,” thus raising firmness above stubbornness. Here, too, energy shades into stability. A firm executive will have a stable administration.

We recall Franklin’s list of virtues for a free society, which might be summed up as sociability under an aura of modesty. One of the virtues was “resolution,” but this meant resolving to perform what one ought, not resolution against others. There is nothing like “personal firmness” in the list, and if you wanted to be critical, you could say it had an odor of “servile pliancy” to the opinion of society. Franklin gives us the virtues enabling us to live in a free society; Publius gives us the virtues for governing it. Both sets of virtues are characterized by modest understatement in which sternness and imperturbability in bad and in good fortune are omitted or not stressed. Nothing heroic is set forth, much less required. But Publius sees, as against previous republican theorists, that in a popular government the virtue of standing up to the people is the most needful. Perhaps, too – and contrary to Franklin – personal firmness against the pressure of public opinion is the most useful social virtue. And you might get from the phrase “servile pliancy” the contrary of personal firmness, the idea that there is something noble about it as well. Thus, when personal firmness is counted a political virtue, it might through imitation and emulation become a social one too.<sup>41</sup>

There is a further stage in the meaning of energy, going beyond personal firmness, which arises when Publius takes up the lack of a constitutional limit on the president’s eligibility for re-election. Interpreting this deliberate omission, Publius extends his discussion of duration from being firm to having long-range plans and goals – in Publius’s always elegant prose, undertaking “extensive and arduous enterprises.” And here Publius speaks the famous phrase in which Alexander Hamilton can be clearly seen behind the mask: “love of fame [is] the ruling passion of the noblest minds.”<sup>42</sup> The noblest minds are distinct from “the generality of men,” and as such not only must they be included but they must not be *excluded* – as if the noblest minds had a right to a place in republican government. Not to allow them a second or third term would be excluding them! For such a man would foresee that he could not finish anything great that he might begin. Publius does not refer to great men here, and the only man called “great” in *The Federalist* is the philosopher Montesquieu.<sup>43</sup> But the American people, perhaps prompted by professors, have taken up the game of listing the “great presidents,” and their presidents are by no means indifferent to

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<sup>41</sup> That George Washington understood this well is the point of Richard Brookhiser’s fine book, *Founding Father. Rediscovering George Washington*, New York 1996.

<sup>42</sup> *Federalist*, p. 72.

<sup>43</sup> By A. Hamilton, in: *Federalist*, p. 9.

“how they will go down in history,” which is our subdued way of referring to the love of fame. It is quite remarkable that America, a country so proud of its democracy, should be so open to greatness. Of course it democratizes greatness, so that professional athletes, for instance, become “sports heroes” and are awarded a place in some Hall of Fame. But it is no wonder that when democracy recognizes greatness it democratizes greatness. What is impressive is a democracy that, contrary to what might be gathered from Benjamin Franklin’s *Autobiography*, is willing to recognize greatness (even if they often mistake it). I believe that *The Federalist* and the form of government it defends have something to do with this fact. When Americans want to honor greatness they surely qualify their attachment to strict democratic equality, but they do not have to leave the ambit of their republicanism. Thus they do not have to fall victim to a Napoleon.

Necessary to say – and how I wish it were needless to say – our American political science today is almost completely at a loss to appreciate the subtle interplay of interest and virtue in *The Federalist*. The reason is that it cannot explain ambition or public spirit and only thinks of reducing them to interest, desire for power, or aggression. But it is one thing to economize on virtue and quite another to replace it with economics.

## Responsibility and Constitutional Space

We have not yet finished with the innovations of Publius in liberal virtue. In addition to ambition, an old topic discussed in Aristotle’s *Ethics*, we find *responsibility*, a new term used, perhaps coined, by Publius to describe the correct behavior of a representative toward the people.<sup>44</sup> The word has caught on to the extent that today “fulfill your responsibilities” is the way we say “be virtuous” or “do your duty.” This is the most striking example of *The Federalist*’s influence on our moral behavior and vocabulary.

“Responsibility” occurs principally in the discussion of the Senate, written by Madison, and of the President, written by Hamilton; but Madison is apparently the author of the new definition of the word. Before *The Federalist*, “responsible” meant “responsive” in the sense of *responsible to*, and Madison introduced the idea of *responsible for*. The House of Representatives, elected every two years, is more responsive to the people than is the Senate, yet the Senate, with its six-year term, allows a Senator to become responsible for actions that the people might not think of on their own or endorse immediately but would approve in a more distant election or after things settle down. This relatively long term makes it possible for

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<sup>44</sup> See the excellent discussion, to which I am indebted, in: D. F. Epstein, *The Political Theory of the Federalist*, Chicago 1984, pp. 179–185. See also: D. Adair, *Fame and the Founding Fathers*, ed. T. Colbourn, New York 1974, and H. C. Mansfield, *Responsibility and Its Perversions*, in: *Individualism and Social Responsibility*, ed. A. Cecil, Dallas 1994, pp. 79–99.

the government to sustain the difference between the people's immediate desires and their "deliberate sense," a distance that might be called constitutional space. In general, America has a popular government with constitutional space between the people and the government, giving the latter freedom to act on behalf, as distinguished from at the behest, of the people. A responsible person uses this freedom to act on his own – taking the initiative or taking charge – in order to act on behalf of the people. The individual actor and the people are linked, and though the actor becomes outstanding in comparison to the rest of the people, even something of a hero, he does not look down on the multitude of mere "human beings" as did Achilles.

"Responsibility," like "energy," is a morally neutral word because one can be the cause of, or responsible for, evil as well as good. In everyday usage, however, "responsible" is a term of praise (like "energetic"), and "irresponsible" a term of blame. It is linked to interest because it is in one's interest to be known as responsible, but it also differs from interest. The responsible person takes a risk in acting when, perhaps, by not taking charge, he might have let George do it and still get the benefits or avoid the blame himself. Responsibility is a virtue that steps in when one's interest is at a loss to decide between gaining a benefit and enduring some danger, and may therefore be content to let things happen. It is voluntary, and less automatic than interest; and it makes one stand out from the rest rather than follow the average or mediocre course recommended by self-interest.

Responsibility is the virtue that makes possible lack of virtue, or self-interest. It is the grander sense of freedom, the freedom to found and save a free country, that makes possible the generic sense of freedom which is living as you please. Yet it is a democratic virtue, not because everyone *will* be responsible but because anyone *can* be. It is like a duty in being attached to an office or a role – the responsibility of the president or of a parent – but it differs from duty in being voluntary or more voluntary. Sometimes, as with a parent, the risk in responsibility is reduced to the burden or inconvenience. Responsibility is the voluntary assumption of a task, like changing diapers, that you might not choose for itself. Even in a free country someone must change diapers – not a Senator of course, but someone with a virtue that encompasses the great and the menial.

To conclude: I have not been discussing the virtue of the majority of Americans at the time of the Founding, for that would be more Christian and Protestant than what can be found in Locke, Montesquieu, Ben Franklin or the authors of *The Federalist*. My intent was to see what is more innovative and at the same time more peculiarly American than what most Americans practiced and believed. Part of the innovation is in Franklin's list of virtues for a free, democratic society, in which religion is assumed but depreciated. More of the innovation, I would say, is in Publius, who is an underrated source of – one cannot say moral inspiration – but moral suggestion and definition in America. Publius' notions of ambition, energy, and responsibility had behind them the force of the Constitution, the force deriving from the form, which provides constitutional space. What is this force?

It is not self-interest generally or theoretically understood, but “the interest of the office.” And the interest of the office is a kind of interest that permits and requires the cooperation of virtue. The lesson overall is that moral philosophy is incomplete without political philosophy.



Andrzej Bryk

**THE UNITED STATES, THE EUROPEAN UNION,  
EASTERN EUROPE: CHALLENGES AND DIFFERENT  
RESPONSES TO MODERNITY**

The United States and the European Union have become an arena of interesting developments, political as well as cultural, in the post-communist, post-1989 world. The issues concern such fundamental problems as the meaning of the West, the unity or discontinuity between the European and American civilizations, attitudes to the crises of modernity, attitudes to modernization of the East-European part of the European Union. There are several interrelated problems here. One is the hegemonic status of the United States. The challenge for America is to find military and political means to secure its national interests without provoking an anti-US across-the-board coalition, and without subordinating its sovereign, constitutionally established power, to international law, institutions, and powerful NGOs with their own interests and ideological agendas. With this goes a crucial issue of how to combine this hegemonic status with the soft cultural power: not the unchallenged mass culture, but 'culture' understood as the American metaphor of democracy, republican participation against post-political bureaucratic tendencies, religious freedom and plurality, freedom of opportunity and solidarity as opposed to the mindless pursuit of equality – mechanical and based on resentment. The other problem concerns the claim of the European Union, even if recently muffled, to form itself into a new and morally higher civilization not just in terms of economic growth, but as an ideological and cultural model of the first post-national, post-political and post-metaphysical empire based on the administration of human rights. The problem how to combine rights

and prosperity with peoples' sovereignty subjected increasingly to bureaucratic 'enlightened' elites brings to the fore the issue of a new European oligarchy.

This poses a question of the status of the post-communist Eastern Europe inside the European Union. It concerns the national and cultural identities of the nations 'frozen' by the Soviet empire, the relations with the United States and the old European Union, and the role of Russia as a new regional power. The traditional European Union seemed not to be aware that the East-European inclusion brought Russia into European politics, and Russians play the old geopolitical game, not paying much attention to the post-political model the European Union would like to pursue. To the peoples of Eastern Europe, on the other hand, the European Union is a guarantee of its security, but also a civilization where the post-political managerial tendencies and metaphysical boredom pose an identity problem. Eastern Europe brought another destabilizing unknown to the European Union, by forcing the old Europe to face the stark realities of international power relations, to become political again. The European Union was not prepared to deal with the Russian problem, which forced it to modify its apolitical position and its relations with the US, who has no intention to withdraw from Europe. The rupture between the old European Union and the new Eastern part seems to be yet smaller than the more serious transatlantic crisis. Described in political terms as a consequence of the Iraq invasion by America in 2003, it has long been in the wings since the disintegration of the Soviet Union in 1991. A common enemy kept the unity of Western Europe and the United States. Once this enemy disappeared, the hidden differences between America and the European Union showed up. They are mainly cultural, more structural than immediately political, and have only been exacerbated by the inclusion of the former communist states of Eastern Europe.

The United States and the European Union face a problem of recovering the transatlantic relations, finding new metaphors for the preservation of this most robust civilization. Its core has always been a unique combination of the best heritage of Athens and Jerusalem, of reason and revelation, of resilience in face of adversity, flexibility and adaptability to the new challenges. The modern features of this civilization were formed in the Enlightenment, but both the United States and Europe have repeatedly responded to the challenges of modernity differently and sometimes foolishly. This foolishness was named *hubris* by the ancient Greeks. Christianity named it conceit. *Hubris* is in the fundamental sense a grave offence against the order of the universe, in Christianity against natural law, thus against God's law, the usurpation of power which does not belong to humans and which may cause only misery and despair. For this sin, and this sin alone, Satan was condemned to stay in hell for eternity. This Christian religious image has a universal meaning. The conceit of the United States is to forget sometimes about the inapplicability of its cultural metaphor to other people who do not necessarily want to be its enemies. The most aggressive features of this sin are relatively easy to correct, subjected to a continuous process of soul searching and adjustment, which



the American pluralistic, grassroots democracy, has plenty. Whether the deeper, messianic feature of this sin can be tamed, or whether its rectification would be sufficient to change the very essence of American civilization remains to be seen. But it would be unreasonable to think that America will abandon its special role, and – in an increasingly turbulent world – renounce power and willingness to use it, becoming an ordinary nation. Robust, self-confident civilizations do not behave this way because they cannot.

The conceit of the European Union is more difficult to rectify, even if possible to define. It is a conviction that the world is a safe place, the transnational organizations are populated by angels and not by ideologues with their axes to grind, and that dialogue is an armor against the unmitigated evil. There is also a temptation to create a single ideology defined as the ‘European values’, to be substituted for the rule of law which built the glory of the West, enabling different peoples with different views to live with each other. This conceit of imposing this new monistic liberal-left ideology of political correctness, a new ‘religion’ of ‘European values’ on a continent of so different cultural traditions is dangerous. The longest catalogue of legal rights written into all kinds of charters, the army of judges and social workers will not convince the strong to bow their heads, if the truth has been declared to be just a convention of the present time. No catalogue of duties is going to convince anyone why they should be performed, and why such a civilization should be defended. We can have a civilization perfectly administered by bureaucracy and adept in providing prosperity and operating according to the idea of non-discrimination and the metaphor of equality which seems to be the essence of the European project, but the richness of life and ultimately freedom might be jeopardized. The maximization of individual and ‘social’ rights at the expense of democratic self-government may mask spiritual vacuity of the European Union which seems to fear its own legacy and search for an abstract substitution.

### **Up from communism: the radical imitators and the classicists**

The opening of the European Union to the post-Yalta, post-Soviet countries of Eastern Europe, a solid one third of the continent with about 120 million people, was done, somehow by default, due to the sheer optimistic momentum after the fall of the Berlin Wall in 1990, related to the prattle about ‘the end of history’, ‘democratization of Russia’ and ‘one European family’. Eastern Europe has become in this context a challenge to the European Union. It is relatively backward economically, yet it has a long memory and scars from resisting the Soviet empire. Eastern Europe looks at the administrative, bureaucratic state without idolatry, but with suspicion. Its inclusion into the UE opened new debates and engaged the people of Europe on an unprecedented scale, to the dismay of the European governing elites fearing populism. But contemporary East-European populism seems to be simply

a defense mechanism against the revolt of the elites against the societies they govern, stemming from the Enlightenment tradition of looking at Eastern Europe as a task to civilize.<sup>1</sup> The liberal-left dominant elites of the old European Union and the liberal-left elites of the new states believed that modernization in the East would resemble the West-European pattern. Reforms in the post-communist Europe were riding the wave of enthusiasm that communism was over. The liberal elites defined thus the language, the institutions and the course of transformation eliminating all alternative visions. In this view the European Union was looked upon as a comprehensive economic, social and cultural yardstick. Modernization was to be imposed from above. Politics was to disappear, only the clear-cut rules of administrative governance mattered.

A rising resistance to such post-political modernization was expected. The economic cost of transformation was only a part of it. Such a modernization neglected first of all cultural identity, the durability of historical memory as a political factor, and the attempts of the East-European societies to define themselves anew after the ravages of communism. They had to decide which parts of their traditions were to be discarded and which were to be recovered, forming a renewed core of their national identification.

After communism, Eastern Europe was trying to recover its sense of identity. It searched in their own traditions for a solid ground, exactly at the moment when such traditions in the European Union were increasingly defined as useless, since they only brought conflicts. The basic East-European problem was

not so much the restoration of political freedom, this was done nearly automatically, but rather the rebuilding of the 'old' surviving remnants of pre-communist past. It was necessary to formulate anew or to activate the basic distinctions, unveil the new meanings of the old conceptions, to reactivate mores, enliven institutions, to mend the ruptured past. And it was this problem which caused the major explosion of discussions in the post-communist world. The recaptured negative freedom did not solve the problem. There were many controversies concerning the question to which currents in the past it was reasonable to build bridges, how to define the concepts, how to perceive the human nature, how to form the hierarchy of aims. For some, anything old was worthless and they tried, like in the state of nature, to built the rules from scratch; others were searching for solutions by importing the rules from outside. The argument got complicated, because in case [of the post-communist societies] there was even no consent as to which fragments of reality survived a destruction of communism, and which were lost.<sup>2</sup>

The recovery of traditions has been long in the making and took sometimes quixotic turns. There was in the 1970s and the 1980s a mythical concept of cultural Middle Europe, visible in the writings of the East-European dissidents and oppositionists. Vaclav Havel, Gyorgy Konrad, Adam Michnik dreamed about anti-politics

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<sup>1</sup> An excellent analysis of this Enlightenment creation of the "inferior" Eastern Europe as a task to civilize see L. Wolff, *Inventing Eastern Europe: The Map of Civilization on the Mind of the Enlightenment*, Stanford 1994.

<sup>2</sup> R. Legutko, *Traktat o wolności*, Gdańsk 2007, p. 79.

as a means of resistance to the authoritarian regime, which seemed to compromise the Enlightenment reason for good.<sup>3</sup> After 1989 such a search for the lost tradition was considered dangerous by the liberal elites. The discussion took especially dramatic turns as the nations of Eastern Europe grasped for its different cultural and symbolic strands.

The bitter line of conflict inside East-European societies – especially in Poland, the Baltic States or Hungary – was between, to simplify, the radicals and the classicists. The radicals, associated with the wide camp of the liberal left or post-metaphysical liberalism, wanted to reject the historical heritage and also any metaphysical justifications rooted in first principles, essentially derived from Christianity and the classical tradition. Such justifications were essentially untouched – because of the communist ‘freeze’ – by Western philosophical developments since the upheaval of the 1960s. The 1960s revolution put at its center a concept of radical moral autonomy, an emancipation from traditional culture, and fascination with minorities, as allegedly possessing a deeper insight into reality, by the sheer fact of battling the dominance of oppressive majority culture, with a victim as the hero in a post-heroic culture. This amounted to a rejection of the classical concept of truth as a basis of discussion for the vacuous concept of New Tolerance, postmodernist methodology, a stress on individualism as against community and a corresponding obsession with rights.<sup>4</sup> Democracy was not understood only as a political order but as a desired and expected state of society, culture and individual existence in general. From the perspective of such a cultural model the new countries of the East were not only politically subjugated, they were also crippled by the very fact of the communist ‘freeze’ of traditional culture and institutions, which were at the same time considered to be the real bastions of resistance against communism, for instance traditional family or the Catholic Church. From a post-1960s Western perspective, such institutions were considered an anachronism, ready to be quickly dispensed with in the new liberal society.

This traditional mode of culture and institutions could not be thus treated in the new post-communist reality as an asset to be recovered, reinvigorated and used for the general benefit of free societies and states, the basis of the organic civil society. They were defined as obstacles to the successful modernization of Eastern Europe along the Western road. Not only the traditional political sphere was to be radically ‘liberated’, the goal immediately achieved, but also oppressive social relations were to be radically overhauled. Family relations, relations between men

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<sup>3</sup> This search, paradoxically, had a tenuous common ground with the contemporary search of the European Union for a non-political politics, of forming an ethical empire through a process of dialogue and accommodation. For this concept of anti-political politics in the context of the post political Europe see a New Left publicist S. Sierakowski, *Antypolityka, polityka, postpolityka*, “Europa” 2008, January 12.

<sup>4</sup> The literature concerning this radical fulfillment of the Enlightenment tradition and at the same time its alleged overcoming is voluminous. See, for instance: A. Bielik-Robson, *Inna nowoczesność. Pytania o współczesną formułę nowoczesności*, Kraków 2000; M. Berman, *Wszystko, co stałe, rozplywa się w powietrzu. Rzecz o doświadczeniu nowoczesności*, transl. by M. Szuster, Kraków 2006.

and women, parents and children, definition of the family, legitimate and non-legitimate authority of the Catholic Church, definition of normality arbitrarily imposed by the ‘oppressive’ traditional culture, were to be destroyed. A question of the full public inclusion of all minorities’ mores and the public education as a means of new consciousness formation – were to be subjected to thorough revision. This new political ‘religion’ was a language of the media and dominant culture. The cultures of Eastern Europe were treated as a ‘problem’, while the East-European countries looked at their cultures as a blessing, which helped them survive the communist subjugation. The real front line, a fundamental cultural war was beginning to brew. On the one side there were the dominant liberal elites of the West together with the modernizing elites of Eastern Europe. On the other – the majorities of the East-European societies.<sup>5</sup>

There were thus three formal freedoms to be won as a package of this liberal modernization of Eastern Europe. The first was political, the formal restoration of democracy with free elections, institutions, constitutions, separation of powers, independent judiciary, political parties, pluralistic press, freedom of association and speech.<sup>6</sup> The second was economic, restoration of the free market, part of the economic modernization after the ravages of communist rule and the earlier underdevelopment of Eastern Europe.<sup>7</sup> The third was socio-cultural, the practical execution of the liberal left paradigm of ‘private is political’, the battle cry of the ‘emancipation’ movements of the 1960s.

The European political, economic but also cultural project has been, symbolically speaking, shaped by the elites of the generation of 1968. This liberal-left generation has successfully redefined the traditional cultural code of Europe and also the terms of modernization.<sup>8</sup> The bitter discussions about reference to Christianity in the preamble to the first version of the Constitutional Treaty of 2005 was just an example of this. A patronizing, ignorant and condescending condemnation by the European liberal left of some of the East-Central countries, like Poland, for their allegedly widespread prevalence of ‘racism, xenophobia and homophobia’ was

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<sup>5</sup> Chantal Mouffe, one of the feminists of the liberal left of the ‘liberation’ generation of 1968 defined precisely such a program when she stated that after the fall of the classical left, killed by consumerist capitalism, “the capitalist liberal society found itself in search of a new just society, a new enemy [...] in the [East-European] bloc [...] which demand [...] the enlargement and deepening of democracy, so all repressed and excluded could be liberated from the traditional ties of oppression-the place of family, religion, tradition, so to gain a bigger freedom to ‘difference and expression’. In contrast to the old left, there is no more bourgeois capitalism, but there exists cultural and political ‘house of slavery’ built on superstitions of tradition and interpersonal relationships”. Quoted in: A. Bielik-Robson, *Nowa Lewica i kapitalizm*, “Życie” 2001, June 7, p. 16.

<sup>6</sup> The practical operation of such institutions after their formal restoration was of course a point of debate, including the concept of postcommunism as a distinctive political system. See: J. Staniszkis, *Post-komunizm. Próba opisu*, Gdańsk 2001; A. Czarnota, “Po postkomunizmie – następny etap? Rozważania nad rolą i miejscem prawa”, unpublished paper of which the earlier version was published in the “Annual Review of Law and Social Science” 2006, Vol. 2.

<sup>7</sup> A. Sosnowska, *Zrozumieć zacofanie. Spory o Europę Wschodnią (1947–1994)*, Warszawa 2004.

<sup>8</sup> On that process see: Z. Krasnodębski, *Demokracja peryferii*, Gdańsk 2003.

another.<sup>9</sup> Cultural differences have been considered by the liberal left elites both in the ‘old’ and the ‘new’ Europe as a problem to be quickly ameliorated, in the tradition of a post-colonial ruling class, rather than a tribute to diversity and freedom of the common Europe of nations with different traditions. This visible cultural rift between both parts of the European continent signified thus deeper differences.<sup>10</sup> Culture became a field of a bitter fight for identity.

A new, post-1960s anthropology was based on an autonomous moral individual, a carrier of rights, increasingly defined by his subjective will against community and culture. As a consequence, legitimate power relations were defined in the broadest possible terms, and democracy was understood as equality of moral claims. Choice was the king, democracy and freedom were its instrument.<sup>11</sup> Moral freedom completed this project of total democratization which began with Kant and Rousseau, and moved to a new phase of post-metaphysical, postmodernist type of politics. All philosophy became politics, because politics and meaning of life became a free moral choice of an unencumbered self. Man was liberated from all ties and authorities, all metaphysical concepts, all loyalties and all loves but himself. As Frederick Nietzsche stated a long time ago “we burned our ships and there is no going back”. Such a state of society and culture has increasingly become a reality in the West, with institutions devised to accommodate this change, which took a generation. This approach weakens in consequence any lasting ties, liquidates even the Enlightenment’s reason as “oppressive” and wants it removed as a tool of authoritarian cultural construct.<sup>12</sup> It creates a society operated by a will of an individual, destroying any vestige of authority and institution which might portend a rise of a new “oppression”. All three models of ‘liberation’, claimed liberal radicals, were thus to be implemented in Eastern Europe at once, a precondition of real

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<sup>9</sup> Idem, *Chrześcijaństwo czy Europa? O nieoczekiwanym powrocie dawnego dylematu*, “Christianitas” 2005, No. 23/24, pp. 171–180. For instance, a resolution of the European Parliament in June 2006, pushed through by the European liberal left fraction defined Poland as a country with visible “significant rise of intolerance caused by racism, xenophobia, anti-Semitism and homophobia”. It was more an attack by proxy on the government of Jarosław Kaczyński – newly elected in 2005 and – on behalf of the liberal left in Europe and in Poland – an attempt to delegitimize any diversion from the officially sealed concept of Europe as devised by the liberal left generation of 1968 on the grounds that any alternative is dangerous. The cultural matters were of paramount importance here. Poland was culturally different and, to brand it with words of the new crimes, was to cut off discussion and isolate Polish government. The liberal left simply seized an opportunity to galvanize itself by opening a new cultural front. This is analyzed by G. Sorman, [www.dziennik.pl/europa.pl/article46565/Polska\\_broni\\_Europe\\_przed\\_banalnoscia](http://www.dziennik.pl/europa.pl/article46565/Polska_broni_Europe_przed_banalnoscia), pp. 4–5. The amount of xenophobic, anti-Polish stereotypes spread at that time in major European media shows that the European elites’ self-perception as an enlightened, tolerant and pluralistic brotherhood of the future has to be considered in terms of science fiction. In the meantime, all the surveys concerning Polish society prove that Poland is among those European states that are most open to other nations and people’s of Europe.

<sup>10</sup> G. Weigel, *Europe’s Two Culture Wars*, “Commentary” 2006, May, pp. 29–36; idem, *The Cube and the Cathedral: Europe, America and Politics without God*, New York 2005; A. Bielek-Robson, *Europa środka. Reaktywacja*, “Europa” 2006, January 18, pp. 9–11; B. Cywiński, *Fikcja jednej Europy*, “Rzeczpospolita” 2004, May 22–23, pp. A5–8.

<sup>11</sup> A. Wolfe, *Moral Freedom*, New York 2003; L. M. Friedman, *A Republic of Choice*, Cambridge Mass. 1991.

<sup>12</sup> Z. Krasnodębski, *Demokracja peryferii...*, pp. 158–164.

modernization and catching up with the West represented by the already conceptually ‘closed’ European Union.

The opponents of the radicals in Eastern Europe were, figuratively speaking, the classicists. For them without metaphysical justifications and traditional institutions which survived communism, the institutional organization of the new freedoms was inconceivable and the very concept of cultural “oppression” was a cant. For the classicists, the abandonment of the metaphysical concepts and religion, were not necessarily based on a sound premise. Without metaphysics resistance to the monistic impulse of the modern state trying to get into every sphere of autonomous institutions to secure moral autonomy of an individual was, according to them, futile. The elimination of metaphysics as a basis of a moral and political reasoning ensures that the modern state could not be challenged. Metaphysics gives moral law a ground outside society’s immediate utilitarian urges. There was no ethics without metaphysics, the classicist argued. Culture and religion formed thus a tradition of metaphysics not reducible to personal self. It was the publicly organized form of a creed and was necessary to sustain moral life.<sup>13</sup> Thus, imitation of Western modernizers’ ideas, for instance in education, was suicidal. The cultural tradition in Eastern Europe – mauled by communism, but nevertheless existing and untouched by the 1960s revolution in the West – was not only valuable but desirable, possible to sustain in the conditions of rapid modernization and in the face of the apparent axiological crisis in the West.

Another paradoxical consequence of the radical version of modernization concerned its approach to communism. The metaphor of ‘emancipation’ as a key to modernization would require a treatment of communism as an exercise in modernization. In such a view communism was not a criminal system without any redeeming features, but a modernizing force: a failed, but nevertheless progressive road into the future. Communism would have common features – to follow the logic of the radical modernizers – with liberal democracy and its concept of progress: an egalitarian impulse, destruction of traditional communities, a break with the oppressive past, attack on religion as hindering a vision of an individual as an autonomous moral self, a Hegelian conviction that change is inevitable and always for the better. Such a ‘liberation’ from culture, history and memory was to be also visible in liberal democracy’s attempt to base its operation on the technical rules of administrative governance. History and memory, or culture in general, were thus not treated as repositories of wisdom allowing societies to escape the pitfalls of the *hubris* of a rational mind, but as ideology. Both the liberal way of democratization and the communist way of modernization followed thus the iron law of history, proclaiming that there was just no alternative to such a course of action. In this light – claimed the classicists – the ideological conflict over modernization was not perceived by the radical modernizers as a necessary and natural way through which the society showed its pluralism, vibrancy and freedom of action, but as a neces-

<sup>13</sup> G. Meilander, *Talking Democracy*, “First Things” 2004, April, p. 27.

sary phase in a dialectical process of resistance of the old, soon to be overcome by the new, correct form of civilization. The paradox of such a thinking is that liberal democracy breeds here its own contradiction. Freedom would mean something which Marx named a ‘conscious necessity’. We would have a free post-communist society but at the same time we would be enslaved by the new iron law of historical necessity, this time the ‘liberation’ road to modernization, from economy to one’s own consciousness. In theory thus, we would have freedom to choose after communism, but at the same time one could not choose as one wills, only such a choice would be allowed which was congruent with the proper form of ‘emancipation’. This crude form of overseeing one’s will and choice so one will not choose badly, nullified the very concept of negative freedom against outside interference, and precluded the choice of common action to form, for instance, a community based on authority rooted in consent.<sup>14</sup>

The argument between the radicals and the classicists or between the liberal modernizers and the conservative modernizers was in fact the major front line in nearly all post-communist countries and elicited different responses from the West-European elites. The latter, not having any conceptual tools and willingness to understand Eastern Europe, were in general favoring the radicals and trying to de-legitimize the classicists as a source of potential instability. The latter were allegedly harking back to anachronistic past, and subverting already established liberal-left paradigm of relations between individual and the state, which had to be imposed on Eastern Europe. Modernization was to be done from above: a kind of a bureaucratic imposition of the Hegelian iron law in the style of Alexander Kojève.<sup>15</sup> But the argument between the radical and the classicist was a real argument. On the one hand, there were defenders of the right to a genuine identity being recovered from the rubble of the post-communist societies, an attempt to reach the very essence of the lost past and thus trying to establish a contact with the rudiments of tradition. On the other, there were imitators, people who thought that the best way of modernization was to let the Western system imbibe Eastern Europe, a final harmonizing force on the road of human progress and freedom. In fact, neither the former approach was so anachronistic, being more a case of defending the very essence of human freedom which meant a defense of one’s way of life, nor the latter was so freedom-oriented, being a subtle form of not so original postcolonial frame of mind. There were thus essentially cultural problems of identity involved, and a problem of intimidation: silence before false authority without an apparent alter-

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<sup>14</sup> Thus negative freedom would entail, at least hypothetically – as one of the classicists observed – a possibility “to shape social environment and the institutions serving the individual’s good and the community’s good, allowing also to form rules distributing this freedom. But at the same time we would have to accept as something obvious, that there is one general system, which does not allow any significant modifications, and any exercise in freedom to introduce them is thought to be futile and harmful”, R. Legutko, *Traktat o wolności...*, pp. 81–82.

<sup>15</sup> On this division line in Poland, although described in terms that are not entirely accurate and self-serving, see: C. Michalski, *Krytyczna funkcja “Europy”. Jak oczyścić nowy świat ze starych idei*, “Europa” 2008, February 2, pp. 7–9.

native. Modernization, as conceived by the liberal elites of both parts of Europe was to be both economic and cultural. The communist rule – so the argument went – ‘froze’ time in the East. In the meantime, Western Europe had become culturally a post-religious, post-Christian, post-metaphysical, post-political, welfare-state administrative organism. Eastern Europe, in turn, was still in part religious, political in the classical sense, nation-oriented, devoid of the strong states and striving to establish ones, not ready to discard its identity for the promises of the post-political, administrative order.

The Iraq war of 2003 was a catalyst of the open conflict, exactly at the moment when the new post-communist states were entering the European Union. The latter treated the Iraqi war as an opportunity to reassert itself as separate from the American civilization.<sup>16</sup> The East-European states – some overtly, some covertly – treated the war as a pragmatic move to reassert their own political fields of maneuver inside of the European Union, and at the same time to distance themselves from this post-political politics portrayed by the latter as a higher stage of human development. This was all done in a situation when Russia was trying to regain its control over the post-Soviet countries, playing the card of splitting the enlarged European Union. Eastern Europe knew the weakness of Europe from experience, the illusion of post-geopolitical world with Russia being now its neighbor. America seemed to them to be a natural ally to provide security and an opportunity to reassert their relative political equality in the Union itself. This constituted also an attempt to salvage the unity of the West. In the meantime, the Americans themselves were not sure whether they wanted to treat the European Union as a rival to be subverted by playing the card of Eastern Europe or as a partner in the transatlantic relations, as a merciless competitor in the global economy, or as a competitor within a family. After the introduction of the common currency, the Euro, it seems that the battle for the control of the global market may pit the United States, which initially did not believe in its success, against the European Union, possibly forming occasional alliances.

Whatever the conflict over Iraq inside of the European Union showed, it definitely dispelled the illusion that the East-European inclusion would proceed along the line of pure, Western modernization project.<sup>17</sup> It is possible that it prompted the

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<sup>16</sup> Such was a tone of the famous letter of Jacques Derrida and Jürgen Habermas (2003), two best-marketed Western public intellectuals, who defined European civilization in terms of Kantian peace, and the American civilization as a war-mongering civilization still in the throes of the illusions of the Westphalian order. That was also the time when – on both sides of the Atlantic – public intellectuals began to ponder the differences between both civilizations, in terms of their ideals and their responses to crises. See e.g. the most popular essay by R. Kagan, *Of Paradise and Power: America and Europe in the New World Order*, New York 2003.

<sup>17</sup> President of France, Jacques Chirac, criticized some East-European states for their attitude towards the United States during the invasion of Iraq, barely hiding his contempt for these new, backward ‘tribes’ in the East, just admitted to higher civilization. He snarled that they “just wasted an opportunity to be quiet”. One symptomatic instance of that misunderstanding was a discussion in Poland conducted by Jan Rokita, Polish MP for Platforma Obywatelska, with a French politician, and witnessed by the author in Kraków in 2004. The French guest expressed dismay that in Central and Eastern Europe, things were resistant to the course already set by the European Union and its future development, which Eastern Europe should no more than humbly ac-



West-European elites to envision and build, as quickly as possible, the new constitutional scheme forming the new federation with its own sovereignty, including a framework of the basic 'European values' which, once accepted, would radically curtail plurality of responses in political, social, economic and cultural areas. Paradoxically, the first such attempt at Constitutional Treaty in 2005 was rejected, not in Eastern Europe but by the peoples of France and the Netherlands, and for the reasons which had little to do with the doubts of the East-European countries. That is why the elites of the old European Union could not make such a mistake again. The second attempt, the Lisbon Treaty of December 2007, essentially the same treaty as the one from 2005 with some cosmetic changes was different. The treaty was not going to be submitted for the national referenda of the European Union countries, placing its fate in the hands of national parliaments.

### **The West and the East: Enlightenment and modernization in Europe**

Differences between both parts of the continent are much deeper than these stemming from the communist past. They reflect different paths of modernization since the Enlightenment, and a corresponding, distinctive cultural image of Eastern Europe in the West. The West-European elites had little knowledge whom they were accepting in 2004. East-Europeans have mentality formed by centuries of defeats but also a fierce determination to overcome them. By and large they have always considered themselves as belonging to one Europe, or Western culture. The resentment of failure may manifests itself in populist movements, in fervent patriotism (a.k.a. 'nationalism' in the language of the post-national liberal left), and would at times breed apathy. It may also cause a flight of the new countries' elites from their traditions. In a clear, postcolonial pattern observable for instance in Africa after decolonization, a large part of the East-European elites, mainly liberal and liberal left variety, have considered their own societies and traditions as backward obstacles to be shed, in order to catch up with the Western way of living in which these elites were already participating. In their judgment, such a change, impossible to be executed internally, could be implemented only with the EU pressures.<sup>18</sup> The

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cept. Rokita retorted that, first of all, the old Europe still did not know where it wanted to go, and secondly, that the entire new Europe was a partner now and would not accept the role of the eternal apprentice. "It is like in matrimony," snapped Rokita, causing a real dismay and panic on his interlocutor's face.

<sup>18</sup> This attitude was not only represented by the major voices of the liberal-left opinion. For instance, in Poland it has been represented symbolically by the entire broad milieu of the "Gazeta Wyborcza" national daily. It is also characteristic of some professions, e.g. the neo-liberal economic school and the legal profession of the mostly positivist bent at major universities in their attitude towards the European Union's law. However debatable this view of the 'set' course of history may be, in the case of professions it can nevertheless be accommodated within a legitimate approach of economic and legal 'synchronization' of two parts of the continent. Some of their members, an attitude much more visible with the legal profession than with the more 'recalcitrant' economic one, evidently exhibit the postcolonial frame of mind. See: E. Thompson, *W kolejce po aprobatę. Kolonialna mentalność polskich elit*, "Europa" 2007, September 15.

liberal-left elites were here the main interlocutors of the EU elites who were essentially preparing the unification of the continent. The latter knew that Eastern Europe was devastated economically, but they made one cultural and one political mistake. The crucial cultural mistake was made due to the fact that Eastern Europe was perceived in the West essentially through the ideas, of which the origins were laid in the 18th- and 19th-century. Eastern Europe as a political entity consisting of different states did not exist until 1989, the years 1918–1939 in-between the First and Second World Wars being a short interlude. The countries there, it was historically thought, including the vast Commonwealth of Poland–Lithuania partitioned in the 18th century, were apparently incapable of governing themselves. The 18th century was a nadir of politics as defined by Carl von Clausewitz. War was just its continuation. Thus Edmund Burke understood well that “the crime of Polish partition rose directly from the rules and needs of standard eighteenth-century politics”.<sup>19</sup> Exactly this crime, applied generally to the national aspirations in Eastern Europe, formed a background of the international propaganda of the European powers in the 19th century. They formed the image of Eastern Europe as a non-entity: a monster incapable of governing itself, except in a violent and tribal way. Russia, Prussia and Austria were to guarantee stability. France and England wanted to have peace there, so to form predictable alliances. This image is still with us today, and makes it difficult to assert East-European nations’ identity congruent with their cultures. The modernization model which was to be accepted there was thus ridden with the historic Western images, among them also a very potent even if subconscious one of German *Kultur-träger* model. Even when the independent East-European states existed in the short period between the two world wars (1918–1939), they were treated by Russia and Germany – but also by Western Powers – as ‘seasoned states’, incapable of governing, with the possible exception of Czechoslovakia.<sup>20</sup> Their image as the site of the nationalistic, ethnic, and economic instabilities, a hotbed of xenophobic and populist eruptions has persisted till today. But it was the Nazi Germany and the Soviet Union, not Eastern Europe, which destroyed Europe and these two states made the Eastern part of the continent their killing ground, contributing decisively to the total breakdown of social order and social structure there.

After the Second World War, soon to be created politically by NATO and the Common Market Western Europe, had to deal only with the German Nazi past.

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<sup>19</sup> Quoted after John Lucas in: *Remembered Past: John Lucas on History, Historians and Historical Knowledge*, ed. M. G. Malvasi, J. O. Nelson, Wilmington 2005, p. 255.

<sup>20</sup> After the first world war, Poland was treated by many as an aberration and abhorrence. Therefore, disdain and ignorance on the part of Western elites was rife. For instance on October 31, 1939, after the fall of Poland, Lloyd George, the former UK Prime Minister, classical liberal and an enemy of the Church made a speech in the Parliament. He celebrated the end of Poland – unworthy of respect, feudal and backward, in which he repeated the arguments of Hitler presented in Reichstag but a couple of days earlier. In this speech, Hitler referred to Poland as ‘backward’ – a fact, which ‘in the eyes of a modern progressive person looking into the future is the greatest crime – ‘backwardness’, and which can never be pardoned’. E. von Kuehnelt-Leddihn, *Ślepy tor. Ideologia i polityka lewicy*, Wrocław 2007, pp. 302, 408, On this postcolonial and ignorant attitude, see an excellent article by E. Thomson, *Sarmatyzm i postkolonializm*, “Europa” 2006, November 18.

The German Nazi episode and the second world war was to be the last straw, the ultimate end of 'bad history', transformed step-by-step for educational purposes into a certain myth devoid of historical context. It was to be overcome by the New Europe, both in opposition to its past, and to the Soviet Union and its clients in Eastern Europe. The latter was to be opposed politically – because it was communism, culturally – because it was the East: whether Moscow or Warsaw. The 'Hitler screen' with its shadows of Auschwitz and wartime bloodshed reoriented West-European cultures. It made it mandatory to purge them of any traits which could possibly return Europe to barbarism. This policy turned out to be successful, yet it made the Western mind neurotic, the process being aided by the revolution of the 1960s and its crucial New Left concept of culture as 'repression' responsible for any social and personal evil, soon to be incorporated into the mainstream liberal thought. Any type of conflict or moral discrimination was soon looked upon as a stepping stone to disaster, and demanding the immediate action irrespective of the validity of claims made. This approach was used as a tool to repress any claim that truth may exist. Truth was branded ideology, an instigation to violence. Tolerance and moral auto-creation was to be the ethics of the West with the new 'religion' of human rights slipping progressively towards extended lists of human desires defined through the lenses of radical equality.

The 1968 rebellion against conformity, consumerism and hypocrisy of the older generation, however justified, was anthropologically mistaken. Yet the idea of 'emancipation' and radical autonomous 'self' became the basis of contemporary liberalism as a hegemonic ideology of modernity. They were the concepts through which Western elites began to perceive themselves and the world outside. It was an attempt to push Western civilization into a community of new brotherhood. En route, the mythical history of the European past was created to aid this process. A ritual was performed, hell was separated from heaven: a purifying act of the new civilization. On the one hand, the counter-cultural view of history and culture as a site of corrupted thinking and practices was institutionalized, a type of a collective Western White Male Crime, sealed into a propaganda tool. History was looked upon without any reverence for complexity and moral distinctions and its mode of reasoning was criminalization by association. Inquisition was coupled with Auschwitz, the United States – with the Soviet Union, Vietnam – with Gulag, the Catholic Church (via anti-Semitism) – with Holocaust, religion – with private superstition, capitalism – with communism, patriotism – with nationalism, truth – with hidden repression, family – with violence, normality – with abnormality, and abnormality was elevated to liberating normality with the new language and mass marketing. Against this 'Hitler screen' more than only historical memory was slowly to be falsified in the service of the new ideology, having just two categories of peoples: victims and oppressors.<sup>21</sup> This politicization of history made the truth

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<sup>21</sup> Out of this dichotomy, comes from instance, the new German historical reinterpretation of the issue of the so called "resettled" from the East under the terms of the Potsdam agreements in 1945. They were put

the real victim. History was manipulated by these who could define the cultural terms of the debate.<sup>22</sup> A new fundamentally just civilization of which Europe was to be an embodiment was to be built. History was a place for moral regeneration, where one could find oppression and at the same time put oneself in a position of a someone morally superior today, so ‘never again’.

This mythical view of history is corrupting and dangerous. It forces us to consider the European history as an incessant string of violence, with worthless traditions for the future. All of them have to be overcome and history has to begin anew. This approach provokes an attempt to impose, from the top down, a new ‘correct’, ‘non discriminating’ history being read in the light of the ‘European values’.<sup>23</sup> This myth of history radically separating the old, ‘bad’ history, from the ‘good’ one was implanted and subtly transformed by the counter-cultural rebellion of 1968. The rebellion was conducted in the name of ‘emancipation’ coupled with the corresponding liberal left interpretation of cultural criticism. The latter understood culture as a zone where ‘oppression’ was battling ‘emancipation’, a new class conflict which was ultimately going to create a wholly tolerant and inclusive moral education. The traditional moral education, which was by definition based on the hierarchy of values and moral distinctions of ‘good’ and ‘bad’ was branded as suspect. It allegedly was instigating intolerance which was defined as the most radical moral crime. Intolerance was defined as an invitation to ‘exclusion’ and violence, along the road of the *ad Hitlerum* argument. The new morality was to be based on the absence of the old one,

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into a new revisionist model of Eastern European history in the Second World War. Eastern Europe during the second world war is described subconsciously as a site of a great conflict between the forces of “evil” which violated human rights represented by Nazis on the one side and the forces of “good” and the victims on the other side. Attempts to make Poles join the bandwagon with Nazis who murdered the Jews, the only collectively remembered event of the Second World War, showed also this danger of a new ‘religion’ of Holocaust, as a yardstick of assessment of anything in history. All new victim groups, as e.g. homosexuals, were associating themselves to Holocaust: in a falsified mythical view of history operating according to its own rituals. On that in the American context, see: P. Novick, *The Holocaust in American History*, New York 2000, pp. 222–224. The manipulation of memory in contemporary Germany was interpreted by some as an attempt to counter the more assertive Polish policy inside the European Union, using the language of the latter’s ‘European values’ to discipline the Poles demanding the truth about the Second World War and protesting relativisation of guilt, and an equal role inside the EU. The powerful Russian lobby in Germany is vitally interested in this ‘trouble-making’ image of Poland playing on the resentment and the myth of *Mittleeuropa* as a tool for controlling the post-Soviet Eastern Europe. See: Z. Krasnodębski, *Kto w Niemczech przeciw nam*, “Rzeczpospolita” 2007, January 3, p. A8; also: M. Cichoński, *Porwanie Europy*, Kraków 2003.

<sup>22</sup> Marek Jan Chodakiewicz, a Polish historian teaching in the United States and a member of the US Holocaust Council, defined this process in the context of Jan Gross’s *Fear* as follows: “One of the moral relativists said that history is only a question of interpretation. I am convinced that there is an academic, empirical method [...] with which we can at least approach the truth. Especially, if one uses a logo-centric approach. (Today) the postmodernist approach is used. Deconstructionist. Here, there is no place for the category of the truth. This is a totally new method used by Jacques Derrida, Michel Foucault. This method cannot be converted into a logo-centric method [...] and (is based) on a lay morality” to which everyone else should be submitted [...] Today what counts is not politics or money. What counts is culture. The most important thing is who rides the wave of the spirit of time. [...] If one dominates an intellectual and cultural discourse, one has power. Once one has this power one does not have to worry about the money, it comes on its own. Then you rule the souls”, in *Gross używa Żydów jako wymówki*, “Gazeta Polska” 2008, January 16, p. 17.

<sup>23</sup> The danger of this was shown by R. Spaeman, *Europa nie jest związkiem wartości*, “Europa” 2005, November 25.

which resulted in morality emptied of meaning, significance and authority. The effort to create the all-inclusive morality, an escape from the horrors of history, strengthened by the ideology of ‘emancipation’ of the 1960s revolution with its key concept of moral auto-creation, reduced morality to the platitudes severed from the social, historical and cultural contexts. The contexts, which are necessary to make morality concrete and therefore compelling. The new moral virtues were presented as generalities without any ontological grounding, decoupled from different cultural or religious traditions and institutions as e.g. families or churches. Not anchored by any normative community, except the new community of ‘tolerant’ educators and ‘experts’, who made the educational system a ram of destruction against any vestiges of ‘intolerant’ thinking and institutions, instigating an incessant top-down fight for organized ‘good’ causes, such a morality had a powerful aesthetic appeal. It provided a sense of ‘brotherhood’, but at the same time was soon going to create a ‘herd of independent minds’, the conformist multitude increasingly looking up for moral guidance to the providers of the new meanings.

The vocabulary and epistemology of such a moral education propelled and driven against the ‘the Hitler screen’ was essentially negative, a prevention of moral distinction in any sphere of life, kind of education beyond good and evil in the traditional moral sense of the word. The vocabulary of right and wrong, good and bad, just and unjust became utterly obsolete for the simple reason that such words shared fewer and fewer points of reference. These were increasingly being provided by the professional dispensers of ‘good’ causes on which the pliant populations were increasingly dependent, alternating between the senseless, ‘intolerant’ and ‘inexplicable’ eruptions of ubiquitous violence and the mass actions, ‘wars’ against ‘violence’, ‘intolerance’, ‘xenophobia’, ‘anti-Semitism’, ‘racism’, ‘obesity’ or ‘smoking’. The forceful forbiddance of traditional moral distinctions for fear of pushing Europe towards the abyss of calamities were at the same time combined with forceful intimidation to participate in the promotion of new ‘liberated’ morality, which was going to form the new morality of the European Union, the core of the ‘European values’. Such a new educational push, the enterprise of the – symbolically speaking – generation of 1968, for fear of repeating history and in the name of ‘emancipation’, began to abstract the rules and selves, that is personalities, from the normative traditions that could give them substance and the social contexts which could let them instill concrete injunctions. Moral, objective values grounded in ontologically reasoned arguments became just diverse ‘values’, which have increasingly put on a mask of mere sentiments, personal judgments impossible to verify by definition: just expressions of individual whim.

Something which started from a serious philosophical problem of questioning the ontological and epistemological basis of grounding objective morality and cultural precepts, turned progressively to the rejection of any grounds, pretending at the same time that they may be created from a scratch.<sup>24</sup> Such a position had to

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<sup>24</sup> In such a framework we arrive at a situation where utility and the individual wish are the only consequence, and a war of all against all irrespective of the rhetoric of ‘tolerance’. Moral action is defined solely

clash with the East-European cultural framework since it condemned many identity points of reference which the nations of Eastern Europe considered essential to regain their subjectivity. Among them were: a nation state, Christianity, and simply memory. For centuries, they have been there, the peoples' very sources of survival. Right now they were told that they were to shed them instantly, as a precondition for joining the European Union not only as a political and economic project, not even as a social project, but fundamentally as a cultural monistic value project of the new ideology of 'European values', a kind of liberal monism which excluded plurality and freedom. Modernity was to be not just a civilizational modernity, it was to be – like Christianity in the 9th and 10th centuries – a rejection of the old gods for the new one, a transformation of minds and souls, if need be by force of laws, courts, the media and the educational systems, with an incessant pressure to conform and catch up, the unintended parody of the not-so-long-ago experienced communist modernization. The post-1968 Western mental developments were at odds with the post-Soviet East-European countries. The 'Hitler screen' combined with the "emancipation" liberal-left approach in Western Europe had the nation state and traditional Christianity defined as oppressive entities.<sup>25</sup> And this is here, where the problem with Eastern Europe began.

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as the capacity of the individual to choose as they see fit. The individual has a capacity to make moral commitments, of course, but these commitments "are not binding, since one always retains the right of withdrawal. The highest normative ideal, trumping all the others, is the ideal of an individual free to move among multiple attachments, and the merit of those attachments is measured by the degree to which they facilitate personal well-being. Unanchored as they are to anything concrete outside the self, the values and virtues encouraged by the leading strategies of moral education provide meager resources at best for sustaining and supporting our far-reaching moral commitments to benevolence and justice. When moral discourse is taken out of the particularity of the moral community – the social networks and rituals that define its practice, the *weltanschauung* that gives it significance and coherence, and the communal narrative that forms its memory – both the self and the morality it seeks to inculcate, operate in a void. Filling the void, in part, is a system of laws, procedures, and entitlements designed to ensure due process among individuals and groups who are assumed to be maximizing their interests. Myriad good intentions stand behind (such regulations) and behind each court order. But here too there are unintended consequences. In such an environment, the very idea of 'developing values', 'cultivating character', or generating 'good' human beings is difficult to imagine, much less realize", J. Davison Hunter, *Leading Children Beyond Good and Evil*, www.firstthings.com, 2006, May 14.

<sup>25</sup> In such a view, Christianity as a potential source of oppression was to be tolerated only on condition, that it subjected itself to the criteria of public functioning defined by its adversaries. Christianity, Europe's fundamental religion, and its idea of freedom and human dignity was suddenly put in the dock as a danger to these values. It was to cow itself to the new religion of human rights coexistent with the existing institutions of the new ideal state of the European Union. This explains the schizophrenic attempts to obliterate Christianity from the European past. Since the decisive chunk of this mythical past of the 'bad' European history was Christianity, there was a short step to consider Christianity to be one of the culprits on the road to Hitler. The absurdity of this view, crime by association, continues to hold. For criticism of this corrupting view by a Jewish thinker, see: G. Himmelfarb, *Jews and Gentiles*, New York 2007, pp. 99–118. Naturally, to associate Christianity and the Catholic Church, and especially Pius XII, as henchmen of the same ideas that Hitler followed, has plenty to do with the contemporary politics of the liberal left, which tries to hit the contemporary Catholic Church and its teaching, with which it rabidly disagrees, with Hitler's club, to compromise it with a technique of criminalization by association. Holocaust is naturally not a problem of Christianity: it is solely a problem of the Germans. Whatever sins and glorious deeds the Christians and the Catholic Church have perpetrated in this context, as other nations and individual people, they should never be debated even remotely in the vicinity of the main culprit. This is an entirely different league. On the danger of such a thinking see: L. Kołakowski, *Jeśli Boga nie ma...*, London 1987, p. 150.

1) On the road to unification, a nation was declared to be dangerous. This was a new development. The postwar European efforts to overcome the calamities of the past did not eliminate the nation-state. Europe had never had a common history, and the only common system of values was the medieval Christianitas, still forming the basis of the major anthropological points of reference for the European culture, even if ruptured by the Reformation, the French Revolution and *les philosophes*. The nation state was a response to this division and thought to secure the new Europe with slowly developing liberal democracy. To the European founding fathers Adenauer, Schumann and de Gasperi, Catholics all, a nation state and Christian anthropology were still taken for granted.<sup>26</sup> The 1960s, with its 'liberation' project, shattered it. The nation-state was defined to be dangerous, as culture was understood as 'repression' from which an individual had to 'liberate' oneself towards the moral freedom of an autonomous self. The idea that individual claims had to be tested within a common framework of truth and justice was rejected as repressive against minorities, the claim which boiled down to the idea of the ultimate minority of an individual with absolute moral claim against everyone else. The subjective will was the new starting point for building the European project and the new modern hero was the victim. Soon, the subjective will was associated with ever expanding rights and the new 'European values' created from scratch and judged against 'Hitler screen'. They were to form the new European moral unity, out of which anything which did not conform to this new secular, subjective anthropology was to be purged as dangerous. The nation state was for this reason suspicious. Patriotism was equated with nationalism. Christianity with oppression.

For a long time, even after 1945, Europe and the nations developed in parallel and produced the most spectacular economic and peaceful revolution of modern times. But this convergence disappeared after Maastricht Treaty of 1992. Since then, the unity of Europe had to be based on denationalization of nations. The procedure of unification lost its subordinate and ancillary role and began to live a life of its own. Europe was captured by

an ideological project of a world without borders, to unite all inhabitants of the earth in one universal body. This new European project was to develop indefinitely, turning its back to the national and Christian past. We have come with this new European Project to the last stadium of democracy liberated from its old form, not tied to the people, territory, special mores or tradition. We decided to create 'democracy without people'.<sup>27</sup>

European elites tried at all costs to avoid a question what 'Europe' meant. If anything Europe was to be defined through the negative concept of escape from the

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<sup>26</sup> On the modern nation state as a positive phenomenon, see: L. Greenfeld, *Nationalism: Five Roads to modernity*, Cambridge Mass. 1992, esp. pp. 27–188. For a good overview of the Christian dimension of the newly formed United Europe in the thought of its founding fathers, especially of Konrad Adenauer, see: C. S. Bartnik, *Fenomen Europy*, Radom 2001, pp. 304–321.

<sup>27</sup> P. Manent, *Kryzys Europy, kryzys narodów*, "Europa" 2007, April 9.

past. The past was defined as a horrible string of events out of context, put next to each other without any order of importance. Inquisition was tantamount to Holocaust, lack of voting rights for women and destruction of environment – to Gulag. Multiculturalism and postmodernism as philosophical concepts legitimized this disjointed reality, and reflected a profound disappointment with the Western civilization. The past was radically cut off as a site of calamities from which nothing of value could be salvaged, including the nation state. The lack of hierarchy demanded thus the creation of new ideology of ‘goodness’, new ‘European values’, cut off from any cultural roots and increasingly becoming a prey to a rational-utilitarian theory of a civilization, where human rights were tantamount to ‘the European values’. These ‘values’ themselves have become prey to ideological lobbies trying to redefine their particular values as human rights and secure them in the constitutional documents, for instance the Charter of Fundamental Rights. Such fundamental values, secured through the judicial system, would form a civilization, in which the old values would be subject to legal and cultural scrutiny, and possibly found wanting and de-legitimized. Plurality and freedom of autonomous institutions to reproduce them would be subject to instant court scrutiny.<sup>28</sup>

As a consequence, the nations of Europe began to be treated, operating within the new framework of ‘European values’ understood increasingly as human rights, in an analogous way as ethnic, linguistic, and religious divergences that once threatened the nation-building processes. The judicialization of politics was thus considered an additional safety valve, with constitutional courts performing a crucial role in the nation-building processes and securing order and legitimacy, and slowly treating nations as liability. The high constitutional courts were transformed into decision-making institutions defining *raison d’être* of the polity itself. They have become one of the major bodies responding to the political crisis of un-governance or threats of violence and breakdown of social and political order.<sup>29</sup> There has been an attempt to create a community of ‘European values’ through escape from history and culture defined as a land of violence, into abstract entities, derived from the idea of equality and dignity of human beings secured by the constitutional

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<sup>28</sup> The most spectacular example of such a theory that captured generations of European elites was John Rawls’s *A Theory of Justice*, with its utilitarian model of a righteous society along with his utopian vision of a new world order. This pushed the whole generation of western intellectuals, building on the 19th-century progressive ideas, in the direction of forming the very sort of administrative despotism that Alexis de Tocqueville foresaw and warned against, and which the minute bureaucratic rules of the European Union increasingly resemble. This secular, materialistic, and egalitarian project devoid of any considerations of ultimate questions was meant to create a neutral, liberal, and egalitarian society, morally disarmed as a civilization driven into acedia. See: B. Watson, *Illiberal Justice: John Rawls vs the American Political Tradition*, Ohio 2007; B. C. Anderson, *The Antipolitical Philosophy of John Rawls in his Democratic Capitalism and its Discontents*, Delaware 2007, pp. 91–106. On the ideological kidnapping of human rights by liberal-left “liberationist” lobbies see: J. Cornides, *Prawa człowieka wykorzystane przeciwko człowiekowi*, “Międzynarodowy Przegląd Polityczny” 2008, No. 2, pp. 5–41.

<sup>29</sup> This is happening increasingly for instance, with demands for turning the ‘right to abortion’ and the right to the so-called ‘homosexual marriage’ into rights tantamount to human rights.



courts acting in the name of humanity.<sup>30</sup> With the new ‘religion’ of human rights and an autonomous individual, whose demands have an un-compromised priority, this safety-valve of the courts received an ideological justification. They become dispensers not only of the rule of law but also of justice. The courts have been changing from their role as part and parcel of the constitutional, democratic system into the role of the moral leader of the recalcitrant societies and national cultures. Together with the incessant stream of legislation, the courts try to purify the reality of any trace of discrimination, inequality or authority defined as a threat to the very fundamental human right, namely, the unlimited freedom of a moral choice of any individual in any circumstance and at every stage of his life. This change meant a challenge to any institution or claim that did not accept the assumed, allegedly universal definition of a particular right. From the aforementioned point of view the nation states were defined as anachronistic entities refusing to subject themselves to the administration of human rights as defined increasingly by the courts. Their history was defined as responsible for barbarisms of the 20th-century Europe. The ‘Hitler screen’ was used to subject nations to the same category of judgment as murderous conflicts once were, which put them instantly on a defensive and called for an explanation of their legitimacy. A distinction between nationalism and patriotism, never especially strong in Western languages, for reason of the Western nations never being threatened in their existence, was obliterated. An attachment to national culture, mores or a way of life was considered to be suspicious. Thus no one

can fail to be aware of the educated derision that has been directed at our national loyalty [...]. The loyalty that people need in their daily lives, and which they affirm in their unconsidered and spontaneous social actions, is now habitually ridiculed or even demonized by the dominant media and the educational system. National history is taught as a tale of shame and degradation [...]. This repudiation of the national idea is the result of a peculiar frame of mind that has arisen throughout the Western world since the Second World War, and which is particularly prevalent among the intellectual and political elites. No adequate word exists for this attitude, though its symptoms are instantly recognized: namely the disposition, in any conflict, to side with ‘them’ against ‘us’, and the need to denigrate the custom, culture and institutions that are identifiably ‘ours’.

Being the opposite of xenophobia we might describe this state of mind as *oikophobia*, meaning, to stretch the Greek a little, the repudiation of inheritance and home. *Oikophobia* is a stage through which the adolescent mind normally passes. But it is a stage in which intellectuals tend to be arrested [...]. The *oikophobe* repudiates national loyalties and defines his goals and ideas against the nation, promoting transnational institutions over national governments, accepting and endorsing laws that are imposed on us from on high the European Union or the United Nations [...] purified of all reference to the particular attachments of real historical community. The *oikophobe* is, in his own eyes, a defender of enlightened universalism against local chauvinism. And it is a rise of the *oikophobe* that has led to the growing crisis of legitimacy in the nation states of Europe.

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<sup>30</sup> Such a situation constitutes one of the most important developments in the Western world. Constitutional courts have become involved in resolving major controversies about the most basic questions the nations face. The last thirty years have transformed liberal democratic political systems, giving the constitutional courts the unprecedented power through constitutional judicial review. See an excellent study by R. Hirschl, *Towards Juristocracy: The Origins and Consequences of the New Constitutionalism*, Cambridge Mass. 2004, p. 172; also: R. Bork, *Coercing Justice: The Worldwide Rule of the Judges*, Washington D.C. 2003.

For we are seeing a massive expansion of the legislative burden on the people of Europe, and a relentless assault on the loyalties that would enable them voluntarily to bear it.<sup>31</sup>

Once the concept of a nation-state was defined as an obstacle and the idea of the new Europe was based on the new ‘values’, the idea of Europe as such lost its clarity, lying in the future and never in the past. The pro-EU elites and the Brussels’ bureaucracy began to promulgate a concept of Europe as an ‘escape’ from the past, as a bicycle which has to be constantly moving to the future for fear of falling down”. This meant that the integration process was going all the time without the idea what Europe was and what were its *limes*. Trying to form a ‘democracy without people’, Europe was

hiding in the crowd, again and again accepting new members, there were never enough candidates [...]. In this way a problem of what is Europe, and who belonged to it, was to be unsolved forever. But the emptiness of this Europe, all the time bigger and bigger, has begun to cause doubts. A human being cannot inhabit this world without any form. The result of it was predictable. The nations of Europe began to circle around, they began to apply the ‘Italian strike’. And finally they overtly said what they thought about the whole endeavor, as was the case in the Netherlands and France in 2005, when they rejected the new Constitutional Treaty.<sup>32</sup>

The further integration along this universal, transnational line was thought by the European elites to be the only possible option. Since democracy is rooted in the nation-state, the additional effect of such a construction was to transfer power from the nation-states to a bureaucratic oligarchy of Europe. Together with the non-accountable international agencies and the transnational organizations, a new international faith of the Kantian peace was declared, with distributive justice as its ultimate goal being administered by constitutional courts.<sup>33</sup>

This constituted an ideological ‘abduction of Europe’. Slowly, the nation states were judged against the ‘Hitler screen’ and the nation and Auschwitz

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<sup>31</sup> R. Scruton, *Conserving nations*, [in:] idem, *A Political Philosophy: Arguments for Conservatism*, London, pp. 23–25. This flaw stems essentially from an anthropological mistake. See J. Keke, *The Illusions of Egalitarianism*, New York 2003, pp. 1–7. Its basic error is the futile attempt to solve the problem of metaphysical boredom. See: M. A. Casey, *Meaninglessness: The Solutions of Nietzsche, Freud, and Rorty*, Lexington 2003. A notion of human dignity requires a clear anthropological definition of a human being, otherwise it is empty. If the anthropology assumed is defined on the basis of moral auto-creation, that the concept loses any meaning at all. For instance, the European Court of Human Rights declared in 2007 that dignity of man ceases with death, and thus a mutilation of a corpse is not an offence against dignity. The same applies to such issues as euthanasia, abortion, death penalty etc. What is striking here is the sheer arbitrariness of the concept in numerous other contexts. On that concept, see my voice in a discussion about The Charter of Fundamental Rights in: A. Bryk, M. Kozuch, A. Zoll, “Międzynarodowy Przegląd Polityczny” 2008, No. 21.

<sup>32</sup> P. Manent, *Kryzys Europy, kryzys narodów...*, p. 2. Although the new Lisbon Treaty, repeating nearly everything from the Constitutional Treaty rejected in 2005, with slight cosmetic changes, was accepted in December 2007, its ratification was entrusted to the governments and parliaments not to referendum, in the top-down approach, for fear that it might be rejected again by citizens. See: A. Kołakowska, *Sztuka owijania w bawełnę*, “Rzeczpospolita” 2007, December 15–16, p. A 14.

<sup>33</sup> R. Hirschl, *Towards Juristocracy...*, pp. 169–190; J. O’ Sullivan, *Facing Reality: Towards a Conservative Foreign Policy*, “National Review” 2007, February 12, p. 27.

became synonymous [...]. We are being separated from our own political history [...]. The past begins to be cast only in a role of the accused, on the scene there has been left only the idea of the European unification. It was accepted with enthusiasm by the large part of the political class. It is more than clear why this is so. The idea of unification gives it legitimacy of a higher order than a national legitimization. That is why they appealed so often to the idea of Europe, justifying their actions. They referred to the representation of a nation much more scarcely. This is why all parties, except the radical ones, accepted the European direction as their own. The Right traditionally referred to a nation, which represented the people. This division is long gone. First, the right changed in the 1970s its legitimization to the European one. We did not see that change at first, since the left retained the real features of the populist party [...]. But then it changed [...]. The left stopped being the alternative party [...]. Beginning with the 1980s the parties of the left discarded the new society project and accepted European ideology as theirs. This European unanimity caused a total blockade of politics, the inability to articulate the new antagonism [...] which would articulate a new division of clear cut roles. As a result[...] the rise of the radical movements is inevitable. The voters come to the conclusion that nobody listens to them, and they say 'no' more often [...]. The great problem of representation shows up. Europe does not get any support among the people. The parties base their activities on a program which the people like less and less [...] which leads to a rising paralysis [...] to a situation of a demise of politics[...] the rulers don't give a damn about what the ruled think [...]. Both sides do not listen to each other and have no intention to do this [...]. Paralysis transform itself to the [European context], which stems from the 'European unanimity' of the rulers.<sup>34</sup>

Europeans wanted to believe in the unity of the human race and try to convert this into the global secular fate. Maastricht was signed in 1992, when optimism of the Western liberal civilization to 'end history' was at its height. But the Tocquevillian image of the world as marching towards democracy and the Western image of reality with a faith in a particular notion of development is over, including its anthropological vision and disregard for religion.

Economic globalization strengthens the civilizations and countries not only different from the West but also inimical to the West and the European capability to transform the reality outside of itself is limited. One paradox of the European Union's is drive to homogenization is its rising parochialism, as if a conviction about its moral universal role has not resulted in a curiosity about the outside world. The Western core is also not interested in Eastern Europe. It is becoming a civilization incapable of self questioning. Self questioning is not a metaphysical doubt, the latter being prevalent in Europe, but the ability to challenge its underlying premises in case of crisis. European elites avoid at any cost the question about cultural identity of Europe. The only question asked concerns the future society, formed from top down by the 'European values' and administrative procedures, a life which Sloterdijk called 'a crystal palace'.<sup>35</sup> What good can come, Europe asks, from German or Polish or Italian culture, if such inquiries amount to dabbling in the anachronistic past to be overcome by the correct rules of the administrative-bureaucratic elites. Europe forgot that nations rise "not only from inside, but also from outside, that

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<sup>34</sup> P. Manent, *Kryzys Europy, kryzys narodów...*, p. 3.

<sup>35</sup> *Ibidem*.

their fate depends first of all from their vision of the world. The nations of Europe are absolutely passive [for instance], they move on the margins of the American politics. They criticize it or accept it, they can do no more”.

Forming the ideological, ‘values’ project, the European elites have no choice but to consider any diversion from this a priori model a subversion of Europe and its idea of progress – a kind of moral yardstick, an ontological verity. But they have no means to conduct any foundational discussion and resort to moral condemnation. What is yet absolutely essential is

not to express [all the differences] in a language of a moral progress where the particular European norms [...] assume a shape of a particular emancipation doctrine, into which, for instance, the so-called homosexual marriages are written. It is in the name of this emancipation [that] some actions are condemned [...] which even if they have their drawbacks have the same democratic legitimacy as the other which [the elites] consider to be more advanced”, not having for their justification any basis except exactly that, an arbitrary doctrine. In such a view “some nations have thus ‘progressive’ and emancipated world vision, the others more conservative. But the conservative nations have the same rights as ‘progressive’ ones. There must be diversity here, as is the case with the perception of the welfare rights.<sup>36</sup>

Such an ideological monism smells of totalitarianism. The East-Europeans are deeply suspicious of this approach of creating the ‘European values’ not because they are against Europe, but because this ideological monism reminds them their not-such-a-distant past.<sup>37</sup> Europe thus faces today a crisis despite civilizational success, because

the universalistic ideology, ideology of unification of human race in the name of the European unification loses its appeal. It is difficult to say why. It has simply its boundaries. We see it more and more clearly that the nations are for us a natural environment. The nation state has to exist in Europe because, we have nothing else at hand. And in the meantime these nations have been weakened. The degradation of politics in each of the nations has a real meaning for the rest of Europe. Even people, who say ‘let’s save the nations’, have no faith in them, which their parents had. We do not know how to live in them, how to make them, with no parenthesis – ours. Great, proud nations caused, and also experienced, too many calamities. We cannot recreate the situation from the beginning of the century, [which means that] these who want to renationalize the European space are also wrong. We are in a state of mutual paralysis, of nations by Europe, and Europe by nations. We are in the middle of a river. On the one bank there is Europe, and we cannot go there. On the other hand we cannot return

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<sup>36</sup> P. Manent, *Kryzys Europy, kryzys narodów...*, p. 5.

<sup>37</sup> One of the ridiculous instances of such an imposition was the Resolution of the European Parliament in 2007 to honor all the victims of the death penalty. A penal institution recognized as currently unnecessary for building a benign civilization, is treated as a yardstick against which all past actions are treated as inhuman. This would honor for instance Adolf Eichman, and would have made an execution of Hitler or Pol Pot look like a crime against humanity. It was such an epistemological mistake that made Spaeman look with suspicion at the attempt to built Europe ‘of values’, instead of Europe of ‘the rule of law’. This drive to consider death penalty per se, as a crime against humanity is senseless, since it is one of the instances of dismantling the greatest taboo of humanity. As one of the English criminologists stated one does not kill because there is a fear of death penalty, one does not kill because it is a horrible thing, something so inconceivable, an ultimate breaking of a taboo, and this is horrible because there is even a death penalty prescribed for it. Quoted in: J. Kochanowski, *Niewyobrażalne nie może stać się wyobrażalne*, “Rzeczpospolita” 2004, January 31–February 1, p. 2.

to the other bank where being a Pole, French or German was sufficient for us all. We are clinched, we stay between two forms of life and we are incapable of choosing any.<sup>38</sup>

2) After 1968, Christianity – being the largest and ‘Europe-forming’ creedal faith, with distinctive moral rules to be taught in public to the believers – has increasingly been defined as another potential danger, next to the nation-state, mainly because it employed the concept of moral truth which in the parlance of the New Tolerance was equated with fanaticism.<sup>39</sup> Secularization was thus a necessary condition of peace and well-being. Religion was considered a source of violence. This belief has been significantly on the rise since radical Islam made the idea palatable. Christianity was associated with this political use of religion today as another religion of violence. This is a historical manipulation. This primitive equation between Christianity and Islam, putting them in the same category of ‘religion’ irrespective of the fundamental difference between the two in relation to the separation of the sacred and the profane – crucial to Christianity and absent in Islam – has nevertheless had profound consequences. Christophobia was tied to the new image of Europe and to its ‘evil’ past. The fate of peaceful Europe was tied to the cause of radical secularization, which began with the Westphalian order, when the absolutist state subordinated religion to the reason of the state, with a time-delayed resistance of the Catholic Church. Secularization was thus tantamount to de-Christianization, politics became separate and superior over any limitations, let alone Christian ones. In wit, Christianity was somehow to become a department of the state. The new anthropological idea of moral auto-creation, defines in turn the meaning of human rights in relation not to reason and the truth but to power, the ability to impose ones own view on others, and was strengthening this move towards subordination of Christianity to the state.<sup>40</sup>

Religion, mainly Christianity was thus redefined as any belief system of subjective values privately held.<sup>41</sup> In such a view, both Christianity and witchcraft were equally valid and could not have any claims in public on others. The core of Christianity, the very belief that it contains the reasoned truth was tantamount to

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<sup>38</sup> P. Manent, *Kryzys Europy, kryzys narodów...*, p. 5. This approach made Marcel Gauchet claim that the European Union has abandoned the Enlightenment’s project of pursuing inquiry and knowledge for the obscurantist, parochial model: Marcel Gauchet in “Europe” 2005, December 28, p. 9.

<sup>39</sup> This vision of monotheistic religions as dangerous caricatures, which – to be legitimate – should as quickly as possible become a department of Green Peace and welfare state, is strikingly visible even among the most prominent western liberal intellectuals, with the unequivocal demand to reject traditional universalism as a precondition for acceptance. See: P. Sloterdijk, *Otwarta jest tylko droga cywilizacyjna. Szansa na pokojowe współistnienie religii*, “Europa” 2008, January 19, p. 12; also in the same vein: U. Beck, *Bóg jest niebezpieczny*, “Europa” 2008, January 28, p. 14. For instance, the Rocco Buttiglione scandal and the attack on public Christianity in Western Europe prove this generally hostile attitude. See: “Christianitas” 2007, No. 34, pp. 171–173.

<sup>40</sup> For the analysis of Christianity considered as danger to Europe in a wider context, see: G. Weigel, *The Cube and the Cathedral*, Kraków 2003; J. Weiler, *Chrześcijańska Europa*, Poznań 2003; Z. Krasnodębski, *Chrześcijaństwo czy Europa*, “Christianitas” 2005, No. 23/24, pp. 171–180.

<sup>41</sup> M. A. Glendon, *Rights Talk. The Impoverishment of Political Discourse*, New York 1981, p. 112, 128.

violence. The new ‘religion’ was human rights and the New Tolerance. The Christian language was deemed intolerant and unacceptable. Moral demands, including an insistence on a clear distinction between a person and the acts defined as sins, became considered to constitute symbolic violence.<sup>42</sup> With the demise of Christianity, considered not as a legacy but as a threat to ‘the European values’ Europe may be destroying the preconditions for the ultimate security of individual freedom. Christianity implanted in the European culture fundamental barriers between the sacred and the profane, the state and the individual. With Christianity’s language, ethical images, theology, taboos, played in the public realm and considered to be a threat and gone, the survival of culture defending freedom may be increasingly in doubt, blurring ultimately the boundaries between the state and the individual. Such metaphors sustaining culture may be essential to sustain the claims of the European Union.<sup>43</sup> To form a European Union on a fully secularized project, with Christianity defined as danger and pushed out of the public sphere remains in sharp contrast to the project of Europe as devised by Adenauer or de Gasperi, who still looked to Christian natural law as an answer and guarantee, that such calamities as the Second World War would never be repeated.

Although the demise of Christian cultural code, including the language of natural law, was long in the making, the 1960s’ revolution radicalized it. But as long as an aggressive and atheistic Soviet Union was a threat, this development was not so visible in public. Since the 1990s this attack on Christianity defined as

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<sup>42</sup> A much more sophisticated role for religion is reserved in P. L. Berger, *Secularization falsified*, “First Things” 2008, February, pp. 23–27. In Berger’s view religion is back, exposing the naive images of it built into modern western anthropological vision. But even he thinks, that religion is going to be more a psychotherapeutic way of the individualistic road to finding the existential meaning, beyond the established creed and institutional discipline, which is a very American way of defining it. The western intellectuals are afraid of theological debate, meaning debate about truth. Politics of boundless conciliation and dialogue, not a serious inquiry into the essence of human existence, becomes an object of consideration among the intellectuals of the liberal West. To lay a claim to truth on behalf of one’s religion is considered a violation of a good conduct. Monotheistic religions are meant to play a nice script of affirming a truth they shared, and differences were dismissed as trivial and unimportant – a typical Enlightenment faith best captured by G. E. Lessing’s, *Nathan the Wise*. Such disputations went out of style in the West, when religions lost their confidence in the power of reason to establish theological truth, which constituted a mirror image of the Rorty-type postmodernist submission to the liberal faith in immediate niceties. There exist some, though isolated, profound disputes on the meaning of truth in the West as e.g. the Habermas – Ratzinger debates between liberalism and Catholicism or the corresponding Jacob Neusner and Benedict XVI’s Jewish – Catholic dispute in the tradition of the great medieval debates, as distinguished from the mere modern ‘dialogue’. On this, see: R. J. Neuhaus in “First Things” 2007, August–September, p. 73–74.

<sup>43</sup> In wit, the very rationality of natural law language – the secular equivalent of Christian religious language in public discourse, as a universal language in an attempt to engage others in conversation about common humanity, based on the ontological search for truth and justice – was declared illegitimate. On this aspect of natural law language as a language capable of rebuilding a reasoned public discourse in the most basic areas of human life, and on the applicability of natural law language through which the religious questions could be put forth for a reasoned debate, see: R. P. George, *The Clash of Orthodoxies: Law, Religion, and Morality in Crisis*, Wilmington 2001; also J. Finnis, *Natural Law and Natural Rights*, Oxford 2000; H. Arkes, *Natural Rights and the Right to Choose*, Cambridge 2000. On the Christian roots of modernity, individual freedom and democracy, see an excellent work by R. Braque, *The Law of God: The Philosophical History of an Idea*, Chicago 2007; also H. J. Berman, *Law and Revolution*, Cambridge Mass. 1983; see also an opposite, standard contemporary liberal view by Mark Lilla and a powerful criticism of it in: R. J. Neuhaus, “First Things” 2008, January, in “The Public Square”.

a dangerous usurper of truth which sows discord has yet become strongly visible. One of the reasons for this acceleration was the fact that Christianity was the only real competitor to the universal secularist vision of the liberal left project of the United Europe. The demise of Christianity was thus a sine qua non condition to repeat the same operation which the absolute states did in the 17th century with the Westphalian treaty. Then the sovereign state subordinated Christianity to the nation state. Now it is to be the pan-European universal new civilization based on human rights rooted in moral auto-creation. New Tolerance, respect for all forms of life and behavior, with an injunction to accept them as morally equal was the basis of this. In such a situation condemnation of any moral judgment passed on them, that is a demand of nonjudgmental 'morality' had an automatic consequence of subordinating Christianity. Christianity has become the enemy by default. If it wanted to reassert the claim to the absolute truth of its creed publicly preached, it immediately clashed with the 'religion' of the New Tolerance and non-judgmental civilization. It could thus be tolerated only on condition, that it would reduce itself to a kind of a Roman religion, one among the many, with the same aim as Roman religions were to fulfill: to strengthen the empire and to work towards the glory of its power. The new European empire was not of course an empire in the political sense but the 'empire' of new laws and 'European values'.

Christianity, in such a view, either had to reduce itself to a role of one among many faiths and beliefs, a specific form of welfare organization and psychotherapeutic cult, abandoning any pretence to declare openly its 'exclusivist' creed, or it would be attacked as intolerant. Now, as in Rome, Christianity has become a subversive institution, in defiance against idolatry. The fight with Christianity in Rome aimed at the preservation of the unity of the state and society, and the prevention of the radical separation between the sacred and profane, in order to prevent the birth of the western notion of individual conscience and freedom, institutionally secured and legitimate, so it could subsequently pass an independent moral judgment on the state and society. This constituted the ultimate destruction of the arbitrary power. The fight with Christianity today is again a means to preserve the unity of the state and an individual, when the state, through its human rights defined as a defense of an absolute moral freedom, protects an individual in all his actions defined as will others, blurring a crucial distinction between private and the public sphere. A defense of religious freedom of Christian judgment is thus tantamount to a defense of political freedom. The general demand put on Christianity: to submit to the 'neutral' public sphere is a new ideological cant. Noting of this sort exists. The new 'European values' ideology of the new 'empire' is pitting Christianity against the new totalitarian pretensions of liberal-left monism. If Christianity thus wills to stand up to this challenge and to proclaim its creed it risks catacombs, a constant, and more or less open message of Pope Benedict XVI.

Christianity is also a competitor because its religious, eschatological impulse has been increasingly substituted by the new quasi 'religious', eschatological

impulse of the new European political ‘religion’ of ‘European values’, the new gnosis cloaked in the form of new political messianic faith, which, having many of its elements being non acceptable to orthodox Christianity treats the latter as a danger to its monistic pretensions. The European Union project may turn to this monistic pretensions with a temptation to substitute ‘European values’ for the old religions, this time realized under the tutelage of the new elites and courts. This puts the European Union on a dangerous course of repressing those who do not consider the prescribed catalogue of the ‘European values’ as binding on them. These values are cloaked in the language of the universal human rights but are in fact in many instances, a form of a liberal left ideological project, as is the case, for instance, with the Charter of Basic Rights. The ‘European values’ project may turn out to be another ideological empire, liquidating plurality of views and conflicts which have to be repressed. This liquidates politics as the only modern recourse of making peace in a free society between different views, the glory of the classical liberal civilization. The idea of the transnational community united by the monistic liberal-left values, a project different from the idea of the European founding fathers and accelerating since the 1960s with the dominant liberal-left elites at the helm, had thus to clash not only with some of the pluralistic values of the Western society, but it clashed quickly with the societies of Eastern Europe accepted to the new European Union. In this context, the so called European Constitution, essentially a useless document, hysterically marketed as a necessary condition of surviving in the globalized world, was favored mainly by the bureaucratic elites, as a means of disciplining the recalcitrant new states, both in terms of neutralization of their different approaches to ‘European values’ in foreign policy, as for instance their allegedly superior moral status vis-à-vis the American empire, and in terms of neutralization of their cultures, through for instance the Charter of Basic Rights, so to discipline peoples’ mores in the recalcitrant states, who resisted the acceptance of the new pan-European ideology.<sup>44</sup>

The ideology which made the nation state and Christianity irrelevant elements of the new European Union was bound to cause complications after East-European countries were admitted in 2004 and 2007. Eastern Europe was under Soviet domination from 1944 to 1989. It did not exist in the West-European elites’ consciousness, a kind of situation similar to that before 1918. If Eastern Europe existed at all, it was only during the eruptions of resistance to the communist rule. At best it was a paternalistic pity, an idea, as Leszek Kołakowski once observed, that what would be horrible for the civilized peoples of the West, might have served

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<sup>44</sup> On the uselessness of the Constitutional Treaty for the future well-being of the European Union in the suggested forms both in 2005 and 2007, see e.g.: M. Cichoński, *Niepotrzebna konstytucja*, “Rzeczpospolita” 2006, March 4–5, p. 8. On the concept of the “European values” as transnational values being enacted by the common effort of transnational organizations, NGOs, and international law, see: A. Bryk, *Is the nation state obsolete: The United States realism and the European Union post-political utopia*, a paper presented at the “Quo Vadis America?”, International Conference, Warsaw 2007, December 8–9, to be published by Collegium Civitas in 2008.



these people right. The communist inefficient way of modernization, as the Western establishment perceived it, was nevertheless a modernization, to be accommodated through patient détente and slow convergence of liberal and communist systems, without rocking the boat. Western elites did not believe in popular sovereignty in the East, wished to deal with governments rather than peoples, hoping that the crude modernization will do away with anachronistic, nationalistic, religious sentiments. The Soviet Union was a dangerous empire, so the thinking went, but it was at the same time safely on the side of the Enlightenment, at least this was the idea which a large part of the Western elites for a very long time harboured. As Voltaire in the 18th century considered Catherine II of Russia a modernizing force, so the overwhelming part of the dominant liberal left elites, considered the Soviet Union a useful device on the road to the final Enlightenment, starting with the economy and ending with individual consciousness. A Marxist philosopher Tadeusz Kroński (1901–1958), declaring in the 1950s his support for Stalinism, and stating that “with the Soviet bayonets we will modernize Poland”, was not at all different from a liberal-left star of the German Frankfurt School, Jürgen Habermas of the 1970s, expressing the same sentiment.<sup>45</sup>

Such a frame of mind had two lasting consequences. On the one hand, the logical conclusion was that Communism, was on the right side of history, it modernized Eastern societies, even if inefficiently. It could not be defined as a bastard form of thinking. Thus the liberal left point of reference did not have to be challenged, at least not until Alexander Solzenitzyn’s *Gulag Archipelago* was published in the West in 1975. When communism was gone, the European Union was to end the final modernization of the East.<sup>46</sup> The post-communist elites and the liberal-left elites of the post-Soviet Eastern Europe formed here an alliance, considering their societies an object of political, economic, but also cultural and moral modernization. It was a package deal. To built highways was tantamount to accepting that, for instance, a traditional family was an anachronism and the new forms of the family were to be necessary. To be a traditional Catholic excluded a chance of learning how to operate modern business, and to be a patriot meant that one was a nationalist xenophobe against Europe, waiting to persecute minorities. Such an interpretation of the East-European predicament was part of the power struggle to monopolize the language and power in the post-communist states by the liberal and post-communist left and gain support of the Western elites just after 1989, its most symbolic name being the leading liberal-left newspaper of Poland, at least until 2003 – “Gazeta Wyborcza”. This operation in Poland was not difficult to do, since the liberal left opposition, which was the main current of the anticommunist opposition of Poland

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<sup>45</sup> Visiting Poland, Habermas could not understand the enmity towards communism among all his Polish interlocutors. For him, communism was just a new, even if crude, form of continuation of the French Revolution and its Enlightenment project, by definition good and in need of the final completion. I owe this story to professor Zdzisław Krasnodębski.

<sup>46</sup> The sophisticated analysis of this process is given in Z. Krasnodębski, *Demokracja peryferii...*

since 1970s, painted constantly a rather grim picture of Eastern Europe in the West, defining its set image. The conservative, religious, mainly Catholic, patriotic, in wit pluralist currents of the opposition were weak and intellectually arid. Their traditions were censored. Their major spokesmen were liquidated by the Germans and the Soviets in the Second World War, and later by communists after 1944, others were broken down or forced to emigrate. The most important and vocal part of the opposition to the communist rule which could rise, was mainly the inner-system opposition. It was also intellectually prepared for the task. If there were other points of view inside of the anticommunist opposition, they could not get through to the public opinion in the West. The latter's cultural code in the meantime, was slowly being dominated by the liberal-left 1968 generation, which considered the voices of the East-European non liberal-left opposition to be anachronistic, let alone dangerous. Thus, both the dominating voices of the East-European opposition, and the dominant elites of the West were strengthening their mutual views of reality and nurturing their ideological preconceptions and superstitions.

This showed itself in Poland during the Solidarity movement of 1980–1981. For the liberal-left in the West, the Solidarity experience was useful, because it challenged the rotten system which corrupted the progressive myth. Solidarity was to regenerate this worn-out myth, to bring forth politics understood as an incessant process of not only political and economic emancipation from communism, but from cultural oppression as well. In this view

what Poland, what 'Solidarity' symbolized [for them] in the 1980s was a dream about the third road between socialism and capitalism [...]. It was expected that Poland would create the left anew. But Poland had no willingness to do this.<sup>47</sup>

The essentially non-violent, Christian, let alone Catholic, character of the movement was treated as embarrassment. Christianity in the progressive vocabulary of the secularized elites of Western Europe was considered an anachronism, in the most radical versions of the New Left an oppression. Solidarity's Catholic character was thus consistently played down, considered an aberration of the new revolution in Eastern Europe towards modernization. The East-European liberal-left and post-communist opposition, having the monopoly of interpretation of Polish events in the West played this card consciously in the post-1989 system, for ideological as well as political purposes, to retain its political preeminence. One of the methods employed was an idea that Communism froze for half a century all xenophobic, nationalistic tendencies of the East-European societies. The Solidarity movement was considered also to be full of them.

The new modernization was thus to be total, economic, political as well as moral, from the top down, this time by reference to the European 'standards' and 'values'. Otherwise – so the thinking went – the populist revolutions – fuelled by

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<sup>47</sup> G. Sorman, *Polska broni Europy przed banalnością...*, [www.dziennik.pl/europa/article46565](http://www.dziennik.pl/europa/article46565), p. 5.

the economic resentments and lack of the proper civil society there – were just waiting to attack the tolerant, democratic Europe with all the ghosts of the horrible past, captured by the symbolic metaphor of ‘the Hitler screen’, still palpably useful in the East. The liberal-left opposition in Poland employed here a new dichotomy, taken over from the reality of the communist experience. A paradigm of ‘totalitarianism’ versus ‘civil society’ was used as a description of a conflict. It was subsequently applied in the new conditions of the post-communist Europe.<sup>48</sup> On the one hand, the totalitarian reality transforming itself through the ‘Hitler’s screen’ to all the ugly ghosts of the past being reborn: nationalism, anti-Semitism, xenophobia, religiosity, oppression by the private institutions as e.g. family, etc, on the other – the new liberal society as conceived by the liberal-left textbooks. Totalitarianism/Reaction vs. the New Utopia was a litmus test. Into this totalitarian metaphor paralleling the West-European ‘Hitler’s screen’, the reality of ‘frozen’ Eastern Europe was thrown, associated with the post-communist liberal left image of a threat to a new ‘open’ society to be built on the ruins of communism, but also on the ruins of the frozen and backward culture. The latter could include about everything. Traditional Catholicism was a threat, only the ‘open’ Catholicism as defined by the new ideologues was acceptable. The huge network of traditional civil society based on parishes, churches, and families was the wrong type of civil society, the correct one was to be constructed. Religion, that is Christianity and Catholicism in particular, was to be given lip service for its role in combating communism, but it should immediately be privatized as the only tolerated form of its existence in liberal society.

Irrespective of any cultural traditions and the wishes of the society a liberal-left textbook definition of ‘neutrality’ of the state was to be implemented at once, freedom meant freedom for ‘us’, the carriers of progress, but not for ‘them’ – the backward ‘tribes’ to be purged of their sick ideas, if need be a massive transformation of consciousness. Patriotism, the most prominent feature of the Polish strive for freedom, was defined as a variant of nationalism and a stepping stone to racism.<sup>49</sup> Traditional family was anachronistic and a seat of pathologies, and its

<sup>48</sup> D. Gawin, *Blask i gorycz wolności*, Kraków 2006, pp. 80–81.

<sup>49</sup> The late echo of this initial liberal-left definition of reality, was given in the editorial of the leading national daily “Gazeta Wyborcza” on August 16, 2007. It was entitled “Patriotism equals racism”. It was an assessment of a military parade in Warsaw on the Polish Army Day. Such parades are, of course, the standard fare of any country, including European countries as e.g. France or Great Britain. Moreover, the meaning of such parades there may be equivocal. After all, it could be argued, the British celebrated also their colonial adventures and the French additionally, the glory of the French Revolution, with its dubious legacy, including the first modern ideological genocide, the Vendée extermination of the entire population. In Poland, the parade was to honor the struggle for independence of generations of patriots. The date signified the Battle of Warsaw in 1920, when Marshall Piłsudski defeated the Communist Red Army, possibly saving at least Germany, from being captured by the Soviet Russia. This was the victory of civilization against barbarism, freedom against slavery, survival against looming genocide, Europe against its enemies, and last but not least – human rights against the modern ideological murderous communist system. This was the meaning of the Warsaw parade. An article “Patriotism is racism” was modern liberal-left equivalent of the Rosa Luxembourg internationalism, with all the hidden assumptions. Of these, the idea that the army is there to exploit the downtrodden was one. The other was that we may have a ‘correct’ liberation or an ‘incorrect’ liberation, with liberation by communists being apparently the proper one, and the liberation of Poland by the ‘bourgeois’ Piłsudski was not. The modern liberal left internationalism was

defense was considered to be an attack on the new forms of families, which were to be accepted with alacrity as a standard by any ‘progressive’ and ‘open’ mind. Any effort to recover the memory of the glorious historical past, suppressed by the communists, was defined as nationalism and falsification of history. An attempt to reveal all communist atrocities was portrayed as an unnecessary disturbance of the national concord. The past, in turn, if it did not conform with the contemporary standards of the ‘Hitler screen’ was to be totally deconstructed. Only these elements of historical past were to be tolerated which dovetailed to the contemporary politically correct version. Canons of civility were to be defined as repression, tolerance was to mean New Tolerance for the right thinking, intolerance for the wrong one, as defined by the new culture commissars.<sup>50</sup> Education and the media were to be used as a means of social engineering, lest the old type of menacing society could solidify and threaten Europe. Only after all devils of the past and present have been destroyed – so the thinking went – the new citizens, in the new civil, ‘open’ society will be ready to join the United Europe.

This vision of Eastern Europe was ‘bought’ by the West. It was a vision that was as anti-freedom as it was anti-pluralist. It was moreover skillfully and subtly disseminated and supported at the same time by the Soviet propaganda apparatus, mainly the KGB agents and the so-called ‘agents of influence’, always interested in forming a threatening image of Eastern Europe in the Western minds, so as to keep it better within the Soviet zone of influence. That was true both in the communist times and after 1989, this time by the new agents of the Federal intelligence. It was an extension of the old propaganda of the 19th century, to portray the peoples in Central and Eastern Europe as non-civilized and not ready to govern themselves

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parroting the old one. In its view communism was the form, after all, of modernization because it stood on the side of progress. For this reason, the dominant liberal-left elites of Western Europe experience difficulties today to accept communism as an equal partner of nazism in the common memory of the European Union. One could answer this scurrilous editorial with a quotation from an English writer and a great friend of Poland, Gilbert K. Chesterton whose comment might be a fitting description of the meaning of the Warsaw parade: “The real soldier fights not for what is in front of him but what is behind him, not for an empire but for home.”

<sup>50</sup> This New Tolerance was, and is, a form of political correctness. It means that the single truth does not exist, and all convictions are to have the same value except, of course, the convictions of the commissars of the new Tolerance. Tolerance was defined, and here the liberal-left in Eastern Europe immediately understood the meaning of the new Tolerance in the West, not as a real tolerance of opinions which one does not share, but as an ideology and a political tool to be accepted by politicians and state institutions. The phony moralism, combined with ritual support for the ‘right’ causes, and condemnation of the ‘wrong’ ones, has become a staple of public discourse in the European Union. These ideological pieties were means of symbolic violence against ‘intolerant’ views, a threat to force people to be silent and impose the only correct language, an Orwellian newspeak, so that people stop thinking in terms of ‘incorrect’ ideas. On this corrupted use of ‘tolerance’, see: A. Kołakowska, *Intelektualne korzenie politycznej poprawności*, “Przegląd Polityczny” 2003, No. 59, pp. 8–19; D. Leszczyński, *Tolerancja i jej wrogowie*, “Przegląd Polityczny” 2003, No. 62–63, pp. 22–31; R. Legutko, *Euroświętoszki*, “Nowe Państwo” 2006, No. 3, p. 117; for a wider approach to this problem, see: Ch. Milton-DeIsol, *Skazani na konflikt*, “Znak” 2002, December, pp. 22–30. The most cherished causes of human decency, as e.g. the fight against anti-Semitism or racism, were harnessed as an ideological tool of brainwashing and intimidating the people of different political opinions. On this problem, and applicable also to other post-communist East-European countries (e.g. Hungary), see an excellent article by R. Krassowski, *Antysemityzm Polaków jako problem polityczny*, “Dziennik” 2008, January 19–20, pp. 10–11.

and causing trouble in Europe.<sup>51</sup> The surrealistic character of such a perception showed that the West still stayed both in the 19th-century frame of mind as well as the liberal-left frame of mind of the 1968 generation as far as the image of Central and Eastern Europe was concerned. All cultural characteristics of East-European cultures: strong desire for independence, freedom, religious attachments, communal instead of individualistic attitude to society – were deemed by the liberal left as suspicious and oppressive, ready to be repeated and cause havoc that Europe had not-so-long-ago experienced and forsaken.<sup>52</sup> A certain expiating analysis was provided by the prominent liberal-left historian Tony Judt.<sup>53</sup> Judt showed this warped vision of Eastern Europe and the crucial role of the liberal-left and post-communist opposition elites in monopolizing the channels of communication to Western Europe. This fact, in his judgment, has been largely responsible for the Western elites' ignorance as far as identity and real problems of East-European societies were concerned, contributing to the hazy expectation of what kind of politics would be possible in the new, united European Union. The West saw a Pandora's box of dangers in East-European nations and, to quote Judt,

the similar pessimism was characteristic among the dissidents. Please remind yourself this sentence of Adam Michnik: 'It is not Communism which is the worst, but this which will come after it'. Czech dissidents behaved the same way.<sup>54</sup>

<sup>51</sup> This strengthening of prejudices of the western liberal left by the Soviet secret service is stressed by a historian M. J. Chodakowski, "KGB disseminated in the 1980s an opinion, that Poland will become the second [Khomeini's] Iran. What surfaced at the beginning of the 1980s in Poland made me furious. I read it in the States, I knew that such materials were supplied. They used the liberal left discourse dominant in America, and progressives against freedom of Poland. The suggestion was that if Poland becomes independent, there would be the second Iran there. This was to build a belief that it is better to stay socialist", but the idea stuck and was playing to the prejudices of the liberal left in which the xenophobic, nationalistic, Catholic Poland was to be a threat against minorities and rights of liberal society. "The same method was used in a certain way against [Kaczyński's] government. The message was, that this government supports anti-Semitism, xenophobia; *Gross używa Żydów jako wymówki...*, "Gazeta Polska" 2008, January 16, p. 17.

<sup>52</sup> There are exceptions. On the liberal side the most prominent was Timothy Garton Ash, at least in the first stages of the post communist East-European developments, also Neal Ascherson and Norman Davies, and on the conservative side – Roger Scruton and Guy Sorman.

<sup>53</sup> T. Judt is the author of *Postwar Europe*, London 2006. The book is fascinating, also because of the selection of things omitted. Not especially prone to recognize the role of Reagan or Catholicism in resisting communism, he does not, for instance, give any credit to John Paul II, for his contribution to its demise.

<sup>54</sup> Tony Judt interview with Maciej Nowicki, *Polacy zaskoczyli Europę*, "Europa" 2007, November 17, pp. 3–5. On the fear of the post-communist left intelligentsia of the so-called March 1968 generation in Poland, as far as the rebirth of the authoritarian, xenophobic, anti-Semitic right, see: D. Gawin, *Blask i gorycz...*, also a discussion held in 2008 in the context of a *Fear* by Jan Tomasz Gross, which confirms this line of reasoning. Explaining why Gross portrays Poland's past and present in the light of such bleak anti-Semitism and xenophobia without exceptions, a sociologist Jadwiga Staniszkis stated that Gross's view was shaped solely by the message he received from the major liberal-left "Gazeta Wyborcza" national daily published by his friend, Adam Michnik. As seen by J. Staniszkis, Gross "received a totally deformed picture of Polish reality. Of a country in which the forces of progress, represented by his [liberal-left] friends battle the traditional Polish demons of anti-Semitism and radical nationalists. He believed, that everybody who criticizes Michnik in Poland, did this because Michnik is a Jew. [...] Thus he tied to the current political strife, the real problem of Poles facing their historical question of settling the accounts", at the same time applying the Manichean way of analyzing reality. When Gross came to Poland for a short period of time after communism, he stayed within the same milieu. The mood that reigned there was a feeling of terror. Barbara Toruńczyk said that "we were terrified [...] horrible articles in some marginal

Judt's journalist-interlocutor, adds ironically that this was the reason why West-Europe elites

felt fear of fascism which was coming together with Poland of Kaczyński brothers' [government of 2005–2007]. Everybody forgot [...] that such comparisons were ridiculous". Judt agreed, stating that "the West simply forgot that in Poland there simply was no fascism before the [Second World] War. It is obvious that the interwar period speaks for the states of Central and Eastern Europe – fascism was born in Italy, Spain (sic! – AB), Germany. One cannot say that in the East there were backward fascists and in the West democracies. A strange picture of Eastern Europe was constructed because [the West] knew nothing about it. [...].

History of Central and Eastern Europe was purely an element of the so-called Soviet studies, and was important only as a part of the history of the Soviet Union. After the Second World War, the West accepted the metaphor coined by [the Austrian Foreign Minister and Chancellor from the time of the Vienna Congress of 1815 and after] Metternich: 'The East begins at the gates of Vienna'. [Europe] reverted to the mental map of the 18th and 19th centuries, and to change this requires much time and much effort,

which embracing the European Union did not change automatically.<sup>55</sup> Judt properly defines this message of the liberal-left and post communist elites of Eastern Europe and the error of their Western counterparts. Both wanted to execute a double task of 'escaping' – both to the European Union, and from the traditions of devastated Eastern Europe which they considered dangerous. This escape from the allegedly anachronistic cultures to the allegedly 'set for good' culture of the European Union and its administrative mechanisms was fuelled by additional fear of costs, and also pessimism that Eastern Europe would not be able to achieve civilized, mainly economic success, and that it would have to be permanently in a state of dependence. Judt tries to objectify the process showing the origins of the liberal elites' thought.

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papers [...] People used a word 'Jew' in the streets. Something that was not present under communism. Everything, when communism was no longer with us, came to the surface. The atmosphere was horrible, it seemed that the magic of the Polish workers of 1980–1981 was gone". Piotr Zychowicz comments in this context: "it is enough to look through the issues of "Gazeta Wyborcza" of its first years after regaining independence to realize how the situation was seen then by the milieu in which Gross [and Michnik] lived. It seemed, that there would very soon be an eruption of pogroms, and Poland will soon roll itself into the abyss of the radically nationalistic dictatorship". Instigated by the communists, the anti-Semitic campaign of 1968 played an important role in this view of the Polish liberal-left intelligentsia. Some of the leaders of the students protests against censorship in 1968 were Polish students of Jewish origin, children of the highly prominent communist apparatchiks who rebelled against their fathers. Some of them were treated by the communist secret police with the anti-Semitic remarks, as a part of the strife within the communist party. This "confrontation with a brutal, primitive agent referring to anti-Semitic stereotypes, [...] made its mark [...]. In the view of the most active Polish liberal-left, March [1968] turned out "to be an extension of the Second World War". In the meantime, the 'Hitler screen' in the West began to look at the experience of the war only through the lenses of the Holocaust. Because of this the events in Poland were not only horrible but inexplicable. For an excellent analysis of the problem why the cultural anti-Semitism survived the war, see: A. Smolar, "Aneks" 1986, No. 44. As Eva Thompson described it "the Holocaust became the central fact of the Second World War, for which the real war actions and the sufferings of other nations were just a screen. In such a version, the history of annihilation of the Jews was the only crime which took place during the war. All the other victims were in the second plan, the relations of the survivors were to be foundational, and more and more guilt was thrown at the 'nazi collaborators', whereas the 'nazis' assume not the face of a concrete nation and movement but are taken as barbarians from the space outer, and the collaborators as the real perpetrators." P. Zychowicz, *Oko w oko z tuszczką*, "Rzeczpospolita" 2008, January 26–27, pp. A18–19.

<sup>55</sup> T. Judt, *Polacy zaskoczyli Europę...*, s. 3–5.

One thing for him was obvious, the whole discussion about Kaczyński's government in 2005–2007 in the idiotic context of fascism, the classical device of criminalization by association, shows that the process of mutual learning will be long.<sup>56</sup> Another western intellectual, the conservative liberal Guy Sorman showed this nexus between the liberal left inside of Poland and in the West in the context of the liberal-left search for a noble cause, the 'progressive good', against the 'reactionary evil' during the fight against Kaczyński's government in Poland. But he also pointed out the hidden xenophobic attitudes of the official politicians reverting to the postcolonial disdainful attitude:

Kaczyński government provoke[d] an incredible hostile reaction. A total ideological war was waged against him. Can we talk here about the conspiracy of the old European left? [...] In many respects that is exactly this. The old Marxists loose all their battles. They lost the intellectual battle a long time ago, after this the economic battle, and recently [in France when Sarkozy won] they lost the political battle. In this context the old left tries to regenerate itself through a defense of the secular and progressive Europe [...] it loses at home and tries to shift the field of battle to the European scene [...]. There the Marxist left is simply stronger. Especially in the European Parliament. The [Kaczyński] government was an ideal aim of attacks for it, it is with the help of Kaczyńskis that the left wanted to regain its lost youth. It prayed for such a present for years. And finally it got it. In the ideal form, the Polish government embodied nearly all values against which the French [and not only French] anti-Christian left has been fighting for the last two centuries. But it did have no one with whom it could fight. And suddenly the Kaczyński brothers showed up [...]. These are often the same people who supported Solidarity in the 1980s [...]. [Yet] one has to remember that 'Solidarity' symbolized [for them] in the 1980s [...] a dream about the third road. [...] And the more Poland moves away from this dream of the left, the enmity grows [...] 25 years ago [they] supported Solidarity to show that one was a progressive and anti-totalitarian intellectual. Today Poland is attacked as a fascist country – which has become the dominant discourse – to show, that one is a man of progress. But what is at stake is not a true Poland [...]. They know nothing of Poland [...] German and French publicists never go to Poland to learn what is happening there [...]. They do not care about Poland, but use it just for a certain strategy of intellectual and political power. For them Poland is like Ubu the King, simply does not exist. [...] But not only that [...] Poland is of course not a darling of the French or German diplomacy [...]. Here, the argument transcends the fight between Kaczyński's and the left. [...] The German-French duo has always thought about Europe dominated by Paris and Berlin, social democratic Europe. And here, suddenly appears Poland which by its nature is rather nationalistic [in the patriotic sense of the word – AB], Christian, pro-American and at the same time anti-Russian. For fifty years Europe was constructed as a place half-way between Russia and America, and the Poles doubt this logic. [...] [But] in such fundamental issues we are destined for a conflict.

The conflict for Sorman is a blessing for the sclerotic European elites still fighting the ideological battles of yesterday, and using categories of thought from the past.<sup>57</sup> Another conflict portrayed by the Western elites as divisive and dangerous, has been the so-called 'historical politics' conducted allegedly, only by the East-European countries. In case of Poland, for instance, the accusation against

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<sup>56</sup> For an interesting, cynical analysis of this process of 'copying' and 'escape' in the context of Eastern Europe and its adventure with modernity, see: C. Michałski, *Krytyczna funkcja Europy*, "Europa" 2008, February 2, pp. 8–10.

<sup>57</sup> G. Sorman, *Polska broni Europy...*, pp. 4–5.

Kaczyński's government was based on the idea that Poland was trying to renew an anachronistic conflict over history, both externally – as for instance with Germany – over the meaning of modern history, or internally – as with ‘vetting’ i.e. the screening of the institutions of public life for the presence of the former secret agents of the communist secret police. The latter case was hypocritical, nearly all European countries, including Germany, did it, but much earlier. As far as the West-European criticism of ‘historical politics’ was concerned, a hysterical image was projected, a radical contrast between the past and the future of Europe, the post-historical nations like France or Germany and history-obsessed nations like Poland or the Baltic States. The post-historic countries were allegedly done with history and focused on the future of Europe. Poland or the Baltic States were in turn allegedly trying to wake up the ghost of nationalistic past to foment discord. Sorman considers rightly such a dichotomy a monstrous ideological lie and a form of symbolic violence, in fact a racist, postcolonial type of mentality, also in service of immediate political goals.

The division of Europe between allegedly anachronistic and dangerous Poland or the Baltic states which were allegedly looking back into the past, and France or Germany which settled their accounts with history was one big falsification. Not only the Western nations play ruthlessly ‘historical politics’, but they have not exorcised their own ghosts yet. The most important intellectual debate in Germany, barely 10 years ago

was the so-called ‘battle about history’ [...] the most bitter conflicts over the meaning of German identity [...]. In France the assessment of the French Revolution was furiously debated, since the very founding myth of the French Republic was at stake. The debate was solved for good with a book of Francois Furet *The past of a certain illusion* in the middle of the 1990s, but [...] the meaning of republicanism was changed for ever”. Before this debate, “the approach to the French revolution was enthusiastic, Furet made it rather a negative phenomenon. The Poles are criticized for *lustracja* [vetting], when the French had only recently a very big problem with Vichy [government]. So-called Papon trial took place just several years ago [...]. Sarkozy during his trips to Africa [...] talked about the French colonization [...]. This argument will come back. The immigration is such a big problem for France, and it touches history. The problems with immigrants remind us constantly that France is not any more a big power, and thus it does not constitute a model any more for the coming people, it lost its assimilating potential.

For Sorman, Poland's assertive new policy was for the West a handy substitution for the old Europe's problems and fears, and the inability to come to terms with the new reality and a crisis which is visible after the unification of Europe. For this reason, Sorman thinks, there was a psychological need to “find a culprit of this crisis and it would be best if such a culprit was pro-American. The United States are a very easy image of what Europe does not want to be, but at the same time it wants to be a system which is utopian. So the culprits of contemporary European Union are the Poles, as some time ago were the English.”<sup>58</sup>

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<sup>58</sup> *Ibidem*. Sorman is right, that it is naive to think that the countries of the European Union are not



But one feature of this historical debate was crucial to understand its deeper meaning, especially in Poland but also in Hungary and the Baltic States, and Sorman did not grasp it. The real clash of ideas was between the Polish and the German versions of history, and the other – between the Polish and the Jewish versions of history. Both clashes were symptomatic because they showed different approaches to studying history. Poland was searching for the true meaning of the historical past, the context, and the sense of memory rooted in real history of 20th-century Eastern Europe. Germany embarking on its revisionist history, in large measure in good faith, looked through the lenses of the ‘Hitler screen’ and human rights, from the hindsight of the new European standard of ‘goodness’. This was essentially an ahistorical and ‘presentist’ view. It had not much to do with real history and the Eastern Europe’s complex reality but was meant to built another mental barrier against actions which should never happen again. In this light, for instance, both the forceful resettlement of Poles under German and Soviet occupation and by international arrangements like Potsdam of 1945 were as bad as the flight and the resettlement of the Germans. Both violated human rights and were unjust. The same concerned the Polish-Jewish relations as looked upon through the lenses of the Holocaust. The Holocaust was transformed as the defining experience of the second

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running ‘historical politics’. But, if he thinks that this is simply a matter of forming a ‘settled account’ version of history, and closing away the past, he may be missing a point. Historical politics today is a part of the incessant media politics. Every generation writes its history and the community in which it lives anew, so it can be converted to success in the media. The creation of historical politics is a must in the world of contemporary mass media market, as a means of political and economic success. Even if my nation’s history is horrible and hard to bear, for instance the facts of the German crimes, or the facts of the Polish or Jewish historical defeats, it has to be converted into a media event strengthening the community and turning this into a tool for pursuing national, state interests. This is why, Germans are playing the card of their “resettled” as a badge of belonging to the ‘good’ history of the persecuted, or stress the importance of the German internal resistance against Hitler, so to create a psychological operational political space. The same concerns the Jews and Israel, which turned for instance Masada and the Holocaust into tools of political activity. The media creation of the proper historical image of a nation, and sometimes its other side of creating a bad image of another nation, are done for the purpose of the future betterment of a chance of a particular state or nation. The media creation of the national image is not a ballast, but a *sine qua non* condition of achieving national interests. The media game of historical politics at the level of particular states as e.g. Germany, France, Russia or Israel is also played at the level of the bigger ideological entities as e.g. the European Union. The struggle for the shape of this media image of historical, as well as ‘political correctness’, type of properly institutionalized moral politics in Europe, is one of the crucial fronts of the ‘culture wars’ inside the European Union, the game played both at the level of ideological transnational politics by the medially dominant liberal-left, figuratively speaking, of the generation of 1968, and the particular states inside the European Union. In the European Union, geopolitics has not ended. It is not an ideal space where each actor limits itself voluntarily in the name of cohesion. Each state strives for their own position, and the stronger nations play the game for themselves. To read this game, to learn how to play it, is a precondition of not being pushed to the periphery zone. Historical politics is a crucial part of it, and it is dangerous to disregard it. Eastern Europe was entering the European Union disregarding this crucial ‘interest’ aspect of historical politics, and its conflict-ridden potential which could not be avoided. The use of ‘historical politics’ in Poland in the years 2005–2007 Kaczyński’s government, however crudely executed and however consciously played, elicited such an enormous resistance because it began to use a weapon which tried to made Poland an important player, *toutes proportions gardees*, in the European game, which would prevent pushing it into the status of a dependency. The Polish elites did not essentially understand this game, which, for instance, President Vaclav Klaus of the Czech Republic plays quite well. Among the Polish public intellectuals, the best understanding of historical politics as a political weapon is shown by Z. Krasnodębski, see especially: *Zmiana klimatu*, Kraków 2007; M. Cichocki, *Władza i pamięć*, Kraków 2005, and D. Gawin, *Blask i gorycz wolności...*

world war in Eastern Europe, against which everything else should be measured irrespective of the nuances or real facts. The double myths of the Nazis coming from cosmos and Holocaust, elevated to the central categories of explanation were suddenly turned into the instruments of falsification of history, which in turn was used by the different lobbying groups.<sup>59</sup> For the East-European countries, still fresh from the communist falsifications and manipulations of history, a recovery of the true memory and facts, and the burying of the lost dead was a paramount existential urge, the very process to recover their identity. To see manipulations of recent history, whatever the noble causes in the name of which this was done, smelled of not-too-recent communist violence and brought protests against the new lie. The rebellion was not in the name of the anachronistic, divisive past. The rebellion was against mendacity of the new ‘common’ European Union’s history, which East-European immediately sensed. For this reason, there is also a reluctance in Eastern Europe towards the issue of ‘shared’ historical textbooks. They are perceived as an official bureaucratic ideological enterprise of changing consciousness of the students towards the new ‘proper’ version of European history. There is also a resistance to the idea of common European ‘civic’ manuals. Both history textbooks and ‘civic’ manuals are laden with ideological brainwashing, mainly of the liberal left kind, an attempt to create the common European ‘values’ from the top down by means of the educational system.<sup>60</sup>

In none of the above clashes it was reasonable to portray Europe as in crisis. For Sorman, again, Europe does not go through any crisis. Europe is

one of the greatest successes of modernity, both in economic as well as political sense. All aims planned for by the founding fathers have been met. We live in peace, there is no inflation, we can move around freely. The only crisis which we have is the crisis of the European bureaucracy, which wanted to create from day to day, one great European nation and with its help to settle all matters among themselves. There are still some economic problems, but they are not insolvable. In wit I have a great problem with the understanding of the very concept of ‘crisis of Europe’. And because there is no crisis there is no Polish guilt [...]. The Poles make of course mistakes in their foreign policy, and they have a very bad marketing. But first of all Poland is needed in Europe, because it embodies

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<sup>59</sup> For an analysis of various aspects of this process, see: Z. Krasnodębski, *Zmiana klimatu...*; P. Novick, *Holocaust in American...*

<sup>60</sup> The recent French-German post-1945 history textbook is an example of such ideological falsification of history in the name of the common European values. The United States is portrayed there as being responsible for the Cold War and history seems to begin in 1945, out of the void. Equally unserious and political correct is a common school textbook written by the Polish and German historians about the Second World War. It gives scant attention to the Polish Underground State, but a prolific attention to the German resistance to Hitler. There is also no history of the Warsaw Uprising of 1944. *Zrozumieć historię – kształtować przyszłość. Stosunki polsko-niemieckie w latach 1933–1949. Materiały pomocnicze do nauczania historii*, ed. K. Hartmann, “Dziennik” 2008, February 8, after “Rzeczpospolita” 2008, February 9, p. 2. On the other hand, if such a manual can be treated as an exercise in interesting endeavors at mutual better understanding, and not as a means of imposing the only correct version of history for the sake of the common future, it might be commendable. See: *Książka uczywa i zwiędła*, “Rzeczpospolita” 2008, February 21 The problem, however, is real. See e.g. a European ‘civic manual’, some parts of which were rejected by the Polish Ministry of Education as an instrument of social engineering aimed at changing consciousness, the process being visible in the new ideological meaning applied to numerous institutions, e.g. the family: <http://eycb.coe.int/compass/en/chapter1/13.html>.

resistance towards banality. The picture of Poland is like history of Solzhenitsyn. He was in France enormously popular, because he resisted Stalinism. And suddenly he began to talk that his fight was inspired by Eastern Orthodoxy. Then the left turned against him. The same happened to Poland. At the beginning Poland embodied the vision of Third Way, and then it turned out it was Christian. And the left turned against it, as earlier it turned against Solzhenitsyn [...] [For instance] France is not any more Christian, when Poland remained Christian. And this is how Europe should be – there are countries in it which are [culturally] progressive [in the liberal-left sense of the word] and conservative ones. This is very good that there is a country, which sustains yet religious, political, cultural traditions which disappeared in other places. Poland is necessary from that point of view [...]. Your resistance towards the European technocracy is a very good thing. Opposition towards Russia is a very good thing. This is a matter of common sense – Europe does not have it, and here a certain aggressiveness, too much of anti Russian animus of the Poles is positive. It is also important for some countries to be pro-American like Poland – so the whole of Europe would not become a bastion of idiotic anti-Americanism. The Poles can say certain things in a provocative way, which forces others to ponder them. Let's take the Polish demand that Christianity be a part of the European Constitution. All were of course against it. But at least this forced to pose the problem of Christianity in Europe. In Europe where nearly no one thinks any more, which found itself in the great technocratic sequence, Poland embodies resistance against banality.<sup>61</sup>

Judt's view, not as intended, and Sorman's more consciously, analyze the frame of mind of the Western elites. They seem to embody traits of post-colonial thinking. Their reaction towards Kaczyński's government, aided strongly by the post-communist intelligentsia and the dominant liberal-left media in Poland, was ignorant and patronizing, rooted in the 19th-century mentality. An excellent analysis of this attitude was provided by Eva Thompson, when she applied the post-colonial theory in an original way to the relations between Eastern Europe and Western Europe within the context of the European Union.<sup>62</sup> A similar observation was made by Norman Davies. Showing the cultural differences between the European West and East, Davies traced the origins of the negative picture of Eastern Europe and its subsequent evolution.<sup>63</sup> The modern mental and intellectual notion of Eastern

<sup>61</sup> G. Sorman, *Polska broni Europę...*, p. 5. Sorman wrongly thinks that everybody was against it. At the beginning its most strong proponent was Germany and some other states. It was only due to the brutal protests of the French and the skillful French diplomatic maneuvers that the socialist government of prime minister Jospin imposed its will on the rest, arguing that the French Constitution with its lay system forbids it. The same concerned the preamble to the Charter of Fundamental Rights where the former German president Roman Herzog suggested a reference to 'spiritual and religious heritage'. This formulation met again with a protest by Lionel Jospin. A bizarre situation appeared, where two versions of the Preamble function today, with one mentioning only spiritual heritage.

<sup>62</sup> E. Thompson, *Sarmatyzm i postkolonializm and W kolejce po aprobate...*

<sup>63</sup> The idea of the 'civilized' West and the 'barbarian' East has a long pedigree and dates back to Greek and Roman culture. The crystallization of the Greek identity during the Persian wars in the 5th century BC "was done under the influence of the 'invention of a barbarian', as an alien from outside. The Romans did the same when they defined the borders of their empire as 'limes'. The idea was resurrected in the Renaissance, and in the beginning of the 20th c. by all Europeans who received classical education. This meeting of the Greeks and 'barbarians' [...] constituted the beginning of the idea of 'Europe'. It embodied arrogance and the alleged high culture, the assumption of seniority and the pretences to the natural right of expansion and dominance. Christianity replicated this division into the civilized people and the pagans. Inside Christian civilization there was also a division between the Western and Eastern Christianity, whose echo was heard in the civil war in Bośnia in the 1990s. N. Davies, *Zachód i Wschód, czyli Piękna i Bestia*, [in:] idem, *Smok wawelski nad Tamizą*, Kraków 2001, pp. 153–154.

Europe's inferiority and Western Europe's superiority was created in the Enlightenment. The Enlightenment was deeply infused with it. *Les philosophes* of the 18th century were mainly responsible for this intellectual construction termed 'Eastern Europe'. The 18th century constituted a period of the ultimate decay and decomposition of the multinational and republican Commonwealth of Poland–Lithuania. This unprecedented total breakdown of the machinery of the state, as an instrument facilitating 'progress' and implementing the 'reason of state', was contrary to the official doctrine of the absolute monarchies around Europe, whether in classical or the Enlightenment version of it. In such circumstances, the Commonwealth of Poland–Lithuania met with the utter disdain of the absolutist monarchs and *les philosophes*.<sup>64</sup> The latter were the forerunners of the 20th-century intellectuals who in the modern machinery of the state sensed a chance of transforming reality according to their image of 'progress'. At the same time it gave them a chance to take part in this endeavor as the advisers to the Prince.

The end of the multicultural Commonwealth of Poland–Lithuania was thus a good pretext to show one's progressive stance. It was then, that many Western travelers replicated a picture of Eastern Europe as a place of incredible exoticism, with the teeming, dirty masses of Jews, peasants, wild animals and lice as well as all possible religious superstitions. Especially disdainful to the enlightened mind of *les philosophes* was Catholicism. Some of the major thinkers of the Enlightenment as e.g. Voltaire considered termination of the Commonwealth of Poland–Lithuania a blessing. The idea was duly and skillfully disseminated by the partitioning powers' propaganda machinery among the elites of Western Europe in the 18th and 19th centuries. Edward Gibbon thought that his history of the *Fall of the Roman Empire* could be used as a metaphor of what was happening in Eastern Europe. Gibbon who never traveled to Eastern Europe stressed the 'horrors' of the peoples of the East and their bigotry. Christianity, mainly Catholicism, towards which he was deeply prejudiced, constituted an especially odious part of this bigotry. By doing this Gibbon, as Voltaire, justified the crimes of his powerful sponsors from Prussia or Russia, who could consider themselves great educators of the barbarians, with the Absolutist state being a perfect instrument of progress.<sup>65</sup> It was therefore the Enlightenment, which impressed on the minds of the Western elites, the image of Eastern Europe as a backward, rule-less and directionless part of the continent. As a consequence it obliterated totally the position of Poland and Hungary at the

<sup>64</sup> One of the exceptions, although not solely for the reasons Poles wanted to see, was Jean Jacques Rousseau who wrote "The Government of Poland" in 1769. For an excellent analysis see: W. Kendall, *Introduction to the American edition of "The Government of Poland"*, Indianapolis 1972, pp. IX–XXXIX. Barely known in Europe, Kendall's analysis is very instructive to the understanding of the complicated relations between the wishes of the commissioning Polish Committee and Rousseau.

<sup>65</sup> Frederick the Great aided his friends in the philosophical circles expressing his disdain towards "these imbeciles breeding themselves by hundreds, whose names end in -ski". In 1771, shortly before the First Partitioning of Poland he mentioned "a country, where nothing has changed since the time of the Creation". An American tourist who visited Poland in 1788, compared it favorably with Russia, but right after that he contrasted it to 'the angels of civilization who dwelled the godly lands of the West'. N. Davies, *Zachód i Wschód...*, pp. 154–155.

very center of European Christianitas and Renaissance, and slighted their roles in Reformation and later Romanticism. The 19th century intensified such an image of Eastern Europe as lands not touched by industrialization, political liberalism, and democracy. The East was seen as a backward, unruly cauldron, the backwater of the East-Central Empires, which tried to digest it culturally and economically. The Vienna “Concert of Nations” considered the nationalistic aspirations of the multitude there to be a danger to the order of Europe. The Enlightened prejudices were strengthened and duly confirmed by the partitioning powers. With some exceptions, including Marquis de Custine, the Western elites considered even Russia to be a more civilized state. Racism of the 19th century strengthened in general such prejudices towards Slavs and predominantly unassimilated dominant masses of the Ashkenazi Jews in the East.

The German invasion of Poland in 1939 and the Nazi propaganda were deeply influenced by such racial prejudices, as well as by the eugenic ideas thought to be a means of race selection.<sup>66</sup> Even the victory of the Allies in 1945 did not change much. Furthermore, it obliterated Eastern Europe from the bad consciousness of the West which consigned it in Yalta to the communist camp. Its subjugation to the Soviet Union was justified subconsciously by the fear of nationalistic hatreds, backwardness, and inability to rule itself independently, the prejudices strongly supported by the communists and the leftist intelligentsia in the West.<sup>67</sup>

Modernization by the Soviet bayonets, was also the faith of the anticommunists of the left, e.g. Czesław Miłosz, and communist intelligentsia as exemplified by Tadeusz Kroński. Western post 1945 anticommunism was not strong enough to obliterate this feeling, because anticommunism was considered anti-progressive among the dominant part of Western intelligentsia. Thus nothing so much strengthened the negative image of Eastern Europe as the Cold War. For the four long decades

the new ‘western world’ developed under the American hegemony and with the frontal confrontation with the other side of the iron curtain [...] as well as in isolation from it. Two generations of the West-Europeans, who were sunbathing in the warmth of the achieved welfare, were told that *only they* are the true Europeans. It was accepted that Europe meant [the Western] system of the Common Market, and then [Western] European Union. A large number of ‘Schools of European Unity’ were created, interested in nothing, apart from the major languages and cultures of Western Europe.<sup>68</sup>

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<sup>66</sup> For instance see: D. P. Paul, *Controlling Human Heredity: 1865 to the Present*, Atlantic Highlands 1995; K. Kawalec, *Spór o eugenikę w latach 1918–1939*, “Medycyna Nowożytna. Studia nad Kulturą Medyczną” 2000, Vol. 7/2; T. Matzek, *Zamek śmierci Hartheim*, Warszawa 2004.

<sup>67</sup> The Kielce pogrom of 1946, instigated by the communist secret service was one instance on the road to building such an image. Very few people wanted to know and understand Eastern Europe. One was an American historian Hugh Seton-Watson, another – an English writer G. K. Chesterton, also an Austrian conservative Erik von Kuehnelt-Leddihn.

<sup>68</sup> N. Davies, *Zachód i Wschód...*, pp. 56–57.

Since the 1970s, intellectuals forming the opposition in the East began to remind the West about the idea of the 'lost' Europe, showing its larger and deeper meaning. It was at that time that the idea of Central Europe being a separate cultural entity was born among the anti-political intellectuals mentioned earlier, whose number included Havel, Konrad and Michnik as well as literary figures, with Milan Kundera being its major and most widely marketed exponent. The literature of the little 'heimats' of the 'lost' Europe was everywhere, in Poland visible for instance in the writings of Julian Strykowski and Andrzej Kuśniewicz, showing the wealth of spiritual resources in East-European cultures. The idea was visible also in Solzhenitsyn and the case of the religious Orthodox culture, and in John Paul II and the new instance of the old discussion about the direction of modernization and the possibility of separate cultural and economic roads leading to it.

This effort however was futile and in fact utopian. The generation of 1968 in the West began to rewrite history in its own way, in which Eastern Europe was this time to be modernized their way, mainly because of its allegedly pervasive anti-Semitism, its religiosity, the rather anti-Vatican II, populist Catholicism, its outmoded family structures, and numerous other hidden 'oppressions'.<sup>69</sup> In addition, the idea of the radical 'evil' began to be identified with the new image of the Holocaust. The complexity of the East-European history of the Second World War was obliterated by its simplistic image, perceived only through the lenses of the Holocaust, racism and anti-Semitism. Until 1989, censorship and the lack of free public opinion to discuss history made difficult any polemic discussions with the Western liberal-left dominant intelligentsia. Its progressive frame of mind dovetailed well with the liberal left intelligentsia of the post communist opposition. Eastern Europe was again perceived as ready for modernization from backwardness, also cultural backwardness of 'oppression'. Historical revisionism began to treat history of Europe as a great laboratory of psychotherapy by means of the 'Hitler's screen' method for the sake of the future, eliminating all sorts of "discriminations". In this simplistic and ideological image, Eastern Europe was cast again as a villain. But this time it was done within the modernizing European Union framework and its 'European values', usually in good faith. The modernizing, dominant liberal elites in Eastern Europe faced the challenge of defining their countries anew in relation to culture, history, community and were essentially escaping a question of identity. They based its image of the community on a contemporary theory of citizenship conceived as an open, procedural, formal democracy. Every other attempt to define the community was considered to be threatening the 'open' society and 'exclusive'. The case of Poland is instructive here. In Poland, new democracy was to include a definition of history as 'threatening' after the fall of communism, also the idea that the strong cultural identity might not be 'inclusive' enough. For the liberal mod-

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<sup>69</sup> The communist government-sponsored anti-Semitic campaign of 1968 in Poland, being part of the inner party struggle in Poland, in response to the radical change of Soviet politics in the wake of the Arab defeat at the hand of Israel, contributed to this image. On this see: J. Jedliński, *Chamy i Żydy*, Paris 1963, pp. 17–60.

ernizing elites, this made any idea of a strong national identification dangerous, at best irrelevant. Collective national memory was downplayed, a sensitized idea of the past was put forth. The liberal and post communist elites dominating the institutional framework after 1989 decided to build the new identity of Poland on the idea of the market economy and constitutional patriotism, a kind of post-political ideal. Constitutional patriotism of the German Federal Republic became a model for a large part of the constitutional and legal thought very much under influence of the German legal culture. This was an error of judgment. Germans were a special case. They chose constitutional patriotism to cut themselves off from the horrible past of their own making, and for lack of a viable historical tradition useful after 1945. Conditions in Poland were different. Poland did not have to escape from history and its memory after the Second World War, as Germany had to do. There was a need, hotly contested, to recover tradition after Communism. Moreover, Polish cultural identity was not as strong as Germany's and after the calamities of the 20th century had to be strengthened, not weakened. This tradition was not an obstacle to modernization, but the only asset Poland had. Nevertheless, the non-liberal elites were silenced and cut off from influencing the media, culture and social policy.

When Kaczyński's government came to power in 2005, it symbolized the recovery of this silenced part of Polish public opinion, putting a question of national identity as a precondition of successful modernization, not an obstacle to it, and trying to recover a sense of the torn to shreds social solidarity. The historical, collective memory, cultural points of identity, the 'battles for memory' and 'historical policy' which Poland dangerously lacked, were defined as a precondition for building

a feeling of community, which precedes trust, which is absolutely necessary to sustain the procedural [democratic republic]. It is also necessary to set here certain boundaries. The political community's identity cannot have an unbound character. In this case a liberal can show a multitude of models of collective identity, to which different groups, living in the same society can appeal. This is true, but there is even in this case a minimum of 'closeness', setting some barriers and retaining standards which enable the assessment of the past. They allow to retain a certain horizon of live, collective memory [...] in which a constant debate is conducted between the different points of views, different models of identity, which accept yet the basic values, which define their rules.<sup>70</sup>

Such a 'closing' of national identity may be labeled as a certain myth formation, an ideal model of upbringing which has as its aim the very task of setting a particular community against the other. From the liberal point of view, such a community myth makes this activity an opposite of rational thinking. The latter tries to destroy myths, not to create them. In the new European context such myths were resembling, so the liberal left elites believed it to be, the thinking responsible for the calamities of the European as well as Polish history. That is why liberals decided to cut themselves off from history, traditional morality, and patriotism

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<sup>70</sup> D. Gawin, *Blask i gorycz...*, p. 139; M. Cichoński, *Władza i pamięć...*, pp. 73–164.

as conceptually dangerous in the new post-historical and post-political European Union.<sup>71</sup> What, according to them, was needed was a cold-blooded, sensitized rational procedural democracy and modernization – an escape to the technocratic-bureaucratic European Union. The mythical identity was dangerous because it allegedly bred conflicts and excluded many. Yet the very ideas which such a technocratic, procedural liberalism was allegedly trying to achieve – an inclusion and justice for all – turned out to be illusory. A withdrawal from discussions and conflicts as far as justice was concerned, made the rational and cold-blooded power of money and the market the only victorious idea. A liberal anti-political, non-exclusionary politics was possible in the old European democracies, and even there it was and is ridden with moral and legal cynicism. In the new East-European democracies it was dangerous, because in such countries

it is impossible to avoid crucial decisions, and thus to make value choices [...] some values against the others [...]. The representatives of the intellectual and political elites were deceived or they deceived themselves as far as the nature of the political, thinking that a liberal apolitical discourse [was possible]. Theoretically we may subvert any values and warn against any arbitrary projects which define the common identity [in the West], there is yet a tacit agreement as far as the basic values, as far as the shape of collective identity.

The building of consensus politics through procedural democracy and technocratic decisions, turned out to be an illusion. The non-political, non-conflict politics was possible in the West-European states with established societies, which made their strategic decisions a long time ago. But in Eastern Europe people and the politicians

have to make such decisions constantly [...] we are bound to have a strong conflict, to have a contest of different interests, because we are still condemned to reform, building, and cannot silence the emotions. Even in England and Germany history has not ended yet. And here it has especially not ended.<sup>72</sup>

For instance, the mistake of the Polish so-called Round Table talks in 1988–1989 which transferred power from the communists to the liberal opposition was to treat it as a guiding principle for the future, not as a pragmatic compromise to be adjusted according to the challenges.<sup>73</sup>

A political philosophy was built, justifying such a policy as a fundamental value. This was precisely a policy which was responsible for a disintegration of the Polish community and the deepest resentment of a large chunk of the Polish society.

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<sup>71</sup> This is a challenge with which Cezary Michalski confronted professor Andrzej Nowak, who criticized the simplistic modernizing argument of the liberal elites, in their famous exchange in "Europa". C. Michalski, A. Nowak, *Dlaczego młodzi odrzucili Kaczyńskich?*, "Europa" 2008, January 5.

<sup>72</sup> D. Gawin, *Blask i gorycz...*, p. 143.

<sup>73</sup> P. Zaremba, *Tusk nie może poprzestać na byciu anty-Kaczyńskim*, "Dziennik" 2008, January 26–27, p. 10.



In different ways this mechanism was also visible in other East-European countries.<sup>74</sup>

### **Western modernization and the East-European Christianity as a problem for the secularized elites**

A deeper problem of culture is involved here. During the last several generations Christianity in Western Europe collapsed. The Christian story of man's life on earth and eschatology ceased to move culture's imagination. Moral autonomy seems to be the sole collective ground of forming individual sense of existence. This fragmentation of belief poses a challenge to human solidarity and charity. Philosophy of rights, and human rights in particular, was to be the substitution of religion. But this looks illusory.<sup>75</sup> The market and mass culture made the trivial and momentous the basis of identification. Conformity of consumption is a real danger, a menacing thread in the major analyses of liberal democratic civilization at least since Alexis de Tocqueville's *Democracy in America* of 1835. Culture and humanity, to paraphrase C.S. Lewis had to go underground. In such a situation an affirmation of a belief system, the 'rehabilitation of a system of belief', as one critic termed the first modernist poem describing the new existential situation [*The Waste Land*] of T.S. Eliot, seems to be in order.<sup>76</sup> Culture is vital here, and with it must come cultural freedom which is

an integral part of a free society [which requires] that distinctive cultures be allowed to preserve their homogeneity; that creators of cultural works should not be hobbled by political and sociological dogmas; and that in a given culture a tradition should be left free to find its own way of renewing itself. Violation of any of these shows a fundamental ignorance of what culture is and how it ministers to the life of the spirit.<sup>77</sup>

To consider any culture of a nation as an addition to its well-being, to spur patriotism and to demand love of humanity via human rights is in fact tantamount to demand from people that they abandon their loyalties and their loves, their identities which gave them a sense of solidarity which could then be offered for others to share. The cold procedural liberalism seems to be oblivious to that. The liberal elites of the European Union seem in this context to forget this cultural dimension. The culture of rights is the rights culture, the culture of self sufficiency and

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<sup>74</sup> This created a political problem because "where there is no feeling of identity bonding people together into community, there is no place for trust or solidarity. They are necessary in case of human community which holds the great task of transformation. Without this assumption concerning the existence of this layer of politics, democracy inevitably turns into battle of egotistical group interests, a clash of forces, which see only zero-sum game in politics". D. Gawin, *Blask i gorycz...*, pp. 143–144.

<sup>75</sup> M. J. Perry, *Toward a Theory of Human Rights: Religion, Law, Courts*, New York 2007.

<sup>76</sup> C. Brooks, *Modern Poetry and the Tradition*, University of North Carolina Press 1939, p. 171.

<sup>77</sup> R. Weaver, *The Importance of Cultural Freedom*, "Modern Age" 1961–1962, Winter, p. 33.

non-solidarity. Only a culture of organic dependency is a culture of solidarity. Such a culture can only be grown inside of the national cultures as a process of organic nurturing and love, not against anybody but for everybody else. Culture will never be a substitute of religion, because there is never salvation through culture, but culture can warm us in the cold night of senseless existence of the market and rights. Superficially, it does not seem to be much. But this is all we have, when – at least in the West – as Nietzsche said, “we burned our ships”. This may be a precondition of sustaining a community of cultures in which the language and sensibility towards human condition will be sufficiently felt, so the recovery of religious dimension may eventually proceed. In this sense, as Burke said, and as liberals should take notice “[a] country is not a thing of mere psychical locality”, it is a state of mind, love, loyalty, and roots which help us to sustain bad weather and to shoulder those who are too weak to walk alone, in your own house, or anywhere else. The recovery of cultures in Eastern Europe, the recovery of pride, seemed in this context the most pressing issue for the new countries devastated by the communist social engineering and threatened by the new social engineering, a precondition of solidarity in the most basic sense.<sup>78</sup> Pride is a condition of moral equality and solidarity, self sufficiency and a master of courage. It is necessary for the task of taking up responsibility for oneself and the other. Pride is the enemy of dependence and inferiority and the barrier to others’ patronizing disdain. Eastern Europe needs pride inside of the European Union and this pride has to be won, even in the post political European Union for which Eastern Europe is still a nuisance.

The political, mainly liberal elites in Eastern Europe faced a dramatic choice after the fall of communism when they debated how to modernize. The accession to the European Union did not solve this problem and it will not solve it soon. Modernity for the underdeveloped countries is always a sort of violence, real and symbolic as well. This process is not necessarily intended, it is just that “everything which is solid melts into air”. History seems to look as an iron law, a fatalistic monster devouring the set forms of life. Usually the impulse to modernization is slow in the making and does give time to the people who experience it to adjust and to mount makeshift countermeasures. This was the Western European case. But when modernization is quick, as has been the case after communism, the reactions are violent and polarized. The liberal elites of Eastern Europe wanted to make this process more or less quick and total, with the problems also solved by the bureaucratic structures of the European Union. But neither the people in Eastern Europe

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<sup>78</sup> M. Cichoński, A. Nowak, *Władza i pamięć...* It is culture which forms the great bonding of social solidarity, a quality which Coleridge, in his “Essays on his Own Times” referred to in the following manner: “In every state, not wholly barbarous, a philosophy, good or bad, there must be. However slightly it may be the fashion to talk of speculation and theory, as opposed, silly and nonsensically, to practice, it would not be difficult to prove, that such as is the existing spirit of speculation, during any given period, such will be the spirit and tone of religion, legislation, and morals, nay, even of the fine arts, the manners, and the fashions. Nor is this the true, because the great majority of men live like bats, but in twilight, and know and feel the philosophy of their age only by its reflections and refractions”, in: R. Kirk, *The Conservative Mind: From Burke to Eliot*, Chicago 1986, p. 1.

would tolerate this process politically for too long, nor the modernizing project of the European Union is unproblematic. In terms of culture, modernization was to assume in Eastern Europe – in the liberal elites’ view – an imitating pattern, which reminded the peoples of Eastern Europe of ideological imperialism, an imposition of the new ideological monism, from which East-European countries had just escaped. The populist movements in Eastern Europe – whatever this means – are part and parcel of this process. In a chaotic way, they try to win space inside the European Union for cultural identity, since without this, they risk to remain a permanent periphery of the European Union.

There are many authors who confirm this postcolonial pattern at the level of economic analysis, showing that between the First and the Second World Wars there was a conscious effort on the part of the East-European elites to structure the economic system in such a way as to fuel resources to the elites, so they could be on par with West-European ones. The East-European strategy of modernization did not aim at the leveling of the differences between the periphery layers of the society, but at the “transfer of income from the poor to the elites”, so the elites could gain resources to follow their counterparts in the West. The process was similar to the one happening to the rich African elites during the last five postcolonial decades. Local elites changed the private needs into public policy and defined the latter in the light of the former.<sup>79</sup> A similar process occurred after 1989 in Eastern Europe. There, one of the most important political tasks was to revert this logic of ‘private needs’ translated into the state polity. This would require changing the elites’ mentality and creating of the new ones, which would mean opening upper advancement by demolishing barriers obstructing it. This could not be done without the strengthening of political, but first of all cultural sovereignty, to force such a change at the level of the European Union. For Eastern Europe, this would mean, in turn, that “the end of politics” attitude, and an option for no more than just an efficient administration being the only means of governance, was not only premature but suicidal in many respects. In such a contest, administration substituted for politics turns out to be the repetition of the Marxist iron law of history or the ‘end of history’ determinist thinking, which was once and for all set by the elites. As a political scientist Andrew Janos wrote

the differences between the old (Soviet) and new (western) hegemony are, of course fundamental, but to see the differences between these two regimes, the observer could not ignore certain elements of continuity. First of all we have to remember, that the transition does not mean a change from hierarchy to equality. But from the one form of hierarchy to other. There is no doubt, who is the leader in today’s Central and Eastern Europe, or [...] who is ‘missionary’ and who a ‘local native’, whose fate is to wait for a conversion to the universalistic canon [...].

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<sup>79</sup> D. H. Aldcroft, *Europe’s Third World. The European Periphery in the Interwar Period*, Aldershot 2006; Z. Krasnodębski, *Demokracja peryferii...*

Communism tried to create 'a new man', when the new missionaries of the new universalism want to create new liberal personalities equipped with transnational sentiments of the new age and liberated from the traditional social ethic and different taboo.<sup>80</sup>

This means that the countries in Eastern Europe face not the end of history inside of the European Union, but the real political and cultural challenge of not being reduced to dependency. It is up to the East-European elites, if they associate with their societies and would like to represent them or whether they just want to 'escape' to the European Union and its administrative empire of wealth and influence supervised by the liberal-left cultural monism.<sup>81</sup>

The battle with this liberal-left ideological monism has been visible in the most spectacular way in the European Parliament. The East-European delegations shocked the deputies there and forced them to rethink certain issues.<sup>82</sup> The resistance in East Europe was an 'identity' resistance, a populist rebellion which showed a fault line between the Western and Eastern European liberal elites, and the societies. Populism is in Europe, although not in America, a suspicious phenomenon, evoking the images of prewar European politics with its Weimar Republic crisis, fascist movements etc. In this light, such events like the ones that took place in Poland in between 2005–2007, but also a rebellion against the post-communist government in Hungary in 2007, and the one in the Czech Republic were immediately branded as such. Hysterical words: 'fascist', 'antidemocratic' and 'anti-European' were used as a tool of analysis, mainly for the Polish situation of 2005–2007. It was the rebellion of the masses against the liberal elites using massive tactics of economic, social, and cultural social engineering to modernize the recalcitrant populations steeped allegedly in backwardness and prejudice. Ivan Krastev wrote in this context

The dominance of the liberal dominance in such a shape as it existed in the period of the political transformation [of the 1990s and early 2000s] has ended. The most characteristic feature of such transformation was the total dominance of the liberal elites into which a part of post-communist

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<sup>80</sup> A. C. Janos, *Central and Eastern Europe in the Modern World. The Politics of Borderlands for Pre- to Post communism*, Stanford 2000, quoted after Z. Krasnodębski, *Epitafium dla chwilowego radykała*, "Rzeczpospolita" 2008, January 8.

<sup>81</sup> Kaczyński's government in Poland challenged such a scenario, that is why his policies touched the nerve, both of the West-European liberal left elites and such elites in Poland.

<sup>82</sup> For instance, the protest of the liberal left part of the parliament against Sandra Kalniete, the deputy from Latvia, who wanted to equate communism crimes with nazi crimes. It exploded with an offensive of the liberal left against the new democratically elected, conservative government of Poland. One instance concerned declaration against 'homophobia'. It constituted an unprecedented attack on Poland, although not supported by 250 deputies of the Christian Democrats, who were convinced that the attack was groundless, apart from the fact that the 'homophobia' bears all the features of an ideologically devised 'crime'. When in December 2005, a Polish delegation erected a pro-life exhibition in a corridor of the European Parliament in Strasbourg, MEPs from France and elsewhere protested and the exhibition was removed. As a result of the Polish presence, a British MEP Michael Cashman said "on women's rights and gay equality, we are fighting battles that we thought we had won years ago". The meaning of this statement and the removal was, that certain topics were censored and off limits for discussion; an ideological monism was termed human rights. Quotation from "First Things" 2006, February, p. 64.

nomenclature was built into. The elites introduced democratic reforms and built the free market order. At the same time they imposed 'non alternative' vision of the future, which guaranteed them hegemony. It was against this 'non alternative' vision of history that populists and dissatisfied electorate rebelled, which brought to power [new governments]. This populist revolution in Eastern Europe will not destroy democracy, but it will change its character for good. The proper conclusions from this revolution should be drawn first of all by the elites.<sup>83</sup>

The deeper cultural causes are here at stake, which make modernization more intractable in Eastern Europe. Eastern Europe belonged to Europe for roughly 1000 years, but it did not belong to the West as defined by the French Enlightenment pattern of modernization, radicalized by the 1968 revolution. The category of the West is the post-1789 invention, where the universalistic ideology of the French Enlightenment was to be spread all over the world.<sup>84</sup> The Eastern Europe's nations were not touched much by the Enlightenment in the French version. It was mainly the idea of the elites of the dominating them empires. But by 1789, the East-European nations already had a very strong religious identity which for centuries had been their way of belonging to the European Christianitas on its borders, whether it had been Catholic or Protestant Christianity, the case of Croats, Hungarians, Slovaks, Lithuanians, Latvians, Estonians and, of course, Poles, or the Orthodox Christianity of Serbs, Romanians, Bulgarians, Moldavians, and Ukrainians from Central and Eastern parts of the country. Between these two great paths of nations stretching from the Adriatic to the north-eastern part of the Baltic Sea lie territories that are religiously mixed: Bosnia, Western Ukraine, Belarus, Transylvania, and Eastern Małopolska. All those lands were treated by the empires as border lands available for grabs. In the fight for survival, the most powerful weapon against the invader was, as usual, culture, and the most powerful part of it was the religion, mainly Christianity. All these elements were combined during the fight against the empires into the modern nationalist feeling. Here, the role of the Poles was paramount. Poles invented modern nationalism, the most efficient weapon against the empires.<sup>85</sup> It was after them that other European nations began to use this weapon.

Poles were lucky in the most unfortunate conditions, they were partitioned by Russia, Prussia and Austria exactly at the moment when their distinct and strong national consciousness was already being formed, rooted in the freedom-oriented cultural identification, coming from the Polish-Lithuanian Commonwealth ethos

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<sup>83</sup> I. Krastev, *Niech żyje populizm. Koniec liberalizmu w Europie Środkowej*, "Europa" 2008, January 12, p. 13; also: E. Todd, *Populizm zwyciężył*, "Europa" 2007, May 26.

<sup>84</sup> A Polish historian Andrzej Nowak writes in the Polish context, also characteristic for the rest of Eastern Europe, that at least in its Latin part it is "the pride coming from the historical belonging of Poland to Europe and at the same time the understanding of the difference between Poland and the West, and not the inferiority complex stemming from this difference. Poland has belonged to Europe for a thousand years, to the West we have never belonged – this is an 18th-century idea, which functions since the times of the French Enlightenment as an instrument of, not only, mental colonization of the entire non-Western [world]." C. Michałski, A. Nowak, *Dlaczego młodzi...*

<sup>85</sup> R. Szporluk, *Imperium, komunizm i narody*, Kraków 2002.

of the masses of poor nobility turned into intelligentsia.<sup>86</sup> For a very long time, this identification was still lurking back to the myth of the multinational and tolerant Commonwealth of Poland–Lithuania, despite the fact that after the calamities of mid-17th century, i.e. wars with Lutheran Sweden, Orthodox Russia and Islamic Turkey – Catholicism became an important religious and cultural identification point of the Poles. It is not therefore surprising that still until the 1860s, well before the other modern nations and national ideologies in Central and Eastern Europe were created, the lost Polish–Lithuanian state was a point of reference for many ethnic groups of the former Commonwealth, for instance, Jews.<sup>87</sup> It was only at the end of the 19th century, when East-European nationalisms, including Jewish Zionism, exploded, that the ways of the former inhabitants of the Commonwealth of Poland–Lithuania began to diverge.

Nevertheless, it was the Poles who in the 19th century were the greatest obstacle to the consolidation of Central and East European empires, and were on the barricades of every revolutionary and nationalist movement struggling for freedom, beginning with Napoleon and ending with Afghanistan invaded by the Soviets in 1979. With their battle cry ‘for our freedom and yours’ they were the most destabilizing factor of the 19th-century Europe and a threat to the absolutists empires, mainly Russia and Prussia, and – after 1871 – Germany. That is why we had the incessant black propaganda of these superpowers, acting in concert with the Western powers afraid to subvert the Congress of Vienna order, to portray the Poles as the nation being the obstacle to the civilized ‘ordering’ of the East attempted by the Russians and the Germans. After the brief period of independence in 1918–1939, this ‘ordering’ of the East was going to be done again by the Stalin–Hitler Pact of 1939, and then again by the Yalta Agreement of 1945. It failed for good in 1989, but the subconscious vocabulary of such an ‘ordering’ of the East, is still discernible in the European Union, especially Germany as well as in the Russian message to the EU about for instance ‘recalcitrant’ Poles trying to subvert its smooth cooperation with Russia. The message of ‘troubling’, ‘anti-Semitic’, ‘xenophobic’ Poles disseminated for instance during Kaczyński’s government period was an echo of this

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<sup>86</sup> It is enough to quote the famous advice given to Poles by Jean Jacques Rousseau in his “The Government of Poland”. Asked what to do in the face of the Partitions he stated that the Poles may be devoured by the empires, but should never let themselves be digested.

<sup>87</sup> The lands of Poland–Lithuania were the most tolerant seat of the largest, the most vibrant Jewish community in the 16th- and 17th-century world. This is why the name of Poland was in the Yiddish parlance ‘Polin’, meaning both ‘Poland’ and ‘one rests here’. The Commonwealth of Poland–Lithuania boasts of the two centuries of operation (until 1764) of the so-called “Council of the Four Lands”, being the largest and most influential system of Jewish self-government, the only such institution between the Sanhedrin of Ancient Israel and the Knesset of Modern Israel. After the Partitions, the lands of Poland–Lithuania captured by Russia, where the overwhelming majority of Jews lived, were termed the Pale of Settlement to which they were confined. It is thus no coincidence that Jews participated in all Polish national uprisings until the last one in 1863. On the position of the Jews in the Commonwealth of Poland–Lithuania, a huge state occupying the vast expanses of Central and Eastern Europe, and with the widest scope of individual rights and tolerance in Europe, see e.g.: A. Bryk, *Jewish Autonomy in the Polish Lithuanian Commonwealth from the 16th Century to the 18th Century*, “Archivum Iuridicum Cracoviense” 1988, Vol. XXI, pp. 51–69.

post-imperial mentality of the European elites and a large chunk of the liberal left elites in Poland, fuelled in the latter case by their postcolonial resentment and an attempt to escape from their own societies, and the inability of the Poles to recapture the European Union language and the marketing, image forming techniques for their own purposes.<sup>88</sup>

Christianity was a major part of this identity of East-European nations on the borders, with the Christian identity of Western Europe slowly eroded after the French revolution of 1789. Its secularized elites turned against Christianity perceived as a menace to liberal culture. The experience of the East-European nations was the lack of independent states. Destruction of the nation states in the region by the imperial powers playing sovereignty politics, taking over a place of European Christianitas, was for the East-European nations an act not only of political but also religious violence.<sup>89</sup> Everywhere, slavery meant an attack on the faith and thus the faith and the organizations of particular churches became the headquarters of resistance against empires. The overwhelming desire of such nations in the 18th and the 19th centuries was that of freedom. But it was an idea different from the liberal one in the West, where freedom meant something cultural and institutional at the same time: a rebellion against the internal structures of the states taken for granted. First of all, it was personal freedom, freedom of thought and expression, as well as full citizens' rights for all, and the liquidation of estate privileges. Freedom of thought and expression showed itself through the rejection of all authorities and dogmatic axioms, and thus it had to hit at the institutionally sponsored state Churches, mainly the most powerful Catholic Church, but also any creedal religion as part of the absolutist framework. Equal political rights quickly developed to social rights, and a demand for social reforms again pitted the lower echelons of the society against the authority of the Church, at least until the *Rerum Novarum* encyclical of Pope Leon XIII in 1891. Since this drive for social justice was often combined with revolutionary upheavals, the Church was for a long time antagonistic towards them. This way, both traditional liberalism and socialism were subverting the established order.

Such a development meant that the Western idea of freedom was very much congruent with antichurch and anti-Christian attitude. It slowly evolved into the basic Enlightenment principle of faith for the Western liberal and socialist elites defining culture. For this very reason the West-European culture has been decisively split since the eighteenth century between the elitist and dominant antireligious and antichurch current and the popular one, where mainly rural communities together with the waning aristocracy supported Christianity and its major denomination Catholicism. The Church was painted as antidemocratic, anti-freedom and

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<sup>88</sup> E. Thompson, *W kolejce po aprobatę...*; M. Muszyński, K. Rak, *Kompleks polski*, "Wprost" 2008, January 27, pp. 44–45; C. Michalski, A. Nowak, *Dlaczego młodzi...*

<sup>89</sup> The Orthodox peoples of the Balkans were under the occupation of the Islamic Ottoman Empire. The Catholic Poland – mainly under the Russia and its Orthodoxy, and protestant Prussia. Catholic and Uniate Lithuania – also under Orthodox Russia, and the Catholic Austria conquered the Hussite Bohemia and strongly protestant Hungary.

anti-progress institution, when, after Darwin and Nietzsche, Christianity was increasingly looked upon as an anachronistic superstition. Thus, the Western idea of liberal freedom was mainly defined against religion and against the Church, the former considered by the dominant liberal elites as being tantamount to prejudice, the latter as an anachronistic and reactionary institution.<sup>90</sup> The emergence of the Western idea of freedom was thus coterminous with the creation of two distinctive cultures battling each other. This fight was essentially over in the 20th century with the general weakening of Christian faith caused by secularization. The process was accelerated by the revolution of the 1960s, with its basic concept of ‘liberation’, tantamount to the right of an autonomous self to moral auto-creation, the final fulfillment of the Kantian autonomy principle, and the general demise of the Christian anthropology.<sup>91</sup>

Eastern Europe was different. Freedom reflected there the experience of the outside domination. It was violence against the national identity and national culture, the danger which the countries of the West never experienced. The attack on human freedom and dignity was first of all an attack against the communities which could nurture them, the nation and its culture. For this reason, the aims of the freedom fighters there were mainly national, to liberate the nations and their cultures. Here the churches and religion were not the enemy of freedom, they were its most important ally. It is true that the tangle of nationalities and different religious and national goals in Eastern Europe brought about also a struggle, sometimes bloody, between these nations. Yet that was not the only impulse of such freedom-oriented efforts. As a Polish socialist thinker Edward Abramowski stated at the beginning of the 20th century, the Poles were fighting ‘for freedom of Poland and freedom of everyone in Poland’, the modern equivalent of the traditional Polish battle cry

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<sup>90</sup> This is why, many of the future West-European civil wars had a very violent, sometimes murderous, antireligious and anti-Catholic Church component on the one side, and the pro-religious and pro-church stance on the other. Such was the Portuguese revolution of the 1920s, the Spanish Civil War of 1936–1939, the Italian strife for unification in the 19th century, and the 19th-century French protracted battle for full secularization, culminating with the Concordat of 1905. The same occurred in Mexico, let alone the genocide of the Christian clergy in Soviet Russia. This decoupling of Christianity from culture in the West, Christianity which ceased to move culture, was well captured by a Polish theologian, who left the Catholic Church in 2007, Tomasz Węcławski: “What Christian theology has to say in face of this disintegration of faith among humans and in societies. [...] Let’s repeat the question, has Christianity anything to say yet in this situation of disintegration of faith, which touches not only individuals, but entire societies, formerly Christian. What in a world of dead faith can one expect from Christianity, which apparently lost the battle for the soul of this world? Is not this whole world where [...] the lights of faith are just fading or turned off, a proof of [...] Christianity’s defeat. [...] What is happening in the very middle of the disintegration process, which happens to us against our will. [...] What is Christianity in the face of this disintegration?”, in: *Królowanie Boga. Trzy objaśnienia wyznania wiary Kościoła*, Poznań 2004, pp. 407–408; Paweł Hertz described this situation in other words: “As a consequence of the perceived separation between religion and culture something happened, something which is already irreversible. Culture has been chased away from its paradise. *The Iliad, The Odyssey, The Aeneid, The Bible, The Divine Comedy* [...] There is no going back to this seriousness, depth, simplicity, sureness and peace.” In: W. Wencel, *Wiersze zebrane*, Warszawa 2003, p. 146.

<sup>91</sup> On that see: D. Leszczyński, *Ludzie jako bogowie. Nowa lewica i zagrożenia dla cywilizacji chrześcijańskiej*, “Opcja na Prawo” 2008, January, pp. 21–25.



all over the world ‘for your freedom and ours’.<sup>92</sup> The religious dimension of this fight for freedom had thus a transcendent reference, and its earthly support in the organization of the Church. For this reason, the liberal elites in Eastern Europe were never able to dislodge this nexus between the fight for freedom and rights on the one hand, and Christianity and the churches on the other.<sup>93</sup> This was the reason why even some of the radical, even atheistic supporters of modernization in Eastern Europe realized this religious dimension as a source of cultural identity. It was a social capital, not an obstacle to modernization. From such a perspective the universal model of modernization whether of the revolutionary, socialist type of the kind Rosa Luxemburg represented, or the French Enlightenment secularization type of modernization, were treated with an enormous cultural suspicion.<sup>94</sup> Because of this unique difference

the experiences of the fighters for freedom in the East and the West of Europe totally branched off [from the 18th century onwards], they turned out, in fact, to be totally contradictory. As a result of this development the reach and depth of the 19th century secularization has been different. In France and in several different countries [in the West] it has become a massive phenomenon. In Central and Eastern Europe, with the sole exception of Bohemia, it has touched only these social circles, in which the fashionable West-European culture overtook the ties with their own culture. This is why [the East-European] secularism and atheism are sociological phenomena different than in the West, they do not constitute a distinctive community. I may be an atheist, you may be an atheist, but the secular ‘we’, as an integrated cultural and ideological subject – on a social scale does not exist.<sup>95</sup>

One element of this religious ‘gap’ is visible in the context of the role of the Catholic Church in Poland. It plays a special role in Polish democracy. It does not compromise the separation of state and the church principle at all, but definitely, more like in the American case, recognizes the public role, language and natural law thinking in public discourse. This role of the Catholic Church has been special, not only because of its historical and institutional role as a focal point of Polish fight for freedom and cultural identity. It is unique, because it was the Catholic Church which was a midwife of Polish liberal democracy in the crucial period of 1981–1989 during the talks between the communist government and the liberal opposition. Thus, the Catholic Church has since the 18th century played the historical

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<sup>92</sup> On the ethical dimension of this fight for freedom see: B. Cywiński, *Rodowody niepokornych*, Paris 1985.

<sup>93</sup> This situation had probably only a tiny equivalent in the West in the case of Catholic Ireland fighting against the subjugation by Protestant England.

<sup>94</sup> It is instructive to recall here Stanisław Brzozowski, the ‘modernizer’ who wanted to escape Poland’s backwardness, the guru of the generations of the radical Polish intelligentsia. In one of his influential books “*Plomienie*” of 1905, two revolutionaries, a Pole and a Russian enter a discussion on the tactics of revolution. The animated Russian, having heard a reference to Catholicism from the Pole, throws into his face an accusation as condescending as derisive: “Ah, you, Poles, always St Mary [Mother of God] and St Mary”. To which, the Polish revolutionary of the name Tur, reacts violently, clutching a chair and snorting against his opponent: “Shut up! I am not a believer, but of *Her*, it is hands off!!!”, *Plomienie*, Warszawa 1997, p. 400.

<sup>95</sup> B. Cywiński, *Między dwiema tradycjami. Fikcja jednej Europy*, “Rzeczpospolita. Plus-Minus” 2004, May 22; C. Michalski, A. Nowak, *Dlaczego młodzi...; Z. Krasnodębski, Demokracja imitacji...*

role of the interrex, she was a legitimate substitution for an independent state under the Partitions, during German and Soviet occupations of the Second World War, and under communist rule. At no time was this unity of the Church's fate with the nation's fate as clear as during the Second World War where 20% of the bishops, priests and nuns were murdered, altogether about 3000 thousands of them. Under communism, the Church survived the lethal threat of annihilation right after the war, and – after Stalin's death – was the institution defending the human rights in the name of the silenced nation, providing also a cover to all currents in the opposition movement since the 1970s, the role recognized then even by the most anti-Church liberal left groups in Poland.<sup>96</sup> In this sense, the institutional forms of the Catholic Church in Poland constitute the very essence of civil society, while its huge network of religious movements, charity chains, and vibrant local media is a fundamental backbone of a large chunk of the Polish civil society, irrespective of the diverse voices of Polish bishops. The new reality of liberal democracy has of course forced everyone to rethink an institutional role of the Church anew, and this is being done in most torturous and often misconceived ways. But in case of the Polish church, modernization can never be understood in simplistic Western way of secularization, let alone French type of *lad'cité*, let alone the Louis Zapatero's Spain, which in the latter case is simply another chapter of the old civil war of 1936–1939. If there is a need to rethink the role of the Church in the new conditions of democratic independence, it is simply a need for a new, wider state doctrine concerning the Polish state – church relations which cannot replicate the worn-out categories found in the abstract constitutional textbooks. It would have to take into consideration a number of simple truths regarding cultural identity. First, as one of the commentators observed, it

would make clear the nature of Res Publica itself, which has had a spectacular and original 'substitution' [for so long]. Second, it would describe the rights of the Church not as a representative of some sociological 'majority', but as an institution permanently written in the historic continuity of the Polish state. It is obvious that such a state of affairs would be contested by the constructivists theoreticians of the state and would be also contested by part of the liberal-left critics. But it would be more intellectually honest" than the present state of theoretical void. It should also be commensurate with the political culture of Poland, a form of plurality congruent with the vision of free and plural European Union.<sup>97</sup>

East-Europeans had also their misconceptions about the role of religion in the West. For them, Christianity was a language of freedom, while for the increasingly secular West-Europeans it was like harking back to the anachronistic past that was to be overcome, so loyalty once given to religion and culture could safely be placed in the hands of the secular state. The dominant East-European non-liberal left elites, let alone societies, who, whether religious or not were using more or less subconsciously the language and anthropology congruent with Christian-

<sup>96</sup> On the latter see: A. Michnik, *Kościół, lewica, dialog*, Paris 1977.

<sup>97</sup> R. Matyja, *O roli Kościoła w wolnej Polsce. Milczący arbiter*, "Europa" 2008, January 5.

ity, also at the universities' humanities departments, were surprised, after the communist freeze was over, that the West does not speak any more the cultural code of Christianity. At the theoretical level they knew it, but the cultural prevalence of secular model was stupefying.<sup>98</sup> The United Europe of Adenauer, Schuman, De Gasperi – all Catholics and all inspired by natural law – turned out to be deaf to such references. John Paul II who was elected the pope in 1978 still tried to relate to this language and anthropological imaginary during his pontificate, realizing at the same time that optimism of the II Vatican Council was probably misplaced. There was simply no need for the dominant liberal-left West-European elites to conduct a dialogue – any dialogue – with Christianity. Vatican II was in this sense a gravely belated diagnosis who the partner of this dialogue might be, and because of this mistake, it probably accepted a misguided strategy. John Paul II in his interpretation of the Vatican II sensed this. On the one hand, he still tried to preserve the deposit of the Catholic faith, refusing to accept the progressive liberal Catholicism's claim that history of the Catholic Church was divided into two parts, pre Vatican II and post-Vatican II. In other words he staunchly defended the claim that there was no radical rupture in the earthly history of the Church because of the Vatican II. On the other hand, not sure what this dialogue might bring, he tried desperately to connect to the culture of the West-European secular frame of mind.

The fascinating developments in theology seemed to define the situation of Christianity and the Catholic Church at the time and after the II Vatican Council. They are best captured by two distinct and at the same time opposing theological visions of the German theologian Karl Rahner and the Swiss theologian Hans Urs von Balthasar, the latter in the tradition of another great Swiss Protestant theologian Karl Barth. Both Rahner and Balthasar confronted the dramatic question of what the relation of Christianity to modernity in fact was, what the essence of the argument between them was, and – if there was an argument – whether it was to take a confrontational or dialectically symbiotic form. For Rahner, who is associated with the so-called anthropological revolution in 20th-century theology, the problem was on the Christian side, or to put it differently, the problem lay in the form in which Christianity expressed itself in modernity, the language it used and to whom it talked in this language. For Balthasar the problem lay definitely on the side of modernity, which was on a collision course with Christianity, irrespective of what Christianity would or would not do. The consequences of accepting one or the other perspective were serious for both sides. Rahner thought that what we define as modernity was intrinsically present in Christianity, and whether we liked it or not, we could not avoid it. We were part of modernity and our modern consciousness was the only medium through which

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<sup>98</sup> J. Staniszkis famously referred to it as a contrast between Western Europe which passed through the nominalist revolution, and the Eastern part which has not, remaining within the cultural imaginary of the classical definition of truth and natural law. She thinks at the same time, that this separateness will vanish because to retain this language of natural law may not be possible without traditional structures 'frozen' for so long in Eastern Europe, which may not survive. On her debate with P. Sloterdijk, see: *Czy Polska przetrwa w Europie*, "Europa" 2007, November 3.

we could find a path to God. Christianity and modernity were the same and to disentangle nexus and its limitations was possible only if we humbly accept the axiom that an individual searched for God as a subject that was autonomous, authentic and unsure of anything. This was the essence of his anthropological breakthrough, since it had an implicit assumption that every theology, because of incarnation, remained anthropology forever, until the Revelation. Anthropology was at the same time theology. The road to God was only through an individual and his self awareness in concrete time. This was an opportunity his Christianity to connect with modern Western civilization and its culture, the language it used and the aims it searched for. But there was also a danger that Christianity would become another subjectivist perspective of an autonomous self and God would simply become his auto-creation, the suicidal path the liberal theology since the end of the 19th century took with alacrity.

Balthasar's perspective was different. For him Christianity was to be a sign of defiance, since modernity was not a natural state of God's history, but a history in rebellion against God. If so, Christianity has as its urgent task to oppose the most heinous and nihilistic aspects of contemporary culture. This meant that Christianity and theology could not be part of modernity, but possessed conceptual, intellectual instruments, and a duty to go outside and pass judgment on this world. Rahner wanted modern Christians to overcome the intellectual schizophrenia into which modernity put them, Balthasar wanted them to understand that the choice existed and that this choice had to be made. For Rahner there was a correlation between Christianity and modernity in its hegemonic political form of liberal-democratic state, for Balthasar there was a challenge to the new metaphysical monism of the liberal state which decided to consider itself as a new Deity, the hegemonic culture which was a new heresy. The absolute rationalism of moral auto-creation with its fetish of 'tolerance', 'openness', 'dialogue', the injunction to stop asking the ultimate questions made a statement that "God of Christianity does not exist because He should not exist" its main commandment.

This was a dramatic choice and it seemed that the Vatican II sinned on the side of the optimistic account of modernity, John Paul II did not harbor such illusions, but still thinking that a dialogue with the Western, dramatically secularized culture was possible. He had one advantage of being the freedom leader for the East-European people under communism, finally helping to deliver them from bondage by means of his spiritual perseverance. Yet his language of Christian anthropology was rejected by the dominant culture in the West. It accepted Christianity, only if it was going to assume a specific subordinate role, if it melted into the framework of the existing liberal institutions, which considered dignity of man commensurate with the Christian message only on condition, that it became – to put it somehow ironically – a department of the welfare state. Because John Paul II tried to influence this culture of secularism, his message was rejected in Western Europe by the dominant liberal circles. Pope Benedict XVI, former Cardinal Ratzinger, harbors no illusion and seems to reject the idea of a dialogue which refuses

to grant the Church the right to be itself and wants only to tolerate it on condition that it accepts the language and conditions outside of it.

The Pope and the Church were thus to be accepted as one of the departments of the humanist civilization controlled by the enlightened progressive elites, not to challenge it into serious dialogue. In their view, John Paul II was useful, possibly as a fighter against communism, but otherwise he was a nice anachronism in the West: an ornament. To Eastern Europe, he was a beacon of hope and freedom. His final and unassailable loyalty was higher than the earthly powers, the moral universe which could never be given away at a peril of losing freedom. That was probably the reason why the fight against communism was successful and non-violent. The European Union of post-Christian generation of 1968 was decisively not willing to tolerate this cultural difference.

The language they used, especially that of ‘neutrality’, sometimes brings back the communist ghosts of religious persecution to East-Europeans. The mechanical language of rights as demands against community, the anthropology of sheer moral auto-creation clashes with the solidarity and the republican spirit of the European vision. But the liberal-left secular elites in Eastern Europe hoped, that after the accession of its nations to the European Union, this West-European hegemonic, liberal, secular culture would be accepted as the non-negotiable model of transformation.

This model termed ‘the European values’ in popular parlance, so as to give it a semblance of universality and hide its ideological character, was to be a yardstick towards which all the reforms would have to conform. It was to be also a tool of de-legitimization and intimidation, a new cultural paradigm, a metaphor of good and the antithesis of the bad. This was to be the essence of the post-political project of the 1990s in Eastern Europe. A stress put on administration and the allegedly set and done with for good ‘European standards’, was to preclude any idea that the discussion about the new, enlarged Europe will ever be possible.

### **Modernization as an open cultural problem**

One may thus say that too often the image of the East-European’s modernization inside the European Union was looked upon through the lenses of the classical postcolonial model of periphery v. center. On the one hand, this approach put the other models of modernization on defense, on the other hand, it also elevated the status of the liberal-left elites in Eastern Europe. They began to define themselves as the vanguard for a new modernization of which the perfect model already existed.<sup>99</sup> For this type of transformation an alliance between the new liberal-left elites

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<sup>99</sup> In Poland, this role was being symbolically played by the tone-setting liberal left “Gazeta Wyborcza”, and the host of intellectual centers around it, which monopolized the circulation of information, the language and the terms of the debate until the so-called Rywin corruption scandal of 2003. At the center of

and the post-communist elites was good. The latter were interested in getting the property and were essentially considering this new type of society neutral to their aims, which were liberal in economy and culturally nihilistic.<sup>100</sup> Modernization was going to proceed exactly as it proceeded in the West from the 1960s on, by catching up not only economically but culturally as well. It was a kind of crude neo-Marxist thinking where the advanced economic model was going to be combined with a particular type of cultural ‘superstructure’, a cultural model.

Eastern Europe puts a disproportionate stress on culture, identity and long historical memory. Its nations did not have sovereign states: instead, they were pressured to accept other identity. There, the state was always foreign, a symbol of enslavement. This situation was repeated under the communist domination. The communist state was ideological. Communism attacked the distinctive cultural and religious traditions. As the pre-1918 empires, the communists attacked cultural identity, whose important element was religious identity. Again, for the societies there the state was alien, a menace. It could not extract any lasting loyalty. The great suspicion of the top down manipulation nullified any attempt at reconciliation of a state and society. This was a historical, psychological difference which set the political culture of Central and Eastern Europe apart from Western political culture. West-European societies have no fear of losing their states as the best framework of nations’ life, even if organized not on the ethnic, but citizen’s type understanding of it. A state for an average West-European citizen is taken for granted. It is the secular shell with secular public space and religion increasingly pushed out from culture into the private domain. A state assumes a role of a catering Leviathan from which the services are extracted, a provider of equality. This modern idolatry of the state has as its source the fear of anarchy of the religious and civil wars of the 16th and the 17th centuries. This idolatry turns into full faith in the elites. The state as the best executor of the nations’ wishes meant that citizens fully identified with it. The community’s faith was tantamount to the faith in the state. The public sphere purged of religion was taken over by the state. It was slowly perceived as an institution responsible for all the material and spiritual needs of its citizens.

There was no way that such a conception of the state, subconsciously realized at the level of the trans-European institutional framework of the European Union, with all the necessary caveats as far as the differences in construction were concerned, would not clash with the East-European mistrust of a state, any state. To put it sharply, there is no idolatry of the state in Eastern Europe, and no unlimited trust in the elites operating it. Historical experience explains much. The unconditional acceptance of such a concept of the state, which the western elites consider

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this discussion stood such key concepts as ‘tolerance’, ‘neutrality of the state’, ‘separation of church from the state’, ‘emancipation’ from oppression’, ‘transvaluation of culture’, ‘transvaluation of Polish history’, looked upon as a history of endless oppression etc.

<sup>100</sup> The former post-communist prime minister Józef Oleksy stated in 2006: “My gang shoved Poland up their asses, but I never did... the expression recorded during a private meeting with one of the most wealthy Polish businessmen Aleksander Gudzowaty.

to be universal across the continent, would require from the Eastern part of the continent to change also its cultural identity. Exactly this operation was demanded by the historical empires in the past. Eastern Europe does not have such a faith in the state as a provider of everything from welfare to spiritual identification with its secular ideology. This is one of the reasons why the massive economic assistance from the European Union has not caused a corresponding massive gratitude in the East but a growing resentment, also in the West. The new states in Central and Eastern Europe are important, but the cultural code is anti-state. The nations and cultures come first, so there is an anarchistic distrust, a refusal to grant the state, whether it is a despotic or a liberal one, responsibility for the well-being of the individuals and societies.<sup>101</sup> From the point of view of the secularized western elites this is anachronistic. From the point of view of the Eastern societies, it is prudence combined with the realization that the new construction of Europe can also become an ideological, bureaucratic entity, the final obliteration of the venerable distinction brought to European culture by Christianitas between the sacred and the profane.

The argument of the unity of economic-political-cultural modernization sounded to the East-Europeans too close to the language communists used: an attempt to impose new monistic ideology. The slogans about 'European values' or 'proper' and 'improper' forms of civil society looked as a symbolic, postcolonial, ideological violence. When a Western liberal intellectual thinks populist he conjures the images of the Weimar Republic, thugs destroying democracy, anarchy, xenophobia, etc. – the images supported by the liberal-left elites in Eastern Europe. But populism in the style of the Weimar Republic is a German or Italian specialty and has little relevance to Eastern Europe. There, it is a sign of 'the political', more in the American grassroots sense of a resistance against manipulating elites. The latter's postcolonial mentality and the resulting inevitable rebellion against their own societies caused in turn a rebellion against the postcolonial mentality of the country leaders and the European leaders' postcolonial subconscious thinking.<sup>102</sup> The age-old conflict over what kind of modernization in Eastern Europe is needed is thus between the modernizers by imitation, or modernizers wanting to retain cultural identity: a dilemma of all postcolonial countries globally. Is this rapid western modernization going to mean, as historian Andrzej Nowak sees it in the Polish context,

an abandonment of the national identity. And this is exactly how it happens today. [Should we] breach ties and strive towards a complete a-historic, anti-historic, all encompassing irony [...]. [Should] it be founded on the experience of political and communal nihilism [...]. This critique of Pol-

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<sup>101</sup> This anti-state attitude was additionally enhanced in the economic sphere during the last years of the communist rule. The socialist state which always prided itself to be also an extensive welfare state began to decompose. The colossal loss of faith in the socialist welfare state, forced people to be self-reliant and first of all to shed psychological ties to the welfare state mentality, which the Germans or the French still have in excess. Poland was here in the 1980s the most visible example. This is why the imposition of EU regulations concerning welfare on Eastern Europe may be looked upon as an attempt to stifle the creativity of its societies.

<sup>102</sup> E. Thompson, *W kolejce po aprobacie...*, and *Sarmatyzm i postkolonializm...*

ishness happens in the conditions of a total lack of all standards, and not as an alternative proposition but solely as a model of national nihilism [...]. The consequence of such a critique will be a resignation from the national identity.<sup>103</sup>

Nowak in fact indicates the problem of the entire Eastern Europe. The strong identity of Western nations as e.g. France or Germany is not threatened by this post-political, post-national philosophy of modernization, whatever the utopias of the dissolution of nations, for good or bad reasons, argue. For the East-European nations, recovering yet from centuries of domination, such an imitation, may mean annihilation, mainly cultural. Their successful elites' desire to 'escape' to the European Union is self explicable. This attitude stems from the mental impossibility of living any more in the conditions of defeat. This would be perpetuated in the judgment of such elites, if an effort was taken up to reconstruct again nationalities on the basis which in the West was termed obsolete. The elites' mistake, even if for some of them made in good faith, was to forget that the West-European nations could do it, with a feeling of giving away something which did not destroy in any way their cultural identity and national assertiveness. Eastern Europe has no such mental and cultural space, no strong elites, no uninterrupted history, no short memory. They have souls haunted by fear, not of the European Union, but of cultural annihilation in the modernization tide, without having the same anchors which the strong nations of Western Europe have. Thus, the modernizing standard in Poland and Eastern Europe is justified only on condition

that Poland [and Eastern Europe] constitutes its significant pole, until this modernization accepts Polish [and EE countries'] identities, distinctiveness and serves the goal of strengthening, not liquidating [them].

Nowak explains the cultural significance of the 2005–2007 Kaczyński's government in Poland which elicited so much enmity from the West-European elites and the liberal left Polish elites. Without seeing this cultural dimension, there is always one way out,

the other model of the modernizing standard outside of Poland, this is the West. And [...] it is always easy to escape to either socialist internationalism in which Poland ceases to be important at all [once Rosa Luxemburg, today the ideologues of globalization] or escape to the inferiority complex forcing everybody to imitate the West. Today's attacks on [alternative roads to modernization] are conducted along the simple lines: let's destroy everything, because Polishness was wrongly conceived [...]. The problem is that our geopolitical competitors [as in the case of some of the old European Union] countries still exist on the map, but they have no tradition of a contemporary version of the republican patriotism [that is equal and partnership oriented], but solely the imperial one [as in case of Germany] or modernizing one [as in case of the European Union as conceived for instance by some elites, and also as practiced by Germany] [...]. Utopia takes today a more veiled, less crudely packed forms, the politics of expansion at the expense of weak neighbors is realized in a much more subtle way. But such menaces will be visible [...] freedom is not given [us] for good [...] it is impos-

<sup>103</sup> C. Michalski, A. Nowak, *Dlaczego młodzi...*



sible for the elites to realize their policies in a secret way, telling at the same time the masses, that is the electorate, the citizens, that there is no politics any more, that there are only smiles. This is the real *gnosis*, in which [the enlightened] and possessing the secrets have the right to manipulate the masses of idiots. Such a cleavage is against the community. Kaczyński talked to everyone, not only to the elites, saying that the reality of politics is a field of conflicts and a field of values, which define the community. Apparently he did not do it successfully [...]. [Nevertheless] he opened the Polish debate to all aspects of reality which were previously made taboos by those, who know better and want to decide in the name of the Polish ‘filthy pigs’, as minister Bartoszewski said, what kind of fodder they can eat.<sup>104</sup>

The German misunderstanding and sharp criticism of the Kaczyński’s government, coming mainly from the media, is especially instructive here in the context of the historical relations and modernizing pattern. This criticism and a barely disguised racist superiority complex show that the recent whirlwinds in the Polish-German relations have very deep roots. The problem is not the condemnation of Nazism by contemporary Germans – only someone with really wicked intentions would say anything like that. The real problem in the Polish-German relations are the mental throwbacks, reminiscences much older and stronger, going back to the colonizing tradition of the so-called the East. This turns itself into thinking that the East is a *terra incognita*, ready only to suck out the money and not ready to take responsibility for Europe. And here the problem begins. It is a question of what responsibility is and what modernization of the East means. The German problem is still the hidden complex of *Kulturtrager* and difficulties connected with this mental frame to accept politically independent Poland as a partner inside of the European Union and also to impose on it an ethical abstract standards which the Germans, responsible for the calamities of the 20th-century history consider a yardstick for the settling of accounts. It is this abstract yardstick which causes problems of historical memory, and which also prevents the civilized settlement of the claims of the resettled Germans from the East. The question is not of legal claims, however feasible they may seem or not seem, but mental claims. This makes, that

any political action in Poland not congruent with the German interest or images [how it should behave], is treated as a sign of Polish nationalism.<sup>105</sup>

This difficulty to accept Poland as a political reality, was visible historically also among these Germans who did not identify with nazism as Gerd R. Ueberschar [who writes]

We have to state that the opposition in the military forces, which has to be understood as a part of the power elite of the Third Reich, was congruent with the hegemonic plans of the nazis, for instance when we thought about attacking Poland.

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<sup>104</sup> *Ibidem*.

<sup>105</sup> Z. Krasnodębski, *Nieudana próba wypędzenia z Warszawy*, “Rzeczpospolita” 2007, August 11–12, p. A10.

In the plans of many conspirators, Poland was to exist solely as Rest-Polen, dependent on Germany. For instance von Stauffenberg wrote about the inhabitants of Poland:

this is an incredible scum. Very many Jews and very many mixed races. These people will be obedient only under a whip. Thousands of the war prisoners will be used for the purposes of our agriculture. In Germany, they will be useful, laborious and modest.

He stressed that it was

an important thing for us to begin a systematic colonization of Poland. I have no doubts that this will happen. [These examples show that] a critical settling of accounts with the past may not limit itself to a condemnation of a narrowly understood nazism, but [it must include] the total severing of ties to a tradition of an attempt to hegemonize East Central Europe. [Reconciliation] will happen only, when the Germans will really be able to accept Poland as a fact, as a political partner, even if [Poland] happens to be unruly, defiant, uncomfortable, and when they cease to think, that Poland is their 'cultural task' to perform on, also inside of the united Europe.<sup>106</sup>

A Hungarian writer, Peter Esterhazy observed wryly on Jürgen Habermas's criticism of East-Europeans and his comments about enlarged Europe after joining the European Union in 2004:

For a long time I was an East-European, after that I rose to the club of Central Europeans [...] several months ago I became a new European, but before I managed to adjust a little to this fact, I learned now, that I am not an original European.

Esterhazy's remark constituted an ironic confirmation of a poignant and menacing prediction of Tony Judt. Writing right before East-European nations were going to enter the European Union, he unequivocally stated in his important essay *Europe – a great illusion?* that the Eastern and Central European countries should have no illusion. The conditions on which they join the European Union, wrote Judt, would be dictated by the old members, first of all France and Germany.

This was understandable, he continued: that while the countries of Central and Eastern Europe were entering the club, the rules of the game were accepted, even if this was a bitter truth. But even after joining the club the countries [of Eastern Europe] are immediately threatened that the old boys will want to retain the upper position and decide about the future shape of the European Union.<sup>107</sup>

There are thus real differences between West- and East-European approaches to modernization which make the creation of the common European Union a torturous process. But there are, inside the transatlantic civilization, equally deep differences between the United States and the European Union, or to be more precise Western Europe.

<sup>106</sup> *Ibidem*, also quotations from German sources.

<sup>107</sup> Quotations from *Ci wspaniali rdzenni Europejczycy*, [in:] M. Cichocki, *Władza i pamięć...*, p. 176.

Their mutual approaches to political, social and cultural factors defining the modern situation are different.

### **Western Europe and the American universal Creed**

The United States and the old European Union, are two civilizations shaped by modernity symbolically associated with the Enlightenment, and in a popular parlance defined by an imprecise, but useful heuristic category of the West. The idea of the West is traditionally applied to Europe and the United States which have grown out of the same tradition. This approach was, for instance, visible in the canonical works of the prominent twentieth century philosophers of history Oswald Spengler and Arnold Toynbee. Such a shorthand definition is still handy, but many contemporary scholars like Samuel Huntington or Dennis Bark think that the United States is a separate part of the West. The idea of 'the West' has also another meaning. It is a cultural concept invented in the 18th century signifying a civilization bent on converting others to its distinctive mode of life and rationality. Although such an idea is still shared by the American and the Western elites, the meaning of this conversion has changed. For the Americans it is still, in general, a valid way of modernization. For the European Union it seems, at least in theory, no longer to hold water. The idea of the West signifies for the latter a dialogical project based on human rights, transnational organizations as well as international law shaped according to the European Union's picture of it. The American model seems to be more confrontational, the European – more conciliatory, and allegedly acceptable to all, but it contains obviously a great doses of ideological assumptions and the corresponding illusions.

Despite common Enlightenment roots, the American and the West-European models of modernity are different in their responses to political, social as well as cultural challenges. One paramount difference concerns the mode in which the United States and Europe were built. Whereas Europe was built inside the state structure by the privileged classes, America was essentially built by immigrants, beginning with the colonists, the most daring demographic stock, who avoided practices they always resented. America was built from the ground up, Europe from the top down. The immigrants' purpose was to form their own government themselves. Europe, on the other hand, was built by those who enjoyed privileges and who had much to gain from participating in government rule from the top down. This profound difference marked the historical outlook, shaped the view of the world and has affected the way Europeans and Americans live their lives. As a result, history of Western Europe has produced dependence by the ruled on those who govern, whereas Americans believe that it is the government's responsibility to protect the freedom of the individual, and not to limit it.<sup>108</sup>

<sup>108</sup> D. L. Bark, *Americans and Europeans Dancing in the Dark*, California 2007, pp. 11–14.

The picture is complicated by two caveats. This division runs not only between the United States and Europe. It is visible inside of the societies concerned, a process which might be termed, for lack of a better shorthand, a culture war. In the United States this culture war is strong, conducted in public with great intensity considered as acceptable, if not healthy for liberal-democracy.<sup>109</sup> In the European Union it is more subdued and considered rather to be a potential danger to public peace built by the paternalistic elites, bent on creating a prosperous and ideologically monistic zone in the name of the people, sometimes above them, an attempt to built a post political, transcending traditional conflicts, society. This ideological consensus has been effectively defined by the so-called generation of the 1968, which has achieved nearly a cultural monopoly and is mainly responsible for the present phase of the European Union's development. For this reason, in contradistinction to the United States, the foundational discussion about the shape of the modern European project, to all practical purposes, ceased to exist, and any attempt to ignite it is drastically criticized. This applies also to the internal, virtually consensus politics inside the old European Union countries with some exceptions including the United Kingdom. Structural problems of 'foundational' significance, for instance, the expensive welfare entitlements, a disastrous birth rate, chronically underemployed but demographically robust Islamic immigrants, and the role of Christianity are shunned away.<sup>110</sup> Additional complication in the mutual interactions concerns the open question of who will define the European Union's politics in the long run, for instance what the role of Germany will be in the EU, and what the Union's relation to Russia will be. For the European Union, Russia has been considered strategically its natural ally since 1991, due to historical sentiments of mainly the French and German elites. Russia, in contrast, has considered the European Union a rival. Russia will be playing its game to prevent the European Union to solidify into a successful and independent international player, and will possibly play it with Germany. Russia is also playing with the assumption that the American hegemony is temporary and will be waning. Another complication is the opening of the European Union to the post-Soviet countries of Eastern Europe described above. Last but not least, there is the question whether Americans consider the European Union to be a rival or a benevolent new empire whose aims are congruent with the American ones, and whether the Euro is a global competitor to the dollar.

It is usually thought that the United States as created by the Declaration of Independence of 1776 and the Constitution of 1787 is a typical ideological construction, an intensely modern, universal, ideological nation, full of proselytizing fever – source of both its dynamism and blunders. Having its merits, this view is

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<sup>109</sup> The literature on culture war in the United States is enormous. The term was popularized by J. Davison Hunter in: *Culture Wars: The Struggle to Define America*, New York 1991; also J. Petry-Mroczkowska, *Amerykańska wojna kultur*, Warszawa 1999; D. Bell, *Wojna kultur zastąpiła walkę klas*, "Europa" 2007, July 7.

<sup>110</sup> B. S. Thornton, *Decline and Fall: Europe's Slow Motion Suicide*, Encounter Books 2007.

nevertheless in need of revision. America is definitely a modern, creedal nation but the content of that creed has been built out of many sources, giving the United States a singular quality in relation to other modern ideological projects, for instance the French of 1789. The French and American models were created by 18th-century revolutions, but the operation of the Enlightenment ideas in the two societies was different. American modernity turned out to be a singular case in itself, set apart from the European model and treated by the latter as an irritating oddity. To begin with, Americans had their modern project rooted in the covenanted universal mentality of early Protestantism. They combined it with the secularized universal project of the Enlightenment – the social contract, and its conception of rights, visible in the Declaration of Independence of 1776, being the founding document of the new polis. Because of this unique combination Americans have a natural tendency to analyze their democracy not only in the light of original ideas, at the expense of historical evolution and forms they have taken, but also in the light of a particular religious promise, however secularized, which gave these original rights a messianic bent of being on the right side of history, as well as the cosmic order. Such a mentality is extremely resistant to any form of disenchantment, being at the same time prone to soul-searching and quasi-religious fear of failure, of breaching the terms of God's covenant. In this sense the original 17th-century protestant, mainly puritan religious experience, paved the way for a distinctively American, modern Gnostic heresy, a unique transformation of Christianity and its immanence in history, without its simultaneous total conversion to a secular, inimical project as done by the European modernity. The 17th-century

Puritan 'lust for massively possessive experience', an un-Christian *libido dominandi* for achieving existential security by drawing transcendence into immanence to transform all experience into proofs of divine election

gave the American political culture a messianic trait, transcendental and practical at the same time. History was going to be its testing ground, and history was on the American side, since God was on their side.<sup>111</sup>

American democracy has thus been from the beginning and is still today an intensely political and eschatological endeavor, in contrast to a post-political project of the allegedly administrative model of today's European Union. It understands itself as a place of a battle over its true shape and character. This battle has engaged many sides in American history with a heated moral rhetoric. But, beyond rhetoric, these arguments have always had a hidden dimension of unrealized promise of American dream and at the same time a fear that God's Covenant and the very republican experiment could be wasted. The American heritage creates consensus at the level of an exceptional idea, but this foundational creed causes

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<sup>111</sup> M. Henry, *Civil Theology in the Gnostic Age: Progress and Regress*, "The Modern Age" 2005, Winter, p. 38.

constantly civil wars over its interpretation with intensity in the media, society and politics similar only to the once violent religious wars between the orthodox and heretics.<sup>112</sup> In a society, founded both on a religious covenant and a political creedal revolution, there have always been attempts to confirm, renew or reinterpret the foundational values. The latter usually

involve elements of purification, Puritanism, mass participation, egalitarianism and the renewal of moralistic devotion [...]. In various periods of American history the level of creedal passion has increased generally throughout the body politic. New generations deeply concerned with the gap between the ideal and practice supplant earlier generations that were deeply concerned [...] to bring reality in accord with principle [...]. The question – how does [one] reconcile his belief in American values with his perception of American reality [...] is inescapable.<sup>113</sup>

Americans often fight violent civil wars to defend their interpretations of the same creed. Sacvan Berkovitch, a student of the Puritan origins of the American psyche, coming from Canada in the 1960s, was shocked by their intensity. He observed:

I found myself inside the myth of America [...] a country that despite its arbitrary frontiers [...] bewildering mix of race and creed, could believe in something called the True America, and could invest that patent fiction with all the moral and emotional appeal of a religious symbol [...]. It gave me something of an anthropologist's sense of wonder at the symbol of the tribe [...]. To a Canadian skeptic, a gentile in God's country [...] [here was] a pluralistic, pragmatic people [...] bound together by an ideological consensus. [...] It was a hundred sects and factions, each apparently different from the others, yet all celebrating the same mission.<sup>114</sup>

At the same time the founding myth of America is perceived as fully rational, because America was formed by common sense and rational people

not prophets, poets, or heroes. [...] Other men were not required to believe what they heard from the Framers but had merely to look at what they pointed to and judge for themselves [...]. Convinced that they had the best of any discussion about the good regime, the Framers [...] challenged [everyone] to meet them on the field of reason [...] to test their conviction. [...] This is the peculiarly American form of patriotism [...], our regime is founded on arguments not commands. Obedience to its fundamental law is not against reason, and it can claim to have resolved what was thought to be the unresolvable tension between good citizenship and philosophizing.<sup>115</sup>

<sup>112</sup> See e.g.: S. M. Lipset, *Consensus and Conflict: Essays in Political Sociology*, New Brunswick 1985, pp. 1–109.

<sup>113</sup> S. P. Huntington, *American Politics: The Promise of Disharmony*, Cambridge Mass. 1981, pp. 131, 85, 84. Huntington formulated this return to original sources also in a different way when he remarked that “critics say that America is a lie because its reality falls so far short of its ideals. They are wrong. America is not a lie; it is a disappointment. But it can be disappointment only because it is also a hope.” *Ibidem*, p. 262. Gunnar Myrdal had similar criteria of looking at American politics explaining the civil rights revolution as a conflict between the American Creed and practice. G. Myrdal, *An American Dilemma: The Negro Problem and Modern Democracy*, New York 1944, p. 4. Postmodernist, and later in life socialist, Richard Rorty looks at the source of American passion for reform the same way, titling his book *Achieving our Country*, Cambridge Mass. 1996.

<sup>114</sup> S. Berkovitch, *Rites of Assent: Rhetoric, Ritual, and the Ideology of American Consensus*, [in:] *The American Self: Myth, Ideology and Popular Culture*, ed. S. B. Girgus, New Mexico Press 1981, pp. 5–6; S. M. Lipset, *American Exceptionalism. A Double Edged Sword*, New York 1996, p. 291.

<sup>115</sup> A. Bloom, *Introduction*, [in:] *Confronting the Constitution: The Challenge to Locke, Montesquieu,*

The ideological, rational side of the American creed meant a futuristic, individualistic project understood as progress, liberating individual from all artificial shackles. This was a distinct modern code of the Enlightenment, its progressive mantra. Its political expression was the idea of a democratic, republican liberty in practical operation, not just imagined like in France of 1789.<sup>116</sup> The American futuristic, modern project was thus founded on the idea of a nearly religious faith in the unlimited possibilities of human mind and spirit to create the world anew.<sup>117</sup>

This modernist creed makes Americans an intensely ideological and at the same time an open nation, which constantly, consciously or subconsciously asks a question “Who are we as a nation created in 1776?”. In no other country such documents as the Declaration of Independence and the Constitution are not only legal, but at the same time theological documents, around which Americans can and want to gather.<sup>118</sup> This universal, democratic idea that the United States is not only national, but first of all purely ideological entity was perceived by foreigners from the beginning. The Austrian Francis Grund wrote in 1837:

An American does not love his country as a Frenchman loves France, or an Englishman loves England: America is to him but the physical means of establishing a moral power [...] theological habitation of his political doctrines.<sup>119</sup>

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*Jefferson, and The Federalists from Utilitarianism, Historicism, Marxism, Freudianism, Pragmatism, Existentialism*, ed. A. Bloom, Washington DC 1990, pp. 1–2.

<sup>116</sup> In the 20th-century Europe some thinkers of the left were fascinated by this practical democratic republicanism and liberty, considering such features as the necessary preconditions for socialism. For instance, Antonio Gramsci believed that Americans had national ideology as their most defining feature of political egalitarian culture. He wrote in 1920 that for Italy to be socialist, the Italians would have to become first like Americans, socially and economically, the embodiment of bureaucratic, democratic society without the pre-capitalist past still to be found in Italy and other European societies. In: S. M. Lipset, *Exceptionalism...*, pp. 291–292.

<sup>117</sup> This was understood in America from the beginning by common people. When ex-president Andrew Jackson was buried, one of the participants asked Jackson’s black servant whether he thought Jackson, who as many former presidents converted to formal Christianity, would go to heaven, to which the servant replied: “He will if he wishes to.” D. W. Brogan, *The American Character*, New York 1956, p. XVII. It was these ‘liquid’ potentialities of modernity combined with religious probity and courage which prompted Winston Churchill during the Second World War to declare: “When all other options fail, we can always count on Americans, that they do the right thing.” Quote after J. Surdykowski, *Dokąd zmierza Ameryka?*, Warszawa 2001, p. 166. Karl Marx in *Das Kapital* had America in mind while commenting that “the more developed country, the less developed image of its future it shows,.. In his judgment, the United States was in fact less exceptional, because other nations would follow suit, develop and ‘Americanize’”. In: S. M. Lipset, *Exceptionalism...*, pp. 291–292. See also: M. Berman, *Wszystko, co stale...*, p. 21. Marks was describing ‘liquid modernity’, something which Oliver Cromwell, had in mind, in a different context when he said, that no one goes as far as the one who does not know his direction.

<sup>118</sup> Thus, an exceptional role of the national flag in the patriotic and heroic American culture, one of the few visible symbols of a fluid, pluralistic nation. This central position of the flag is reflected in “The Pledge of Allegiance”, an oath written in conjunction with the 400th anniversary of Columbus voyage to America in 1892, when it was feared, that the tectonic social changes, including immigration, brought by modernity, could weaken the American identity.

<sup>119</sup> C. Van Woodward, *The Old World’s New World*, New York 1991.

A British journalist Alexander Mackay writing in the 1840s noticed that “America is the only nation in the world that is founded on a creed”.<sup>120</sup> In 1923, an English Catholic writer G.K. Chesterton exclaimed to Americans:

“You are a nation with the soul of a church”, adding that, America is “the only nation in the world that is founded on a creed. That creed is set forth with dogmatic and even theological lucidity in the Declaration of Independence; perhaps the only piece of practical politics that is also theoretical politics and also a great literature”.<sup>121</sup>

A writer in the tradition of the Southern Agrarians, Robert Penn Warren observed in the same vein that

to be an American is not [...] a matter of blood; it is a matter of an idea – and history is the image of that idea.<sup>122</sup>

The once famous liberal journalist Theodore H. White stated at the same time that “Americans are held together only by ideas” and a conservative publicist George Will referred to this democratic, universal concept of American identity when he declared a generation later that

we are, as Lincoln said at Gettysburg, a nation ‘dedicated to a proposition’. There is a high idea-content to American citizenship. It is a complicated business, being an American. We are [altogether] like Jay Gatsby – made up, by ourselves. Rather, we are made up of moral and intellectual resources that have been winnowed by time and must be husbanded. [...] America is always dependent on its collective memory.<sup>123</sup>

A Catholic intellectual George Weigel concurred:

The continuity of America is not the continuity of race, tribe, or ethnic group – the continuity of blood, if you will. Rather, it inheres in the continuous process of testing our society against those defining public norms whose acceptance as defining norms constitutes one as an American. In other words, American continuity is the continuity of conviction [...] the concept of America-as-experiment.<sup>124</sup>

Allan Bloom, political philosopher, an important critic of American culture and education at the end of the 20th century wrote that the American experiment was based on

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<sup>120</sup> *America Through British Eyes*, ed. A. Nevins, Peter Smith 1968, p. 261.

<sup>121</sup> G. Chesterton, *What I Saw in America*, New York 1923, pp. 7, 11–12; writing in 1923 Chesterton did not yet perceive the Soviet Union.

<sup>122</sup> R. Penn Warren, *The Legacy of the Civil War: Meditations on the Centennial*, New York 1961, p. 78.

<sup>123</sup> T. H. White quoted in M. Lind, *The Next American Nation: The New Nationalism and the Fourth American Revolution*, New York 1996, p. 220; G. F. Will, *Commencement at Duke in his “The Leveling Wind: Politics, the Culture and Other News”*, New York 1994, pp. 127, 132; see also: his, *Statecraft as Soulcraft: What Government Does*, New York 1983, p. 153.

<sup>124</sup> G. Weigel, *Catholic and the American Proposition*, “First Things” 1991, May, p. 38.



a liberation from prejudice, legitimized by reference to principles of justice assented to by man's most distinctive and most common faculty and persuasive to a candid world. The genius of this country – which cannot and does not wish to treat its citizens like plants rooted in its soil – has consisted in a citizenship that permits reflection on one's own interest and a calm recognition that it is satisfied by this regime.<sup>125</sup>

Americans felt exceptional from the beginning, this exceptionalism forming the basis of a specific ideological patriotism. A sense of national pride verging on superiority and xenophobia was noticed early on, by many. Alexis de Tocqueville gave it a sophisticated description in *Democracy in America*. Such a pride is irritating, as it is based on a conviction that the future belonged to Americans, because their identity was universal. It was to explain both the past and the future at the same time, the covenant with Providence once signed, and the end of history already guaranteed by the very existence of the United States. The past which was at the same time becoming the future. Such a feeling was expressed by nearly all American presidents from George Washington, through Abraham Lincoln, Theodore Roosevelt, Woodrow Wilson to Ronald Reagan and George W. Bush.<sup>126</sup> This does not mean that this American identity, modern and ideological is devoid of traditional cultural, pre-foundational, pre-constitutional elements existing before 1776, later additionally enriched by the immigrant waves, melting-pot experience and other historical bonds of memory.<sup>127</sup> American culture, customs and common memory have always been very much part of American identity and will be described shortly. Nevertheless it is this creed, political faith of exceptionalism and universalism at the same time, which transforms formal liberal democracy of contractual character into a secular religion, giving Americans a sense of self identification bent dynamically forward with reference at the same time back to orthodoxy, *Novus Ordo Seclorum*, political, social and cultural innocence and hope, something which prompted John Locke to remark when speaking about his social contract theory that “at the beginning the whole world was America”.<sup>128</sup> This secular religion has its rituals and symbols, kind of transcendental self identification with the once made covenant with Providence, meshed, more or less consciously, with Christian symbolic images, the cultural-religious code which for four centuries defined America's public language. It was the Word, the biblical language, the only truly original American high culture disseminated passionately through its history

<sup>125</sup> A. Bloom, *Introduction...*, pp. 1–2.

<sup>126</sup> E.g. Wilson, in his speech to a group of naturalized citizens in Philadelphia in 1915 remarked that “You have taken an oath of allegiance to a great ideal, to a great body of principles, to a great hope of the human race”, [in:] M. Kammen, *Mystic Cords of Memory*, New York 1991, p. 231; R. Reagan, *Moja wizja Ameryki. Najważniejsze przemówienia 40. prezydenta Stanów Zjednoczonych*, ed. P. Toboła-Petrkiewicz, M. Chodakiewicz, Warszawa 2004, pp. 286–288, 264–265. In his Second Inaugural in January 2005, George W. Bush stressed American uniqueness, speaking about a country pushing the world in the “visible direction, set by freedom and the Author of freedom, which referred to the idea of a covenant. See: D. Linker, *The Theoccons: Secular America under Siege*, New York 2006, p. 177.

<sup>127</sup> M. Lind, *The Next American Nation...*, pp. 234–337.

<sup>128</sup> J. Locke, *The Second Treatise on Government...*, p. 49.

by countless preachers, the language now secularized and included in the political creed about America as the Promised land.<sup>129</sup>

This is not a coincidence that the American Creed as a kind of secular faith fused with religious, Christian sentiments, was codified at the time of the First World War. The end of the 19th century was significant for American universalism in yet another way. American Protestantism, in all its diversity, began to decompose, influenced by the Protestant European liberal theology coming mainly from German universities. It had to confront a question what exactly the relationship between Christianity and modern culture was, a question ferociously assaulted by the combined forces of science and biblical criticism. The preachers of the dominant, main American churches, as well as the reform rabbis in Judaism came to a conclusion that because reality around them was changing, Christianity was to change with it. Trying, in their judgment, to save Christianity, Protestant liberalism put in fact in its place a modernist heresy, a new religion. It differed from the historic doctrinal rules such as the essence of personal Deity, the Bible, the meaning of Christ and the identity of the community of faithful, that is the church. Christian God was going also to be the immanent force in history, something like Hegelian spirit, rejecting the original sin, an ineradicable part of human existence, to be combated by personal conversion. The original sin became understood more as a consequence of historical process, the Christian equivalent of Rousseau's removal of evil from nature into history. Now it was possible to correct it by human means, making history the arena of personal redemption.<sup>130</sup> The secular version of this Protestant liberalism became a basis of its hope for a redemption from evil through the location of its sources entirely in history and social structure, the transformation of which was to bring equal and just society, both domestically and internationally. Internationally such an approach was visible on a grand scale at the time of the First World War when progressive Christian leaders in America transformed themselves from principled pacifists to crusading interventionists. They saw themselves as evangelists for the new gospel of democracy, international peace and ultimately for a redemption of the entire humanity, also through the agency of total war for a perpetual peace and democracy. That messianic gospel was symbolically represented by Woodrow Wilson's crusade to "make the world safe for democracy".<sup>131</sup> Domestically, this utopia

<sup>129</sup> An interesting instance of such a ritual was the public recitation, until recently, of the "American Creed", of which the more or less conscious equivalent was, a paradox in a largely protestant culture, the apostolic Creed of the Catholic Church. See: S. Huntington, *American Politics...*, p. 159. The Document, written during the first world war, became at the national level an ideological combination of messianic message with internationalism.

<sup>130</sup> On liberal Protestantism see: *Religious Issues in American History*, ed. S. Gaustad, New York 1968, pp. 173–224.

<sup>131</sup> See: R. M. Gamble, *The War for Righteousness: Progressive Christianity, the Great War, and the Rise of the Messianic Nation*, Wilmington 2003, esp. pp. 89–110, 149–232. The roots of this messianic democratic faith may yet lie deeper. In fact, this faith may be rooted in the Aristotelian classic idea of character being shaped by the conscious process of inculcating virtue, the universal endeavor transcending family, close relatives, and ethnic kin, possible to be applied to all who were termed barbarians. James Q. Wilson tried recently to answer the 'fundamental question' of how it happened that "people in the West were induced to believe that

became visible in a massive change of emphasis of the Protestant churches from Christian orthodoxy to Christian charity, making Christianity relevant and applied in history which became a vehicle of human redemption.<sup>132</sup>

That approach influenced the American and in general Western social sciences after the second world war. They became step by step convinced, that human problems could actually be solved by a proper application of progressive thinking and messianic zeal of secularized, heretical, protestant Christianity.<sup>133</sup> This philosophy gave later birth to such messianic liberal programs as The War on Poverty and The Great Society of the 1960s, and subsequent different social policies planned and executed by the federal government. Their aim was the total liquidation of poverty and eventually of human suffering through, for instance, an application of psychotherapy and other social sciences. Liberal Protestantism gave justification to such secular radical reforms by providing 'spiritual' support, resigning at the same time from a pretence of theological transcendentalism to judge the world on the meta-physical basis. This evolution brought liberal Protestantism to a position of being just a tool of the radical liberal reforms causing splits in all the churches.<sup>134</sup>

One of the dangers of such an immanently understood redemption of Christ through historical process, the American protestant equivalent of the Hegelian spirit, was a tendency to treat government and the state as an instrument of transforming reality in conjunction with God's plan. That way, surreptitiously, liberal Protestantism made Christianity the applied religion, making it a tool different from evangelical purpose, which was eschatological only in a perspective of individual redemption. This change had another pernicious consequence. Any resistance to the liberal progressive aims of Christianity were deemed automatically beyond the pale of legitimate social behavior, and vice versa, a resistance to liberal social programs were considered to be against the iron law of history set by God. Christianity was going to be only social charity congruent with the aims of the liberal state and subject in terms of its doctrinal content to intense privatization. In other words if not only social charity, Christianity was automatically commensurate with any other socially insignificant belief, as for instance magic. As a serious, legitimate point of reference it was confined to a stark choice. It was either social charity or

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our moral sentiments should extend to many, perhaps all people". Aristotle was thus the staunchest critic of cultural relativism in relation to moral sentiments, that "our deepest moral sentiments, to say nothing of our more transient or ephemeral ones, are entirely the products of culture, in which we are raised, and thus have no enduring significance outside that culture. The view has become so pervasive that many people, otherwise quite secure in their moral convictions, feel timid expressing them, for fear that others will think them unsophisticated or ethnocentric". *The Moral Sense*, New York 1993, pp. XII, XV.

<sup>132</sup> M. Gamble, *The War for Righteousness...*, pp. 49–68.

<sup>133</sup> It would be a subject worth studying, to trace this connection between liberal Christianity and modern progressive sociology starting with Herbert Croly's, *The Promise of the American Life of 1906*, through Gunnar Myrdal studies of the 40s, and culminating with the most classic of all progressive, messianic liberal works, namely, John Rawls's, *A Theory of Justice* of 1973.

<sup>134</sup> See: J. Budziszewski, *Four Shapers of Evangelical Political Thought*, [in:] *Evangelicals in the Public Square*, ed. J. Budziszewski, Michigan 2006, pp. 91–92.

nothing. And social charity as explicated by liberalism was commensurate with Christianity. It was either social liberal or nothing, in other words any opposition to it was reactionary and beyond the pale of respectable discussion.

Thus, the rebellion against such a role – prescribed for Christianity and religion in general to be a social program only – was treated with alarm, publicly suspect, and constitutionally considered a breach of the First Amendment. This largely liberal Protestant approach affected the Catholic Church as well, especially in the wake of the II Vatican Council.<sup>135</sup> The religious “Naked Public Square” was to be the goal of the American republic. A therapeutic welfare state with aims commensurate with the progressive liberals’ philosophy was to be its religion, extremely jealous of any competition. Religion was to be either a kind of a private faith or a cultural faith, an ornament of multicultural America.<sup>136</sup> This coupling of Christianity with liberalism and culture and the subsequent emasculation of its orthodoxy, has not been entirely successful in America. A rebellion of evangelical and conservative mass religiosity since the 1970s against this type of progressive Christian thinking, was in large part a purely defensive reaction ignited symbolically speaking by the *Roe v. Wade* abortion decision made by the Supreme Court in 1973. This rebellion turned out to be partially successful, forcing the secular liberal culture to question its basic assumptions. A monopoly of interpretation put on the American Creed by secular, progressive, liberal monism, with Christianity being part of it has not succeeded. But such an evolution has essentially succeeded in Western Europe, where Christianity has progressively become a religious department of the European Union liberal monism, with its sub-departments of welfare state and psychotherapy. It is tolerated solely on such terms, making the mission of the United Europe expressed in purely secular, aggressive antireligious value terms, its cherished orthodoxy.<sup>137</sup>

It is this religious dimension which forces us to look closer at the American creed. Although rooted originally in the universal Enlightenment ideas it does not resemble universalism of the European, continental Enlightenment. The political projects rooted in the Enlightenment in which the United States and the European

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<sup>135</sup> For an excellent analysis of this process, see: J. Bottum, *When the Swallows come back to Capistrano: Catholic Culture in America*, “First Things” 2006, October, pp. 27. The greatest achievement of John Paul II was probably to stop this sliding of the Catholic Church into a kind of social charity, history-oriented type of faith, focusing on progressive causes and sharply cut off from the tradition. He reintegrated the progressive interpretation of the 2nd Vatican Council into the entire history and eschatology of the Catholic Church and its project of redemption, taking it out of history, which befell the liberal Christianity, and giving it the transcendental dimension again. Possibly, in this way, the Catholic Church will cease to be a part of one’s chosen history, commensurate with the progressive social causes, and will again become an inherited tradition judging reality from outside. On this aspect of John Paul II’s teaching, see: A. Dullés SJ, *Blask wiary. Wizja teologiczna Jana Pawła II*, Kraków 2003.

<sup>136</sup> R. J. Neuhaus, *The Naked Public Square: Religion and Democracy in America*, Michigan 1984; P. M. Garry, *The Cultural Hostility to Religion*, “The Modern Age” 2005, Spring, pp. 121–131; R. P. Kraynak, *Christian Faith and Modern Democracy: God and Politics in the Fallen World*, Indiana 2001, pp. 1–44.

<sup>137</sup> J. J. Weiler, *Chrześcijańska Europa?. Konstytucyjny imperializm czy wielokulturowość?*, Kraków 2003; idem, *The Cube and the Cathedral...*, pp. 72–77.

Union have their origins, were not the same, the fact which accounts for their striking differences and misunderstandings. It accounts also for the religious orthodoxy being a legitimate part of the American public discourse, and its nearly total public extinction in Western Europe.

### **The American and the French Enlightenment**

The cultural separation of the European Union – mainly its western part, is now apparent. It stems both from historic circumstances and distinctive Enlightenment traditions. The differences between the ‘old’ and the ‘new’ European Union are also visible, due to the separate ways in which the Enlightenment has been experienced there, mainly its lack in the latter. Such diverse traditions bear on the contemporary responses to modernity. Naturally, the Enlightenment had common foundation, attacked the church as an established institution and first of all collectivism, seeking to replace feudal obligation with public citizenship, and revealed religion – with skeptical reason. After all an individual, freed from the self-incurred tutelage, was, as Kant said, the measure of all things. The modern liberal state was thus the summation of such individual preferences out of which a public policy would be devised. The colonists going to America, the British and the inhabitants on the continent accepted this view. But there were differences. And in fact they lead to the most basic question of today’s life as well, namely whether the good life depends on rights or on virtue and how virtue is acquired.

The American Enlightenment was influenced mainly by its Scottish branch, or more broadly, by the British one. Continental Western Europe was influenced decisively by its French variant. It was the French Enlightenment model which was to be accepted after 1789 by the dominant European elites. Their thinking and language has shaped the cultural language of Europe. The British Enlightenment was more common-sense and skeptical than the French. The latter was radical, speculative, purely rational. The French philosophers elevated reason to the primary role in human affairs, the Cartesian cultural trait which reached its highest embodiment in Voltaire, Diderot or Rousseau. The Scots and the British did not sanctify reason while analyzing reality. They gave it a secondary, in large measure instrumental role, putting emphasis on virtue, not so much on personal virtue as social virtue or social virtues. As the most important among them they counted compassion, benevolence, sympathy. The British believed that such social virtues bound people naturally, in an instinctual way. According to them people tended to habituate to certain mores by practicing certain social virtues from bottom up, this is what shaped character.<sup>138</sup> For instance, Adam Smith in his *Theory of Moral*

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<sup>138</sup> G. Himmelfarb, *The Roads to Modernity: The British, French and American Enlightenments*, New York 2005, pp. 23–34. In this sense, the British Enlightenment had certain distinctive classical references to the Aristotelian idea how character is formed by practicing virtues. For a clear reference from a thinker of the same

*Sentiments* of 1759 argued that sympathy, benevolence, and charity sprang directly from human nature. Being virtuous towards others, one was simply fulfilling man's true nature and at the same time approximating the universal moral order, which was not contrary to the moral order mandated by Christian God. In other words, human condition and social life in general had a purpose which lay beyond moral, rational auto-creation, had a built-in *telos* which made people both virtuous and at the same time benevolent towards each other.

Abstract reason was just one element of ordering the 'good' social order. Because of this ontological fact of human nature, intellectuals, the main purveyors of abstract reasoning, were just one group among the others, not outside others as having a unique insight into moral sense and virtue. *Ipsa facto* they had no privileged status of an 'elite' telling the ordinary people in which direction history had to go, first of all in the moral sense. David Hume in turn claimed, that the moral and political understanding was not the outcome of the rational thinking, but depended on sentiment rooted in culture, in the long experience which only then could bring fruit of the proper moral and political understanding. Our loyalties, criteria of conduct, our sense of morality and justice as such were not, argued Hume, stemming from moral absolutes, universal ideas formed by an abstract mind, but belonged to the long cultural memory, moral, social, linguistic code. Hume could be interpreted as a utilitarian, when he argued that the family and family virtues were not based on religion as such or an abstract sense of duty, and also not on an innate, pre-cognitive moral sense, but on utility of such institutions. But he was not consequential and not a pure utilitarian. For him, it was obvious that although, for instance, it was useful to have fidelity in marriage and marriage was useful to the child, love of a child was not stemming from utility, it was stemming rather from nature, and nature's habits, the idea he was taking from Francis Hutcheson. Thus, the political system for Hume was not only the outcome of the abstract thinking, but of the shaping of institutions on the basis of transmitted sentiments treated as a precondition of the good political order. A destruction of this pre-political basis would be tantamount to the destruction of the political order in the first place. For Hume, to use reason in such a way as to destroy the customary ways of thinking was imprudent, and was an invitation to social engineering which threatened public order and morality, especially private morality.

We may also include into the ranks of the British Enlightenment philosophers, these thinkers who have traditionally been considered conservative like, John Wesley and Edmund Burke, but who as well opposed the French type Enlightenment. Burke regarded moral virtue as the mainstay of society. In his judgment it stemmed from a recognition that manners, moral sentiments, and opinions were the

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moral school as Himmelfarb, see: J. Q. Wilson, *The Moral Sense...*, p. XIII. Wilson, writing in the tradition of the Scottish Enlightenment, takes up a task of explaining what justifies moral rules, "an effort to clarify what ordinary people mean when they speak of their moral feelings [...] and explain, insofar as one can, the origins of those feelings. This effort is a continuation of work began by certain 18th-century English and Scottish thinkers, notably J. Butler, F. Hutcheson, D. Hume, A. Smith.

most important sources of human conduct and they were not stemming from pure reason. Not *ratio* alone, but such sentiments, manners and moral opinions should be the basis of social relations and political life if a decent and stable society was ever to be formed. Thus moral action did not spring from the deliberate effort to translate into reality some idealized concept of what ought to be, how we should behave. Moral ideas arose out of habitual human behavior, they were implicit in our predispositions. They were accumulated more by a morality of customary, habitual behavior, it was out of such habitual behavior that they were translated into abstract ideas – abstract because they were simply transformed by a reflective thought, not created by it. Thus, as a motive of action, moral sentiments, passions, ‘prejudices’ offered a surer guide than reason. That was why

we are afraid to put men to live and trade each on his own private stock of reason; because we suspect that this stock in each man is small and that the individuals would be better to avail themselves of the general bank and capital of nations, and of ages. Many of our men of speculation, instead of exploiting general prejudices, employ their sagacity to discover the general wisdom which prevails in them.<sup>139</sup>

Appeals to ‘prejudices’, moral sentiments, natural feelings of repugnance and love was a basis of the English Enlightenment rationalists for whom emotions, innate moral impulses were wiser than human reason. We thus become virtuous by the practice of virtue, as Aristotle said: the way we acquire crafts, when many small moral actions arise simply because we acquire them by doing moral actions. This is, of course, at the same time a profoundly Christian sentiment, stemming from the idea of the original sin and the fallen nature of human condition. Virtues arise in us by training, not by nature or against nature, but in a sense that we are by nature able to acquire them and reach our betterment through habit.<sup>140</sup>

Americans of the 18th century were very resistant to the abstract reasoning of intellectuals, where any justification of a human action was going to be grounded solely in reason, instead of religion and moral life, where it was based on sheer utility or choice rather than scripture or custom. They rejected the conceit, that reason alone could independently order the impressions of the chaotic world and create stability, to make an individual a social and morally responsible creature. There was no cultural climate in America for a class of intellectuals, although all of them were people of the Enlightenment, to tell ordinary Americans that their moral decisions were made in the void and everyone, including children, could reinvent the rules all over again, every time they chose to. Moral decision making was always a part of a narrative and any morality removed from a narrative which gave one’s

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<sup>139</sup> E. Burke, *Prejudice, Religion and the Antagonist World*, [in:] *The Portable Conservative Reader*, ed. R. Kirk, New York 1996, pp. 25–26; G. Himmelfarb, *The Roads to Modernity...*, pp. 86–88; M. Oakeshott, *Rationalism in Politics*, New York 1962, p. 73.

<sup>140</sup> Aristotle, *Nicomachean Ethics*, [in:] *The Complete Works of Aristotle*, ed. J. Barnes, New Jersey 1984, 1103a23–1103b1, pp. 1742–1743.

individual life and community shape and direction was without any meaning. There was a danger that the merely intelligent and politically cunning would monopolize social values and aims. Such intellectuals would have an inclination to treat all not as morally equal citizens, but would consider them stupid, imposing on them their understanding of reality, dividing society on the wise elites and the stupid mob led by them. Something more than reason was needed to make sense of reality, to create free, democratic society, to socialize and bind them together. Burke named this something ‘prejudice’ – a moral idea. Kant tried to capture it by his notion of ‘categories’. Otherwise, as James Wilson, one of the American founding fathers, stated, referring to Hume, human personalities become merely a

combination or collection of different perceptions, following each other with the unimaginable speed [...] in incessant chaos and motion.<sup>141</sup>

Thomas Jefferson made a similar observation that

his own creed on the foundation of morality in man ‘impels him to reject the idea that’ on a question so fundamental, such a variety of opinion should have prevailed among men

that only reason and speculation were the tools given to man to make sense of his life. His observations compel him to conclude that

The Creator [made] the moral principle so much a part of our constitution as that no errors of reasoning or of speculation might lead us astray. [...] The Creator would indeed have been a bungling artist, had he intended man for a social animal, without planting in him social dispositions. It is true they are not planted in every man [...] but it is false reasoning which converts exceptions into the general rule [...]. When it is wanting, we endeavor to supply the defect by education, by appeals to reason [...] education, which exercises the functions of the moralist, the preacher, and legislator.<sup>142</sup>

The American Enlightenment, after the British one, had common sense understanding of reality, culture and common moral sentiment of the ordinary people as a barrier to the fantasies of a free floating abstract mind of the French thinkers. Common-law culture and rights against the encroachments of political power stood at its center. The American constitutional tradition was thus from the very beginning already established from the bottom up, with the ordinary people organizing their affairs. American society considered itself ‘good’, free by the laws of experience and the laws of the British constitution, despite the latter being violated by London. The constitution of 1787 was thus written as a short and negative document enumerating rights given to the new federal government and leaving the rest

<sup>141</sup> J. Wilson, *Lectures on Law 1790–1791*, [in:] *The Works of James Wilson*, ed. R. G. McCloskey, vol. 1, Cambridge Mass. 1967, pp. 213–214.

<sup>142</sup> “*The Moral Sense*”, letter do Thomas Law, [in:] T. Jefferson, *Writings*, ed. M. D. Peterson, New York 1984, pp. 1335, 1337–1338; G. S. Wood, *The Radicalism of the American Revolution: How a Revolution Transformed a Monarchical Society Into a Democratic One Unlike any That Had Ever Existed*, New York 1992, pp. 234–241.



to the states and the sovereign people. Irrespective of what has changed in such a picture, mainly through the activist power of the Supreme Court, the American constitutional experience has been fundamentally freedom-oriented, focused on the bottom up actions of the people able to form strong civil society.

The European experience has been different. The French Enlightenment contained a notion of a planned society, resistant to this bottom up discourse which might arise only between the individuals and groups spontaneously forming, seeking the arrangements through problem solving and compromising their demands. In the French Enlightenment there was an idea of an 'irresistible change', of history's direction already known and of the bureaucratic means applied to its furthering, an idea of progress implemented by the rational elites. This tradition was also recently visible in the discussions about the European Constitutional Treaty as well as are visible in the modern interpretations of what the human rights are. They are defined mainly through the dominant liberal-left concept of equality and 'inclusion', without a notion in relation to what, an 'exclusion' may be contemplated. In fact, the notion of 'inclusion' is based on a relativist concept of truth, which gives power to define such concepts to the strongest. Rights become thus the property of bureaucrats and courts.

Ideology of 'inclusion' so much part of the European Union constitutional parlance masks

the bureaucrat who is overseeing a system that ostensibly excludes no one from its benefits [but who] can easily justify the exclusive privileges that he himself enjoys. This trick was perfected by the Communist Party, which loudly condemned all privileges and distinctions, while rigorously excluding anyone who might jeopardize the privileges bestowed on its members. Hence the constant witch hunts, and the constant return to a 'correctness' that the party alone was authorized to define [...]. All European documents [...] including the constitution, contain gestures towards an 'inclusive' ideology, and this ideology will gradually exert a controlling influence over regulation. Not that regulation will actually achieve the goal of 'social inclusion': for like all technicalities of Euro-speak, this term denotes a mystery that cannot be unraveled.

The point is that measures must pass an ideological test. As long as the phrase 'social inclusion' can be uttered over them, regulations will be blessed and protests will condemn themselves as politically 'incorrect'. The function of the 'inclusive' ideology is not to include anyone, but to exclude those who pose a threat to the new political class. Hence the fate of Sir Rocco Buttiglione thrown off the gravy train for his orthodox Christian beliefs [...].

When people plan for humanity, they cannot allow human life to take its natural course, since that is a course inimical to comprehensive planning. The concepts that arise in normal dialogue arise from the need to compromise, to reach agreements, to establish peaceful co-ordination with people who do not share your projects or your affections, but who are as much in need of space as you are. Such concepts have nothing to do with the schemes and plans of the bureaucrat, since they permit those who use them to change course, to drop one goal and pick up another, to amend their ways and to show infinite flexibility.<sup>143</sup>

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<sup>143</sup> R. Scruton, *A Political Philosophy...*, p. 172.

This rationalist Enlightenment tradition has had relatively uncontested ride in the European history. It was additionally rooted in the long tradition of the European *noblesse oblige* of medieval times, the absolutist state and the elevation of the victorious rationalist intellectuals, as opposed to religious imagination, to the position of the only 'knowledgeable', 'enlightened' class, knowing the direction of history within an arbitrarily construed 'logic' of progress.

### Christianity and the two Enlightenments

One of the most important differences which distinguishes the American from the European continental Enlightenment in relation to a source of social virtue, is the attitude towards religion. American creedal passion is in fact intensely religious, or to be more precise – Christian, infused also with a gnawing fear of failure and betrayal of its covenant with Providence. This foundational, rational, Enlightenment creed has a distinctly Christian dimension, making it part and parcel of the cultural American code. The creed and religious beliefs have historically influenced and strengthened each other, making some rejoice, others decry that connection. American modernity did not delegitimize religion, mainly dominant Christianity, as part of the public discourse, such an effort has been attempted only since the 1960s, albeit with limited success. But for two hundred years American modernity incorporated religious dimension as its most basic and dynamic element, event if in a maddening, individualistic, confusing, largely symbolic and rhetorical way. Nevertheless, this religious dimension of American modernity put it at striking contrast with the post-metaphysical cultural code of the European Union, possibly with some exceptions, Poland being still the most visible one. Europe, or rather the European Union, has essentially become a post-religious society. Metaphysical boredom permeates its existence. Its culture ceased to be moved by religious, meaning mainly Christian, imagination. In fact the European Union treats any religious argument expressed in public a danger to social peace. The lack of Christian imagination has become in the eyes of its dominant ideological secularists a precondition of the modern, European self identification. Europe essentially went beyond the mortal fight out of the French Revolution between Christianity and the laicite, because the laicite won. Culture is no longer moved by religious metaphysics.<sup>144</sup>

The consequences of this situation for law and politics has been visible in an abandonment of any non positivist sources of reference. It was still possible to refer to the natural law tradition when Catholics Robert Schuman, Konrad Adenauer and de Gasperi began the European Union project half a century ago. Today, the post-1968 counter-cultural revolution following the logic of moral auto-creation made references to Christianity's ancient history. The human rights ideology as the new 'religion' of the European Union is just a fig leaf. It lacks any justification not

<sup>144</sup> D. B. Hart, *Religion in America: Ancient and Modern*, "New Criterion" 2004, March, pp. 6, 16.

only why human rights should operate outside of Europe, but why they should be obeyed in the first place. The only justification supplied is purely political, conventional. Moral autonomous freedom is their ultimate justification, and thus pressure to add constantly new rights to the list defined as human rights – for instance abortion or euthanasia – is incessant. There is simply no compelling reason why they should not be there, if moral auto-creation, beyond any objective standard as e.g. natural law or the very concept of objective moral truth, is the only justification of human existence.

Modern America is still far from such metaphysical boredom. Its culture, society and public life are permeated with religious references, language, ritual and morals. It would be a wild exaggeration to state that America is today a religious nation, let alone Christian one, if by that one means a society driven by the precepts of a particular faith in its day-to-day operations. But America is a religious nation because it is a nation with a mission rooted in a metaphysical justification very hard to dispel. This justification is a distinctly Christian one. And the public language still considers religious language, grounded partially in natural law, as part of the serious moral discussion which gives moral issues, despite all messiness of culture wars, moral gravity, engaging more people in a serious public argument. Both the Founding Fathers and politicians, preachers and common people have always had this burning thought at the back of their heads, that America's liberty was not tantamount to freedom as a moral license. Liberty has always been a communal affair of a chosen nation. It was just a morally neutral quality, defined by the objects to which it was devoted. In that sense America has been and still is a profoundly moralistic country infused with fear, that without a moral mooring, its liberties would collapse. The present culture wars which divide the United States are just one of the stages of that perennial battle. That is why

The American Creed [although] it doesn't play favorites when it comes to theology – atheists receive the same protections under the law that fundamentalists do – it does however, rest on a moral foundation. To abridge people's religious freedom cuts against the American grain, but no more decisively than to exercise freedom without a sense of moral responsibility. The American Creed calls our nation under judgment of an authority higher than sect, mammon, or self interest. Prompted in part by legitimate concerns about the direction society was taking, fundamentalists called on Americans to reopen their Bibles. They insisted that, apart from morality, the country would languish.<sup>145</sup>

Biblical morality has been symbolized by public utterances of the American presidents from the beginning. This has traditionally given powerful legitimacy to the religious sentiment in public life, since presidency is a symbolic American office, kind of a preaching pulpit, something which Theodore Roosevelt termed

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<sup>145</sup> F. Church, *The American Creed*, New York 2002, p. 82.

the bully pulpit, recognizing that the people expected the president in his monarchical capacity to be a moral leader.<sup>146</sup>

Speaking to an assembly of students at Tsinghua University in Beijing, China, on February 22, 2002, president George W. Bush, borrowing Gilbert K. Chesterton's definition of America being 'a nation with the soul of a church', summed up that strict union of faith and freedom in American psyche:

Faith points to a moral law beyond man's law and calls us to duties higher than material gain [...]. Under our law, everyone stands equal. No one is above the law, and no one is beneath it [...]. Faith gives us a moral core and teaches us to hold ourselves to high standards, to love and to serve others and to live responsible lives". He combined this ringing apology of American faith with one of American freedom. "In a free society, diversity is not disorder. Debate is not strife. And dissent is not revolution. A free society trusts its citizens to seek greatness in themselves and their country. The United States is, he added, a nation [which] shines as a beacon of hope and opportunity, a reason many throughout the world dream of coming to America.<sup>147</sup>

The continental European Enlightenment as defined by French *philosophes* was different. They were obsessively anticlerical, antireligious, mainly anti-Catholic. The British or Americans, both the elites and the people, were not antireligious, although very often anti-Catholic, decrying the double loyalty of the Catholic Church's faithful, and motivated by the fear of renouncing one's individual freedom in deference to the papal authority. There were reasons for that difference. The French Enlightenment thinkers were opposing sclerotic absolutist feudalism of which the churches, mainly the Catholic Church, seemed to be one of the major mainstays. That is why they could also count on a large part of the people driven by a burning resentment. But the virulent antireligious sentiments had also different sources, which explain why anti-Christian, mainly anti-Catholic attitude among the European elites persist till today. The Catholic Church and Christianity in general, were the only competitors, both to reason understood as self explaining source of human conduct which characterized modernity as such, and to the universal claim over civilized world which the Church and the rational elite of the West claimed to possess. The Church, Christianity and religion had thus not only to be battled as a political competitor, it had to be demonized and culturally delegitimized. Christophobia, the virulent bias against Christianity which has been visible in the West, and especially in Europe, began in the French Enlightenment which has since then defined the terms of a dominant legitimate cultural discourse against Christianity. This animus against Christianity was aided also by traditional Reformation's arguments against the Catholic Church, but since the Revolution turned against religion as such. In the French Enlightenment

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<sup>146</sup> F. McDonald, *The American Presidency: An Intellectual History*, Lawrence 1994, p. 436.

<sup>147</sup> F. Church, *The American Creed...*, p. 134.

the argument kept coming back to this – the great enemy, *l'infame*. The people were uneducable because they were unenlightened. They were unenlightened because they were incapable of the kind of reason that the *philosophes* took to be the essence of Enlightenment. And they were incapable of reason because they were mired in the prejudices and superstitions, the miracles and barbarities, of religion.<sup>148</sup>

The Anglo-Saxons understood the basic Enlightenment concepts such as human rights, liberty, tolerance, equality, let alone reason, science or progress as complementary to religion, that is Christian religion and the organized churches, not opposing them. The difference between the French *philosophes* and the British and American thinkers did not only stem from the fact that the former had as their background one state church they were battling, whereas in America there was a plurality of faiths and churches. If that was the source of differences, one could

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<sup>148</sup> G. Himmelfarb, *The Roads to Modernity...*, pp. 152–155. The irony of the French Enlightenment was, that the reason for the public reading of the philosophers' treatises was the Church, which in its schools taught the lower classes to read; these were the schools "for which the philosophers had such contempt". G. Weigel, *Enlightenments, modest and otherwise*, "The Public Interest" 2005, Spring, p. 155. It is interesting that today, in the multicultural context, religious beliefs are taken to be a part of 'culture', a kind of anthropological ingredient to be accepted as given and thus beyond any criticism. There is only one exception, that is Christianity, and sometimes, especially recently, orthodox Judaism. This Christophobia goes quite naturally back to the Enlightenment, and has to be sustained in today's multicultural circles of the liberal-left, because Christianity is taken for granted as the 'oppressive' religious structure of the dominant West, against which the multicultural framework could define itself. Christophobia, rooted in the Enlightenment, was based on the most hubristic idea which could really come out of the human mind, that mankind had hitherto been dominated by prejudices and superstitions, but now it was the province of the age of reason and the mankind will abandon this irrational magic for good. The corollary of this rejection was to define human essence in a sharp contrast to the theology of the original sin. Humans were searching and having a right to earthly happiness, with humanity having actual power to bring it around. This was the very core of the modern progressive thinking, whose instances included Jacobinism, socialism and rationalisms of various kinds, and logical positivism. The 19th century enshrined this idea as progress, the 20th century called it, in the language of the Frankfurt School "the Enlightenment Project". This modern superstition was based on the most cherished myth of the progressive thinking, that of control, but the starting point of it was the first need to totally remould the world by political means. At the surface, multiculturalism was battling this myth, since it renounced the idea, that all civilizations and peoples were to be incorporated within this project of earthy salvation, a global project. But at the same time, it made Christianity a part of the West's 'oppression' screen, and was willing to accept it merely as a part of the cultural frame, relativist and purely anthropological. Multiculturalism rejected any pretence of Christianity to engage this world in a reasoned argument about its moral condition, with a special stress put on showing what the result of human moral failings would be. The main aim of Christianity has always been to preach in public, not what the people wanted, but what it has always preached to humans, so that they understand that they want it. The public context of such a message could not thus be discarded, and the status of Christianity as a department of the multiculturalist model has to be rejected. In this sense, multiculturalists are not much different from the new atheists, like, for instance, Richard Dawkins, for whom religion is essentially the false explanation of this world, and thus the dominant though receding Christianity, is the main obstacle to it. That is why its religious, rational argument about the human condition, has to be merely reduced to a private superstition. Both the new atheists and the multiculturalists refuse to grant Christianity a status of a serious interlocutor in a conversation about the human condition. They consider their "rational" arguments, in case of the new atheists, and multiframe cultural framework, in case of multiculturalists, both taken from a vantage point of an 'objective', 'superior' point of view, as the only acceptable way of passing a judgment on this world. On Christophobia, see: K. Minogue, *Christophobia*, [www.newcriterion.com/archive/23/sumo5/bowman](http://www.newcriterion.com/archive/23/sumo5/bowman); also: Z. Krasnodębski, *Chrześcijaństwo czy Europa...* Criticism of the new atheists' attempts to revive the old Enlightenment superstitions, being part and parcel of the West-European dominant cultural frame of mind, which is absolutely incapable to attain the goals which it set itself to accomplish, for the reason of starting from the wrong assumptions which only religion could supply, see e.g.: R. Girard, *Polityka nikogo nie przeraża, liczy się tylko przemoc*, "Europa" 2007, December 29, p. 3.

argue that the Church of England or different state churches in the colonies, let alone those in some of the new states after 1787 when the constitution excluded the option of a single federal religion, should have provoked the same attitude. But it did not. The thinkers of the British and the American ‘Enlightenments’ realized that reason had no bounds, and that left alone it was the most subversive of agents, destroying not only the church and religion, but also all the institutions dependent upon them. Reason entered the role and became substitute of the absolutist state, and the Enlightenment French elite of *philosophes* found themselves in a position of the new king reigning over the subjects. That was visible in a way the French *philosophes* used reason to create a nation as a collective, rational entity, collective individual operated by state governed by the wise declaring a policy for all, the situation inconceivable in America. Americans

did not conceive of a nation, or a people, or a state, in terms of a unitary entity, a collective individual. None of these concepts were reified; they remained, as in England, but more conspicuously so, collective designations for associations of individuals. It is indeed a singular feature of the political language of revolutionary America that the word ‘people’ in it is used, as a rule, in the plural, for instance in the Declaration of Independence.<sup>149</sup>

This had profound constitutional consequences. The First Amendment separating the state and religion in the American constitution aimed at preventing the state’s encroachment on religion, rather than defending the state from religion. Religion was never treated as an alien threat to human reason. Modernity’s central precept that religion equals revelation, and as such is the enemy of the rational way of knowing, was never very appealing in America, although since the 1960s such a primitive view of it has been portrayed as its essence.<sup>150</sup>

The pitting of religion as revelation against politics as reason is based on a prevalent, although increasingly anachronistic conviction, that the religious wars of the 16th and the 17th centuries gave the modern state no choice, but to exclude religion altogether from public life as a precondition of securing public peace. This elimination was mainly caused by the rulers of the emerging nation-states, who wanted to eliminate any challenge to their absolutist rule. The idea of the reason of the state, as embodied by the corresponding idea of the ‘divine rights of kings’, whatever Christian justification was given to it, was a new idea, not commensurate

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<sup>149</sup> L. Greenfeld, *Nationalism...*, p. 426. Of course, rationalists of the American Enlightenment also shared this proclivity to treat Christianity as a pillar of the society bound to achieve happiness in this world and through American experiment. It was the idea implicit in the covenant, but this idea was much more muted, in comparison with the French rational plan to remould the world. The American constitutional system gave the civil society a radically wider space of independence from the political social engineering of the state machinery. It was characterized by actions from bottom up, resistant to outside manipulations, at least until the 1960s.

<sup>150</sup> This liberal-left standard perspective on religion is visible in an extremely shallow book, an example of the so-called ‘learned stupidity’, by an otherwise perceptive political philosopher Mark Lilla in *The Stillborn God: Religion, Politics, and the Modern West*, New York 2007. Lilla, to mention but a few examples, does not have a clue what the difference between e.g. Islam and Christianity is, does not recognize the role of natural law, especially in Catholicism, which is treated as a non entity.

with the 'divine right of kings' of earlier Christianitas. Its purpose was solely to protect the king, that is the absolute state power, from any rival authority irrespective what its source was, whether it was popular demand, reason or the Church. For the Church to accept this logic, and become either an impotent entity or a department of the state was suicidal, and the complicated relations of the state and religion in the West, let alone in Orthodox Russia, or American Liberal Protestantism from the end of the 19th century testify to that. But for centuries the Church was a separate entity, and whatever corruption was in it and how much it was combined with the powers that be, there was no doubt that it was the most powerful challenge and a barrier against the ambitions of the state.<sup>151</sup> Thus it was equally important that

the existence and prestige of the Church prevented society from being totalitarian, prevented the omniscient state, and preserved liberty in the only way that liberty can be preserved, by maintaining in society an organization which could stand up against the state [...]. The adjustment of the relation between these two societies was, of course, no easy matter. The history of the relations between Church and state in the Middle Ages is the history of the long dispute waged with wavering fortune on either side. Extravagant claims by one side called forth equally extravagant claims on the other. The erastianism of post-Reformation settlements was the answer to earlier imperiousness on the other side. But the disputes between the secular power and the papacy, however long and embittered, were boundary disputes. Neither party denied that there were two spheres, one appropriate to the Church, the other to the state. Even those partisans who made high claims for their side did not deny that the other side had a sphere of its own. They only put its place lower than did their opponents. The Christian always knew that he had two loyalties: that if he was to remember the apostle's command 'to subject unto the higher powers', he was also to remember that his duty was 'to obey God rather than man'. There are things which are Caesars and things which are God's. Men might dispute as to which were whose, but the fact of the distinction no one denied.<sup>152</sup>

The notion of religion as revealed commands from the sky being in competition with human reason was the very essence of the French Enlightenment, but was never a part of the American Enlightenment, and it stayed this way until at least the end of the 19th century where the New Humanism movement and the new pedagogy of Whitman and Dewey arrived. New Humanism tried to replace the references to moral law derived from biblical tradition by reference to rationally created rules of conduct, based on the new psychology and soon psychotherapy as, allegedly, overcoming religious superstition.<sup>153</sup> Whitman and Dewey wanted to replace religion and God as an object of adulation with America as an object of auto-

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<sup>151</sup> See on this H. J. Berman, *Law and Revolution: The Formation of the Western Legal Tradition*, Cambridge Mass. 1983.

<sup>152</sup> A. D. Lindsay, *The Modern Democratic State*, as quoted in R. J. Neuhaus, *Religion and Politics: The Great Separation*, "First Things" 2008, January, pp. 60–61. This is the reason, why the elimination of the Christian reference from the preamble to the European Constitutional Treaty had also political and legal, not only moral, implications. See: M. Cichocki, *Porwanie Europy*, Kraków 2004, pp. 112–118, and especially 116. The lack of that reference was also a clear sign, corroborated by many politicians, that Europe began with the French Enlightenment.

<sup>153</sup> For an excellent study of this transformation of the American Enlightenment tradition see: A. R. Heinze, *Jews and the American Soul: Human Nature in the 20th Century*, Princeton 2004.

creation, to replace God and to redefine religion and God as their future selves. Always a danger in the covenant Protestant religiosity, and in fact accepted as a goal of Protestant liberal Christianity at the end of the 19th century, New Humanism of Whitman and Dewey turned democracy into neither a form of government nor a social expediency but a metaphysic of the relations of man and his experience in nature. It was a kind of transformation of traditional monotheism to secular, rational civil religion.<sup>154</sup> Self-explicable human nature scientifically explored, was to replace the religious references as far as morality was concerned. America as a purely secular project of human auto-creation and betterment was to replace references to metaphysics. This development was responsible for the first splitting of American culture into two battling ‘cultures’ – religious and secular, similar to the European post-Enlightenment development and taking over the liberal elites towards nonreligious camp. This was the real beginning of the American ‘culture wars’, which in Europe began much earlier. The only difference being that, in Europe, the culture wars were so it seems for now, won by the secular side, some parts of Eastern Europe being notable exceptions, whereas in the United States the battle still divides the country.

Historically British moral philosophy which shaped American character, was distinctly reformist rather than revolutionary, respectful of both the past and the present, looking into the future, optimistic. But it had no problems with religion as part of the public presence and religious language as a mover of morality. In the United States the churches were the staunch supporters of the Enlightenment ideas, including liberty, in this religious liberty, which was a natural state of affairs. Religion in America was divided into many churches and sects who were guarding its freedom of worship. It was also very individualistic, because both Protestantism and American economic individualism went here hand in hand.<sup>155</sup> This constituted this double difference of the American religious landscape from the European one.

In Europe religions were highly institutionalized and for a long time connected with the state structures, and they were firmly locked within the orthodoxy as defined by official authority, which was true for a very long time even in the protestant churches. Neither condition was existent in America, and this lack was pushing towards religious freedom not only in institutional, classical liberal terms, but also in a psychological sense of religious choice and auto definition.<sup>156</sup> But in

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<sup>154</sup> On this poetic idea of Whitman and its application by Dewey, see the late exponent of this view, R. Rorty, *Achieving our Country...*, pp. 15–30, 22–38; also: J. Boffetti, *How Richard Rorty Found Religion*, “First Things” 2004, May, pp. 24–30.

<sup>155</sup> H. Bloom named this religiosity *American gnosis*. See: *W co wierzą Amerykanie*, “Europa” 2005, September 21.

<sup>156</sup> In this sense, the role of Christianity as an ally, not an enemy of liberty is similar to the experience of Catholicism in recent Polish history, visible in the Solidarity movement and the phenomenon of John Paul II. Such a symbolic role was visible especially during the Pope’s pilgrimages to communist Poland, when the large contingents of people, believers and non-believers from other communist countries were present. Such a human rights potential of the Church was at that time accepted even by the Polish thinkers of the liberal left, operating in a tradition of the French Enlightenment, generally hostile to Catholicism, which they considered a hotbed of



the British and American Enlightenment in general, religion and the religious sentiment of charity, philanthropy and judgment under God's law was the *sine qua non* condition of liberty, not an obstacle to it.<sup>157</sup> This difference between the French and the American Enlightenment cannot be overstated. Creating their political system, Americans never looked upon religion as an enemy of liberty and the churches did not look upon liberty as enemy of religion. The experience of liberation from the persecutions of particular European state religions, partially explains that difference. For instance, the Anglican Church was persecuting the puritans. Yet, the

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the xenophobic and nationalistic feelings. See: A. Michnik, *Kościół – Lewica – Dialog*, Paris 1976, where the author realizes that the Catholic Church was a force of liberty and issued a call to Catholics to form an anti-totalitarian alliance; a diagnosis largely ignored by the liberal left in the West.

<sup>157</sup> R. J. Neuhaus sounds convincing, when he explains the rationale behind the First Amendment in such terms. See his seminal *The Naked Public Square*. But he was only reacting against the secular "wall of separation" interpretation of the 1st Amendment as applied by the Supreme Court since 1940s, when the latter made the incorporation of the 1st Amendment into the state law. That Neuhaus's interpretation was correct, can be seen in many statements, as diverse as James Madison's comments during the Federal Convention, Members of the First Congress of 1789 and of the public press. It is visible also in a letter by the Jewish Congregation of Newport, Rhode Island to George Washington, and in his response of August 21, 1790. See: *George Washington Letter*, Newport 2002. In 1833, the most prominent commentator on the U.S. Constitution in the 19th century, justice Joseph Story explained the purpose of the religious freedom clause. It was adopted, claims Story, because different religious denominations and sects predominated in different states and, "it was impossible that there should not arise perpetual strife and perpetual jealousy on the subject of ecclesiastical ascendancy, if the national government were left free to create a religious establishment. The only security was in extirpating the power. [...] Probably at the time of the adoption of the constitution, and of the First Amendment, the general if not the universal sentiment in America was, that Christianity ought to receive encouragement from the state if it was compatible with the private rights of conscience and the freedom of religious worship. An attempt to level all religions, and to make it a matter of state policy to hold all in utter indifference, would have created universal disapprobation, if not universal indignation". "Commentaries on the Constitution", as quoted in: *The Constitution of the United States of America: Analysis and Interpretation*, ed. E. S. Corwin, Washington 1952, pp. 758–759; all sources confirmed this opinion: the Americans approved religious tolerance and religious establishments were left to individual states, but they also generally endorsed the idea of a religious foundation for their political order. *Democracy in America* by Alexis de Tocqueville shows this attitude well. As late as 1952 William O'Douglas, definitely a liberal justice of the Supreme Court stated the following in the *Zorah Case*, writing in the majority opinion: "We are a religious people whose institutions presuppose a Supreme being. We guarantee the freedom to worship as one chooses. We make room for a wide variety of beliefs and creeds as the spiritual needs of man deems necessary. We sponsor an attitude on the part of government, that shows no partiality to any one group and that lets each flourish according to the zeal of its adherents and the appeal of its dogma. [...] To hold that government may not encourage religious instruction would be to find in the Constitution a requirement that the government show a callous indifference to religious groups. That would be preferring those who believe in no religion over those who do believe. [...] We find no constitutional requirement which makes it necessary for government to be hostile to religion and to throw its weight against efforts to widen the effective scope of religious influence", *Zorah v. Clauson*, 342 U.S. 313–314, as quoted in: *The Supreme Court and the Constitution: Readings in American Constitutional History*, ed. S. I. Kutler, New York 1984, pp. 526–527. The religious freedom of the First Amendment was thus in the spirit of Gelasius, that the church and the state 'two are there'. But the First Amendment does not set up those two, State and Church, in fortified camps, at feud, but as guardians of freedom, forever watching each other. Unlike the Declaration of Independence, the Constitution contains no reference whatever to the Creator, or even to 'Nature's God'. Indeed, except for the First Amendment, the Constitution's only mention of religion is in the Article VI about the forbiddance of the religious tests as a qualification for any public Office or public Trust. But this neutrality notwithstanding the creators of the U.S. Constitution "took it for granted that a moral order, founded upon religious beliefs, supports and parallels the political order. The Constitution was and is purely an instrument for practical government – not a philosophical disquisition. The practical government in the United States, and in every other nation, is possible only because most people in that nation accept the existence of some moral order, by which they govern their conduct – the order of the soul"; R. Kirk, *The Roots of American Order*, Malibu 1977, p. 439.

nearly two hundred years of plurality and relative freedom of religion as well as economic independence on the American shores contributed to that nexus between liberty and religion.

The churches had it also easier to adapt to the liberal, egalitarian institutions in America, since they were part of an organic, active and pluralistic social development, mainly the protestant churches participation with their covenantal mentality. There were colonial state churches and later state churches, but there was always a chance of escape from their rigidities. The Constitution of 1787 protected this cultural, religious reality in the new federal republic. The First Amendment was put into the constitution not to protect the state and society from the churches and religion, but to the contrary, to protect religion and the churches from the federal state.<sup>158</sup> Such a rationale for the church – state separation in the post-1789 Europe, with the subsequent, gradual formation of liberal governments in the 19th century was absent on the Continent. The churches, mainly the Catholic Church were treated, generally, as a threat to the liberal state, to be limited in its institutional and cultural influence. This enmity towards Christianity and organized religion has survived in Western Europe, despite the fact that Christianity ceased to be in any way a cultural, let alone institutional competitor of the state. This enmity was strengthened by the cultural acceptance of the liberal left idea of ‘emancipation’, the legacy of the 1968 revolution.<sup>159</sup> The aforementioned interpretation of the First Amendment has not been shared by the liberal-left in the United States and the Supreme Court since mid-20th century, but the ability of a pluralistic American society to organize itself against this ‘European’ attitude towards the relations between the state and religion, its finances and ability to create counter elites still keep at a distance this ‘European’ attitude from capturing the public language, culture and the state institutions.<sup>160</sup>

In America reason, religion and science formed a friendly combination, while in continental Europe the French idea of sharp enmity between them began to define the culture as espoused by the major elites. The solidified myth that rationalist means secularist and statist at the same time, the idea influencing much of the present European Union bureaucratic and judicial elite’s thinking and activities, was neither present at the time of the American Founding nor is present today. America balances faith, freedom and common sense, something which Jon Meacham called

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<sup>158</sup> The 1968 revolution transformed culture. The idea of the autonomous self has been universally accepted as the sole basis of moral judgment and rights, set against any autonomous institution which would deny itself such moral freedom. The churches, mainly the Catholic church with its creedal teachings, were automatically putting themselves as adversaries of such a meaning of culture, and because of such a position, were considered by the 1968 believers to be an obstacle to the final liberation of an individual. The same concerns all the institutions trying to instill arbitrary moral judgments, for instance family.

<sup>159</sup> J. Bethke Elshaint, *The Bright Line: Liberalism and Religion*, Chicago 1999, pp. 139–156; see also her, *The Liberal Social Contract and the Privatization of Religion*, [in:] *Religion as a Public Good*, ed. A. Mittleman, New York 2003, pp. 13–26.

<sup>160</sup> On this attitude towards religion of the European bureaucratic elites in their approach to human rights see: M. Bracho wicz, *Agencja Praw Podstawowych Unii Europejskiej. O najnowszym pomysle inzynierii społecznej*, “Krakowskie Studia Międzynarodowe” 2007, No. 1, pp. 7–46.

a distinctive ‘American gospel’, a system of basic truths and convictions which may not necessarily represent orthodox Christianity or Judaism but are much closer to them than to the secular materialism of the elite culture.<sup>161</sup> America was founded on a peculiar mélange of public beliefs: a belief in the sacred importance of individual conscience put into Declaration of Independence’s dictum, that pursuit of happiness is the inborn, inalienable right and a belief in religious liberty as a precondition of liberty in general, not as a threat to it.<sup>162</sup> Since 1787 political and cultural background was to form the backbone of republican virtues, since citizens’ virtues were necessary so the constitution could be secured. This belief still defines the dominant cultural code of America, despite counter pressures of the ‘European’ style liberal left.<sup>163</sup> America in this sense has a peculiar, to use Benjamin Franklin’ term, ‘public religion’. It was different than public religion as conceived by Rousseau in France, which was artificial, man made. Franklin’s public religion derives a lot of its conceptual references still from the biblical culture and is tied to religious liberty as the main barrier against the idolatry of the state. It infuses Americans with nearly religious obligation to defend liberty at home and around the world.<sup>164</sup>

That is why the British and American Enlightenments, the common moral sense and religion as a socialized force have never been in opposition to modernization and traditional mores of society but treated them as mainstays of the free and modern society. The lack of conflict between reason and religion prevented the intellectuals from the hubris of having the uncontested free ride in implementing the policy of enlightened despotism as a political instrument of choice. Religion, mainly Christianity was a natural impulse strengthening free individual against encroaching modern state and reaffirming democracy, natural and practical, as opposed to merely philosophical, notion of equality of all. Britain and America formed cultures where the aforementioned combination was visible, where

religion, moral philosophy, and their egalitarian assumptions shaped the era. They worked together for the common cause: the material as well as the moral reformation of the people [...]. The environment in which these ideas and practices were born and how firmly they still mold the moral sense and common sense of the English speaking world today.<sup>165</sup>

<sup>161</sup> J. Meacham, *American Gospel: God, the Founding Fathers, and the Making of a Nation*, New York 2006.

<sup>162</sup> D. L. Holmes, *The Faiths of the Founding Fathers*, Oxford 2006.

<sup>163</sup> Such an idea of public religion has its supporters and critics, both from the religious and nonreligious people. Franklin spoke up for “the Necessity of a Public Religion”. In the 20th c. Roman Catholic visitor to America from England Hilare Belloc referring to it as an experiment, was suspicious, stating: “I must close with this suggestion, putting it so that it shall be as inoffensive as possible. [...] The new and separate spirit which has made America, which creates spiritual condition peculiar to that Continent, may produce, perhaps will soon produce, at any rate tends to produce, some quite unique experiment in the field of religion. We have had islands, as it were, of such experiments. But [...] seeing the rapid intensity and unity of such action, I cannot but think that the future holds some rapid [...] new American growth; a new body and organization of the domain of religion. Not an isolated, fractional experiment, but a great national or cultural invention. A new Religion.” Quoted in: M. E. Marty, *Religion and Republic: The American Circumstance*, Boston 1987, p. 167.

<sup>164</sup> K. Windschuttle, *Which Enlightenment?*, “The New Criterion” 2005, March, p. 68.

<sup>165</sup> G. Himmelfarb, *The Roads to Modernity...*, pp. 82–83.

For this reason, although not for this reason alone, the Anglo-Saxon world has so far found a better formula for being more dynamic, economically robust, prone to charity motive, stemming not from the bureaucratic command of a taxing state, but from the moral impulse of citizens. This dynamic motive has been in large measure religious, indispensable to freedom and well-being. As Edmund Burke said

religion itself, and religious dissent most noticeably was the very basis of liberty – of all liberty, not only religious liberty

and that is why it was, as Methodist John Wesley remarked, Enlightenment ‘for the common man’.<sup>166</sup> It was an Enlightenment

within piety, not an Enlightenment against religious conviction”, that is why it was much better in ameliorating disruptions of modernization, more moral and social reform oriented by innumerable measures of common people. Thus religious conviction and religious establishment and a considerable degree of religious tolerance.<sup>167</sup>

The French Enlightenment project has been defined predominantly through the lenses of personal ‘liberation’, beyond any communal experience. The rights trump any communal duties and the legitimacy of any political order and civil organization has began to be assessed through such lenses. In this context religion should be pushed into purely private domain of individual pastime.<sup>168</sup>

## Rationalism and human rights

The English Whigs looked upon the social contract theory after 1688 ‘Glorious Revolution’ in the light of a unique combination of reason filtered through the English tradition of common law. The rights were never understood in England as separate from the procedural and institutional setting of political life, as formed in abstract by rational speculation. David Hume, William Blackstone and Edmund Burke were aware of that. In England there was always a reference to the ancient

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<sup>166</sup> G. Weigel, *Enlightenments...*, p. 154.

<sup>167</sup> America is, of course, already divided. The traditional American Enlightenment pattern of both modernity and religiosity is visible in the so-called ‘blue’ states as against the ‘red states’, where liberalism understood as a combination of secularism, statism and elitist rule seems to be regnant among the elites. The lesson of the American Enlightenment in this regard, that is the combination of modernity and religiosity, seems also to be more conducive to any reform in the Middle East Muslim countries, where the rationalist and aggressively secular project in a nonstarter.

<sup>168</sup> D. T. Rodgers, *Contested Truths: Keywords in American Politics since Independence*, New York 1987, pp. 50–51; W. Blackstone, *Commentaries on the Laws of England*, Chicago 1979, reprint, Vol. 1, pp. 51, 91, 157; D. S. Lutz, *The Relative Influence of European Writers on Late Eighteenth-Century American Political Thought*, “American Political Science Review” 1984, Vol. 78, pp. 189–197; H. F. May, *The Enlightenment in America*, New York 1976.

constitution of England.<sup>169</sup> John Locke asking a question who was going to stop a tyrannical government, if it violated the rights of social contract, could only point to rebellion, but rejected it. Rebellion outside the institutional framework as well as the idea of rights outside of political practice of parliamentary sovereignty was inconceivable in England. Hume was very suspicious about abstract human rights, the state of nature in which they were allegedly in pure form exercised by humans, and the way they were to be rationally discovered. He was aware that the idea of rights, the social contract and the state of nature theory of John Locke were in vogue. So was the idea of emancipation of Jean Jacques Rousseau. Yet, such an intellectual enterprise was from his point of view preposterous. In an essay *Of the Original Contract* of 1748 Hume ridiculed the idea that for instance the 18th-century British subjects born into society could be treated as visitors from the state of nature, carrying rights formed there. For Hume, Blackstone and Burke it was not the mythical, abstract, rationally conceived hypothetical past, point zero in history, but history, change and experience, the basis of political solutions. A similar argument was used by another Scottish political philosopher Adam Ferguson who in 1767 wrote that

If we asked, then, where is that state of nature, the answer would be not at the beginning of creation but 'here', 'at present', where concrete, historical people use their practical reason for the betterment of their conditions.<sup>170</sup>

The British and American thinkers lived in a different world than the French *philosophes*. The latter lived in a world of abstraction, the former were men of action. For instance the authors of the American constitutional system had practical experience in democratic politics of give and take, experience in government as well as experience in business, and generally liked the society in which they were operating. They were concerned with politics of order and liberty, so the bigger constitutional frame was intended merely to ensure this liberty would be more secure against the exigencies of outside world. For this reason the constitution of 1787 was short, concrete and negative, and so was also the Bill of Rights attached to it in 1791. The French philosophers had little public experience and contact with the real 'people'. Their adage *liberté, égalité, fraternité* was to be construed out of the abstract image, after the society so far existing was to be destroyed. This difference of approaches was visible, for instance, in Edmund Burke. Burke, like Fergusson or Hume, treated the British constitution, with the king in parliament, as born time out of mind. An attempt to dig into some abstract, rationally defined human rights, wrote Burke in his polemic with Paine

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<sup>169</sup> S. C. Stimson, *The American Revolution in the Law: Anglo-American Jurisprudence before John Marshall*, Princeton–New Jersey 1990, pp. 42–44; L. Armour, *John Locke and American Constitutionalism*, [in:] *Constitutionalism: The Philosophical Dimension*, ed. A. S. Rosenbaum, New York 1988; A. Bryk, *The Origins of Constitutional Government: Higher Law and the Origins of Judicial Review*, Kraków 1999, pp. 230–231.

<sup>170</sup> D. T. Rodgers, *Contested Truths...*, pp. 51–52.

in all their nakedness and solitude of metaphysical abstraction was only a catastrophic dream, destroying every political society.<sup>171</sup>

Burke who urged Parliament to respect the American quest for representation and warned against punitive actions, regarded moral virtue as the mainstay of society. He recognized that moral sentiments, opinions and manners, not reason alone, were the important sources of human conduct and should be the basis of social relations if a decent and stable society was ever to be formed. William Blake rebelled also against abstract reason. For him, reason meant something else than *ratio* – everything which was just opposite to imagination, the same way as for Burke *ratio* was something contrary to prescription.<sup>172</sup>

For Burke and Blake the limitations of abstract reason came from the same source, its circular argument. Thinking was first of all the consequence of mutual relations between men, the world and experience

creating in the world the thing in the imagined meaning of men, so that way such a model of the world could be created, in which the man should live and in which lived, before reason began to deal with it. Reason can create nothing in the world: it can only look into it as into the mirror, so it can then create the logic of circular argument, like the squirrel in a cage [...]. Whoever sees ratio only sees himself only.<sup>173</sup>

The revolutionary Americans were cautious to turn from concrete to abstraction. John Adams, using the experience of the colonial society as ‘good’, was unsure where intuition about rational, natural human rights might lead him. Practical Franklin was suspicious of any abstract, rational speculation of the philosophers. In the 1770s the notion of natural rights began to be understood in abstract. In *The Common Sense* (1776), the wildly popular revolutionary pamphlet by Thomas Paine, rights were a retrospective construction derived from abstraction called the state of nature. But the idea of abstract rights never entirely took hold in America. It would have meant that colonial politics and society was illegitimate, waiting to be destroyed in its totality, as was the case with the feudal, absolutist state and society in France. The rhetoric of abstract rights visible in the Declaration of Independence was wider, and differed from the French Declaration of the Rights of Man and Citizen. Americans harnessed the general, abstract natural rights of the Declaration by the rules of the Constitution of 1787. The doctrine of extralegal, beyond the British constitution, natural rights of the Declaration was just a rhetorical device to justify independence. But immediately such rights were tied to the concrete institutions with reference to already existing political order considered to be good, formed as part of

<sup>171</sup> E. Burke, *Reflections on the Revolution in France*, [in:] *The Portable Conservative Reader*, ed. R. Kirk, Penguin Books 1982, pp. 18–19.

<sup>172</sup> N. Frye, *Biblia Blake'a*, “Znak” 2006, December, p. 88.

<sup>173</sup> L. Strauss, *Natural Right and History*, Chicago 1950. Thus, it seems fair to conclude that if the United States were settled not by the British, but, for instance, by the French or the Spaniards, the American idea of liberty, republic, and in general the character of the American Enlightenment, would have been totally different.

the original covenant with God, as *novus ordo seculorum*. The anarchy of creating new, abstract, a-historical rights was closed. The state of nature was closed.

In general, this tradition of practical, social natural equality, self-government, benevolence of a republican, religious society modified significantly Locke's epistemology and hubris of continental Enlightenment rationalism, and the conviction that the elites can master it. A distinctive colonial history and culture gradually modified, caused the Americans to be impervious to the absolutist faith in the power of reason to order the information about the world, which Locke's sensualism made the source of knowledge. Americans accepted milder versions of British rationalism, relying more on the common sense of David Hume and seeking in the moral, commonsensical thinking, sympathy and benevolence due to nature given to every man, a moral compass of everyday conduct. Hume appealed naturally and logically to culture in its traditional, Latin meaning of the word, 'culture' as taking care of, growing, grooming, betterment, from a word 'cultura'. At the beginning it was applied to agriculture, but when applied to public matters 'culture' began to mean the organic, nearly invisible, historically changing, as a glacier, set of notions, in opposition to abstract, purely speculative and imaginary, ideological connotations. In such a context the creed of the Declaration of Independence and the Constitution could only be understood in the wider context of history and culture. The Lockian tradition of natural laws must here be interpreted through the lenses of American religious tradition, making out of the Christian idea of personal betterment and moral truth, the limiting element of rights understood not only through the lenses of individual desire. The constitutional tradition loses then the stigma of abstract universality to be accepted by all. Cultural traditions in such a sense have always been in conflict with unequivocal ideological and purely rational interpretation of the natural laws' tradition. Leo Strauss had that exactly in mind when he had reservations about the idea of natural laws as contrasted with the idea of natural law. He thought it to be a slippery path of natural law turned into natural rights understood as subjective will of the autonomous subjects.<sup>174</sup>

Natural rights should then be understood not solely as an outcome of a philosophical, abstract thinking, but would be limited by the necessary obligations of a community, organic principles of a given society in confrontation with abstract ideas. In such a context, a tradition of religious natural law does not have to be contradictory to natural laws but in fact may contain them. This is visible in the Declaration of Independence. Culture in this context becomes heritage, understood instinctually, beyond rational categories. Identity in such a situation is not a primitive attachment to *Gemeinschaft*. It becomes a point of confrontation with the rational schemes of the imagined world. Such a process lets one ask questions about moral justification of any theoretical constructions, and to what extent they are

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<sup>174</sup> On Hume and the American tradition, see: B. C. S. Watson, *Hume, Historical Inheritance, and the Problem of Founding*, [in:] *The American Founding and the Social Compact*, eds. R. J. Pestritto, T. G. West, Lexington Books 2003, pp. 73–94; idem, *Creed and Culture in the American Founding...*, p. 36.

an outcome of the hubris of the autonomous self. The acceptance of such a British tradition which preceded the modern Lockian liberal tradition of natural rights meant automatically, that the Americans felt well both with a language of natural rights and cultural and organic concepts which they could find in Hume, Burke or William Blackstone. Their self-understanding could be congruent with reference to custom and moral sentiments, that is with the whole experience of already established society, considered to be good, before the federal constitution of 1787 was adopted. Its construction was both the outcome of abstract thinking and political culture. It was taken for granted that a destruction of the latter would destabilize political order which imposed real limitations and tasks on power. The objective of the strong government was not so much the incitement of public passion in the name of abstract ideological programs, but simply limitation of the destructive passions threatening social stability. This conservative program was based on the thrust in the elites having confidence in their own society, with an understanding of political culture as an organic and elastic whole which could cope with the challenges. Naturally functioning moral and social order was thus crucial for the preservation of the institutional political order in contradistinction to pure speculative, philosophical mind.<sup>175</sup> The slavery problem was, of course, an altogether different matter, impossible to tackle head on and waiting to be solved in due time. The fallacy of this assumption was soon obvious.

The American republican thinkers combined the traditions of Locke and Hume. Liberal, universal ideas mingled with the conservative ideas of Hume. Ratio and experience were treated as a point of departure for a proper understanding of the American Enlightenment after 1776. The Declaration of Independence is thus not solely a classical liberal document. It clearly refers to a cultural heritage, stressing that

prudence will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shown that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed.

The Declaration then goes to the concrete accusations against the king and the British Parliament. Historical grievances, the violation of the colonists' rights belonging to them as subjects of the crown since the time immemorial, was the cause of rebellion, not the love of abstract ideas. The accusations were contrasted with the violated common rights. Thus the Declaration entailed a special kind of constitutionalism, soon to be codified in the Constitution of 1787, where

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<sup>175</sup> *An American Primer*, ed. D. J. Boorstin, New York 1966, pp. 86–87.



the fury stems from the hidden assumption of the English constitutional tradition, at least the common law rights and liberties guaranteed by that tradition, which Americans treat as their legitimate inheritance<sup>176</sup>.

The Declaration looked thus both into the future and to the past. In *The Federalist* we can also find references not only to the social contract theory of Locke. John Jay in *The Federalist* No. 2 wrote that

Providence has been pleased to give this one connected country to one united people, people descended from the same ancestors, speaking the same language, professing the same religion, attached to the same principles of government, very similar in their manners and customs [...] established by their general liberty and independence [...] this country and this people seem to have been made for each other, and it appears as if it was the design of Providence that an inheritance so proper and convenient for a band of brethren, united to each other by the strongest ties [cultural and historical], should never be split into a number of unsocial, jealous, and alien sovereignties.<sup>177</sup>

The American constitutional tradition was thus very much in the spirit of Hume, stressing culture and not putting reason to the fore, or at least creating their synthesis. In the constitution the founders stressed the experience and public attachments to the incrementally created and exposed sentiments, memory and fears, sometimes treating them as an ally in the common enterprise, sometimes imposing limitations on these passions considered to be destructive. In that endeavor reason alone, the abstract schemes imposed on the social and cultural reality, could not be too helpful. The task was to unite and divide the public opinion in a new republic, with an assumption that it was necessary to be suspicious about abstract absolutes. In 1787, in Philadelphia, John Dickinson of Maryland (1732–1808) expressed the common sentiment of the members of the constitutional convention, stating that the debate could not be conducted by the purely theoretical principles. In his judgment “experience must be our only guide. Reason may mislead us”.<sup>178</sup> People could be by nature morally equal and have equal share in public power through representation, but at the same time society, in an organic manner articulates its needs through different interests, opinions and passions which compete in the agora so to convince the others.<sup>179</sup> Hume’s spirit informed also James Madison in *The Federalist* No. 10, where he put forth his *Idea of the Perfect Community*. He warned in his polemic with Jefferson that a tension between the public good and individual rights

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<sup>176</sup> J. Stoner, *Is there a Political Philosophy in the Declaration...*, p. 5; see also his “Sovereign Judging: Common Law and Liberal Political Philosophy as Sources of American Constitutionalism”, unpublished PhD Dissertation, Harvard University 1987, in which he clearly stresses the indispensability of both traditions: common law and the liberal, Lockian social contract for the understanding of the American constitutionalism.

<sup>177</sup> *The Federalist Papers*, ed. C. Rossiter, New York 1961, p. 38.

<sup>178</sup> In: R. Livingston, A. Schuyler, *The Constitution of the United States. An Historical Survey of Its Formation*, New York 1923, pp. 90–91; see also D. Adair, *Experience must be our only guide: History, Democratic Theory and the United States Constitution*, [in:] his, *Fame and the Founding Fathers*, ed. T. Colburn, New York 1974, pp. 107–129.

<sup>179</sup> B. C. S. Watson, *Creed and Culture...*, pp. 35–37.

was impossible to be liquidated and their harmonizing had to proceed in an organic way, not through the impositions of an abstract reason creating the general norms, in the name of which there would then be appeal to the passions of ‘demos’. Such a policy resulted not in a creation of the public order and civilized society but in politics of demagoguery and the mob, known from the French revolution of 1789. Politics, claimed Madison should be conducted in such a way so passions and rational ideological schemes be filtered by culture of a given society. American constitutional system was not based on a rational imposition of the preconceived ideal, but on cultural assumptions accepted subconsciously. For instance, the authors of the constitution did not doubt the

key meaning of Christianity and the morality based on it for the success of the American experiment. They believed that reason and revelation were the true guides in human affairs, both showing in the same direction as far as matters connected with natural rights and moral conduct [...]. George Washington in his farewell address claimed clearly that the traditional religion, more than philosophy, may instruct and discipline many.<sup>180</sup>

English common law was also treated by Americans as a cultural axiom. Through the process of long refinement – thought Edward Coke, Matthew Hale and William Blackstone – natural law, by confronting the individual matters created general rules from the bottom up, not the other way round.<sup>181</sup> Reason was not severed from concrete in the law formation.<sup>182</sup> For the American Founders the rule of law could not be severed from this existential and conservative understanding of the common law, that is why the Americans did not feel, in contradistinction to the French in 1789, like rejecting their traditional legal heritage, which for the French was considered a *sine qua non* condition of rejecting feudalism and absolutism. The Americans treated common law both as ancient and modern at the same time, protecting the rights of the British subjects, which meant the protection of rights of all people. The common law tradition and the English idea of liberty were parallel to the rights and liberties of humanity. That was a classical Whig theory of history, treated as the stage of universal march of freedom preparing the way for everyone. But it was at the same time an instance of hubris and efficacy in the process of building national pride based on tradition and modernity, the basic combination of American patriotism and dynamics. Such a synthesis of the common law tradition, its justification by Hume, and Locke’s individualism formed the core of American

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<sup>180</sup> *Ibidem*, p. 37.

<sup>181</sup> A. Bryk, *The Limits to Arbitrary Government: Edward Coke and the Search for Fundamental Law*, Kraków 1996; K. Ryan, *Coke, the Rule of Law, and Executive Power*, “The Vermont Bar Journal” 2005, Vol. 31, No. 1.

<sup>182</sup> B. C. S. Watson, *Creed and Culture...*, p. 37. Michel Zuckert formulated this attitude as follows: “Partially because of Blackstone, Americans could think about political society as both rational result of the social contract and the entity formed and ruled by law based on custom, deriving its authority from antiquity and character, organically accrued”, *Social Compact, Common Law, and the American Amalgam: The Contribution of William Blackstone*, [in:] *The American Founding and the Social Compact...*, pp. 42–43.

constitutionalism. This was visible in Alexander Hamilton's quotation from Hume at the very summing up of the *The Federalist Papers*. Hume, quoted by Hamilton pointed out that

to balance a large state or society [...] on general laws, is a work of so great difficulty that no human genius [...] is able, by the mere dint of reason and reflection, to effect it. The judgments of many must unite in the work; *experience* must guide their labor; *time* must bring it to perfection, and the *feeling* of inconveniences must correct the mistakes which they inevitably fall into their first trials and experiments." [My emphasis, AB] To which Hamilton adds that "these judicious reflections contain a lesson of moderation to all the sincere lovers of the Union, and ought to put them upon their guard against hazarding anarchy, civil war, a perpetual alienation of the states from each other [...] in the pursuit of what they are not likely to obtain, but from *time* and *experience*."<sup>183</sup>

There is thus a deep sense of "political" expressed by Hamilton, a feeling that nothing is set for ever and the experience of the common people and the democratic process is a check on the hubris of a rational mind.

### The American messianic universalism

The American Creed, consisting of many currents, mainly Protestantism and the idea of biblical covenant implicit in it, combined with abstract social contract of Locke, created a peculiar theology of public, civil religion.<sup>184</sup> It gave America's identity a sense of uniqueness and the unassailable optimistic lurch forward. The Protestant project was based on a deeply held conviction that America was the chosen land of Christian God who made a covenant with it, for her glory and as the hope for the world, an example to rectify its ills, mainly the lack of liberty.<sup>185</sup> The first settlers, the puritans of Massachusetts, the Quakers of Pennsylvania and the Scots-Irish of Tennessee were dynamic people, not an impoverished mass of individuals asking admittance to a developed, already existing society where they would dwell and assimilate. They were at the same time suspicious of any centralized religious authority which was especially visible in the dominant strands of Protestantism including Presbyterians, Quakers, and Puritans.

The overwhelming majority of settlers adhered to these faiths. The decisionmaking process was for them a congregational affair, not centralized like in Catholicism, or Episcopal like in the Anglican Church. In addition they followed a very worldly dominant ethos of work. These churches in fact made a 'reformation of Reformation' being antiauthoritarian, pragmatic, suspicious of the institutions which did not explain to themselves. They had no trait of deference to established

<sup>183</sup> D. Hume, *Of the Rise and Progress of the Arts and Sciences*, [in:] *idem, Essays, Moral, Political, and Literary*, ed. E. F. Miller, Indianapolis 1985, p. 124.

<sup>184</sup> R. N. Bellah, *The Broken Covenant: American Civil Religion in Time of Trial*, Chicago 1992, pp. 36–60.

<sup>185</sup> S. Berkovitch, *The Puritan Origins of the American Self*, New Haven 1975, pp. 16–186.

orders along the lines of the European established institutions, felt no resignation in face of adversity and suffering, and had no patience and reverence towards poverty. In other words, the early protestant settlers were activist in their outside outlook, consisting of human material which by the very fact of the voyage across Atlantic challenged the passivity of the European established life.<sup>186</sup> They were like invaders, arriving as distinct groups, with clearly defined communal belief and practices, focused on success in the land which they perceived to be theirs by a wish of Providence. The very beauty of infinite spaces, the nature itself, this virgin, the only still existing ‘fingerprint of God’ as one of the Puritans remarked, gave additional credence to a conviction that they began the world anew and that this was the wish of God. That is why they were willing to stay there and inhabit the land at any cost, buying the land or wresting the continent away from the tribes of native hunters and gatherers fighting one another. They were irresistible and they stayed that way till today.<sup>187</sup>

The United States, having behind it the myth of a chosen land, the living myth of the “good” civilization of the original colonies, was thus infused with a tremendous historical and eschatological consciousness. America was simultaneously functioning with the political culture brought by the settlers, the common law and ancient constitutionalism.<sup>188</sup> This political culture dovetailed with the religious inheritance and in due course with the universal theory of a legitimate government derived from Locke’s social contract and natural rights, implied in the Declaration of Independence, the Constitution and the Bill of Rights. This messianic American universalism, a combination of religious, eschatological belief, the British tradition and the Enlightenment rational idea of a social contract and rights was confronted with an inhospitable nature. In this confrontation, not mediated by centuries of history, Americans had to cope without the established societies and states (present in Europe). The state in the United States has thus always been treated mentally as an external entity, in contradistinction to the European tradition. The aforementioned features gave America an irresistible dynamic and creativity.<sup>189</sup> It treated itself as

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<sup>186</sup> S. P. Huntington, *Who Are We?: The Challenges to America’s National Identity*, Simon & Schuster 2004, pp. 37–106.

<sup>187</sup> D. Hacker Fisher, *Albion’s Seed*, New York 1989; R. Kirk, *The Roots of American Order...*

<sup>188</sup> M. P. Zuckert, *The Natural Rights Republic*, Notre Dame 1996; idem, *Natural Rights and Protestant Politics*, [in:] T. S. Engemann, M. P. Zuckert, *Protestantism and the American Founding*, Notre Dame 2004, pp. 21–75; T. G. West, *Vindicating the Founders*, Lanham MD 2001; idem, *Transformation of Protestant Theology as a Condition of the American Revolution*, [in:] T. S. Engemann, M. P. Zuckert, *Protestantism...*, pp. 187–223; B. A. Shain, *The Myth of American Individualism*, Princeton 1994; P. A. Lawler, *Religion, Philosophy, and the American Founding*, [in:] T. S. Engeman, M. P. Zuckert, *Protestantism...*, pp. 165–185; R. Stoner, *Is there a Political Philosophy in the Declaration of Independence?*, “The Intercollegiate Review” 2005, Vol. 40, No. 2, Fall–Winter, pp. 3–11; R. L. Clinton, *God and Man in the Law: The Foundations of Anglo-American Constitutionalism*, Lawrence KA 1997; B. Hart, *Faith and Freedom: The Christian Roots of American Liberty*, Dallas 1988.

<sup>189</sup> S. Berkovitch, *The Puritan Origins...*, pp. 79–81, 94–95; E. Lee Tuveson, *Redeemer Nation: The Idea of America’s Millennial Role*, Chicago 1980, pp. 50–53, 64–67, 75–84; this dynamic stands, as Alan Bloom remarked, at the center of America as the first modern nation, the embodiment of the promethean project

a unique country, with a peculiar character, faithful to common ideas of liberty, individualism, optimism and initiative, ingenuity, self reliance, root democratic impulse, at the same time populist and egalitarian and devoid of any sense of limitations, convinced that wealth was within the reach of everybody and poverty was a transitory phenomenon.

Although America has experienced bloody clashes between capital and labor, their social movements have never been tempted to capture the state with a purpose of revolutionary transformation. The reforms have always aimed at letting everybody share in the existing wealth, to fulfill the promise of equal and free citizenship anchored in a covenant with Providence. Such a mythology has definitely limited the boundaries of social debate. On the other hand, it has focused the interpretative discourse on the foundational creed, giving the United States a dynamic impervious to any intellectual disenchantment. The discussion between someone who knows he is part of the Covenant and the one who does not understand it, is simply impossible. The United States was thus based on a peculiar credo imposed on its historical experience. This credo was the collection of unverifiable, infalsifiable principles defining her unique identity and religious mission. At the same time this Covenant and mission made America a country constantly in search of itself, a process of periodic self-flagellation, with a fear that the mission might be corrupted or betrayed. The waves of unbound optimism and self doubt have defined its rhythm. From the European perspective such an approach might look like immaturity and arrogance of a teenager, a radical rejection of limits, the state of soul and mind when, as T.S. Eliot expressed it 'progress annihilates fate'.

The unique combination of Christian mission, covenant with Providence, fear of failure and at the same time boundless optimism of unlimited possibilities was already visible in the sermons of the American clergy, mainly of the protestant stock, before and after the revolution of 1775–1783. For instance a minister Bishop Madison wrote in a pamphlet of 1795:

There are few situations more interesting to the human race, than that which the people of America this day presents. The temples of the living God are every where, through the rising empire [...] with worshipers, whose hearts, are impressed with a just and lively sense of great things [...]. It is in America, that the germs of the universal redemption of the human race from domination and oppression have already begun to be developed; it is in America, that we see reintegration of divine love for man, and that the voice of heaven itself seems to call to her sons, go ye forth and disciple all nations, and spread among them the gospel of equality and fraternity [...]. Our ancestors, amid the wrecks of human rights, and the convulsive tempests with which ambition had so often overwhelmed the nations [...] still evinces no small portion of that eternal spirit, that ardent love of liberty, which glows in American breast. It was this indomitable spirit, this attachment to the inherent rights of man, stronger infinitely than the fear of those storms, which agitate the immense Atlantic, or of the fierce and cruel tenants of the howling wilderness, or the ravages of disease, or the famine and death itself,

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first envisioned in modernity by Rousseau. It was through Rousseau that Bloom read Tocqueville's *Democracy in America*, as the first truly universal description of a society in the grips of modernity. *Rousseau-the Turning Point*, [in:] A. Blom, *Confronting the Constitution...*, pp. 211–234.

which urged our forefathers to the distant shores [...]. It was this noble principle, this love of liberty, which defying all dangers, conducted our fore-fathers to America [...]. This principle [...] no where to be found [...]. Who doth not see, that thus to have transported it to America, thus to have incorporated it with the primary social institutions of this country, may be justly deemed an event most fortunate for mankind, nay, most worthy of the providence itself. Had this principle been equally transported to the [other countries of the world] they also would have had their apostles, nay their martyrs of liberty [...]. If then we dare attempt with mortal eye to trace those causes, by which the Almighty operates, it will not be thought presumptuous [...] not only to ascribe to his directive wisdom the introduction of a principle, which here fostered, will redeem the captive nations of the earth [...] until the complete restoration of the human race to their inherent rights be accomplished, throughout the globe. Let the tyrants of the earth set themselves in array against this principle 'they shall be chased as the chaff of the mountain before the wind, and the like the down of the thistle before the whirlwind' [...] when our forefathers here first rested the soles of their feet [...] the guardian Angel of America withdrawing the curtain of time, had opened to their view [...] America free, independent [...] had shown to them the bright portrait of that heroic citizens, whose prudence, fortitude, and whose wisdom shine equally resurgent in war as in peace [...] We possessed of all those blessings which flow from governments founded in wisdom, justice and equality; doth the morning of America break forth resurgent with unclouded glory. [...] 'This is the Lords doing [...]. And is there a soul present [...] who do not trace, in the eventful history of America, the conspicuous displays of the hand of providence?'<sup>190</sup>

Such an oration would sound well in the mouth of George Washington, Abraham Lincoln, Ronald Reagan or George W. Bush. It contained all the treads of American eschatology: Covenant with Providence, exceptionalism of America as a new paradise on earth, the new beginning of history of freedom as fulfillment of God's plan, mission towards the world. This eschatology was equally well captured by Timothy Dwight (1752–1817), President of Yale College (1795–1817), an enemy of the Jacobin type of the Enlightenment. In a 1798 oration he thundered

Look through history of your country. You will find scarcely less glorious and wonderful proofs of divine protection and deliverance, uniformly administered through every period of our existence as a people [...]. Can it be believed. [...] that Christianity has been so planted here, the church of God so established, so happy a government constituted, and so desirable state of society begun, merely to show them to the world, and then destroy them? No instance can be found in the province of God, in which a nation so wonderfully established, and preserved, has been overthrown, until it had progressed farther in corruption [...]. Turn your eyes, for a moment, to the face of providence, and mark its new and surprising appearance [...]. O Thou God of our fathers! [...] enable us to watch, and keep our garments [...] and that both we and our posterity may be entitled to the blessing which thou hast promised.<sup>191</sup>

The aforementioned sources of identity created a peculiar form of American ideological patriotism which, derived from historical experience, native development, eschatological Christianity of early puritan Protestantism as well as political expression of American uniqueness visible in the Declaration of Independence. This ideological patriotism coalesced into a form of one particular doctrine, the

<sup>190</sup> *Manifestation of the Beneficence of Divine Providence towards America: A Discourse*, [in:] E. Sandoz, *Political Sermons of the American Founding Era 1730–1805*, Indianapolis 1991, pp. 1309, 1312–1313.

<sup>191</sup> T. Dwight, *The Duty of Americans, at the Present Crisis, Illustrated in a Discourse*, [in:] idem, *Sermons...*, pp. 1392, 1394.

allegiance to which became a national duty. This doctrine was not the outcome of pure rational abstraction but was also rooted in practical reason of American political, social and religious development. America has based itself on a particular Credo, an expression of faith, the collection of political precepts describing its cultural code.<sup>192</sup>

Such a Credo gives Americans a passionate allegiance to its heritage and at the same time an internal and outward dynamic, mobility, self confidence, democratic sense of common purpose and self reliance, all of them formulated out of a conviction that America is a covenantal nation of which past lies in the future. Following Tocqueville, that was a purely subversive, nonnegotiable, self-fulfilling prophesy, messianic cultural code, a revolutionary fever making all the conservative aims of the Founding Fathers futile. This patriotic ideology has its own dynamic, living its own life transforming all the twisted, multi layered, diverse currents of history and consciousness into a propelling force making America the most dynamic, democratic and dissolving all hierarchical distinctions civilization in human history. The colonies accepted a lot from the aristocratic stratification of Britain and its imperial constitution. But a sense of individual English liberty secured by the myth of the ancient constitution protected by the concrete institutions of the common law, especially of private property embedded in a medieval doctrine of *meum* and *tuum*, pluralism and religious freedom, once severed from the political ties with Britain and its aristocratic culture, immediately made this set of institutions available to all. It formed the most egalitarian, most materialistic, most individualistic and most evangelical Christian-society in Western history

[...] Democracy became for Americans more than the broader suffrage and the competitive politics of their political system [...] democracy represented a new social order with new kinds of linkages holding people together [...] there was a sudden bursting forth, an explosion – not only of geographical movement but of enterprising energy, of religious passion, and of pecuniary desires [...]. No country in the Western world has ever undergone such massive changes in such a short period of time. The Revolution resembled the breaking of a dam, releasing thousands upon thousands of pent-up pressures [...] [and] nothing contributed more to this explosion of energy than did the idea of equality [...]. Once invoked, the idea of equality could not be stopped, and it tore through American society and culture with awesome power. It became what Herman Melville called ‘the great God absolute! The center and circumference of all democracy.’<sup>193</sup>

Equality meant of course equality of opportunity, individual ability and character to move up the social ladder. It was to guarantee that the permanent differences would not solidify into permanent classes. But in time equality began to mean something more than equality of opportunity. This way it became a radical engine propelling the entire culture, a phenomenon described by Tocqueville. The

<sup>192</sup> H. Keyserling, *America Set Free*, New York 1929, pp. 237–239; S. M. Lipset, *American Exceptionalism Reaffirmed*, [in:] *Is America Different? A New Look at American Exceptionalism*, ed. B. E. Shafer, Oxford 1991, pp. 16–17; idem, *The First New Nation: The United States in Historical and Comparative Perspective*, New York 1963, pp. 78, 341; L. Samson, *Toward a United Front*, New York 1935, pp. 16–17.

<sup>193</sup> G. S. Wood, *The Radicalism of the American Revolution: How a Revolution Transformed a Monarchical Society into a Democratic One Unlike Any That Had Ever Existed*, New York 1992, pp. 230, 232.

idea of equality became so potent in America because it was understood in such a way that everyone was really

the same as everyone else, not just in birth, not in talent or property or wealth, and not just in some transcendental religious sense of the equality of all souls. Ordinary Americans came to believe that no one in a basic down-to-earth and day-in-day-out manner was really better than anyone else. That was equality as no other nation has ever quite had it.<sup>194</sup>

And it was this equality coupled with the institutions of British origin and the messianic puritan feeling of covenant, secularized and sealed in the Declaration of Independence that made America an engine of ingenuity, courage, enterprising spirit, flexibility and heroism unparalleled in the Western world till today.

### **Common sense republicanism vs. the rebellious elites against the masses**

Culture of equality speeded up by the revolution of 1775 did not spring out of the blue. It was implicit in the puritan covenant thought, it was practiced in the social contract arrangements beginning with the Mayflower Compact of 1620, which created, first a society out of the motley of individuals and then a political union by the sheer will of the colonial elites and the people. It was visible in the republican ideology of the Declaration of Independence and in a revolutionary stress on the circulation of elites and talents, reverence for common sense and a belief in the ability of ordinary men to choose those with character and merit to govern them. Such a philosophy entailed a moral probity of the entire society and its right to make moral and sound judgments on par with the elites of birth or order. In America such a right could play itself in the most democratic way because there were no feudal structures which muted the practical operation of such a right. It was visible in a canonical text of the American Revolution *Letters from an American Farmer* of 1782 by J. Hector St John de Crevecoeur.

Asking himself a question “What is an American?”, he responded that the poor of Europe, who were escaping “the rich, the severity of the laws, with jails and punishments; who owned not a single foot of the extensive surface of this planet”, who were coming to America, as he called it “this great American asylum” did not enter the structures which they left behind on the other side of the Atlantic. In America

every thing has tended to regenerate them; new laws, a new mode of living, a new social system; here they are become men: in Europe they were as so many useless plants, wanting vegetative mould, and refreshing showers; they withered, and they were moved down by want, hunger, and war; but now by the power of transplantation, like all other plants they have taken root and flourished! Formerly they were not numbered in any civil lists of their country [...] here they rank as citizens.

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<sup>194</sup> *Ibidem*, p. 234.



By what invisible power has this surprising metamorphosis been performed? By that of the laws and that of their industry. The laws, the indulgent laws, protect them as they arrive stamping on them the symbol of adoption; they receive ample rewards for their labors; these accumulated rewards produce them lands; those lands confer on them the title of freemen, and to that title every benefit is affixed which men can possibly require. From whence proceed these laws? From our government. Whence the government? It is derived from the original genius and strong desire of the people ratified and confirmed by the crown. This is the great chain which links us all. What then is the American, this new man? He is either an European, or a descendant of an European, hence the strange mixture of blood, which you will find in no other country [...]. He is an American, who leaving behind him all his ancient prejudices and manners receives new ones from the new mode of life he embraced, the new government he obeys, and the new rank he holds. He becomes an American by being received in the broad lap of our great Alma Mater. Here individuals of all nations are melted into a new race of men, whose labors and posterity will one day cause great changes in the world. Americans are the western pilgrims, who are carrying along them that great mass of arts, sciences, vigor, and industry which began long since in the east; they will finish the great circle [...]. The American ought therefore to love this country much better than wherein either he or his forefathers were born. Here the rewards of his industry follow on the basis of nature, self interest; can it want a stronger allurement? [...] Here religion demands but little of him; a small voluntary salary to a minister, and gratitude to God; can he refuse these? The American is a new man, who acts upon new principles; he must therefore entertain new ideas, and form new opinions. From involuntary idleness, servile dependence, penury, and useless labor, he has passed to toils of a very different nature. This is an American.<sup>195</sup>

American colonial development, subsequent republicanism and the influence of the British Enlightenment subverted thus this aristocratic and rigid class distinctions between elites and masses both at the level of individual consciousness and social practice. Such distinctions were not recreated, this time at the level of intellectual hierarchy, in political sphere after 1787. A belief that the enlightened, allegedly knowledgeable elite has the right to command those who have not sufficient reason to correctly understand reality was absent in America, a striking contrast with the French revolutionary elites and in general the European elites coming out of the *noblesse oblige* tradition. The European continental conviction that the enlightened elite has the right to dictate the masses who do not possess sufficient reasoning power, how the society, its aims and the individual lives should look like never took hold in America, although there were attempts to do it. The most dramatic example when such an attempt was taken up and failed was the first Federalist government under the new constitution in 1789–1801.<sup>196</sup> It is therefore fair to stress, that the British Enlightenment which formed the dominant philosophical justification of the American experience did not – in contradistinction to the

<sup>195</sup> Ch. Ricks, W. L. Vance, *The Faber Book of America*, London 1992, pp. 241–242.

<sup>196</sup> A. Bryk, *Federaliści u władzy 1789–1801*, [in:] *Historia Stanów Zjednoczonych Ameryki*, Vol. 2, ed. B. W. Sheehan, I. Wawrzyczek, Warszawa 1995, pp. 63–90. The Enlightened paternalism, although visible in the colonial society, never reasserted itself at the level of popular consciousness, let alone at the level of practical politics. See: G. S. Wood, *The Radicalism...*, pp. 145–168. The similar lack of such a distinction between the elites and the masses was visible in the republican, liberty obsessed, culture of the Commonwealth of Poland–Lithuania, although it was limited to the class of nobility, even if comprising a significant population, approx. 10–12% of all the residents. This consciousness is still manifest in contemporary Poland and a deep suspicion of the top down ways of governing.

French one – trumpet solely the virtue of reason against the recalcitrant matter of politics and societies in which it operated. American elites did not show a paternalistic attitude, largely concealing contempt, towards the lower orders and did not conduct politics, even if benevolent and welfare oriented, in their name. Unlike the continental Enlightenment driven by passion for the abstract, the domain of pure intellectual reason wallowing in search for the ideal, the British and then American Enlightenments stressed not the social virtues of reason, but reasonableness of virtue-like compassion, sympathy and benevolence able to instill in their societies a non-egotistic motive elicited in ordinary members of society. Such virtues were possessed by all, by the elites as well as the common men, to serve long-term goals of patriotism, endurance and self-reliance, without always looking towards the betters who operate the state machinery.

This attitude of paternalism has been visible in the European welfare state which came out of the rational principle of social contract beginning with Hobbes and Locke to John Rawls. Allegedly, the social contract and its corollary welfare state is based on the principle of justice. In fact, it is a form of utilitarian self-rationalization incapable of overcoming a problem of stagnation and constantly putting demands on the state. It is more prone to the dilemma of the free-rider or the so-called prisoner's dilemma syndrome and it constantly confronts a question: "why is it more reasonable to bide by the contract than to pretend to bide by it?"<sup>197</sup> The social contract type of the welfare state is incapable of creating non-egotistic motives in the societies at large, in fact it corrupts them, pretending that it is just. Human emotions are often wiser than reason, 'prejudices' express human moral feelings better than rational systems. Purely rational ideas of justice as devised by the social engineers, bureaucrats of 'goodness' are more prone to corrupt rather than create the humane society. The wheels of justice, as another English thinker of the Enlightenment period, William Blackstone stated, are oiled by emotion, in fact, strictly speaking, only by love. The elimination of the passion-forming process from the bottom up in the autonomous human organizations, can never be substituted by the rational planning of 'elites' who know well what the social life and morality should look like. In his *A Theory of Justice* (1973), a canonical European political theory of justice justifying the welfare state John Rawls tried to explain, as his numerous followers later have done, why people should pursue justice on the basis of a rational, general elitist plan of social behavior. But such a theory is absolutely incapable of persuading people, why they should first care about other people. What is needed are sentiments – moral impulses. William Shakespeare in *King Lear* understood perfectly that love and sympathy are prior to the notions of justice and desert. Without love people break promises to others, since it is a common sense observation that reason can always find ways to justify injustice.<sup>198</sup>

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<sup>197</sup> R. Scruton, *A Political Philosophy...*, s. 39; G. Hardin, *The Tragedy of the Commons*, "Science" 1968, No. 162, pp. 1, 243–248.

<sup>198</sup> F. H. Buckley, *Are Emotions Moral?*, "The New Criterion" 2004, January, p. 31.

This drive for bureaucratic perfection according to the rationally preconceived plans what the society should look like, is the other side of this disguised contempt for the lower orders, their passions and their loves, their loyalties and attachments, the lower orders which are allegedly incapable of governing themselves, the poisoned heritage of the hubris of the European Enlightenment. It is striking how the European Union idea was kidnapped by this utilitarian project as represented by the generation of 1968. What that generation recognized as its major enemy of progress was for instance the nation state and the various attachments which bind an individual to loyalties other than the autonomous, sovereign self. The nation state and the attachments, dubbed usually as ‘authority’, were considered responsible for the calamities – both social and personal – of the past. As a result the whole idea of ‘inclusion’ of everyone in the community of equals, requiring as a first precondition the liberation of everyone from various attachments, creates the society whose only meaningful basis of obligation is the micromanagement of rights between individuals, and the ‘inclusion’ of every minority considered ‘excluded’ within the community of obligations based on a social contract. That is not only self-defeating, since that is the endless game, but it excludes by definition any natural bonds of voluntary obligations which are suspect *ipso facto*, if not based on ‘equality of rights’.<sup>199</sup>

American republicanism has been different. Deriving its conceptual framework from the British Enlightenment, and organizing its institutions accordingly, it had no such a high brow attitude full of contempt as shown by the French revolutionary elites towards their own societies, treated collectively as the lower orders. For symbolic in that context Voltaire or Diderot, societies and individual people were incapable to recognize their own interests and understanding of reality. This did not mean that the intellectual classes in Britain and in France did not share the same sentiments, for instance in attacking religion. After all it was Edward Gibbon, remembered mainly for his seminal *The Decline and Fall of the Roman Empire*, who wrote the most cynical line of the Enlightenment, characteristic of the majority of all intellectuals at all times:

The various models of worship which prevailed in the Roman world were all considered by the people as equally true, by the philosopher as equally false, and by the magistrate as equally useful.<sup>200</sup>

Here came a hint of utilitarianism, characteristic of the entire British educated class and so visible in Hume and later Bentham and Mill, but nevertheless also a high-brow feeling of disdain towards the prejudices of the lowly classes. In fact the intellectuals question custom everywhere, by definition. They want to alter habits and challenge common sense, thus their hubris is to destroy – for themselves

<sup>199</sup> M. Brachowicz, *Agencja Praw...*; A. Bryk, *Akcja Afirmatywna. Doktryna różnorodności a plemienna koncepcja społeczeństwa liberalnego*, “Krakowskie Studia Międzynarodowe” 2004, No. 2, pp. 32–110; *idem*, *Pole bitwy ideowej*, “Nowe Państwo” 2006, No. 3, pp. 15–17.

<sup>200</sup> E. Gibbon, *The Decline and Fall of the Roman Empire*, Vol. 1, New York 1946, p. 22.

and for others – the established ways of behavior and thought. For every action, an individual reason is thought to be the surest and the only guide for them. Custom, mores, habits, let alone the Bible as a source of action should be rejected. Only utility and choice made in a reasoned way counted.

This was a revolutionary idea, because it prescribed not only the epistemological tools of approaching reality in practice, but in fact it delegitimized all institutions existing so far, as seedbeds of unreason. If the common man considered cultivation of familial morality his goal, the intellectual had other goals, including liberation of human reason from the shackles of the established habits, and also family and the church. For the intellectual, the cultivation of ‘liberation’ of his talent based on reasoned organization of his life, was the preeminent goal, as well as the expressions of his sensibilities, which was the case with a specific ‘artistic genre’ of the intellectuals. This ‘liberation’ and expression form together the contemporary idea of self-fulfillment. The ordinary people have of course an in-built subconscious assumption that what they do is a fulfillment of inherited moral habits having a certain universal validity to make their life happy and full of sense. Their moral code is thus not only ‘good’, but they hope to continue this existence, passing this code in a form of moral education, or a religious belief in a form of a creedal inculcation, to their children. Yet, the intellectuals are also unable to reject all the moral precepts and mores, otherwise a totally ‘liberated’ life would be unbearable and open to brutal force. They do it inadvertently, they prey on it, they do not, imbibe it, let alone try to pass it to others. The consequences to the social institutions of such a frame of mind are profound. The family is instantly defined as a repressive institution, so is the church, so is any system of thought which is not rationally arrived at. Individualism and egalitarianism are to be the *modus operandi* of every member of the family, including a child. The stress is not on moral guidance, but on opportunity and autonomy, fostering sympathy and self-expression, which has a modern tendency to produce self-indulgence, political radicalism and countercultural lifestyles. As a result of such a challenge, the family as well as other autonomous institutions faced a dramatic choice which forms the very essence of moral dispute today: does a good life depend on rights or on virtue and where it can be achieved, where does it come from?<sup>201</sup> There is a fundamental question here, namely, explaining what in fact justifies ultimately moral rules. What exactly ordinary people mean when they speak of their moral feelings, and what the origins of those feelings are. This effort is a continuation of work began by certain 18th-century English and Scottish thinkers, notably Joseph Butler, Francis Hutcheson, David Hume, and Adam Smith.<sup>202</sup>

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<sup>201</sup> A. Bryk, *Affirmative Action...* A concept of na „adversary culture” was coined by a prominent liberal literary critic, evolving towards neo-conservatism; L. Trilling in *Beyond Culture*, New York 1965, preface, chapter 1.

<sup>202</sup> J. Q. Wilson, *On Moral Sense...*, pp. 217–218.

Intellectuals have a natural tendency to believe in systems of thought rather than habits of ordinary life, which they consider to be just worn out sets of prejudices, ready to be reorganized according to their images of how the rational life should be organized. Intellectuals thus are constantly striving for the complete systems of thought by which they can live, that is, by which they hope to live. History of humanity has been littered with such systems, but the intellectuals try nevertheless and thus are more prone than ordinary people, some of who may be equally cultured, intelligent and knowledgeable as the intellectuals themselves, to create new systems against the ‘ignorant’ multitude. Thus intellectual culture is by definition an adversary culture. That is why, on the one hand the intellectuals are subject to bouts of cynicism and nihilism, knowing that they are in fact unable to construct the system explaining everything, a single ‘Great Theory’, ‘the mother of all systems’, and on the other – they are constantly irritated that the masses do not want to accept the latest project of world salvation. In this sense, the intellectuals have always been prone to create the so-called adversary culture, a culture opposed to wishes, preferences and habits of the majority of the people, which in its radical form meant a constant push to carry to its ultimate conclusion the individualistic tendencies of the western family and other independent autonomous institutions inculcating ‘authoritarian’ habits and virtues. A drive for radical auto creation is thus bound to propel the rational mind of individuals at the expense of the habits and mores inculcated in the autonomous institutions, considered just prejudices. There is no end to this drive, since the total moral auto-creation at every time requires in fact a completely fluid personality, which can never solidify into anything solid, for fear of becoming another prejudiced habit or prejudice which has to be constantly questioned.<sup>203</sup>

This is true, that even some of the most radical rationalists of the French Enlightenment, as e.g. Voltaire, believed, that man’s nature was fundamentally moral, that man had “certain inalienable feelings” that constitute “the eternal bonds and first laws of the humanity”,<sup>204</sup> and in fact the elites and the masses pursued many of the same activities. But the difference between the masses and the intellectuals is constituted by the fact that the former does it by default, not considering them ‘good’, merely useful, they are living on borrowed capital

a debt they were scarcely aware of in the 18th century, began to worry about in the 19th, and found they could not repay in the 20th.<sup>205</sup>

If the intellectual class of Enlightenment – and later – has acquired the same habits of thinking, how come there was such a difference between the British and

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<sup>203</sup> A. Bryk, *Affirmative Action...*

<sup>204</sup> J. Q. Wilson, *On Moral Sense...*, p. 221; and *idem*, *On Character*, Washington DC 1991.

<sup>205</sup> G. Weigel, *Enlightenments...*, pp. 155–156; G. Himmelfarb, *The Roads to Modernity...*, pp. 163–168.

the French Enlightenment possible? The reason is that the British intellectuals formed a part of their society, there was never a great stress put on the high status of the sheer intellectual speculation in Britain. This stemmed from the fact that the intellectuals were part of a civil society, part of the commercial, administrative, cultural life in a much wider sense than the French. The latter were alienated, not contributing anything to the society in the practical sense.

However much this aristocratic intellectual attitude was visible among the British intellectuals, they were exactly kept in check by the civil servants attitude, which was characteristic of the *noblesse oblige* classes of Britain, in a much wider sense than the French ones. This is why this abyss between the masses and elites in Britain and America has never turned into a cultural pattern of thinking, as it was the case, for instance, in France. This was the conceptual and practical distinction which has had significant practical, political consequences and makes the difference between the Anglo-Saxon world, especially the most vibrant and dynamic United States, and Europe, clearly visible.

Social virtues in Britain and in America were dependent both on philosophy, organic growth, including religious beliefs and practices. They were part and parcel of both common sense life and practical reason, not only abstract reason of the philosophers. The rational philosophers of the French type were imagining themselves to be creating a more humane world out of the pure speculation with the unabashed elitist contempt for the people they were allegedly trying to educate. They were cut off from practical life, not

personally involved in benevolent enterprises or practical reforms [...]. When reason trumped benevolence, conceptually and practically, the net result was that benevolence itself came to be seen as a weakness-another aspect of infame to be eradicated.<sup>206</sup>

American elites have never had such a paternalistic attitude towards their citizens and shared a conviction that the state is the external force. The state's task was to enable the individuals to 'pursue happiness', as the Declaration of Independence declared not to decree how it was going to be realized according to rational models executed towards pliant citizens, killing their initiative, teaching them passivity, igniting at the same time a demanding attitude towards the state and the community.

The radical heirs of the Jacobin tradition took over an aristocratic feeling of superiority, and from the inherited right they converted it to the right of intellectual superiority, which has had lasting consequences as far as the reforms of the society and the political style in Europe are concerned, beginning with 1789 and reaching to the European Union. The new mandarins have always insisted that it is they who

speak for the wretched of the earth. In eighteenth-century France they claimed to speak for the people and the general will. In the nineteenth century they said they represented the working classes against their capitalist exploiters. In our own time, they have claimed to be on the side of blacks,

<sup>206</sup> K. Windshuttle, *Which Enlightenment?...*, p. 66.

women, gays, indigenes, refugees, and anyone else they define as the victims of discrimination and oppression.<sup>207</sup>

The French philosophers had this intellectual aristocracy's inbred hostility towards lower orders, thinking that the chasm between social classes was caused not only by the difference of material wealth, but first of all ignorance and superstition, of which a religious faith was the main culprit. This is why they despised Christianity, since it was the core value system of the lower masses. An editor of *Encyclopedie*, Denis Diderot stated, that the common people had no role to play in the Age of Reason:

The general mass of men are not so made that they can either promote or understand this forward march of the human spirit [...] the common people are incredibly stupid,

he said and considered them little more than beasts as they

distrust the judgment of the multitude in matters of reasoning and philosophy; its voice is that of wickedness, stupidity, inhumanity, unreason, and prejudice [...]. Distrust it in matters of morality; it is not capable of strong and generous actions [...] heroism is practically folly in their eyes [...] [they are] too idiotic – bestial – too miserable, and too busy” to enlighten themselves.<sup>208</sup>

The common people were stupid, argued Diderot, because they were in bondage of religion and the church, and the progress of Enlightenment would liberate them from that horrid state of ignorance and false consciousness. Similarly, Voltaire thought that the lower classes lacked the intellect required to reason. Because of this, they had to be locked in superstition and their beastly nature could be only kept in check by religion and its rituals, sanctifying in turn and strengthening further that superstition. The people could not be educated because to be like that you had to possess an Enlightened mind, and they were unenlightened. They were unenlightened because they did not have the ability to reason properly, to be capable to reason the way the *philosophes* did. This kind of reason was the essence of the Enlightenment according to the *philosophes*. People were incapable of such a reason because they were mired in the prejudices and superstitions of religion, which prevented them from gaining a proper insight into the essence of reality. It is here, that the French Enlightenment elevated secular abstract reason to the only legitimate way of gaining an insight into human condition. Not only into the natural world which the scientific reason had been doing for a while, but into the moral world as well, in other words into the meaning of life. By doing that it declared by faith that religion was totally incapable of providing anything of the sort, it was simply a superstition. The religious language was thus totally delegitimized in the moral sphere. It was termed not as

<sup>207</sup> G. Himmelfarb, *The Roads to Modernity...*, p. 154.

<sup>208</sup> For a good analysis of this frantic search for a new order, see: S. Wolin, *Politics and Vision-Continuity and Innovation in Western Political Thought*, Boston 1960, p. 9, and the chapters on Machiavelli and Hobbes.

an alternative way of gaining an access to the human condition but recognized as an obstacle to it. Religious language, in this case the Biblical language, was nullified as a legitimate presence in culture, as a superstitious pastime at most, a danger preventing an enlightened mind to grasp the essence of life. This was a radical, totalitarian endeavor, taken up in the name of ideological first principles and imposed as the new paradigm of human thinking, the opening through which the European intellectual class deemed itself the masters of the universe. And since to be such masters one had to possess an enlightened mind, which only the chosen could have, the masses were permanently locked in the unenlightened state of being, incapable on their own to gain a proper and truly right insight into the correct understanding of being. Thus their religion was for the time being a crippled substitute. Yet, since it was a dangerous, pernicious superstition for the well-being of society, and for this reason destructive – it had to be destroyed as quickly as possible, so the superstitious masses could be led by the enlightened intellectuals towards the glorious future. And they could not be allowed to stay in this state of harmful ignorance, because they had a right to be enlightened.

This was a good which should be distributed to all, otherwise the world would for ever be kept in the state of un-Enlightenment: in the state of Darkness. This Darkness was political, economic, social – the very ancient regime and Christianitas, but at the same time was philosophical and moral – staying in a frame of mind which perpetuated this basic social and political condition of discrimination, perpetuating a state of permanent error and sliding towards decadence. Such a diagnosis provided the intellectuals and the sophisticated with the justification, of why they held the preeminent position on the road to this new enlightened society. They were immediately the leaders of the stupid masses on the way to the glorious future. At the same time, however, this placed the intellectuals immediately in the position of advisers to the Prince. They were to be the main consultants on how the power was going to be used, and towards which ends. Power was defined by the intellectuals as an instrument of ideology, not of order, as a tool to be used for aims defined by them and considered a constant tool of social engineering until the proper enlightened type of society would eventually be created. This was a massive declaration of war on everything that Western culture so far created, a glorious call to arms for a perpetual fight, the eternal *la lotta continua* to reform this corrupted world in the name of the enlightened rational mind. It was, however, also a principled harking back to some classicist currents and a practical application of the modern conception of reason as put forth earlier by Thomas Hobbes. In this sense it was – it had to be – the modernity's declaration of war against Christianity.

Since the Renaissance, modernity was fascinated with the state, individualism, science and reason behind it and decadence awaiting the West, since the world which emerged from Christianitas was entering a phase of utter unpredictability and chaos. Machiavelli was the first to show, with his focus on the Roman Republic, that the state was an agent, which had to deal with a question of decadence



and corruption, and power should be applied to stem it. Montaigne gave rise to a concept of modern individualism, although he used it more as a refuge, than a basis of society's reordering. Disintegration of Christianitas, brutal commerce as a form of decadence, cynicism of the religious wars, put a question of prevention of decadence and individual at the same time, all that done in the conditions of the waning of the organic medieval world.<sup>209</sup> There was a call to action and a yearning for a mover of the human universe which was disintegrating. There were two candidates for the latter, the scientific reason as applied to reality, and the state as the user of this rationality. There was also an implicit need for intellectuals, the masters of the new reason and also a realization that decadence and a call for action made the Christian language and conceptual universe obsolete. The world of people understood as pilgrims in this fallen world, never to be perfected, just temporarily, was gone. The reference to the classical antiquity was very much visible in the Enlightenment thinking, with its concept of decadence derived from the cyclical theories of the Greeks and Romans. This appealed to the Europeans, mainly the

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<sup>209</sup> The idea of progress is not of course a uniquely modern idea and its rise is not the consequence of secularism understood as Western's thought liberation from Christian theology. The idea originated in classical Greece and was fully developed in Christian theology and philosophy of history. Yet the modern idea of progress liberated from Christianity, and tied to the purely rational mind exposed itself to a grave danger. The Christian idea was tied to the progress of knowledge as in the works of the Church fathers, for instance Tertulian, Eusebius and Saint Augustine, but was also indispensable to the grand task of spiritual and moral progress in time, sacred history as understood by the Jewish conception of sacred history. History could not have been other than it actually was, and achieving natural growth through time at the same time. Yet all the ideas involved the clear philosophy of progress, slow, gradual and continued advance through time of all mankind, towards the higher stages of development, where necessity, direction and purpose were tied together, part and parcel of Christian philosophy of history. Providence was an indispensable part of it. With modernity, Providence disappeared, but the ideas of human advancement – this time directed not by theological myth, but by rational aim defined out of human history – was retained. The idea of progress, from the time immemorial safely tied to myth, ritual, and religion was let loose, but this time it was tied to history and science without any safety valve which made the non-attainment of progressive aims bearable. Progress was rational, that is, it was immediately attainable. If it was not attainable yet, its time was coming and it was within rational power of human mind to achieve it at last. The end point of progress was always in the future of history, but without the anchor in the sky. The result could only be a growing resentment and the ever increasing efforts to speed it up. See: R. Nisbet, *Prejudices: A Philosophical Dictionary*, Cambridge Mass. 1980, pp. 238–243; also his, *History of the Idea of Progress*, New York 1980. With this decoupling, came another feeling of 'homelessness'. Christianity made cosmic 'homelessness' bearable. At the same time it rooted the individual in the progress in time as a task never to be finished, and never to be within the human powers to define in advance, in terms of 'totality'. Progress was metaphysically meaningful and at the same time limited, there was no rushing up to its completion. The rejection of Christianity by the modern rational mind has not yet removed the yearning for religious explanation of meaning, which had to be provided this time by history, rationality and political power of transformation. Modernity has not changed the finitude, fragility and mortality, it simply made an operation of placing its fulfillment in the hands not of religion but in the hands of progressives, intellectuals and power apparatchiks trying to tie this metaphysical yearning to history and political transformation. The profound metaphysical anguish was to be alleviated by the new idea which was to replace religion, progress understood as equality. *La lotta continua* with every conceivable inequality understood as non-discrimination was its name, and a diagnosis of the unequal reality became to be defined both by the rational mind as well as the incessant resentment fuelling it. Democracy was the operational code word for it and the idea of the society based on authority, any authority, was gone. The organic society gave way to a society of fever and drive for equality of all against all. On the idea of metaphysical homelessness, see: P. L. Berger, B. Berger, H. Kellner, *The Homeless Mind: Modernization and Consciousness*, New York 1973, pp. 184–187; on the idea of equality and resentment as tied to the idea of progress, see: R. Nisbet, *Twilight of Authority*, Indianapolis 1975, pp. 180–187.

intellectual classes, the growing caste of advisers to the Prince, in the form of lawyers, bureaucrats, thinkers, academics, lawyers. They began to lead a double life from the time of the Renaissance, spiritual and temporal, with the learning focused on goals to be achieved irrespective of the eternal values of Christianity. They were stoic and epicurean in morality rather than evangelical, republican in politics, and classical in their tastes.

This approach in the form of the enlightened rationalism was subversive to established Christian morality, let alone monarchies. It became slowly the very essence of elitist thinking, potent and self-confident, producing innumerable books, Masonic lodges, academies and salons, and created a vibrant intellectual rationalist milieu essentially against the established order. There was one additional belief growing, that this world was corrupt, that it was prone to false consciousness and error and that they – the intellectuals – possessed the truth out of the intellectual arrogance of science, this time extended to every aspect of human life, including the very definition what was its essence and meaning. They might have not known where they were going, except that it was a fuzzy, future ideal society cleaned of all superstition and prejudice. The very error of human existence was to be defeated by means of rationalism. This was preciously little in terms of guidance where to go, but the intellectuals knew what they were against, and where this superstition and prejudice reigned. In politics, it was an absolute monarchy, in morality it was Christianity. The ultimate epistemology and ontology of this intellectual endeavor was rooted solely in rationalism. Christian epistemology and ontology with its allegedly superstitious, mythical language was considered to be a lethal obstacle to it. The idea of progress was created in every aspect of human life, and tied to rationalism declared to be a means towards achieving the reign of truth.<sup>210</sup> This way, Enlightenment rationalism was

a remarkable, and remarkably intolerant, tradition of thought because it was a combination of classical and modern elements. It combined two famous conceptions of reason. The first was the classical reason which, after the manner of Plato, was a faculty deemed capable of discovering the only right and natural order of human life. The second was the modern conception of reason as a limited instrument for exploring an alien world, and in particular, for finding means for the attaining of whatever ends and passions might suggest. This was the type of reason described by Hobbes as a scout to spy out the land, and by Hume as a slave of the passions. From the first conception of reason, the revolutionaries of the Enlightenment derived a total certainty about their opinions; from the second, they derived a propensity to believe that technology, including the technologies of government and education, can solve all problems. The shock, as well as the excitement, generated by the French revolution corresponded to the first unveiling of what this combination might achieve.<sup>211</sup>

This approach to reality was purely ideological. At its center stood a belief removed from Christian theology, and put entirely into society and history, that evils of life were not part of human condition per se: something that Christianity

<sup>210</sup> K. Minogue, *Alien Powers: The Pure Theory of Ideology*, New Brunswick 2007, p. 33.

<sup>211</sup> *Ibidem*, p. 40.

considered its core teaching of the original sin beyond the human power to change. The evils were not even a set of problems with which the best way to cope with was politics through an adjustment of different concepts of life in their full richness.

The evils were part of

a single system of dehumanization which determines everything that happens, and which cannot be changed except by a complete transformation.<sup>212</sup>

The French Enlightenment elites marketed this idea into European culture. It was an ideology of the new class of intellectuals, convinced that they possess the truth, an insight into the laws of history and society due to their intellectual superiority. At the same time, no one else, let alone the masses possessed it, which constituted a kind of methodological alienation, not only from the Establishment, which they wanted to take over and become one, but from other people, or in wit from life as such. It was this alienation and superiority which gave the *philosophes*, then and now, a badge of sophistication and insight, being at the same time a distinguishing sign of moral elevation and superiority. The carriers of such sophistication, so they thought, were not only intelligent and knowledgeable about everything, they became, because of it, good, moral people. They were good and moral in a way unavailable to those less learned, less aware and less sophisticated, towards whom only a disdainful paternalism, at most – a benign one – can be shown. This therapeutic alienation of the intellectuals allows no qualms whatsoever concerning the rock-hard conviction, that people are stupid and that their sentiments, their loves, their beliefs are just a nuisance to be overcome for their good on the road to the glorious future.<sup>213</sup> Something which began as a necessary correction to the limitations of the absolutist society turned into the monistic program of transformation, a holistic approach, where nothing could be left beyond the reach of the intellectuals craving for power, to achieve implementation of their vision of the only correct reality.

Religion, mainly Christianity, was in such a view not only a competitor in terms of the vision of reality, but an evil and harmful competitor, a scandal to be liquidated as quickly as possible. The bearers of such a Christian vision were thus not only wallowing in harmful superstition, incapable of overcoming this shortcoming, because of the lack of intelligence and knowledge. They were at the same time morally bad and corrupted, to be dealt with alacrity and transformed, or left to their station and led. For such a reason religion, demanded Voltaire,

must be destroyed among respectable people and left to the canaille large and small, for whom it was made [...]. Every sensible man, every honorable man, must hold the Christian sect in horror [...].

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<sup>212</sup> I owe an expression “therapeutic alienation” to John McWhorter who used it in “American without Americanness”, paper delivered at the Bradley Symposium “Who are we Today?: American Character and Identity in the 21st Century”, May 3, 2007, Washington D.C.

<sup>213</sup> G. Himmelfarb, *The Roads to Modernity...*, pp. 154–155.

Every sensible man and every honorable man” who were not the common people. The latter could be neither sensible or honorable because they were brainwashed by Christianity. Diderot thought of the lower orders with utmost contempt, calling them ‘imbeciles’ in matters of religion, too idiotic – bestial – too miserable, and too busy, the quantity of the canaille is just about always the same.

In his famous witticism Voltaire yet treated religion, that is Christianity as a useful superstition, which kept the lower orders docile:

I want my lawyer, my tailor, my servants, even my wife to believe in God, because it means that I shall be cheated and robbed and cuckolded less often [...]. If God did not exist it would be necessary to invent him.<sup>214</sup>

The philosophers’ enmity towards Christianity and their support at the same time for its social utility, has often been treated as a paradox, a contradiction in their thought, an outcome, allegedly, of their realization that it was impossible to create an organic, viable conception of the society on their secular, deistic or overtly atheistic beliefs.<sup>215</sup> But this description of the actual French society was for the *philosophes* also a normative statement. The society was not only divided, the chasm between the common people and the enlightened philosophers being great. This situation was as it should be, a permanent division between the better and the lower, the former leading the first to the enlightened future. The French philosophers had no conceptual – let alone practical – means to bridge the gap, since they thought it desirable, until the day comes when they announce that the society will have already been properly constructed.

This difference of approach towards the division between the people and the elites was visible, in a striking contrast, in the American Declaration of Independence and the Bill of Rights on the one hand, and the French Declaration of the Rights of Men and Citizen on the other. The Americans, exhibiting a deep suspicion of any power, looked at the rights of men not as a foundation on which one builds a perfect system of governance and society, but as a barrier which should guard the people against the abuses of power. Moreover, the source of such rights,

<sup>214</sup> See for instance: R. I. Boss, *The Development of Social Religion: A Contradiction of French Free Thought*, “Journal of the History of Ideas” 1973, October–December, p. 577.

<sup>215</sup> This is the greatest shortcoming of the modern human rights project, which tries to define human dignity as the basis for these rights, for instance in the Charter of Fundamental Rights of the European Union. For a human right to be inviolable it must have the source of its dignity beyond human reach. It seems, that without religious sources of such a grounding the very aim of human rights, their inviolability in relation to one’s inherent freedom and autonomy is impossible. Thus “human being is free and independent from any power only then, when his autonomy comes from outside of him. Is free [...] if this who he is, does not come from others, is not a picture created by the public, an element of common memory. Otherwise for a human being to exist [as an individual] one has to differ, has to strive to be noticed, to be remembered, impressed in memory. In such a case gestures, rebellions [also ubiquitous exhibitionism – author’s note] are just an instrument by means of which we relate to others. If we are not persons [...] we are the slaves of the present time, the public, fashion. Where there is no source of existence outside us, excluded from the world of opinions, we are there just to the extent, that we are noticed. If individuality is not rooted in eternity [...] it is an illusion”. P. Lisicki, *Nie-ludzki Bóg*, Warszawa 1995, p. 191. On the impossibility of establishing the inviolable basis of human rights without religious justification, see also: M. J. Perry, *Toward a Theory of Human Rights...*, esp. pp. 7–13, 141–143.

as clearly stated in the Declaration of Independence, was natural law and God. The message was clear. The federal government was only to enable the civil society to act as it existed and according to the tested rules and institutions. As a consequence, the most important were the institutional remedies, clear statements of concrete rights, so the federal power, including the judges, would have difficulties enlarging them. In the French Declaration, the source was the sovereign people and the aim of the revolution was to create the new society and destroy the old one, a colossal act of social engineering according to the abstract ideas, in the citizens' name, and for their own good. Listing the rights and formally guaranteeing them, the French Declaration did not, in fact, guarantee them. It gave the legislative enactments the ultimate right to define the real rights of man and citizen, their boundaries, the ways in which they could be executed and the inception time of their operation. The French sovereign, that is the theoretical, abstract 'people', was to be the only source of rights and the only interpreter of them, and the sovereign could do this only after the perfect society had been established. The American Declaration of Independence rooted the human rights not in the people's will, but in the will of God the Creator. Thus, for instance, neither The Declaration of Independence nor the Constitution were looked upon as dangerous by Catholics in a totally Protestant society. The Creator created people equal and free, and no one could take this away from them. For the French, people were born free because this was declared by reason and the people willed it this way. Man himself sent a message that people were free and equal, equipped with consciousness and intelligence, having an obligation to be brothers to each other. The people conferred on themselves prerogatives, from which they could also arbitrarily exempt themselves. There was absolutely no ontological basis of such rights.<sup>216</sup>

It is here, that Rousseau's General Will entered. Even Rousseau's General Will was a means of subordinating the lower orders to the general framework of thought, which was to be defined by those who know better. Rousseau's paradox was, that he rejected the society, its traditions, customs, mores – in short culture, so as to discover the true innocence of each individual, who in turn would form a social contract with other individuals of perfectly equal people-citizens, expressing their individual free choice. Such a contract would have a redemptive force, overcoming for good human alienation of each individual and at the same time of the society at large, creating a 'civil religion', imposing on citizens the unmediated relation between them. They were not to be burdened by any social institution, tradition, custom, thought. Unmediated relation which the good heart in every human being requires.<sup>217</sup> Two ideas of Rousseau's democratization were correspond-

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<sup>216</sup> This logic is analyzed in an excellent work by J. Staroński, *Jean-Jacques Rousseau: Przejrzystość i przeszkoda*, Warszawa 2000, pp. 33–46; R. Scruton, *Rousseau and the Origins of Liberalism*, [in:] *The Betrayal of Liberalism: How the Disciples of Freedom and Equality Helped Foster the Illiberal Politics of Coercion and Control*, ed. H. Kramer, R. Kimball, I. R. Dee, Chicago 1999, pp. 19–42.

<sup>217</sup> L. Kołakowski, *The Main Currents of Marxism*, Vol. 1, Oxford 1977.

ing here to this totalitarian frame of mind of the *philosophes*. The General Will, a shorthand for democratization, was the sine qua non condition of a legitimate society and political order. Every power which was not 'democratic' was by definition illegitimate, beginning with the state machinery and ending with family relations. Thus, since 1789 the logic of democratization of everything at any cost, a precondition of justice, was let loose in Europe, destroying slowly another competing idea of authority in any sphere of life, including family or creedal organizations, as e.g. the Catholic Church. At the same time this lack of democratization was constantly blamed for the society's evils. Authority, any authority, was to be responsible for the individual's inability to achieve autonomy, a state of innocent nature, a precondition of good life which could then be construed at will. But to achieve this stage a guidance was, is, and will be constantly needed, and this guidance will be provided by the enlightened. They will only know when and if, this lack of authority will be already perfect, so the General Will might finally be automatic, and the wise and knowledgeable decide to let the patronized stock to be free.

There is a lethal paradox here. It has played itself repeatedly in the West's history in the redemptive thought of philosophers who followed Rousseau, for instance Fichte, Hegel, Marx, Lenin, Sartre and in some of the currents of the contemporary liberal-left through.<sup>218</sup> If the society was to be blamed for evil deeds of the people, if its institutions, its culture, its morality and mores were to blame – in other words, if everything what human civilization in all its plurality and richness created was defined *a priori* as an enemy to be destroyed, then two conclusions followed. The punishing of wrongdoers was senseless, because they were the victims of society, thus the very idea of moral education of the people ceased to have any real sense. The reform of the institutions should thus be the major object of human activity and once that aim has been accomplished the moral wrongdoings automatically cease, since the perfect uncontaminated goodness of man reasserts itself. Moreover, we cannot create a good society and a good individual until the destruction of the existing society has been completed. The war on institutions and culture as such must be thus incessant. But the ignorant people are incapable of doing that, moreover, they fiercely resist such an operation and fight against it. For this reason, the enlightened elite must lead them to that glorious future and crush any resistance encountered by the ignorant multitude. Only when such a final point of destruction will have been achieved the elite might relinquish its hold on conceptual and political instruments of their power. There is of course another paradox here. The reality can never approach such a utopian point, that is why there will always be a continuous need to fight with recalcitrant society and the people as such. The more the traditional society has been reformed, the more need there is for more reforms, according to the rationalist schemes of the enlightened elite. This was the mental source of both Stalin's adage that the class war intensified, even as the enemies of socialism were being systematically defeated. This is the mental source of the

<sup>218</sup> A. Bryk, *Akcja Afirmatywna...*, pp. 47–87.

contemporary liberal-left war campaigns against all forms of ‘discrimination’ and ‘exclusion’ which can never stop, should intensify and will do so.<sup>219</sup>

The attitude of the French *philosophes* of the 18th century was, of course, conditioned by the political, social servitude and degradation of the lower classes in pre-revolutionary France or continental Europe, something which later prompted Marx to remark in the same vein about peasants as ‘the sack of potatoes’. But such a contempt was combined with and strengthened by the pure speculative mind. It bred in due course a genocidal fruit in European history since it gave rise to the one hideous idea of modernity. It was a conviction that there were disposable people, people whose existence hindered progress and whose liquidation was a precondition for creating the good, finally perfect society. Its practical application was already visible in the Vendée genocide in 1794, but that genocide which was to dispose of recalcitrant “Catholic idiots” resisting the march of revolutionary progress was not an exception, it was an icy portent of what was to come in the 20th century.<sup>220</sup>

The hubris of rational mind could wreck havoc, also because the French revolutionary intellectuals experienced an utter alienation from the ordinary activities of life, showed a conspicuous lack of responsibility and attachment to anything other than their own conceit of being superior by the very fact of being just intelligent in the narrow speculative way, the first modern instance of ‘learned stupidity’. Their contempt was in fact the other side of a hatred of life as such. It exhibited also their corresponding urge that – because they were unable to participate in real life – the best way to gain control over it was to destroy it, a common disease of the intellectual class in modernity, so perfectly analyzed by Fyodor Dostoevsky in *The Possessed*, best expressed in Verkhovensky’s monologues. Helplessness and insignificance bred dreams of superhuman status, in which power was to be used for their own elevation to the positions of society’s masters over the idiots, to breach finally from the incurable and impossible to bear alienation from the real life, its attachments, loves, responsibilities, and finally from the very drudgery of day-to-day existence, which helped to reconcile oneself with the intractability of human existence. The rejection of this humble lesson brings either despair and suicide, or dreams of total control and destruction, again well captured by Dostoevsky’s twin protagonists: Verkhovensky and Stavrogin.

The United States never had, until the 1960s, such a temptation on the part of its elites. There was no radical fissure between the higher and lower ranks. The difference was never thought of as fixed, not considered to be insurmountable. The

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<sup>219</sup> The not so subtle scapegoating of religion, mainly Christianity, for the 20th century genocides rooted in the allegedly intolerant frame of mind extending to Inquisition, is a common game of many contemporary liberal-left intellectuals, kind of criminalization by association. To which one of the liberal scholars responded “It’s a simple fact [...] that contrary to the current scapegoating of religion, more people were slaughtered during the 20th c. under secularist regimes, led by secularist intellectuals, and in the name of secularist ideologies, than in all the religious persecutions in Western history”, O. Guinness, *On Faith*, “Wilson Quarterly” 2005, Spring, p. 17.

<sup>220</sup> G. Himmelfarb, *The Roads to Modernity...*, p. 156.

British tradition appropriated in America was characterized by the relative equality, prosperity and democracy of manners combined with religious practices recognized as essential part both of prosperity and liberty. It made Americans impervious to attempts of total transformation of the existing society and kept intellectual elites firmly an organic part of the people as such. There was a chasm between the lower orders and the elites but it did not even remotely correspond to the European experience. The practical operation of colonial society excluded that. The British tradition ensured, that whatever the social chasm there was, it was

bridged by the moral sense and common sense that were presumed to be innate in all people, in the lower classes as well as the upper.

This prevented the elites from developing the burning feeling of contempt and impatience towards the lesser orders who were never considered less wise, merely less educated, education and speculative intelligence never equated with any moral superiority over practical intelligence and wisdom. The French philosophers, in turn allowed to the common people

neither a moral sense nor a common sense that might approximate reason, consigned them, in effect, to a state of nature, [but this time] a brutalized Hobbesian, not a benign Rousseauian, state of nature, where they could be controlled and pacified only by the sanctions and strictures of religion.<sup>221</sup>

Thus religion, mainly Christianity, was never in the *philosophes'* schemes part and parcel of a free, modern mind and society, a legitimate ingredient of moral, social and political order, a meaningful ordering of finite human existence, to be protected as a treasure without which chaos and human anomie in general, not just among the lower brutes, would befall the society. Religion was treated by the French *philosophes*, as a province of the lower brutes kept on a leash, at best their necessary bridge to the better world, or at worst, as a redundant superstition to be pushed back into purely private realm of magic, never to be allowed in the public forum.

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<sup>221</sup> With hostility to Christianity, the liberal-left elites are not only flogging a dead horse today. They exhibit the last 'respectable' prejudice of the progressive mind: an instance of secular fanaticism. A deeper problem is involved here. It is a question, whether modernity accepts that nature has any moral purpose at all, or whether what there is in nature, is just an auto-creation of autonomous self. If modernity with its attitude towards nature is anti-teleological, then hostility towards the Catholic Church and its theological engagement in the world, as manifested during the discussions about the preamble to the European Treaty, as well as in the European Parliament's refusal to award due place to Buttiglione's natural law argument, is natural and taken for granted. Since "as long as a teleological conception of nature is in place, there remains the possibility that the Church can engage that account of nature dialectically. If nature points us towards the divine, then theology can remain a part of rational public discourse. If however, nature does not point at all, or points in multiple, incompatible directions, all of which refer back to the whims of our desires, then theology becomes just an opinion among many, one rather peculiar way of satisfying natural cravings." T. S. Hibbs, *Modern Times*, "First Things" 2007, February, pp. 47–48. The latter point of view is put forth by the contemporary atheistic evolutionists or postmodernist thinkers as e.g. Richard Rorty. See: *How Richard Rorty Found Religion...* On a usefulness and validity of theological biblical arguments for contemporary moral discussion and their indispensability see: L. R. Kass, *The Beginning of Wisdom. Reading Genesis*, Chicago 2004; also his, *Defending Human Dignity*, "Commentary" 2007, December, pp. 53–61; D. Berlinski, *The God of the Gaps*, "Commentary" 2008, April, pp. 33–41.



In either case, religion belonged to that contemptible mass of ignorant and stupid, but was considered to be a laughable superstition among the enlightened. However that feeling constituted a rationalization of the earthly fight for power between the secular state and the church, it has remained an indispensable part of the liberal and leftist elites dominant thinking in Europe, long after Christianity ceased to be a viable competitor for the secularist state.<sup>222</sup>

In addition, the American intellectuals were practical people who in turn were never allowed to have a special, superior status by means of their intellect. Not only the British tradition bore it ill. Religious pluralism and protestant individualism contributed to such a historic suspicion towards the alienated elites. It was because of such combination of republican social equality of British Enlightenment, rooted in the common and moral sense belonging to all, and the lack of moral differentiation between the masses and elites, which formed the cultural code of the society. Protestant individualism made everyone equal in the eyes of God through epistemology of *sola scriptura*, causing democratization of the religious impulse. Such a convergence was the beginning of an egalitarian, participating, optimistic, and lurched towards the future consciousness of the entire society. Together with the Enlightenment ideas and the protestant egalitarian axiom that even the most unschooled could be a part of society, this consciousness formed modern America. It created a nation that was the most equal in terms of non-acceptance of any social limits, impatient, prone to experimentation and most eschatological in history, with the democratic education in practice belonging to all, and the innate feeling that everyone was capable of being a master of his own fate without the guidance of the betters.<sup>223</sup>

That this American and British relationship between the elites and the masses was different, was of course connected also with the material well-being of the American masses. The poverty gap was in the 18th century not as big and as fixed as in Europe. In Britain it could be also big but not as fixed. The social differences were smaller. England was the prime example of a flexible society exchanging people between the estates already in the medieval times. True, the aristocratic sense of disdain was not lacked there, but the whole social structure was more compact. The existing mental bridge between the poor and the rich, the higher and the lower, the more intelligent, and the less intelligent, formed by the moral sense and the common sense the Scottish Enlightenment attributed to all individuals, was part of the social ethic and intellectual culture. Everyone, whether they were members of the lower or higher classes shared common humanity and a common fund of moral and social obligations. It was this social ethos which formed the common bond out of different people in the English speaking world, whether it was Adam Smith, Edmund Burke, secular philosophers, religious revivalists, bishops of the Church of England or preachers of

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<sup>222</sup> See: R. E. Shalhope, *The Roots of Democracy: American Thought and Culture 1760–1800*, Boston 1990, pp. 139–165; G. S. Wood, *The Radicalism...*, pp. 271–287..

<sup>223</sup> J. P. O'Leary, *The Pursuit of Equality in American History*, Berkeley 1978, pp. 146–147.

other denominations. There were many excluded in England, to name just industrial workers at the beginning, or the Catholics until fairly recently, but the political elites step by step included them into the common bond of Victorian obligation.

In America, the social ethos combined with the religious and relative equal colonial practice formed from bottom up, was inimical to a feeling both of helplessness and paternalism. Opportunities were always understood more in terms of their individual utility, not in comparison to others. This outlook has prevented making the envy the operating principle of American consciousness or politics. "Create for us an equal society" was never the cry of reformers and revolutionaries in America. It was "let us join the table" that was their rallying cry and guarantee of the equal opportunity. The American notion of equality was without doubt understood as the equality of opportunity but always subservient to the pluralistic, not barely economic understanding of that opportunity. What one of the historians of American equality stated in connection with the Jackson's Age may be applied to the entire American experience. The idea of equality of opportunity, the unifying idea of the American cultural ethos, of which the political equivalent was the concept of equal citizenship, was the idea which, that is true, always

exulted in a higher proportion of rhetoric than practical meaning. [But] The social function of the rhetoric was to give hope, thus drawing off discontent even among those for whom the doors would never open. [Yet] opportunities did not have to be equal in order to be real, however; whenever business or farming or the professions were reasonably open to talent, and where people's energies and abilities were engaged with some degree of satisfaction, the notion of equality was merely an adornment to their conception of opportunity. It neither described it accurately, nor furnished them with causes of discontent. But the national belief in opportunity, and the rhetoric of equality, impaled a distinctive flavor to the American system of incentives, and bestowed an exceptional touch of moral authority on the force of liberated individuality – at first deplored but later exalted under the name of individualism.<sup>224</sup>

True, American individualism has always been haunted by a subconscious fear of failure, by the horror of insignificance in the face of modernity, and the gnawing feeling in the back of consciousness, that life is beyond control. But the hope has never, despite changes, been entirely placed in the hands of politics understood as the state operated by 'experts', by the elites who should reorder society from bottom down. The American sense of individualism, rooted in voluntary associations, basic, common decency, gentle populism and religiosity has always had a shadow of anarchical liberty lurking behind, liberty being the most cherished value. For this very reason challenges have been met face to face from bottom up, by communal experience of self-organization, a real subsidiary practice, in Europe used only more and more as the fig leaf of bureaucratic intrusion. Americans hate

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<sup>224</sup> *The Revolt of the Elites and the Betrayal of Democracy*, New York 1995, p. 5–6; see also: J. Beer, *On Christopher Lasch*, "The Modern Age" 2005, Fall, p. 330. The American elites, mainly media and academic ones, in the wake of the 1960s revolution and influenced by, this time, modern 1968 philosophers, acquired a distinctly European pattern of patronizing disdain.

politicians, but they hate the ‘know better’ elites and experts even more, whether the latter deal with politics or education of their children. Their heterogeneous conservative movement in the latter half of the 20th century was a testimony to it. It was a rebellion named by Christopher Lasch, once radical and a cultural conservative by the end of his life, a rebellion against ‘The Revolt of the Elites’ against their own societies. Using the phrase in the title of his book, Lasch meant several inter-relating developments by the term ‘revolt of the elites’. First of all, it was the initial definition of the American society by such ‘progressive’ elites as in need of instant and constant reforming from the top down by those who know better. Secondly, it was the corresponding feeling of hatred and despise towards the same society for not conforming to the elites’ image, what it meant to be modern. Lasch writes:

The new elites are in revolt against ‘Middle America’, imagined them to be technologically backward, politically reactionary, repressive in its sexual morality, middlebrow in tastes, smug and complacent, dull and dowdy”.<sup>225</sup>

kind of fundamental, unheard of so far, cultural detachment, both physically and ideologically from common men and women.

Resistance to this type of social engineering is enormous, and culturally Americans do not bear it well. There is a fierce, populist resistance, democratic and anti-liberal in the French Enlightenment tradition, against depoliticization of politics and a drift liberal towards smug social engineering of the intellectual bureaucrats who know best, what the direction of history is. This depoliticization is still in its initial place in America, but very much is the *modus operandi* of the European Union project. Pierre Manent locates this depoliticization in the modernity’s promise of liberation from all sources of obligation extrinsic to the human will. Kant termed this independence ‘autonomy’, the capacity to give oneself the law and thus to be liberated from heteronomy. Contemporary politics is increasingly characterized by that tendency and the European Union is the example of this. Democratic process in such a system is purified of any obstacles and ties coming from history, place, language, including memory itself. These were the features of politics which have traditionally reflected political process and richness of life since antiquity and came up with the idea of democracy as a form of government. Walker Percy, an American writer of the South, called this modern heresy angelism, which he understood as a denial of our bodily nature and a hubris of utopian life. For Manent, modern state is increasingly moving towards administration, a world beyond politics, despite the ideological obsession of public policy with tolerance, diversity, identity. The European, post-1968 separation of politics from national politics, the people with certain attachments and loyalty to a nation and culture which it creates and sustains, testifies to that. Americans, still in contrast with Europe, identify their own social and political order more with populist democracy and consider it the univer-

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<sup>225</sup> R. Hittinger, *Dissecting a Democratic Illusion*, “The Intercollegiate Review” 2006, Fall, p. 53.

sal model. The new Europe tries to be apolitical, transcending the nationality and politics opting for pure democracy free of any attachments and loyalties. This is paradoxical since that provides no basis for any geographical or cultural definition of Europe. Depoliticization is caused by three developments, great ‘emancipations’: of commerce, of right – which allow judges to rule directly in the name of humanity, and of morality – detached from its social framework:

Commerce, right, morality: these are the three systems, the three empires that promise the exit from the political. Each in its own form: commerce, according to the realism, the prosaic character of interests rightly understood; right, according to the intellectual coherence of a network of rights rigorously deduced from individual autonomy; and finally, morality, according to the sublime aim of pure human dignity to which one is joined by the purely spiritual sentiment of respect.<sup>226</sup>

One does not need here a political order, the compromise world of political action where deals are struck and consensus achieved within a national community is redundant, the participation and loyalty which bring a sense of belonging, for instance in cultural memory is absent. These three emancipations are essentially emancipations into nature: economical, legal, moral. Political zone becomes in such a case an empty, artificial, useless, discarded space, because it can bring no sense, no happiness, no roots: an obstacle, not help. The political mediation within the nation state gives way to other mediations which are multi layered and neutrally separated: a motley of convenient styles, based on pure moral autcreation. These mediations can in no way be useful to dovetail with the national community. Moreover, they cannot be played out without conflicts, but these play themselves in the realm of culture, where the moral autonomy and moral freedom of one individual clashes with the moral freedom of the other, and there is absolutely no criteria by which any mediating structure can sublime the mutual desires in a whole larger, and transcending the autonomous desire of the self. Politics will disappear, becoming more or less an instrument of these three emancipations, by definition nonpolitical in the traditional sense.<sup>227</sup>

The European project has been strongly on the way to depoliticization, with the elites busy dismantling the nation state defined as a danger. But the United States still maintains a strong, nationalistic state, resistant to the monopolistic claims of the great non-political empires of commerce, morality and rights, all requiring the supervision of adjudicating judges speaking in the name of universal human rights, that is in the name of humanity. True, the American Supreme Court

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<sup>226</sup> P. Manent, *A World Beyond Politics...* Some thinkers claim that this is just a temporary phenomenon and that depoliticization is going to affect the United States as well, together with the entire world. This is on the one hand the Marxist vision of capitalistic, depoliticized market and the Orwellian world of a couple of global, battling empires. See: J. A t t a l i, *Demokracja i rynek w XXI wieku*, “Europa” 2007, February 3, pp. 12–13.

<sup>227</sup> This emancipating role of the judges in America and worldwide, adjudicating in the name of ‘humanity’, without necessarily normative or textual basis of it, is succinctly demonstrated in R. B o r k, *Coercing Virtue: The worldwide rule of the judges*, Washington DC 2003; see also: H. A r k e s, *Liberalism and the Law*, [in:] *The Betrayal of Liberalism...*, pp. 71–92.

has a strong tendency to take over politics and adjudicate the constitution along the aforementioned lines, but the society resists such attempts. The European people have for all practical purposes given up on that, marching towards the administrative state, ready to supervise therapeutically, the benign and pliant populations. In America such a depoliticization, being the opposite side of democratic politics of free people, meets with the fiercest resistance from all walks of life, despite the fact that deadening conformism and consumerism weakens the forces of resistance, and the revolution of the 1960s made the cultural climate of 'liberation' the language of the mass media. Nevertheless, Norman Thomas the socialist leader of early 20th century expressed that feeling of *libertas* of the resisting common people well, the very source of American eternal populism in the best sense of the word. When confronted with the chants of his audience "Lead us Norman! Lead us Norman" he, socialist himself, retorted, "I am not going to lead you anywhere, since if I lead you somewhere, someone else may lead you the other direction". Which translated into plain English means: "As grown-ups, you can think for yourself, and I as a leader can only participate in that, not because I am wiser but because I am one of you".



Maciej Brachowicz

## **UNITED STATES AND THE EUROPEAN UNION - BASIC (PRE-)CONSTITUTIONAL DIFFERENCES**

Just after the Convention on the Future of Europe started its proceedings which led to the Treaty establishing a Constitution for Europe (often called European Constitution) the American example started being invoked by supporters of the Convention efforts as historical evidence that a wide and diverse group of states may successfully unite in order to achieve the status of a global power. The Treaty was drafted in 2003 and then amended by Member States leaders' a year later, but it was not given a chance to prove its ability to unite European nations, as it was rejected in popular votes in France and Netherlands in 2005. However, the very text of the Treaty became the base for the new one, called this time the Reform Treaty, agreed at the end of previous year in Lisbon and supposed to enter into force at the beginning of 2009. Even main framers of the European Constitution admit that the new Treaty "is the same as the rejected constitution",<sup>1</sup> only changed in order to avoid any associations with word "constitution", blamed for defeat. It is the aim of this article to explain why the European Union should seek its own way of building constitutional order, restraining from any state-like ambitions, among them looking up to the United States for an example to follow.

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<sup>1</sup> *Lisbon Treaty Made to Avoid Referendum*, Says Giscard, euobserver.com/?aid=25052.

## Preconditions for success

In our western cultural area it is assumed that polity which is going to become a political empire should be democratic one. But, as European experience has so far revealed, to provide democratic procedures is far not enough. What is necessary is public understanding that politics is made by a people and for a people. In a broader sense, what is required is a certain kind of political culture, which Larry Siedentop refers to as the “culture of consent”, that is

a culture in which cynicism about the law-making process is kept in abeyance by a kind of confidence in the law which springs from a conviction that the law can be changed if it does not adequately represent popular will. In the longer run, the practice of self-government, when it is not a mere sham at the centre of society but obtains at all levels, generates such a confidence in the law.<sup>2</sup>

We look briefly at the reasons why the United States managed to reach this kind of culture, and why the European Union did not.

Let us start with the basic and well known distinction between two, partly opponent, ways of understanding democracy. The first, liberal one assumes the citizen’s status as

primarily determined according to negative rights they have vis-à-vis the state and other citizens. As bearers of these rights they enjoy the protection of the government, as long as they pursue their private interests within the boundaries drawn by legal statutes – and this includes protection against government interventions. This, at the first glance looks great, but the negative feature of liberal view is that the political process of opinion- and will-formation in the public sphere and in parliament is determined by the competition of strategically acting collectivities trying to maintain or acquire positions of power. Success is measured by citizens’ approval, quantified as votes, of persons and programs.<sup>3</sup>

In other words, drawing strong distinction between private and public leads to imposing competitions of private interests on the public sphere. The other one,

the republican model as compared to the liberal one has the advantage that it preserves the original meaning of democracy in terms of institutionalization of a public use of reason jointly exercised by autonomous citizens.

The threat intrinsic in this model is that “the democratic process is dependent on the virtues of citizens devoted to the public wealth”.<sup>4</sup> Simply speaking, it may be too idealistic and vulnerable to instrumentalist use abusing individual rights. The distinction is of course sharp and only indirectly finds support in reality. The reason why Habermas made it was to introduce the third way of understanding democracy which was supposed to unite positive features of the previous two, leaving

<sup>2</sup> L. Siedentop, *Democracy in Europe*, London 2000, p. 16.

<sup>3</sup> J. Habermas, *Three Normative Models of Democracy*, “Constellations” 1994, Vol. 1, No. 1, pp. 2–3.

<sup>4</sup> *Ibidem*, pp. 3–4.



aside their shortcomings (no matter how Habermas did it). However, thanks to this distinction, looking at the American and European Union models of democracy we are capable of grasping the basic differences, whether they are respectively more biased to republican or liberal view. The reasons are to be found first in history.

### **Tocqueville's lesson**

It was Alexis de Tocqueville who gave the most comprehensive explanation why American and European (French) democratic revolutions differed. There were three main reasons for that. The first was that in Europe, due to its history with whole feudal ballast, being free was supposed to require necessarily providing the conditions for equality, today often understood as the equality of results. Unlike Europeans, Americans just felt free as they were born in a free country among equal citizens. Connected with that was the European antireligious obsession which regarded religion as a menace to freedom, whereas Americans regarded religion as an ally to secure freedom (separation of state and church was in Europe supposed to secure the state from the church, whereas in America it was supposed to secure churches from the state). The third idea Tocqueville found astonishing in US was the ubiquitous spirit of local self-government, whereas his own country was famous for the centralization of power.<sup>5</sup>

At the time when the Constitution was being framed, America was a conglomerate of religious prophets leading their people to the promised land, with John Winthrop and his "city upon a hill" as an ancestor, and liberal thinkers, with Thomas Jefferson and his "right to pursue happiness" as the leading example. That combination created a specific climate which bound the will to secure individual freedom with the generally negative judgment of the human nature.<sup>6</sup> To secure freedom in the face of possible abuse of power, the Framers of the Constitution divided the power among three branches of government, at the same time providing wide independence of economic and cultural systems of society.<sup>7</sup> Europeans took only a superficial lesson from their American counterparts.

What most impressed the French was the very act of constitution-making itself, the constituting or reconstituting of government through the principle of the people as constituent power. What they learned from America was the possibility of having a constituent assembly or a convention. The two revolutions harmonized with themselves in the belief that a people must will its own government by a kind of act or special creation,<sup>8</sup>

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<sup>5</sup> See: A. de Tocqueville, *O demokracji w Ameryce*, Kraków–Warszawa 1996.

<sup>6</sup> It was James Madison who wrote "if people were angels, no government would be necessary", *Federalista nr 51*, [in:] *Eseje polityczne federalistów*, ed. F. Quinn, Kraków–Warszawa 1999, p. 151.

<sup>7</sup> See: M. Novak, *Wolne osoby i dobro wspólne*, Kraków 1998, pp. 65–66.

<sup>8</sup> R. R. Palmer, *The Age of the Democratic Revolution. The Challenge*, Princeton 1959, pp. 266–267.

but it is barely possible to find other profound similarities. Perhaps the reason for enormous differences in securing freedom of people may lay in the patrons that the Americans and the French chose to justify their efforts. Whereas for Americans it was the cautious Montesquieu, whose main ambition was to secure political freedom by the means of dividing the power, the French admired much more radical Rousseau, who sought the way to construct a political system compatible with the human nature which, in his view, is good although enslaved by (Christian) civilization. The very difference in assessment of the human nature led to enormous disagreement between the authors in regard to constitution-making: “where Montesquieu sees a judicious filter that tempers a people’s fits of anger or enthusiasm, Rousseau sees a betrayal of general will”.<sup>9</sup>

We all know the influence of Rousseau on Robespierre talking about French Revolution as “the despotism of freedom against tyranny”. What we should find out now is the reason why Rousseau, the very self-convinced republican and critic of liberalism, became one of authorities most often invoked by supporters of the liberal view on democracy.

Although republican himself, Rousseau was one of the authors who created their political theory taking as a starting point the so-called state of nature, which was aimed to prove the basis for liberal democracy – people are equal from their nature. But,

what the modern egalitarian individualists did [...] is that they reduced the human person to one layer, usually called natural, whether it is the preservation of life, an instinct of utility, self-assertion, or something else. All the rest, that is all other identities related to family, community, government, were left as being inessential to natural human existence and could be freely constructed by the individuals.<sup>10</sup>

Naturally, it was not his goal to reduce human person to one layer. In fact, Rousseau tried to do something – in a way – opposite, i.e. to unite the political system with the nature of the human taken as a whole. The result, however, was pretty much the same: almost complete disregard for the complexity of a person as a member of family, nation, local and religious communities, worker, ruler etc. What has remained the most durable heritage of his thought is typical for modern (leftist-)liberal democracy, namely, the model of democracy dominant in Europe, the belief in a man who is “born free, but everywhere [he] is in chains”,<sup>11</sup> so he needs to be liberated. That attitude is best perceivable in modern human rights approach.

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<sup>9</sup> P. Manent, *A World beyond Politics? A Defense of the Nation State*, Princeton 2006, p. 46.

<sup>10</sup> R. Legutko, *Totalitarianism and the Human Soul*, [in:] *Ronald Reagan a wyzwania epoki*, eds. A. Bryk, A. Kąpiszewski, Kraków 2005, p. 126.

<sup>11</sup> J. J. Rousseau, *O umowie społecznej*, Warszawa 2002, p. 5.

## The American example

Even a glance at the conditions that led to the meeting of American delegates in Philadelphia in 1787, when they decided to create a constitution, should be compelling enough to draw the conclusion that comparing it to the European Convention in 2001, under the leadership of the former French president, Valéry Giscard d'Estaing, as some did, is not justified. Of course, it can be claimed that both might have had similar feelings, both shared premonition that further actions of individual states in the face of external threats were unreasonable, but even in that case very weak Americans had much better incentives than contemporary Europeans. The real difference, however, lies in internal conditions for integration. As Siedentop put it, "there was tacit agreement among the delegates that some functions of the British Crown, especially those to do with foreign policy and military matters, were only temporarily in abeyance – waiting, so to speak, for a central authority to take them over once again".<sup>12</sup>

The states just did not develop their sovereign policy. What is more, with respect to the history they shared, there were a few similarities of the highest importance among them: "the habit of local self-government; a common language; an open political class dominated by lawyers; and some shared moral habits".<sup>13</sup>

None of these is to be found among contemporary European countries. The reason why we should not make the American way of reaching a democratic empire an example for the EU may be summarized in the following words:

in Europe to democracy the way led through society and nation. In America it was reversed. The way to the society and the nation led through the democratic institutions. That is why it was so important to make them (especially the Constitution) "reigning religion".<sup>14</sup>

Thus the Constitution in the United States is barely possible to understand for most Europeans.

The ambiguity about whether the Constitution itself is supreme – or the organs it creates or the people who ordain it – may seem a unique complication, by which Americans evade the historic logic of sovereignty.<sup>15</sup>

Historical development of the concept of sovereignty in Europe combined sovereignty understood as state independence on the international stage with almost unrestrained power of the ruler within the state. That is why the American concept, providing that international independence is a necessary condition for sovereignty,

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<sup>12</sup> L. Siedentop, *Democracy...*, p. 10.

<sup>13</sup> *Ibidem*.

<sup>14</sup> A. Bryk, *Cywilizacja amerykańska*, "Znak" 2005, No. 1, p. 13.

<sup>15</sup> J. Rabkin, *Law without the Nations? Why Constitutional Government Requires Sovereign States*, Princeton 2007, p. 68.

however not sharing the idea of undivided internal power, is hard to grasp for us, Europeans. American

sovereignty, then, is not just about restraining ambition but, more fundamentally, about securing loyalty. As a doctrine, it implies some clarity about the conditions under which people will obey or should obey. It depends on some prior agreement on how a particular people will let themselves be governed. Liberal theorists called this the social contract. Americans might call it the Constitution. But the premise of such agreements is that quite a lot of people are independent-minded, ambitious, assertive – and cannot simply be overawed without some reasonable assurances about the power to which they submit.<sup>16</sup>

The Constitution in this sense requires the basic consent among people, consent possible to reach because of reasons listed by Siedentop. Two of these conditions, the habit of local self-government and shared moral habits, are especially prevailing. People who created this country were, in their majority, self-convinced creators of a new better world, heirs of people who escaped Europe engulfed in religious wars to save their own religious beliefs. They decided to work hard together with others on a local level to secure their descendants from the fate they experienced. For Americans what is local is often more important than federal issues, and federal issues are always more important than the interest of the so-called world community. That is why they do not trust international law as it “necessarily undermines the notion of constitutional government at home”.<sup>17</sup>

### **Democratic values without democracy**

What is the European Union? The peculiarity of this strange organization does not allow for its easy description; on the one hand it does not have sovereignty, on the other, we cannot any more pretend it does not influence the sovereignty of states it is composed of. Nobody knows exactly which countries can access the EU (it may even be more prudent to ask which ones cannot) and what its political destination (ranging from sophisticated common trade market to a state-like political power) is. However, we are able to describe the EU in a few well-known political and legal categories.

First of all it may be well blended into the idea of the rule of law, based on the 18th-century’s rationalism devised as a counterbalance to the unpredictable province of politics. The constitutional idea which stemmed from this concept assumes the necessity of rigid delimitating rules that are supposed to restrain government acting in response to present stimuli. Antoine Condorcet, one of the most self-convinced supporters of this idea, regarded mutual relationship between law

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<sup>16</sup> *Ibidem*.

<sup>17</sup> “Trust a global consensus? Half the people in America can barely bring themselves to trust the federal government at home!”, *ibidem*, pp. 236–249.

and politics as rooted adequately in the universal reason and circumstances related directly to the person in power, namely his strengths, weaknesses, whims.<sup>18</sup>

The dawn of the existence of the European Communities reveals that the rule of law was strictly applied to their institutions at the same time leaving no space for (transnational) democracy in the law-making process. However, the nature of this process was different in two main organizations, European Coal and Steel Community (ECCS) and European Economic Community (EEC), the first being more supranational and the latter rather international, at least just after its formation. What made them similar in a way were the persons leading main institutions, the High Authority (ECCS) and the European Commission (EEC), respectively, the Frenchman Jean Monnet and German Walter Hallstein. Both were famous for very rigid understanding of the rules created by their institutions and aimed as a restriction on sovereign actions by member states, which led to conflicts with leaders of the states.

The most famous of these was the clash between Hallstein and de Gaulle in mid-1960s. It started innocently, with a disagreement on how to organize the common agricultural market, but led to the withdrawal of the French representative from the Council and thus resulted in a blockade of its work, when de Gaulle understood that Hallstein was going to deprive him of decisive influence on the issue at stake. To understand the reason behind that, we have to move to a slightly earlier date when the European Court of Justice introduced two doctrines that laid the very basis for the development of European integration in that decade: the doctrine of direct effect and supremacy of the law of the Communities.

The combination of [these] two doctrines means that Community norms that produce direct effects are not merely the law of the land but the “higher law” of the land.<sup>19</sup>

Joseph Weiler introduced a very compelling interpretation of what happened after de Gaulle opposed Hallstein’s policy in terms invented by Hirschman, namely “Exit” and “Voice”. Exit, as a reaction to changes, comes from market economy – if a client is disappointed with changes, he may resign from goods/services of one provider and start trading with another. Voice is a domain of the world of politics – if we do not like a solution, we can give our voice in order to change it.<sup>20</sup> Having considered that the decision was made by de Gaulle a dozen or so months after the institution of those two doctrines, we can assume that

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<sup>18</sup> See: M. A. Cichocki, *Dlaczego UE nie może być wspólnotą polityczną*, [in:] idem, *Władza i pamięć*, Kraków 2005, p. 169.

<sup>19</sup> J. H. H. Weiler, *The Transformation of Europe*, [in:] idem, *The Constitution of Europe. “Do the New Clothes Have an Emperor?” and other essays on European Integration*, Cambridge University Press 1999, p. 22.

<sup>20</sup> See: A. O. Hirschman, *Lojalność, krytyka, rozstanie. Reakcje na kryzys państwa, organizacji i przedsiębiorstwa*, Kraków–Warszawa 1995, p. 22.

the “harder” the law in terms of its binding effect both on and within the states, the less willing states are to give up their prerogative to control the emergence of such law or the law’s “opposability” to them. When the international law is “real”, when it is “hard” in the sense of being binding not only on but also in states, and where there are effective legal remedies to enforce it, decision-making suddenly becomes important, indeed crucial. This is a way of explaining what happened in the Community in that period.<sup>21</sup>

The “empty chair crisis”, as it was popularly called, ended in 1966 with the “Luxemburg compromise” which stated that a Member State could veto a decision that it believed would affect its national interests.

Soon, at the beginning of the seventies, ECJ introduced two other doctrines of highest importance, namely the doctrine of implied powers and human rights. The latter was invented as the reply to concerns that moving competences from state to community level may threaten preservation of human rights protected within member states. In that case, “the integrating federal legal development was a response and reaction to disintegrating confederal political development”.<sup>22</sup>

The development reached at the beginning of the seventies established a kind of balance, which assured quite effective policymaking on the one hand, and at least a vague sense of popular control of the integration process on the other. In any case, it was not most important as at that time economic integration brought enormous profits to European nations. Yet it soon started to diminish and new improvements were necessary. They saw the daylight with the coming of the Single European Act in 1986, and with the provision that allowed the Council to take decisions by means of majority vote in order to establish internal market understood as “an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured”.

That provision started to be extensively used, yet not from the very beginning was it sure what the effect of it would be. National leaders, among them Margaret Thatcher and the French Foreign Minister, came back home assuring that in regard to ‘Luxembourg compromise’ nothing had changed, but “reaching consensus under the shadow of the vote is altogether different from reaching it under the shadow of the veto”.<sup>23</sup>

The integrationist process received a new impetus but disclosed crucial disadvantages at the same time:

the legitimacy of the output of the Community decisional process was at least partially due to the public knowledge that it was controllable through the veto power. The shift to majority voting might therefore exacerbate legitimacy problems.<sup>24</sup>

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<sup>21</sup> J. H. H. Weiler, *The Transformation...*, p. 34.

<sup>22</sup> *Ibidem*, p. 32.

<sup>23</sup> *Ibidem*, p. 72.

<sup>24</sup> *Ibidem*, p. 85.

The future problems with accepting treaties through popular votes were due to that development and disability to solve basic economic problems of the EU.

At the beginning of the nineties, when the new Treaty on European Union was introduced, the new political structure specified basic values accompanying the process of integration: freedom, equality, democracy, rule of law, prohibition of discrimination and respect for human rights. Shortly after the establishment of these “democratic values” the main criteria (apart from market economy) for countries who would like to join EU, called the “Copenhagen criteria” were announced.

Can it be regarded a certain threat for democracy, if the polity with only rudimentarily perceptible democratic influence on law-making process starts describing itself as the embodiment of respect for democratic values? Among those who thought so was the German Federal Constitutional Court. After its judgment in the *Brunner* case, where the judges imparted that there might be a potential threat to democracy in Germany, one of the best known researchers in European law wrote about a very peculiar legal construction in the EU:

the interpretative power of the highest decision-making authorities of different systems must be, as to each system, ultimate. It is for the European Court of Justice to interpret in the last resort and in a finally authoritative way the norms of Community law. But equally, it must be for the highest constitutional tribunal of each member state to interpret its constitutional and other norms, and hence to interpret the interaction of the validity of EC law with higher level norms of validity in the given state system.<sup>25</sup>

It was not by accident that since the nineties we have been witnesses of a more cautious approach of ECJ to the cases that may be controversial from the point of view of state sovereignty: the wise judges knew that

the success of the constitutional construct [of the EU] would depend not only, or even primarily, on the verdicts of the European Court but on their acceptance by national actors, mainly courts, and principally national constitutional courts.<sup>26</sup>

Similarly, it was not by accident that at the same time the political institution of the EU, namely the European Parliament, started acting more boldly, as the alleged representative of European *demos*. The next amendments to the Treaties, agreed in Amsterdam and Nice, extended the scope of competences of the Communities (and so, of course, did the Maastricht Treaty) and provided the Union with a special mechanism aimed to recognize and punish Member States for infringements of its fundamental principles. Although never used, it moved balance from Member States to the EU, as a guarantor of respect for democratic values, at least on a propaganda level.

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<sup>25</sup> N. MacCormick, *The Maastricht-Urteil: Sovereignty Now*, “European Law Journal” 1995, November, p. 264.

<sup>26</sup> J. H. H. Weiler, *The Reformation of European Constitutionalism*, “Journal of Common Market Studies” 1997, January, p. 101.

The rejected Constitutional Treaty made a significant step on this path. First, it gave legal power to the Charter of Fundamental Rights drafted in Nice, secondly, it created the system of rule which presupposed

centralization of power understood as its concentration in internally cohesive political institutions isolated from surroundings, based on formal procedural rules regulating might and influence (i.e. the government and the parliament).<sup>27</sup>

Especially giving the Charter binding force together with formal recognition of the supremacy of European law over national law in the Treaty, could lead to a new, extensive interpretation of its competences by ECJ.<sup>28</sup> The Reform Treaty from Lisbon is pretty much the same, even though it does not include the text of the Charter (vesting, however, the Charter with legally binding force) and, fortunately, leaves aside the rule of supremacy. (It is nevertheless present in a legally non-binding political declaration attached to the Treaty and, naturally, exists as a product of ECJ's jurisprudence). It is not the best way of strengthening democracy at the European level.

## Undemocratic Parliament

It is usually said that the Union becomes more democratic as the European Parliament gains more and more power. However, the mere fact that law-making procedures involve the Parliament does not mean that the procedure is democratic. The problem lays in the Parliament and its relation to its people ; as "The Economist" put it, "the European Parliament is more important bureaucratically but in a democratic sense remains frivolous".<sup>29</sup> Let us briefly look why.

The problem for European democracy lies mainly in public reception; to work properly democracy needs intermediate bodies between the Parliament and its people, and these are hard to find on the European level, especially in regard to European biased media.<sup>30</sup> Apart from that, if the European legal system was to act in a democratic way it would first face the problem of diversity of legal and cultural traditions of Member States. What is more, shifting competences to the European level makes the distance between citizen and the center of power vanish away,<sup>31</sup>

<sup>27</sup> K. Szczerski, *UE jako otwarty system konstytucyjny*, "Międzynarodowy Przegląd Polityczny" 2006, No. 2, p. 240.

<sup>28</sup> See: M. Brachowicz, *Dlaczego Karta Praw Podstawowych UE budzi sprzeciw?*, "Międzynarodowy Przegląd Polityczny" 2007, No. 3.

<sup>29</sup> *Not Normal*, "The Economist" 2007, January 20.

<sup>30</sup> For a comprehensive view, see: D. Grimm, *Does Europe Need a Constitution?*, "European Law Journal" 1995, Vol. 1, No. 3, pp. 292–297.

<sup>31</sup> See: R. Dahl, *Is International Democracy Possible? A Critical View*, [in:] *Democracy and Federalism in the European Union and the United States. Exploring Post-national Governance*, ed. S. Fabbrini, London–New York 2005, pp. 198–199.



and can hardly be treated as a democratic development. Due to the problems mentioned only briefly above, the European Parliament can hardly be perceived as filling the democratic gap in the EU.

The problem with democratic Union, in the republican meaning of democracy, is more profound: it was regulated from above throughout its history. The habit of self-government is hard to be found (among the large countries, Poland from the 15th to the 17th century is one of the rare examples). The way Americans and Europeans perceive democracy is instructive;

when European and Americans talk about democracy they don't talk exactly about the same thing. In Europe democracy means first of all legal principles; in the US it means spiritual principle and continuous process of selection. European critics perceive American democracy as populist; Americans regret that European democracy is aristocratic. Political leaders in Europe consider their role as educating the nation; in the US their role is to follow the nation.<sup>32</sup>

Taking this basic difference into consideration it is not strange that a conservative American lawyer was so astonished when giving his judgment on what Europeans did in the Convent; "the constitutional treaty, in the most fundamental ways, proposed to do the opposite of what a constitution normally does – that is, confer definite powers within demarcated limits".<sup>33</sup>

If there is no democratic polity moving power to the higher level democracy is always threatened, even if we speak about competences instead of power. And there can be no democratic polity if nations' leaders cannot even reach an agreement whether Europe has a Christian tradition important enough to be commemorated in a basic text regulating power on the continent.

A famous French philosopher remarked ironically that EU has achieved the state of "pure democracy", so

democracy without a people – that is, democratic *governance*, which is very respectful of human rights but detached from any collective deliberation.

The European version of democratic empire distinguishes itself [from the American one – MB] by the radicalism with which it detaches democracy from every real people and constructs a *kratos* [power – MB] without a *demos*.<sup>34</sup>

So, according to the same author, we have now a schizophrenic state in which we endlessly subscribe to "democratic values", disregarding democracy itself. "Embracing democratic values, we have forgotten the meaning of democracy itself – its political meaning, which is self-government, the self-government of a people".<sup>35</sup>

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<sup>32</sup> G. Sorman, *Made in USA*, Warszawa 2005, p. 166.

<sup>33</sup> J. Rabkin, *Law without...*, p. 138.

<sup>34</sup> P. Manent, *Democracy without Nations? The Fate of Self-Government in Europe*, Wilmington 2007, p. 7.

<sup>35</sup> *Ibidem*, p. 40.

The lesson we should take from the American example is that we should do differently. We cannot and should not act as if there was a possibility to create a united pan-European political power based on a basic agreement on values and identity acceptable for all, or at least for the vast majority of people, in the EU (as the Charter of Fundamental Rights pretends to). We should not build a European people, but a “union among peoples”, that is create “a political culture which learns new ways to deal with the ‘other’”.<sup>36</sup> That means that it is necessary to reverse the tendency of moving competences to the European level, even at the expense of temporary reduction of the efficiency of the EU. Otherwise, we risk losing popular support for the process of integration and its collapse, or at least a profound crisis. The Polish opposition to the Charter of Fundamental Rights, put into words in the special protocol (No. 7) restricting the Charter’s effect upon Polish legal system, is in this sense an expression of profound concern about the state of our democracy, that is self-determination of basic moral principles that play an absolutely essential role for normative foundation of every society.

It is worthwhile to rethink the changes for European project when there is still time for it. However, it does not seem to me that to appoint a “reflection group” on the future of Europe composed of nine “sages” nominated by the powers that be and being a part of governmental establishment is the best way to do it...

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<sup>36</sup> J. H. H. Weiler, *The Reformation...*, p. 118.

Christopher Wolfe

## CHURCH AND STATE: THE CURRENT CONSTITUTIONAL DEBATE IN THE USA<sup>1</sup>

Where do we stand today in the constitutional debate regarding Church and State? We are certainly *not* in the era during which the original understanding of the First Amendment religion clauses was dominant. In the Establishment Clause area, we are still in the *Everson* era, which began in 1947 and ushered in a new and quite different understanding of establishment. In the Free Exercise area, we are no longer in the *Sherbert* era, since the *Smith* case in 1990 – though I will discuss below the “accidental” character of that (partial) return to the original understanding.

In neither area, however, is there a truly settled law: the Court is deeply divided and many justices (of quite different views) are dissatisfied with where it stands.

The current constitutional law of Church and State is as polarized as the United States as a whole is on so many political issues – and it seems unlikely that the polarization will be going away any time soon. That is part of the bad news. The good news is that the modern approach to the religion clauses, which had departed so dramatically from the original understanding, and which was dominant a generation ago, is now deeply embattled in a way that it had not been for many years, and that a single vote could turn the Court’s jurisprudence around pretty dramatically.

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<sup>1</sup> This article was originally delivered as a keynote paper at the Hillsdale Center for Constructive Alternatives conference on “Church and State: History and Theory” Hillsdale MI, September, 2006.

The other part of the bad news is that I think we are unlikely to get that single vote any time soon. Let me start by giving a broad overview of each of the religion clauses, and then I will continue by commenting on the current situation, about the framers, and about religion and politics.

### The Free Exercise Clause

I will begin with the Free Exercise clause, because I think that we have at least some clarity about where the Court is in this area today.

The original understanding of the Free Exercise clause is represented especially by the “secular regulation rule.” Not prohibiting the free exercise of religion meant 1) government could not impose religious belief on anyone, 2) government could not compel people to engage in religious practices contrary to their conscientious beliefs, and 3) government could not, on religious grounds, prevent people from acting on their religious beliefs.

Those three principles were, however, compatible with the government insisting on obedience to secular laws that incidentally prohibited some people’s religiously motivated actions. Human sacrifice is the paradigm case: no matter how sincere the religious belief behind it, human sacrifice will be punished. And, in the early or traditional era of U.S. constitutional history, during which judges identified kinds or categories of legitimate government power, rather than determining what degree of power it was legitimate to exercise, this meant that it was up to legislatures to decide whether to provide exemptions for religious minorities whose practices were inconsistent with law, e.g. whether to give pacifist religious believers exemptions from military service obligations.

The secular regulation rule was the legal norm until 1963. Questions about it were already being raised in the 1940s and 1950s, and, in some of these cases, free speech considerations were able to provide protection to religious minorities, as in the ‘flag salute’ case of 1943. But, as late as 1961, the Court upheld a Sunday closing law (interpreted now as a secular day of rest) against Orthodox Jewish arguments for a constitutionally mandated exemption to do business on Sunday.

In 1963, dissenters from the *Braunfield* case became the majority, and ushered in the *Sherbert* era. South Carolina’s denial of unemployment benefits to a Seventh-Day Adventist who refused to take a job working on her Saturday Sabbath certainly had secular grounds: deterring spurious religious claims that would dilute the unemployment compensation fund and interfere with employers scheduling necessary work on Saturday. But the Court held that those valid secular interests were outweighed by the free exercise rights of Mrs. Sherbert. In fact, the Court said, only if the state interest were compelling, and less restrictive means were not available, could rights as important as free exercise be curtailed.

There is some debate as to what happened in the course of the next 17 years. Justice Scalia argued retrospectively that the Court had never during this period abandoned the general principle that neutral, generally applicable laws were legitimate, even when they curtailed religious exercise. Most observers, however (rightly, in my opinion), had no doubt that the compelling state interest test was the law of the land, though there were particular cases (e.g. the military, prisons) in which it might not be applied.

The compelling state interest test is a classic form of modern judicial review, in which the Court balances a constitutional principle against countervailing state claims to limit the principle, evaluating the importance of each in the circumstances of the case and determining which should take precedence. There is little in this process that is genuinely “judicial.” It is effectively a legislative balancing of interests, with a heavy presumption on the side of the right being invoked and a heavy burden of proof on government to justify its impingement on the right. It had the effect of making the Supreme Court a National Conscientious Religious Action Review Committee.

That ended in 1990, in the *Smith* case. Drug counselors in Oregon who had engaged in Indian religious ceremonies involving the use of peyote were fired and denied unemployment compensation, and the Court upheld the government action. Justice Scalia did some fancy footwork with precedent, arguing that the *Sherbert* era was riddled with decisions that found that there *was* a compelling state interest, or found reasons *not* to apply that standard, or applied it in very limited and unusual circumstances, and so he concluded that the secular regulation rule – the principle that neutral, generally applicable laws were enforceable despite free exercise claims – had never actually been abandoned.

Scalia put the case starkly: the only alternative to maintaining the secular regulation rule was to adopt one of two positions: either the religious conscience was a law unto itself, or judges had to sort through religious and state claims and make policy judgments about where to draw the line. Neither of these options was tolerable. Scalia honestly recognized that religious minorities might be put in difficult situations, unable to muster the political power to secure exemptions for themselves that more powerful religions could achieve. But the alternative, he thought, was worse.

On the face of *Smith*, one might think that free exercise is that rare area in which the Supreme Court has actually jettisoned a modern judicial approach and returned to a more traditional form of judicial power. The fact of the matter is that the members of the Court majority (Scalia, Rehnquist, Stevens, White, Kennedy) could hardly be viewed as firm adherents of traditional judicial review. Scalia was, and Rehnquist was most of the time, at least in his opinions. White was more selective about his sense of judicial limits (and they were more prudential than principled), and Kennedy was new to the Court and had not yet had time to ‘grow.’ But, most importantly, the key fifth vote came from Justice Stevens, whose views in

the case reflected primarily his very strong Establishment Clause strict separationism. Most of the other members of the majority had Establishment Clause views that either favored broader accommodation, or at least leaned that way. Stevens's views across both clauses, however, reflected a deep hostility to public recognition or accommodation of religion.<sup>2</sup> It is ironic that, on the basis of his vote, the Court returned in the Free Exercise area to an approach that, if it were applied in the Establishment Clause area, would result in a great deal of public accommodation of religion that he would detest.

### The Establishment Clause

The account of where we are today regarding the Establishment Clause is hopelessly complicated. I will have to ask you to tolerate even more than the usual over simplification in order to describe it.

The key to understanding the original meaning of the Establishment Clause is to recognize, as Gerry Bradley argued in his *Church-State Relationships in America*<sup>3</sup>, that it did not reflect the meaning of any one group debating the matter during the Founding. There was a wide range of such groups and the key point is that, in its final form, the Establishment Clause satisfied *all* these groups, from the most separationist to the most accommodationist. (It is thus a serious misunderstanding to take Jefferson and Madison as representative figures of the Founding, which is far from the case in the area of religion.) The Clause is able to satisfy everyone because it was primarily a federalism provision. It prohibited the federal government not only to establish a national religion (providing public support or discriminating in favor of a religion or religions), but also to interfere with existing state policy toward religion (including establishments in some states).

The major limit on Congress and religious issues came in the form of the federal government's enumerated powers, which did not include any direct dealing with religion. Anything the federal government did in early American history that touched on religion was tangential to another power, e.g. the power to make treaties with Indians, or to establish armies.

Moreover, very few Americans at the time objected to various public religious symbols, such as "In God We Trust" on coins, thanksgiving proclamations, and prayers in public assemblies (such as Congress itself). These were not thought to be "establishments," any more than the references in the Declaration of Independence to "Nature's God," "Creator," "the Supreme Judge of the world," and "Divine Providence" were considered to be. These references to the Deity were sect-neutral ("non-preferential," in today's terms) and therefore did not single out a particular

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<sup>2</sup> See: W. Farnsworth, *Realism, Pragmatism, and John Paul Stevens*, [www.bu.edu/dbin/law/chess/bio/realism.pdf](http://www.bu.edu/dbin/law/chess/bio/realism.pdf), pp. 2–3.

<sup>3</sup> *Church-State Relationships in America*, Greenwood Press 1987.

Church (or Churches) for “establishment.” The public religious symbolism reflected the Founders’ beliefs that the political community needed religion – that, in some sense, it rested on a religious foundation. This was the meaning of Justice Douglas’s comment in *Zorach v. Clauson* that “We are a religious people, whose institutions presuppose a Supreme Being.” The Declaration’s grounding of natural rights in endowment by a Creator bears this out. Most famously, this view found expression in Washington’s Farewell Address, in which he pointed out that a republican government found essential supports in religion and morality, and that (whatever the success of education promoting morality in some people) it would be a mistake to think that society could have an adequate moral framework without religion.

Consistent with this original understanding, throughout the nineteenth century and well into the twentieth American public schools typically functioned as Protestant parochial schools, not only including school prayer as a matter of course, but also suffusing the whole curriculum with religious ideals. There were certainly religious conflicts, most notably the question of how to integrate immigrant Papists into the American nation and patterns of anti-Semitism in social life. On the whole, though, there was a great deal of religious liberty, and new groups were fairly successfully integrated into the nation over time.

The turning point regarding the Establishment Clause in American legal history was *Everson v. Board of Education*, in 1947. While the Court ultimately (over a vigorous dissent) upheld one form of religious accommodation (busing students to Catholic schools), the main thrust of the opinion marked a profound change in the public status of religion. From the sect-neutrality of the original understanding – which was perfectly compatible with generalized support for religion, as long as it was non-discriminatory – the Court moved to neutrality between religion and non-religion. (I will not go into how this change came about – on this matter, see Philip Hamburger, author of the magisterial *Separation of Church and State*.<sup>4</sup>)

The Court was really only working out the logic of *Everson* in the early 1960s, when it outlawed public school prayer. Of course school prayer encourages religion, even if religion is serving a public purpose in promoting morality, and so it had to go. It extended the logic of *Everson* in the 1970s and 1980s, when it held that various forms of public financial support for the non-religious activities of parochial schools also constituted “establishment” (though it continued to allow busing and textbook support for parochial school children).

But the 1980s then saw the beginning of a swing in the Court on parochial aid issues, even as it clung to fairly strong separationist views with respect to public schools, and mixed signals in the public symbolism area.

The Court allowed financial support to parochial schools for state-required testing, state tax deductions for tuition, textbooks, and transportation for all schools (including parochial schools), state support for vocational education even when the vocation chosen by the individual was the ministry, and a sign-language interpreter

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<sup>4</sup> *Separation of Church and State*, Harvard University Press 2002.

in a public school. There was a blip in the other direction once, in 1985, when the Court struck down certain kinds of aid to parochial schools, but those cases were effectively reversed in 1997, after the Court noted, in a 1994 case, that the program they were striking down in that case (state establishment of a school district that included only a small and unconventional religious minority that risked mockery in public school special education classes) had only been necessary because of the obstacles the Court itself had previously erected to other ways of dealing with that problem. The Court subsequently upheld certain forms of instructional aids going directly to parochial schools and, finally – the big question that had been lurking behind all the other ones – it upheld a school choice program.

On the other hand, the Court hunkered down in public school cases, for the most part. In 1985, and again in 1992 and 2000, it reaffirmed strict limits on public school prayer. In 1987, it struck down a Louisiana law that required teaching “creation-science” whenever evolution was taught in public schools.

In the area of public religious symbolism, the Court permitted a public crèche in one case, and then upheld a menorah but not a Christmas crèche in another (largely due to the messages conveyed by the public displays, taken as a whole). It upheld not only a prayer, but a specifically denominational prayer in state legislatures (presuming, one supposes, that state politicians are somewhat less impressionable than children). Only recently, it struck down one Ten Commandments display in a courthouse, and upheld another on the Texas State Capitol grounds, and it ducked a decision on the merits of “under God” in the Pledge of Allegiance.

Few people accuse the Court of excessive rigidity of principle in the Establishment Clause area, and various justices have noted their own dissatisfaction with the Court’s jurisprudence. The fact that Justice Anthony Kennedy is the Court’s swing vote today does not make it seem likely that the Court will draw very clear-cut lines in this area any time soon.

### **Some Observations on the Current State of Church and State**

There is much that could be said about recent developments in the constitutional law of church and state. For now, I will confine myself to four observations.

First, if one is interested in serious *interpretation* of the Constitution, the typical liberal view of the First Amendment religion clauses looks pretty weak these days. Even when it was being elaborated in the strict separationism of the school prayer cases and in *Sherbert*, Justice Stewart diagnosed a serious, and really unanswerable, objection: so read, the Clauses contradict each other. The modern Establishment Clause prohibits any kind of even indirect benefits for religion, and the Free Exercise Clause requires that certain religious believers be exempted from certain secular laws. Justice Stewart, arguing that the Founders gave priority to religious liberty, would have curtailed the modern Court’s reading of the Establish-



ment Clause in order to allow, without contradiction, an expansive view of the Free Exercise Clause. Justice Stevens, on the other hand, would have voted (and did vote) to curtail the Free Exercise Clause in order to avoid contradiction between it and his very separationist Establishment Clause. For a long time, the Court exercised one of the most important prerogatives of a court that has the last say: it simply ignored the contradiction.

Another variant of the problem of the contradiction between the two clauses involved the definition of religion. When the Founders provided for the protection of the free exercise of “religion,” I think they understood religion to mean worship of a Deity. Accordingly, they were following Locke in providing religious freedom for religious believers, but not for atheists.<sup>5</sup> The modern liberal Court version of constitutional law reads “religion” in the Free Exercise Clause more broadly as “the various possible answers to religious questions,” including the “no” answer (atheism or agnosticism).

With respect to the Establishment Clause, however, the modern liberal Court has been highly sensitive to any indirect support for religion in the traditional sense, as various forms of worshipping a Deity, but has not been particularly sensitive to the indirect benefits accruing to secularists (atheists or agnostics) from its exclusion of religion from public life. It is true that direct or explicit favoring of atheism or agnosticism would be considered unconstitutional: under modern strict separationist views, one could not ‘preach’ atheism over different religions. But, for example, hypersensitivity to the benefits to religion of public support for religiously-affiliated institutions (such as parochial schools, or, more recently, faith-based initiatives like the Prison Fellowship program that was the object of the 140-page ire of an Iowa federal judge recently) was never matched by sensitivity to the advantages to secularist views flowing from the exclusion of religion from public schools.

Justice Rehnquist was the first justice to make extensive use of current scholarship (in the 1985 *Jaffree* case) in order to cast doubt on – or, better, to completely undercut – the historical vision at the heart of *Everson*. Justice Thomas has carried that process further in his dissent in the Pledge case, emphasizing the federalist character of the First Amendment and pointing out that trying to ‘incorporate’ the Establishment Clause into the Fourteenth Amendment is nonsensical. (If the Clause was intended to prevent the federal government from interfering with state religious arrangements, how can the states be prohibited from ‘interfering’ with their own arrangements?) Moreover, the historical evidence against incorporation is overwhelming. For example, in significant later-nineteenth-century debates over proposed amendments to apply the Establishment Clause to the states, no one on either side suggested that this had already been done by the Fourteenth Amendment, though the amendment debates were relatively fresh in their minds.

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<sup>5</sup> I think this is one explanation for why Madison, in a letter to Jefferson, argued that the Bill of Rights was a good thing, though he acknowledged that the “rights of conscience” were not as well secured as he would have liked.

In fact, while Justice Souter valiantly tries to hold up the historical strict separationist argument, in the end even he seems to lack the confidence to put all his eggs in that particular historical basket. In his Court opinion in *McCreary County v. ACLU* (the Kentucky Ten Commandments case), he gives separationist historical arguments, but then, apparently sensing that these arguments are not really compelling, he arbitrarily declares a draw and concludes that “the fair inference is that there was no common understanding about the limits of the establishment prohibition.”<sup>6</sup>

This inference is made more easily in light of the assertion that the Founders were, after all, “a group of statesmen, like others before and after them, who proposed a guarantee with contours not wholly worked out, leaving the Establishment Clause with edges still to be determined. And none the worse for that. Indeterminate edges are the kind to have in a constitution meant to endure.” It would be interesting to see if he could come up with even one person in the debates over the original Constitution or the debates over the Fourteenth Amendment who made this assertion: that they deliberately intended to leave the edges “indeterminate,” with that indeterminacy to be fleshed out by judges. Of course, one might ask, regarding this indeterminacy, “*cui bono?*” Whose power is magnified by this assertion of indeterminacy – especially if the historical evidence the Court wishes to ignore is quite strong? And the fact is that the historical evidence is powerfully anti-*Everson*, and so strict separationism requires an ‘interpretive’ method – really an ‘anti-interpretive’ method – that downgrades historical meaning and upgrades “judicial specification of allegedly vague constitutional generalities.”

My second observation about current Court opinions regarding religion and politics concerns the great emphasis that contemporary strict separationism places on the ‘divisiveness’ argument: if religion has any public standing, that will inevitably lead to terrible political battles over religion, which is precisely what the Framers of the First Amendment intended to prevent. (This is a legal version of the argument found in John Rawls that public acknowledgment of religion raises the specter of the Reformation wars.) Justice Souter (again, in *McCreary County v. ACLU*) says that “public discourse at the present time certainly raises no doubt about the value of the interpretative approach invoked for 60 years now. We are centuries away from the St. Bartholomew’s Day massacre and the treatment of heretics in early Massachusetts, but the divisiveness of religion in current public life is inescapable. This is no time to deny the prudence of ... requiring the Government to stay neutral on religious belief...”

Justice O’Connor goes further, perhaps: “By enforcing the Clauses, we have kept religion a matter for the individual conscience, not for the prosecutor or bureaucrat. At a time when we see around the world the violent consequences of the assumption of religious authority by government, Americans may count themself-

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<sup>6</sup> This is a reprise of *Brown v. Board of Education*’s method of handling original intent. When the evidence is against you, just cite the “law office history” on your side, and declare a draw – assert baldly (and without serious grounds) that original intention is “inconclusive” – and move on to do what you want to do.

ves fortunate.” She goes on to assert that “allowing government to be a potential mouthpiece for competing religious ideas risks the sort of division that might easily spill over into suppression of rival beliefs.” Apparently, allowing the Ten Commandments on Kentucky courtroom walls would mean opening ourselves up either to new St. Bartholomew Day massacres or to the American version of Islamic fundamentalism – the dreaded Religious Right, presumably – seizing political authority, with violent consequences. Any favoring of certain religious ideas, such as religion in general (vs. irreligion), or monotheism, will inevitably lead to curtailing free exercise, to suppressing some people’s religious beliefs.

That could happen, I suppose. And allowing the government to tax us at all could lead to elimination of all private property. And allowing a standing army could lead to a successful coup d’état by current officeholders. And ... allowing judicial review at all could lead to judicial imperialism. But, in each case, it could be pointed out that it does not have to be that way, that prudent political decisions could allow the former without the latter. The idea that current efforts to allow more accommodation of religion in public life will inevitably, or even likely, result in serious curtailments of free exercise is largely a phantom of hyper-imaginative secularists, whose vision of religion is not tainted by actually knowing many religious believers.

These justices do not stop to consider whether the ‘divisiveness’ they see arising from debates over religion in our society might just be the result of reasonable religious believers objecting to attempts to thoroughly secularize public life. In a classic article years ago, Nathan Glazer pointed out that the phenomenon of the “Religious Right” was not a militant theocratic offensive to seize power and impose religion on the nation, but a defensive reaction of heretofore politically passive evangelicals against the secularizing decisions of the modern Supreme Court, especially the decisions on school prayer and abortion.

Justice Breyer has a more balanced view than his brethren in *Van Orden v. Perry* (the Texas Ten Commandments case): “But the Establishment Clause does not compel the government to purge from the public sphere all that in any way partakes of the religious ... Such absolutism is not only inconsistent with our national traditions ... but would also tend to promote the kind of social conflict the Establishment Clause seeks to avoid.”

It is hard to resist the tendency to believe that the “divisiveness” argument really consists in the Court handing down divisive decisions and then being taken aback when those whom they have tried to marginalize in public life respond by fighting back. Justice Souter is appalled – yes, appalled – at the “divisiveness of religion in current public life,” which brings to mind visions of the St. Bartholomew’s Day massacre. If only religious believers would have the decency to keep their belief private, everything would be so fine and peaceful. To the extent that he stops to think that the Founders of American government thought that religion had quite a significant role to play in public life, his response is, implicitly, that we can use the wiggle room that the Founders supposedly left in order to move beyond them,

and we are “none the worse for that.” But many people doubt that substituting the views of Justice Souter for the Founders’ views leaves us better off, and they will not be cowed into submission by charges of “divisiveness.”

Third, strict separationists have a serious conundrum. Their history is weak, and this shows up concretely in the maintenance of practices that can only be explained by earlier (pre-*Everson*) ideas of the relation between religion and politics in our constitutional system, and not by their modern (post-*Everson*) reformulation of those ideas – or, better, replacements for them. They are aware, however, that public sentiment behind some of these practices runs very, very deep, and that it might not be so prudent for a branch of government that has no enforcement power of its own to try to uproot them. What to do?

One answer (to which Justices Stevens and Souter, for example, subscribe fairly consistently) is simply to power ahead and trust that the Court is sufficiently powerful, and the nation sufficiently deferential, to extirpate these vestiges of an earlier view of religion and politics and replace them with complete governmental neutrality (that is, complete privatization of religion).

Justice O’Connor has a more nuanced view. Her preferred approach has been to ask whether a reasonable observer would consider a practice to “endorse” religion, thereby sending a message to nonbelievers that they are outsiders in the political community, and to believers that they are insiders. Some practices may appear to do so, but in fact they do not; rather, they are simple acknowledgments of our historical religious origins, or they are adopted, not for truly religious reasons, but because they are the only way to solemnize occasions in a nation with our history and circumstances. That is, some practices can be regarded as ‘ceremonial deism,’ which is not really religious and therefore does not endorse religion and therefore does not violate the Establishment Clause. One example of this ceremonial deism is the inclusion in the Pledge of Allegiance of the words “under God.”

It is hard to know with certainty whether Justice O’Connor a) really believes that ceremonial deism is truly non-religious – which is not implausible, since it may very well be so for her and most of the intellectual elites she rubs shoulders with – or b) adopts this view in order to avoid unpleasant consequences of ruling such practices unconstitutional – which is plausible, because there are many people who clearly do regard it as religious and might seriously question the Court’s legitimacy if it chose to strike down such practices. I am inclined to take people at their word, so I think it is likely that Justice O’Connor really believes that ceremonial deism is non-religious.

But I am also inclined to wonder what it means to say that ceremonial deism is the only way a people like ours can solemnize an occasion. Some people seem confident that such solemnity as is truly necessary can make do with secular language and acts. If that is not enough – if many people find an occasion truly ‘solemnized’ only if the Deity is invoked – is not that because those people regard the invocation not as merely ceremonial, but rather as the expression of a profound,

and politically relevant, truth – a truth that is theological as well as political? My fourth, and last, observation about modern constitutional law on the subject of religion and politics concerns the place in the Constitution. Why exactly, one might wonder, does the Constitution single out religion for special treatment? Contemporary liberal jurisprudence has a tendency, I think, to answer this question by conceiving of religion as a variation of other, non-religious phenomena. For example, religious belief is protected because it is part of a broad category of free speech. Religious actions are protected because they are part of a broad category of privacy. (David A. J. Richards's *Toleration and the Constitution*<sup>7</sup> is a good example of this tendency, but it can also be seen in Court opinions, for example Justice O'Connor's opinion in the *Kiryas Joel* case...) And, both with respect to speech and actions, there is a special focus on 'the rights of unpopular minorities.' The overall thrust is to view the First Amendment more as protecting individual rights, especially rights of minorities, without much attention to the distinctive activity being protected. If free speech rights were given a wide interpretation, and if privacy rights were given a wide interpretation, it is not clear that there would remain any reason for having the religion clauses, except perhaps that religion might be viewed as a particularly dangerous kind of thing, needing special restrictions.

Madison's *Memorial and Remonstrance*, however well-adapted to supporting separationist views in other respects, is quite different from most contemporary constitutional commentary in its discussion of the duties that man has toward his Maker. One of the important reasons for religious freedom is that man's religious duties – especially his duty to worship his Creator – are very important. There is an acknowledgment here of religion as playing a distinctive and important role in human life, as something more than simply one (optional) variation of a "lifestyle" or "life plan," and as more than a phenomenon that poses only special political dangers.

## Conclusion

I want to end with a few observations about the Founders' views of religion and politics. My own view is that we are bound, in law, by the principles the Founders embodied in our Constitution. I also believe that a reasonable interpretation of those views provides us with a fairly workable framework for dealing with questions of religion and politics. Having said that, however, I think there are some significant caveats to be offered.

First, judicial recognition of constitutional principles is not, by itself, enough to provide us with sound public policy regarding religion and politics. In the area of free exercise, for example, it is right that judges should not intervene to declare some secular laws insufficiently compelling to override demands for exemptions from religious minorities. As Justice Scalia argued in *Smith*, judges have no warrant to balance

<sup>7</sup> D. A. J. Richards, *Toleration and the Constitution*, Oxford University Press 1986.

the importance of state interests versus various degrees of impingement on religious rights. But saying that judges should not be doing that does not mean that nobody should be doing it. Viewed not from the perspective of judicial power, but from the perspective of constitutional principle, some secular laws really should give way to some religious claims. Amish parents who want to keep their children out of public high schools and educate them in the Amish way of life at home (at least until they become adults) should be viewed as having a constitutional right to do so – a right to be enforced not by judges, but by legislators, and the people who elect them.

Whatever the impropriety of a “compelling state interest” standard enforced by judges, I would argue that *legislators* ought to feel *constitutionally bound* to provide exemptions to serious religious believers whose religious freedom is curtailed by secular laws, unless there are important state interests that justify the curtailment. Nor would this create any Establishment Clause problem, because one important *secular* purpose for laws would be the vindication of Free Exercise rights.

Second, with respect to incorporation, I think that the free exercise clause’s incorporation into the Fourteenth Amendment, while originally an incorrect constitutional interpretation, has become so embedded in our constitutional jurisprudence (without being subject to objections that it is inconsistent with the overall constitutional design), that, as a matter of precedent, it ought to be accepted. The establishment clause, for reasons discussed above, has been badly misinterpreted, but, again, as a matter of precedent, the component of establishment that prohibits states from establishing a religion – that is, from departing from the principle of sect-neutrality – is so deeply embedded in our society (and not inconsistent with overall constitutional design), that it too is a precedent that ought to be accepted.

Third, the Founders’ views on Church-State issues are not free from problems. Establishment consisted of giving preferences to one or more religions, and non-establishment required sect-neutrality. But the very notion of sect-neutrality shares some of the defects of modern across-the-board neutrality: neither can achieve the neutrality it aspires to. Modern neutrality would privatize religion and generally expel it from the public sphere, leaving religion at a serious disadvantage in the culture-forming processes of public life, especially public education. While not explicitly advancing secularism as one religious view, it does so indirectly.

The Founders’ sect-neutrality likewise did not achieve neutrality: it had the indirect effect of advancing the view that the broad outlines of religion were what really mattered and that differences among sects were secondary. But that view advances some religious views at the expense of others. It subtly and perhaps unintentionally promotes Protestant Christian denominations that view the differences among Christians as secondary matters that are not truly fundamental – so fundamental as to be part of the ‘essential core’ of Christianity. But, over time, a focus on “only the essential core” can subtly evolve in such a way that the essential core diminishes in content – perhaps helping to explain the tendency of the American religious ‘least common denominator’ to shrink over time. Part of that shrinkage

has important political effects. Tocqueville argued that Christianity was a very important political institution in America – despite, and even partly due to, a genuine and important separation of Church and State. Among the political benefits of Christianity that Tocqueville stressed was providing a common moral framework in a society where political and other arrangements were so fluid and volatile. Christians, he said, whatever their differences on certain dogmatic questions, shared a common morality.

Over time, however, one of the striking features of American life is the extent to which Christians' 'common morality' has diminished. Many Christians are on opposite sides of profoundly important moral issues in America today, perhaps especially with respect to fundamental issues regarding the sanctity of human life and sexual morality. At root, I think the cause of this is that certain democratic and modern tendencies have had a deeper influence in shaping the changing moral beliefs of some religious groups than others. But let me end briefly on one positive note. The United States is by far the most religious of the large and established modern Western democracies (though not so religious as some other Western countries, for example, Poland). As Tocqueville and many others have noted, part of the reason for this fact is, paradoxically, the strong institutional separation of Church and State that prevented religion from being caught up in the changing fates of political ideas and practices. There are strong forces working to undermine America's religious exceptionalism (especially intellectual elites and other elites for whom they serve as a reference point, including judges and the media). At the same time, however, American civil society also harbors a multitude of different groups working strenuously to protect and preserve the vitality of America's religious heritage and its indirect but powerful influence on public life.

In my recent book *Natural Law Liberalism*,<sup>8</sup> I argue that the United States offers non-Western nations evidence that liberalism does not require the abandonment of public commitments to foster religion and traditional morality. If all the West had to offer, say, Islamic nations, was a model of contemporary liberalism (such as that of John Rawls) that asked people to put their most fundamental political and moral beliefs to the side as they entered public life, the likelihood of liberalism being an attractive option to these peoples would be quite low. American liberalism, which has been, historically, in great measure, a natural law liberalism – a liberalism with strong elements of classical, not just Lockean, natural law, largely derived from its religious sources – potentially offers a much more attractive view of liberalism to the non-liberal nations of the world. If we can let them see America as something quite different from what is portrayed in American movies and on prime-time television – if, indeed, we can prevent America from becoming more like what is portrayed there – then America can become, with all its flaws, something of a model for a reasonable and morally decent liberalism.

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<sup>8</sup> *Natural Law Liberalism*, Cambridge University Press 2006.





Fr. Robert A. Sirico

## **JOHN COURTNEY MURRAY AND THE ORTHODOXY OF FREEDOM: AN APPLICATION TO ECONOMIC LIFE**

“The Vatican Council declares that the human person has a right to religious freedom.”<sup>1</sup> Thus begins the first chapter of the *Declaration of Religious Liberty* approved by the Second Vatican Council on 7 December 1965. What follows from this dramatic statement is a powerful and affecting argument on behalf of legal structures and social orders that permit the civic flourishing of political freedom with regard to religious faith.

All men should be immune from coercion on the part of individuals, social groups, and every human power so that, within due limits, nobody is forced to act against his convictions nor is anyone to be restrained from acting in accordance with his convictions in religious matters in private or in public, alone or in associations with others.<sup>2</sup>

The basis of this assertion is not in a vague appeal to tolerance or pluralism, or the absolute freedom of the conscience, as we have become accustomed to hearing in the post-modern age, but rather the appeal is rooted in the very nature of man, by which we are bound by conscience to adhere to known truths and to seek that truth in absence of formal coercion by the state or the church.

In the background of this conciliar statement stands a towering monument of Christian scholarship in this century. It is John Courtney Murray’s *We Hold These*

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<sup>1</sup> *Vatican Council II*, general ed. Flannery OP, Boston 1988, *Dignitatis Humanae*, par. 2.

<sup>2</sup> *Ibidem*.

*Truths: Catholic Reflections on the American Proposition.*<sup>3</sup> It is a hugely significant work, not only for having exercised influence on the writing of the Council's declaration on religious liberty, but also because it represented a fundamental challenge to Catholics the world over who were being forced by world events, for better and/or worse, to come to terms with the age of democracy that this century represents. And what country in 1960 had more experience with modern democracy than America, whose Catholics were a minority in a largely Protestant Republic, and who had even experienced some measure of religious persecution?

Murray was born in New York, studied at seminaries in Massachusetts and Maryland, and received his doctorate in theology from the Gregorian University in Rome. As a widely published author in both scholarly and popular media, he taught at Woodstock College since 1937. Murray is also distinguished for having made the first fully Catholic argument on behalf of the American system of religious liberty, and his book was to exercise a profound influence on Catholics not only in America but the world over. It was Murray who helped Catholic Christendom to make the transition from the age of monarchy to the age of democracy, and it was his political theology of freedom, which of course had a long history in church teaching, dating most explicitly from St. Bellermino onwards<sup>4</sup>, that provided the foundation for modern American Catholics to understand the place of their faith in the public in a manner altogether different from the one they had become accustomed to. American Catholics had known since the founding, even if they did not entirely understand its implications, that it was futile to hope for Catholicism to acquire any form of legally privileged status in the American republic, but it had not been until the 1960s that they began to understand the moral reasoning behind the idea of the freedom of religion. The thrust of Murray's argument was that Catholics could fulfill their responsibilities to exercise social influence via cultural institutions, which he regarded as ultimately having a more profound influence on the social order and on souls than political institutions ever could.

Murray's case for the freedom of religion – which he argues is not a departure from but rather a development of Catholic social ethics – reads as well today, and has as much persuasive power, as it had in 1960. It is my contention, in addition, that Murray's argument on behalf of religious liberty can also be made on behalf of economic liberty, which involves the domain in which society provides material wellbeing for its members. Here too, conscience, choice, and human nature all play important roles in the moral drama of social life. As central as the idea of freedom is to spiritual development, so too is economic liberty, with its attendant moral foundations, a central part of the material development of the world. And human development itself – in a thoroughly Christian understanding of that term – goes beyond the gnostic disparagement of things material to embrace fully the goodness

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<sup>3</sup> J. C. Murray SJ, *We Hold These Truths: Catholic Reflections on the American Proposition*, New York 1960.

<sup>4</sup> Rev. J. C. Rager, *The Political Philosophy of Robert Bellarmine*, Spokane 1995 [1926].

of the world and responsibility of men and women to exercise stewardship over the material order (Genesis 1: 28–30).

What follows is an effort at a defense of the classical liberal economic order that makes its case along Murrayian lines. I argue that the free economy based on private property and free contract can be considered the economic formalization of the general principle of civic liberty, a principle that Murray applied (but not restrictively) to the idea of political democracy. In addition, I would like to make a similar argument to the one Murray offers on the issue of censorship to the question of how society should treat morally dubious economic actions on the part of its members. Murray holds that Americans need to develop a more “European” sense of how the law relates to society generally (just as all that is legal is not moral, vices are distinguished from crimes); similarly, Americans need to develop a broader sense of their responsibility to behave virtuously in the absence of coercive power.

Murray sets up his case for religious freedom by pointing to the reason it becomes necessary to deal with, namely the existence of religious diversity. For starters, Catholics and Protestants distrust each others’ political intentions, and “this problem is particularly acute in the United States.”<sup>5</sup> America deals with the two forces of secularism and Judaism. Each has its own religious, cultural, and political agenda and cultural tendencies.<sup>6</sup> Murray calls these the four “great conspiracies” – groups whose members cohere on the fundamental issues involving values and the political order – and says the central issue that American liberty attempts to deal with is how to make them “conspire into one conspiracy that will be American society – civil, just, free, peaceful one.”<sup>7</sup> Of course, it is not the will of God that there be religious division. God desires that his Church be one; therefore religious pluralism is, in the strict sense, “against the will of God”, Murray writes, since there is only one truth. In this sense, religious pluralism is a dissent against God. How, then, can pluralism as a social institution be tolerated? Because society must deal with realities, and not only with ideals:

[Pluralism] is the human condition; it is written into the script of history. It will not somehow marvelously cease to trouble the City.<sup>8</sup>

He argues that it is a vain hope, in any religiously heterogeneous society, that there can be unanimous consent in the political arena. So he urges us to rank our

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<sup>5</sup> *Ibidem*, p. 20.

<sup>6</sup> *Ibidem*. Murray wrote in 1960; now nearly 40 years later these differences are real but have been mitigated by the rise of secularism which is afflicting both camps from within and without. The extent of cooperation between orthodox elements in all camps has been greatly enhanced by the pro-life, anti-abortion political movement, for example, and the growing realization that the secular world desires that we live public lives as if God did not exist. In opposition to such trends, the meeting ground has been enlarged for people of all camps to cooperate. Conservative Jews often find themselves in alliance with orthodox Christians on a variety of political and cultural issues.

<sup>7</sup> *Ibidem*, p. 23.

<sup>8</sup> *Ibidem*.

goals in terms of their priorities, and consider the necessity of two proximate goals: limiting formal and informal religious warfare and enlarging social conversation between all groups, as a means toward the transmission of truth to the broadest possible audience.<sup>9</sup>

Murray proceeds to spell out a series of parallels between the liberal notion of self government, the Catholic tradition of subsidiarity and the rule of law. The principles that everyone is treated equally by the law with no privilege or disparagement, and that the government which governs best governs least are both American and Catholic. As Murray puts it,

the American thesis is that government is not juridically omnipotent. Its powers are limited, and one of the principles of limitation is the distinction between state and church, in their purposes, methods, and manner of organization.<sup>10</sup>

Murray's idea is authoritatively elaborated in the Second Vatican Council's document *Gaudium et Spes*, which says:

As for public authority, it is not its function to determine the character of civilization, but rather to establish the conditions and to establish the means which are capable of fostering the life of culture among all...<sup>11</sup>

Moreover,

government should take care not to put obstacles in the way of family, cultural, or social groups, or of organizations and intermediate institutions, not to hinder their lawful and constructive activity...<sup>12</sup>.

The first idea that ties the traditions of freedom and subsidiarity together relates directly to the economic order: the "principle of consent".<sup>13</sup> The principle of consent was inherent in the medieval idea of kingship. The king is bound to rule according to the wishes, or at least without the severe objection, of his subjects; that is, with their consent.<sup>14</sup> The American tradition "reaffirmed this principle, at the same time that it carried the principle to newly logical lengths".<sup>15</sup> The government is

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<sup>9</sup> *Ibidem*. It is immaterial for Murray whether this proposition is the ideal or if it is merely instrumental; the point is that it is necessary for dealing with the reality before us. If we value social peace, as Catholics do, then it becomes a useful moral means of dealing with religious differences within society without compromising the demands of evangelization.

<sup>10</sup> *Ibidem*, p. 68.

<sup>11</sup> *Gaudium et Spes*, No. 59.

<sup>12</sup> *Ibidem*, No. 75.

<sup>13</sup> *Ibidem*, p. 33.

<sup>14</sup> St. Robert Bellarmine: "In a commonwealth all men are born naturally free; consequently, the people themselves, immediately and directly, hold the political power so long as they have not transferred this power to some king or ruler." Cited in: J. C. Rager, *op. cit.*, p. 6.

<sup>15</sup> *Ibidem*, p. 33.

limited both by law and by the will of the people who live under the law. In the truest sense, government is of the people, by the people, and for the people; society is not governed from the outside, but rather governs itself. This American proposition “includes a great act of faith in the capacity of the people to govern themselves”.<sup>16</sup>

The second principle is that of “free institutions”, a phrase Murray sees to be bound up with the strict distinction between society and state.<sup>17</sup> Murray writes:

This principle too was inherent in the Great Tradition. Before it was canceled out by the rise of the modern omnicompetent society-state, it had found expression in the distinction between the order of politics and the order of culture, or, in the language of the time, the distinction between *studium* and *imperium*

– a distinction traced to the much older dividing line between priestly and civic courts.

The whole order of ideas in general was autonomous in the face of government; it was immune from political discipline, which could only fall upon actions, not ideas.<sup>18</sup>

Murray points out, with some sense of irony, that though America understands itself as a Protestant country, this tradition of free institutions “has found, and still finds, its intellectual home within the Catholic Church”.<sup>19</sup>

Among the implications of this discussion is that the idea of central planning – in politics, culture and/or economics – is ruled out as a violation of both foundational principles. “Order should not be imposed from the top down”, Murray writes, “but should spontaneously flower outward from the free obedience to the restraints and imperatives that stem from inwardly possessed moral principle”.<sup>20</sup> The term spontaneous used here has deep meaning in the modern history of liberal scholarship, especially in the work of F.A. Hayek, who used the notion of “spontaneous order” to describe the type of order generated by the market process based on respect for property rights, contract, and the rule of law.<sup>21</sup> The “fundamental

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<sup>16</sup> *Ibidem*, p. 34, and, Murray continues, “the faith was not unrealistic [...] the supposition was that the people could understand the general objectives of governmental policy, the broad issues put to the decision of government, especially as these issues raised moral problems. The American consensus accepted the premise of medieval society, that there is a sense of justice inherent in the people, in virtue of which they are empowered, as the medieval phrase had it, to ‘judge, direct, and correct’ the processes of government.”

<sup>17</sup> *Ibidem*, p. 35. Note that the separation between society and state does not contradict the principle of the unity of government and people. State is a term that delineates the enforcement of statutory law and is necessarily apart from the people and the government; government is the whole of civic institutions defined and protected by both law and the consent of the people.

<sup>18</sup> *Ibidem*. See also: *Religious Liberty: Paul VI and Dignitatis Humanae: A Symposium Sponsored by the Institute Paolo VI and the Catholic University of America*, Brescia 1995, pp. 54–55, 63, 98.

<sup>19</sup> *Ibidem*, p. 41. He goes further to praise the elements of American government that are “alien to current intellectualized versions of the Protestant religion” on grounds that they might not permit such a wide sphere for the development of free institutions.

<sup>20</sup> *Ibidem*, p. 36.

<sup>21</sup> See: F. A. Hayek, *The Fatal Conceit: The Errors of Socialism*, Chicago 1988, p. 83.

principle” of the classically liberal economic order, writes Hayek,

is that in the ordering of our affairs we should make as much use as possible of the spontaneous forces of society, and resort as little as possible to coercion;

here lies a principle “capable of an infinite variety of applications”.<sup>22</sup> Among the many profound dimensions of this discussion is the way in which Murray links the idea of religious freedom with the idea of freedom generally.<sup>23</sup> He does not concede even the possibility that religious pluralism could somehow coexist in the long run with a government that violates the principle of consent and the principle of free institutions. To the same extent that an intrusive government will tend to choose sides in sectarian struggles, varieties of freedom are bound up with each other and, as well, are mutually reinforcing. The more intrusive the government becomes in civil society, the less room for religious freedom does the state allow. Indeed, the preeminent argument for free political institutions is that they are the best and most reliable guardians of the rights of religion.

Today, however, there is a tendency among those who make incessant demand for the absolute separation of church and state (which, more often than not, becomes the separation of society and religion, which is contrary to Murray’s position) also to favor an enlarged public sector that cares little, if at all, for the idea of consent, marginalizes religious institutions, and enshrines in law a kind of secular religion. It would also be a misrepresentation of Murray’s argument to separate his position in favor of institutions that guard religious pluralism from the general American propositions concerning self government and free institutions. All of these freedoms co-exist. With government always in a subordinate position *vis-à-vis* the spontaneous flowering of society, political institutions are likely to reflect the principles of consent and freedom and flow organically from the values of the community rather than be imposed from above. “Government submits itself to judgment by the truth of society; it is not itself a judge of the truth in society”.<sup>24</sup> In this respect, the American Bill of Rights differs radically from the Rights of Man of the French Revolution, which was „a top-of-the-brain concoction of a set of men who did not understand that a political community, like man himself, has roots in history and in nature”. In contrast, the men who framed the Bill of Rights “understood history and tradition, and they understood nature in the light of both”. They were individualists, “but not the point of ignoring the social nature of man”. Their thinking was in the Catholic tradition of *homo liber et legalis*, the medieval notion of man whose

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<sup>22</sup> *Idem*, *The Road to Serfdom*, Chicago [1944] 1977, p. 17.

<sup>23</sup> Indeed Murray’s discussion of the limited powers of government precedes his detailed argument for religious freedom.

<sup>24</sup> J. C. Murray SJ, *op. cit.*, p. 35.

freedom rests on law, whose law was the age-old custom in which the nature of man expressed itself, and whose lawful freedoms were possessed in association with his fellows.<sup>25</sup>

Thus it is not only religious freedom that is protected, but also “freedom of speech, assembly, association, and petition for the redress of grievance,” and, most crucially for purposes of the economic order, “security of person, home, and property”. These were the “great historical as well as civil and natural rights”.<sup>26</sup> The freedom of religion, in the American context, is legally enshrined in the First Amendment, which is rightly considered to be “a law, not a dogma”. It answers none of the

eternal human questions with regard to the nature of truth and freedom or the manner in which the spiritual order of man’s life is to be organized or not organized... It is not necessary to give [it] a religious assent but only a rational civil obedience.

The Bill of Rights contains “not articles of faith but articles of peace”.<sup>27</sup> The advantage of this arrangement for the church is that she is “entirely free” to define herself and to exercise her spiritual jurisdiction to the fullest.

It is legally recognized that there is an area which lies outside the competence of government. This area coincides with the area of the divine mission of the church, and within this area the Church is fully independent, immune from interference by political authority.<sup>28</sup>

With no fundamental change in the basic framework described above, similar arguments can be made in the realm of economic freedom. The market economy, as Pope John Paul II has repeatedly emphasized, is not an ultimate value. It is not an article of faith; it has limits. The “invisible hand” of the market is not identical to the hand of God working in the world (although in the products produced by economic actors we may see a creativity that is analogous to the creativity of God<sup>29</sup>). The free economy or business economy is merely the outgrowth, or the logical institutional arrangement, following from the protection of certain rights, namely that of property, contract, and free association. With the growth of the division of labor and competitive enterprise comes the widening of economic opportunity for work, saving, investment, innovation, and prosperity. It is right to regard capitalism, not as a constructed system of economics, but merely as the institutional and unplanned

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<sup>25</sup> *Ibidem*, p. 38. See also: F. A. Hayek, *The Fatal Conceit...*

<sup>26</sup> *Ibidem*, p. 38.

<sup>27</sup> *Ibidem*, pp. 48–49. This is in contrast to the way they have been read more recently, that is, as “ultimate beliefs, certain specifically sectarian tenets with regard to the nature of religion, religious truth, the church, faith, conscience, divine revelation, human freedom, etc.” A secondary literature has developed criticizing Murray for failing to place enough significance on the Enlightenment and classical origins of the founder’s view of rights. See e.g., K. Craycraft, *The American Myth of Religious Freedom*, Dallas 1999, p. 104. Without entering this controversy, it is enough observe, with Craycraft, that Murray was taking the meaning of the Constitution at face value (*ibidem*, pp. 106–107).

<sup>28</sup> *Ibidem*, p. 70.

<sup>29</sup> See: *Centesimus Annus*, No. 32.

product of the social order in which human rights are protected. Moreover, in keeping with the principle of consent, the market process rests on the idea of voluntary engagement based on mutual advantage and cooperation. It is a peaceful means for social resources to be allocated among the endless variety of keeping ends. Like the freedom of religion, the market is not an article of faith, but an article of peace. The advantage for the commercial classes and the consumers (who in a market economy are the ultimate and sovereign agents determining the direction of the economic process) is that they are free to define themselves, their purchases, and their production decision according to the principle of mutual advantage. It is legally recognized that the arena of economics generally lies outside the competence of government authorities. This permits full freedom for economic creativity and complete reliance on the individual and familial responsibilities and initiatives that are an inescapable dimension of material provision in a free society.

As with religious liberty, economic liberty is necessarily bound up with political liberty. We do not have the luxury of combining a collectivist, socialistic, or interventionistic economic policy<sup>30</sup> with political and religious liberty because once the principle of coercion is introduced into one sphere it tends of necessity to invade the others; ultimately, this century has taught us, we are in the position of choosing liberty in every sphere of society or rejecting it in every sphere.<sup>31</sup>

There is a basis in American history for viewing the link between economic and religious liberty as direct. As Murray writes,

the merchants of New Jersey, New York, Virginia, and the more southern colonies were as emphatically on the side of religious freedom as on the side of commercial profits. Persecution and discrimination were as bad for business as they were for the affairs of the soul.<sup>32</sup>

It would prove a difficult and lengthy process to discover how it was that this link was broken down in the modern age, with advocates of religious liberty opposing commercial liberty and the commercial classes caring less for protection of the church against the encroachments of state than they should. But the answer surely relates directly to the growth of the interventionist state, which has compromised and corrupted both the freedom of enterprise and the freedom of the church, thereby breaking down the natural and mutually reinforcing ties that bind the two intellectually and practically.

Although Murray's treatise on religious liberty does not discuss economic questions at any length (besides describing the basic institutional protections ne-

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<sup>30</sup> For the fallacies and inherently irresolvable contradictions of the mixed economy, see F. A. Hayek, *The Constitution of Liberty*, Chicago 1960, pp. 220–233; L. von Mises, *Critique of Interventionism*, Irvington 1996 [1929].

<sup>31</sup> See, generally: W. Roepke, *The Humane Economy: The Social Framework of the Free Market*, South Bend 1960, in particular pp. 90–150. This extraordinary work was published in English in the same year as John Courtney Murray's work and F. A. Hayek's great treatise *The Constitution of Liberty* (Chicago 1960).

<sup>32</sup> J. C. Murray SJ, *We Hold These Truths...*, p. 59.



cessary for property inherent in a regime respecting the natural law), his book does contain a basic endorsement of the free economy in particular.

The most obvious growing end of the free society has been its business system... Behind its enormous growth has lain the pressure of the people's needs, wants, desires, dreams, passions, and illusions...<sup>33</sup>

The Catholic Church in America (in 1960) "has accepted this thing which is the American economy. Her life, the life of grace, is tied to it in multiple respects." In particular, Catholic charities and schools are wholly dependent on the productive energies of the free market. This market has created enormous wealth, and "a wide distribution of wealth", without which the exercise of these Catholic virtues would be "impossible".<sup>34</sup> Murray further warns that "alterations in the structure of the economy, in the direction of 'state socialism'" would "subtly alter the relation of the Christian people to the institutions of the Church".<sup>35</sup>

For a deepening of Murray's insights into economic relations, we do well to turn to F.A. Hayek's *Constitution of Liberty*, which might even be thought of as a companion volume to *We Hold These Truths*. It is here that the institutions and workings of the free economy are described and defended to their fullest extent, in the context of the liberal society. The object of the treatise is to understand more fully the social order in which coercion is minimized and the principle of consent informs all aspects of social life. "Coercion can be prevented", writes Hayek, "by enabling the individual to secure for himself some private sphere where he is protected against such interference".<sup>36</sup> This requires, above all, the protection of private property rights. This is the first step in the delimitation of the private sphere. With the dispersion of property title comes the necessity of contract, which allows other people's property to be serviceable in the achievement of everyone's goals.<sup>37</sup> Nobody has to be dependent solely on his own property ownership, or that of only

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<sup>33</sup> *Ibidem*, p. 99. However, Murray adds, with characteristic humility, that he "has no competence" to engage in economic theorizing. He does so only briefly, but then with an uncharacteristic lack of clarity. He uses the language of "power" to describe the role of corporations in society that "direct" the activities of the "economic-political system". These passages could be understood on behalf of economic liberty if we construe these corporations as those that enjoy a privileged legal status from the state, and thereby do indeed exercise unwarranted power. But I make no claim that this is in fact what Murray meant to describe. If he meant to suggest that the corporation itself exercises "power" merely because it provides consumers with goods and services they desire, and investors with a return on their savings, then he is adequately answered by M. Novak, *The Spirit of Democratic Capitalism*, Washington 1982, pp. 237–358.

<sup>34</sup> *Ibidem*, p. 180. To quote *Centesimus Annus* says, "not only is it wrong from the ethical point of view to disregard human nature, which is made for freedom, but in practice it is impossible to do so" (No. 25).

<sup>35</sup> *Ibidem*, p. 181. On the other hand, he declines to elaborate on what form that alteration could take.

<sup>36</sup> F. A. Hayek, *The Constitution of Liberty...*, p. 139, 142, 207–208. Hayek calls this "the conception that a man's house is his castle... [...] What distinguishes a free from an unfree society is that in the former each individual has a recognized private sphere clearly distinct from the public sphere, and the private individual cannot be ordered about but is expected to obey only the rules which are equally applicable to all".

<sup>37</sup> *Ibidem*, pp. 140–141, 263–264. This dispersion of knowledge also applies in the political sphere. Hayek's endorsement of decentralization in politics is entirely in keeping with the Catholic idea of subsidiarity.

a few others, to provide for his material needs and desires. Everyone in society, through the division of labor and the principle of specialization<sup>38</sup>, can participate in the market process, benefit from the productive activities of others, rely on the system of competition to guard against social waste, and be rewarded for the exercise of traditional virtues such as prudence, thrift, creativity, and work. Private property in a market economy has a public, or universal, destination.<sup>39</sup>

Even such seemingly mundane institutions as prices, profit, and interest rates provide signals to behave in ways most in keeping with the common good. Prices work to apportion resources in the most socially efficient manner possible (the principles of supply and demand being the best agents of conservation mankind has every discovered). Profits are the signals of success, and provide more than just financial reward; they are the essential feedback mechanism to tell entrepreneurs whether or not they are serving the public good. Interest rates are the crucial mechanism that allow investors and savers to apportion and coordinate the application of resources across extensive periods of time. Experience suggests that government encroachments on these signals end up distorting them and causing dislocations of resources (artificial shortages), skewing of market signals (leading producers to waste resources), and discoordination of plans (excessive or insufficient consumption relative to investment).<sup>40</sup>

Pope John Paul II spoke emphatically of the market economy, even while he warned of the dangers of materialism, consumerism, economism, immoral investment, and using the market in pursuit of vice. "It is not wrong to want to live better", the Pope wrote,

what is wrong is a style of life which is presumed to be better when it is directed at 'having' rather than 'being' and which wants to have more not in order to be more, but in order to spend life in enjoyment as an end in itself.<sup>41</sup>

In the American context, this is seen in excessive materialism (for example, Advent is far more a purely capitalistic than a religious occasion) and in the thriving traffic in immorality (illicit drugs, pornography, prostitution, etc.). These signs of the ethic of having are not to be blamed on the market as such but rather on the poor values and immoral choices, which is to say, the declining culture, of

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<sup>38</sup> *Centesimus Annus* echoes the teaching of the classical economists: "many goods cannot be adequately produced through the work of an isolated individual; they require the cooperation of many people in working toward a common goal" (par. 32).

<sup>39</sup> *Centesimus Annus* cites *Rerum Novarum*: "Private property or some ownership of external goods affords each person the scope needed for personal and family autonomy and should be regarded as an extension of human freedom... Of its nature private property also has a social function, which is based on the law of the common purpose of goods" (No. 30). By the same token, publicly owned goods, that is, property owned by the state, often ends up having a purely private destination (accruing mainly to special interests connected with the regime).

<sup>40</sup> For a full defense of the social advantage of these technical but crucial institutions of the market economy see: L. von Mises, *Human Action*, Chicago [1949] 1963 and F. A. Hayek, *Profits, Interest, and Investment*, Clifton [1939], 1969 & 1975.

<sup>41</sup> *Centesimus Annus*, No. 36.

the actors who make up one part of the market economy, as the pope argues in *Centesimus Annus*.<sup>42</sup> The sin is less institutional than individual and cultural, but it is nonetheless real and destructive of the social order.

How does John Courtney Murray deal with these deleterious byproducts of freedom, especially of the American variety? He provides a profoundly insightful answer that rests on a fundamental criticism of the American character as it relates to its legal institutions. The “American mind”, he writes, “has never been clear about the relation between morals and law. These two orders of reality are frequently confused”, and in one of two ways.<sup>43</sup> Americans do not understand the meaning of the medieval adage that “whatever is right ought to be law”. By law, the medieval meant not codified law, enforced through coercion, but the structure of behavior and culture in society, including custom, manners, habits, and values of the individuals who make up the society. Americans have turned the adage around to be “whatever is custom ought to be right”. Thus, in American culture, it is somehow assumed to be a defense of one’s immoral conduct to “this is a free country”. Some reason as follows: I can get away with this, everyone else does this, the government does not punish me for this behavior, and therefore there is nothing wrong with it; no one has any right to complain. This attitude in a free society will not do. Such traditions as shunning, public disapproval, boycotts, and social marginalization are essential to keeping the free society a virtuous one. Yet, these practices have no force if the culture has confused freedom with absolute license and thereby conflated the liberal society with the libertine society. It is Murray’s opinion that this is a confusion in American culture, and he certainly seems to be correct. Instead, what is right ought to be part of custom and daily practice, whether or not it is part of the formal legal code. The second American confusion is directly related and summed up in the slogan “there ought to be a law” against any behavior that is deemed inappropriate, immoral, irritating, or against community norms in any respect. “The simplism of the adage reveals the failure to grasp the difference in order between moral precepts and civil statutes.”<sup>44</sup> This confusion reflects an exaggerated emphasis on positive law, as opposed to custom, as a guide for personal conduct and social standards of behavior.

Murray points to the signs of this confusion between laws and morality, mentioning prohibition of liquor earlier this century, the tendency to censor by gover-

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<sup>42</sup> *Ibidem*: “A given culture reveals its overall understanding of life through the choices it makes in production and consumption. It is here that the phenomenon of consumerism arises. In singling out new needs and new means to meet them, one must be guided by a comprehensive picture of man which respects all the dimensions of his being and which subordinates his material and instinctive dimensions to his interior and spiritual ones... Of itself, an economic system does not possess criteria for correctly distinguishing new and higher forms of satisfying human needs from artificial new needs which hinder the formation of a mature personality. Thus a great deal of educational and cultural work is urgently needed...” For an argument that *Centesimus Annus* takes further steps toward the Anglo-American model of liberal institutions than any prior authoritative teaching of the Holy. See: R. Hittinger, *The Pope and the Liberal State*, „First Things” 1992, December, pp. 33–41.

<sup>43</sup> J. C. Murray SJ, *We Hold These Truths...*, p. 156.

<sup>44</sup> *Ibidem*, p. 156.

nment statute (as opposed to ecclesiastical code), and the failure of the American republic to deal properly with issues concerning the dignity of life. In the case of prohibition and censorship, we see an excessively restrictive attitude embodied in legal statute.<sup>45</sup> They both violate St. Thomas's rule, in Murray's summation, for whether a law is prudent:

will the ban be obeyed, at least by the generality? Is it enforceable against the disobedient? Is it prudent to undertake the enforcement of this or that ban, in view of the harmful effects in others areas of social life? Is the instrumentality of coercive law a good means for the eradication of this or that social vice?<sup>46</sup>

In Murray's analysis, then, Americans need to broaden their own sense of what constitutes the public moral code, to include not just what the government commands but also social customs and a concern for virtue; this public moral code, then, is enforced primarily by social norms. Herein lies the realm between libertinism and coercion that Americans have often managed to miss. Also, in Murray's analysis, the American legal regime needs to resist the urge to codify into law everything it, or some special interest, regards as immoral or wrong. To the extent it does not censor, it deserves a Catholic defense. But to the extent society does not censure, it needs instruction in the moral obligation to use freedom in a virtuous manner. Murray provides no final answers on what should be legal or illegal in the sphere of public law, but we can suggest that his corrected American regime would be more socially restrictive than it is today (using as much private authority as is necessary) at the same time it is more legally libertarian (minimizing the use of "formal coercion").

Defenders of a free economy can take careful instruction from Murray's analysis. Not all investments are moral, even if a free market allows them. Not all purchases reflect virtue, even if our material means allow them. Not all uses of private property are in keeping with the common good, even if the state should not generally interfere with them. Social strictures that encourage virtue need to be strong enough so that the state does not have the excuse to go beyond the functions granted by the principles of consent and free institutions. Market economists need to develop this Catholic sensibility, just as Catholics need to develop a greater understanding of the practical virtue of the market itself.

The key is to broaden our understanding of the concept of moral behavior so that it goes far beyond merely what is legal, at the same time that we narrow our understanding of the applications of the law so that the state does not interfere with essential freedoms, be they political, economic or religious. The goal is to restore the institutions such as the Church that stand between the individual and the state to the rightful and authoritative place in society. It is these intermediating institutions which are the final guarantors of all our freedoms.

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<sup>45</sup> *Ibidem*, p. 167.

<sup>46</sup> *Ibidem*, pp. 166–167.

Our hope should be with Murray's, that the

dynamic order of reason in man, that clamors for expression with all the imperiousness of law, has its origin and sanction in an eternal order of reason whose fulfillment is the object of God's majestic will.<sup>47</sup>

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<sup>47</sup> *Ibidem*, p. 336.



Marta du Vall

## **SEARCHING FOR THE JUSTIFICATION OF AMERICAN HAWKS' POLICY**

Hawks: prominent American Neoconservatives following hard-line and uncompromising attitude in foreign policy. This term is often used to define the beneficiaries of the *status quo*, people holding the power who practice politics based on US preventive military interventionism. 11th September 2001 gave the American hawks the first opportunity ever to take over full control over short-term tenets of American federal policy. This was the first step in the fulfillment of their broader plan concerning foreign policy and proving the dominant position of America in contemporary geopolitical system.

The roots of current views of the neoconservatives who hold posts in the administration of the 43rd president of the United States, George W. Bush, should be sought for at the threshold of the 1990s. The end of the Cold War was the moment that forced neoconservatives to change their concept of the foreign policy, as for over four decades it had been based on fighting communism. The question emerged: what objective to designate; what should the United States aim at as an actor on the international scene. The main debate focused around the question whether America should continue Wilson's policy whose objective was to spread democracy in the world, or should it rather return to its former isolationism, so similar to the traditional Conservatives, and seek foundation in own, narrowly perceived interest.

The result of the debate was primarily a split within the Republican Party. On the one hand, there were further advocates of the "enlightened nationalism" supporting foreign policy based on non-intervention, which they believed to result from

the history of America, its tradition, and the wisdom of the Founding Fathers. They opposed any crusades for spreading democracy. Turning the back on the rotten Old World was one of the myths on which America was built. The United States – the land of the free, the land of plenty, and the land of moral self-improvement – was to develop independently of Europe, never becoming entangled into the debasing conflicts of states of the eastern hemisphere<sup>1</sup> that were devoid of any scruples. On the other hand, there were primarily those neoconservatives who did not want returning to the past. They desired a broad scale campaign to support spreading democracy all over the world, with the hoped result of such activity being the broadening of the land of liberty.<sup>2</sup>

Irving Kristol, the godfather of neoconservatism, supporting the basing of the foreign policy on solely American interests. This, however, followed a broader line of thought that whatever America does for itself, it does also for others. Kristol believed that the interest of the United States goes far beyond the ordinary reason of State. Following this train of thought further, neoconservatives were persistently in favor of the United States' audacity and readiness to defend its interest, even when its allies do not want or cannot support them. They became the champions of unilateral actions on the international scene: of such actions that will be deemed necessary from the point of view of the American *raison d'être*.<sup>3</sup>

Neoconservatives considered that the foreign policy in the post-Cold War period was to a great extent based on similar, if not the same, arguments that Ronald Reagan used to crack down on the Soviet Union. Reagan, as we know, unconditionally believed that the United States is the chosen nation, whose obligation is to defend democracy both on the inside and abroad. The objective here was to be the universalization of the liberal democracy. After the fall of the Berlin Wall, neoconservatives followed a similar assumption, preaching that the diminishing safety of the United States diminishes parallel to the shrinking of the area of democracy, and the democracy and individual liberty are universal, and supporting them in the world is justified. For decades, the United States were treated by the democratic world as the guarantor of both political and economic liberty. In the new international reality neoconservatives wanted America to make use of its advantage to enforce the international standards of conduct. At the threshold of the 1990s they believed that safety of the world depends on the readiness of the United States to assume the role of the leader.

After the initial period dominated by the eagerness to be strongly present and involved on the international scene, neoconservatives assumed a more neutral attitude and selected a certain 'middle of the road' course that was to avoid crusades in the name of democracy. It might seem that they denounced interventionism as a tool for conducting foreign policy, and acknowledged that the United States no

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<sup>1</sup> E. Todd, *Schylek imperium. Rozważania o rozkładzie systemu amerykańskiego*, Warszawa 2003, p. 20.

<sup>2</sup> P. J. Buchanan, *Prawica na manowcach*, Wrocław 2005, pp. 20–21.

<sup>3</sup> J. Ehrman, *Neokonserwatyzm*, Warszawa 2000, pp. 194–195.



longer has to shoulder the responsibility for maintaining peace in Europe or chairing NATO. Nevertheless, the developments in the world proved that neoconservatives could not explicitly identify the interests of their country and decide when America should become involved and use its power. Situations would crop up when some neoconservatives supported the government's interventions in international conflicts, while others were their stalwart opponents.

It goes without saying that after Ronald Reagan successive cabinets governing the United States used the agenda of the convictions that originated in the neoconservative thought despite the fact that both Bush and Clinton represented the passive attitude that assumed cooperation with other powers, and allowed use of force only in exceptional cases. The system of multi-polar international order established in the first half of the 1990s was still based on the dominance of America – the only superpower – that cooperated with a group of several states with decidedly lesser potentials.

The first acid test for the new order in international relations was Iraq's invasion on Kuwait in October 1990. George Bush, the 41st president of the United States, wrote that he was ready – should there be such need – to counteract the Iraqi–Kuwaiti crisis on his own. He wanted, however, the United Nations to participate in the first reaction to the aggression and severely condemned the Iraqi attack against a UN member, as it would be of momentous significance. Despite the optimistic bias, he did not really know what to expect from the United Nations. He realized that this was to be the first test of the operation of the United Nations Security Council in a crisis situation in the post-Cold War era.<sup>4</sup> From this point of view, of great significance was the joint Soviet–American declaration that condemned the Iraqi invasion of Kuwait of 3 August 1990. It meant that the previous main supporter of Iraq did not support the aggression. It was a proof that for the first time since the beginning of the Cold War two superpowers were on the same side of a major international crisis.<sup>5</sup> President Bush performed a master feat of diplomacy and gathered a whole alliance of Arab States and NATO countries, composed of nearly 30 states. The United States needed the support of Arab countries for all their activity in and around Persian Gulf, so as not to jeopardize the further development of good Arab–American relations or undermine the trust for America in the region. With the backing of Germany and Japan, support of the UN Security Council, and approval of the Congress, Bush ordered the commencement of the Desert Storm operation. After five weeks of air raids, the American ground forces needed no more than just 100 hours to drive the Iraqi army from Kuwait, and march towards Baghdad.<sup>6</sup>

The war in the Persian Gulf was a certain bridge between the Cold War era and the new international order. A joint position of both superpowers was of historic significance and symbolic of the changing Soviet–American relations. The coopera-

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<sup>4</sup> G. Bush, B. Scowcroft, *Świat przekształcony*, Warszawa 2000, p. 312.

<sup>5</sup> *Ibidem*, p. 335.

<sup>6</sup> P. Buchanan, *op. cit.*, pp. 21–22.

tion between the two countries allowed belief that the world would be built where the United Nations will be capable of working on the international scene and oppose aggressions in the manner envisaged by the authors of the Charter of the United Nations.<sup>7</sup>

This war provided arguments both for American multilateralists and unilateralists. The multilateralists emphasized that the unanimity of the Permanent Representatives of the UN Security Council allowed the successful use of political and military instruments contained in the Chapter VII of the Charter of the United Nations that referred to the lawful employment of force in case of any threat to the peace, breach of the peace, or act of aggression. Unilateralists, on the other hand, emphasized that the entire operation would have been impossible without the political determination, and military and economic potential of America.<sup>8</sup>

Neoconservatives were inclined to agree with the claim put forth by Charles Krauthammer that the United States is the only state with military, diplomatic, political, and economic assets that allow assumption of the role of the decisive player by the US in any conflict wherever in the world it should occur.<sup>9</sup> According to the neoconservatives, but also to the broad masses of the American society, the War in the Gulf was a proof that the United States is responsible in a special manner for leadership in solving international crisis situations. The fact of acquiring broad global support for the leading role of America in the world was highly significant. The political credibility and influences of the United States raised to a level that they had never reached before.<sup>10</sup>

Once the war was over, the support for the President in the American Society verged on 90%. The conflict in the Persian Gulf, contributed to the change in international reality and gave the United States the sense of fulfilling a mission, which US needed so very much. A proof of embracing the unipolar concept by Bush's cabinet was the President's address to the United Nations in October 1991, when he stated that he would not withdraw American army from the occupied areas and that he was beginning a crusade for the construction of the New World Order. The United States was to lead the United Nations in the supervision of the world, punishing the aggressors, and maintenance of peace. The mission of America was presented to the world, and Bush was ready to embark on his Wilsonic crusade.<sup>11</sup>

Believe that – using the experience of the previous term, and drawing from the neoconservative thought – George Bush led the United States on to a new path that was to help maintain American dominance on the international scene. The 41st President left a most clear heritage, whose continuators were and are successive US Presidents.

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<sup>7</sup> G. Bush, B. Scowcroft, *op. cit.*, p. 505.

<sup>8</sup> W. Szyborski, *Doktryna Busha*, Bydgoszcz 2004, p. 32.

<sup>9</sup> Ch. Krauthammer, *The Unipolar Moment*, "Foreign Affairs. America and the World" 1990/1991.

<sup>10</sup> G. Bush, B. Scowcroft, *op. cit.*, p. 505.

<sup>11</sup> P. Buchanan, *op. cit.*, p. 22.

Although it seems otherwise, in its foreign policy, Clinton's Democratic cabinet never abandoned the postulates of its predecessor and was highly active on the international scene. The Democratic administration of the White House believed the establishment of the new world order and American-style refurbishment of the international environment both right and necessary.

Besides the war in the Gulf, from the assumption of the presidential chair by George Bush to the presidency of his son, the United States became involved in Panama (1989: intervention that resulted in the removal of the authoritarian ruler, Manuel Noriega), intervened in Somalia, occupied Haiti, bombed Serbia, captured Kosovo, introduced soldiers into the territory of Saudi Arabia,<sup>12</sup> began war on global terrorism (Afghanistan), and was again involved in Iraq.

It is to be emphasized that neoconservatives perceive a powerful correlation between democracy and peace. The unquestioned expression of this view is the claim that operation for the benefit of democracy should pose an integral part of United States foreign policy. Even if there should be no correlation, on ideological ground America should still incline towards Wilson's foreign policy. And indeed, Reagan's, Bush's, and Clinton's administration made use of Wilson's rhetoric and set Wilsonic goals before the United States. The differences between the successive governments concerned not the question whether to act for the benefit of democracy, but the manner of such action. Republicans were slightly more hardliner in assessing where and under what conditions democracy may really come to exist.<sup>13</sup>

It is not difficult to assert that both the foreign policy of the United States and the manner it has been practiced over the last few decades carry strong brunt of neoimperialism. American commentators claim openly that the imperial wars, as the one in Yugoslavia or the one in Afghanistan, must be accompanied by new conquests, and that the chaos pervading the world is too dangerous to be treated lightly. The imperial logic seems to be incontrovertible. In his publications, Robert Kaplan, one of the leading of the American Empire, convinces that American leaders are capable of ensuring successful development in parts of the world lying far away from the United States should they remain under its graceful imperial sway.

It does seem that imperialistically tinted contemporary policy is an indispensable consequence of embracing neoconservative beliefs in the field of foreign policy. The power of the empire provided the grounds for the idea of security of the United States. In the consolidated and enlightened leadership of America, the neoconservatives see a solution that may help to eliminate the sense of terror and contribute to the increased level of safety and security in the world and the development of better conditions for the expansion of the freedom zone and democracy.

The neoconservative view on the questions concerning foreign policy may – according to Kristol – be recapitulated in a number of claims:

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<sup>12</sup> *Ibidem*, pp. 22–23.

<sup>13</sup> F. Fukuyama, *Ostatni człowiek z fiolki – po namyśle*, after: [www.tezeusz.pl/cms/tz/index.php?id=1250](http://www.tezeusz.pl/cms/tz/index.php?id=1250) (December 2006).

- patriotism: according to neoconservatives, it is a natural and healthy movement and it is the task of both the government and the private sector to stimulate and reinforce patriotism. This results from the assumption that Americans as an immigrant society need the sense of belonging.<sup>14</sup> It is to be borne in mind that in the case of neoconservatives, one may speak not only about a powerful patriotism, but even about nationalism. This is followed by the belief in the superiority of American democratic values. To quote Irving Kristol, “patriotism flows from the love for the national past/history; nationalism is born from the hope for magnificent future”.<sup>15</sup>

- global government: the notion of such a government is considered abhorrent and leading to tyranny. Neoconservatives treat international institutions with high level of suspicion.<sup>16</sup>

- politicians/men of state: they must primarily be capable of distinguishing friends from enemies. Kristol emphasizes that it is not as easy as it would seem, quoting the experience of the Cold War and the fact that a large share of intelligent people could not treat the Soviet Union as an enemy.<sup>17</sup>

- National interest: neoconservatives exert pressure not to treat this term in its geographical sense. They believe that a large state, to the like of the United States, has a far broader or more distributed interests. Such a state inevitably has ideological interests, for which material premises are just an addition. Hence the conviction that United States are obliged to defend – if possible – the democratic nations in the strife against non-democratic powers, be they internal or external.<sup>18</sup>

- Military power: the overwhelming military power of the United States towards all the other states is, in the opinion of neoconservatives, incontrovertible. The supremacy was not planned, and there are many Americans who do not believe it even today. It goes without saying, however, that during the five decades that have passed since the second world war, while Europeans maintained peaceful relations with the Soviet Union, the United States became involved in a long succession of wars: Korea, Vietnam, later the Persian Gulf conflict, Kosovo, and the wars in Afghanistan and Iraq. Such actions resulted in the increased arms expenditure, more or less proportional to the economic growth, while Europe continued to limit its arms expenditure, promoting social programs. This contributed to today’s *status quo*, where in more than a decade from the downfall of the Iron Curtain, America is wielding a unique military power.

Kristol emphasizes that this power is followed by responsibility, be it accepted or not. Moreover, he claims that if one has a power like the contemporary United States, either the United States will find its opportunity to use it or the world

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<sup>14</sup> I. Kristol, *The Neoconservative persuasion: What it was, and what it is*, “The Weekly Standard” 2003, August 25, Vol. 8, Issue 47.

<sup>15</sup> Idem, *Reflections of a neoconservative*, New York 1983, p. xiii.

<sup>16</sup> Idem, *The Neoconservative persuasion...*

<sup>17</sup> *Ibidem*.

<sup>18</sup> *Ibidem*.

will find it in their stead.<sup>19</sup> It is not difficult to see that a new Conservatism, today is the prevalent doctrine in American political scene and it seems necessary to emphasize that it has undergone a major evolution from the moment it was born as a worldview of Cold War liberals desiring powerful resistance against the Communist bloc to the time when it is a doctrine that bears traits of imperialism.

The most distinguishing feature of neoconservatism in the last decades was the uncompromising position in the ideological controversy with the Communist bloc, which has recently lost its significance. Yet also at present, the neoconservative vision of American foreign policy continues to follow the hard line, with its characteristic features including uncompromisingness and portrayal of the world in the categories of friends and foes. Neoconservatives expertly use the moral and ideological justifications for current activities undertaken on the international scene. Besides this, they should be credited with a continuous and unflinching sense of Messianism and belief in the legal validity of policy aimed at the universalization of liberal democracy in the world. Neoconservatives tried to combine Wilson's idealism in the promotion of American exemplars of democracy with a fascination in Rooseveltian concept of interventionism in foreign policy, which in our day bestows them with a markedly militaristic image.<sup>20</sup>

Today, such an attitude raises vast controversies. Proliferation of democracy with the use of force and coercion does not bring the expected results everywhere and immediately. Can liberty and democracy be imposed by power?

The presidency of Ronald Reagan came in a very special period. He was a politician determined to put an end to the "empire of evil". His actions were directed against the main and greatest – if at that time, not the only – enemy. War in the name of democracy and liberty was enthusiastically embraced both by the West and the societies of eastern Europe who longed for liberation. War against Communism was universal in its character, and wherever it was fought it meant struggle for the freedom of societies and freedom of individuals.

I believe that the contemporary situation is decidedly different, and that running his crusade in the name of liberty and operating in distinctly different geopolitical, cultural, and primarily mental and historical conditions, Bush Junior will hardly achieve victory or fail. The nations and societies whose political culture has never been a participative one, which for many years have been dominated by the culture of dependence, if not parochialism, are hard to be activated, encouraged, and convinced to the "western model" of the state and its organization. The national character, and the political culture related to it are hard to change, and the manner that the United States is trying to effect that change seems particularly ineffective. The democratic crusade wherever possible, and negotiations where there is no other way out<sup>21</sup> – this may be a short characteristic of the doctrine currently binding

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<sup>19</sup> *Ibidem*.

<sup>20</sup> W. Szyborski, *op. cit.*, p. 75.

<sup>21</sup> M. Fita-Czuchnowska, *Jastrzębie demokracji*, "Wprost" 2005, July 3.

in American foreign policy. The terrorist attacks of 11th September 2001 were followed by a radical change in the American strategy of security: that was the end of the transitory period between the Cold War strategy of containing Communism and Bush Doctrine. The initial period of his presidency, which lacked a global vision and had Bush clinging to a realistic point of view, with the maintenance of stability being most crucial and ambitions to change the world invisible, was followed by the era whose unchallenged priority was the guarantee of national safety and security, restoration of the superpower reputation, and the United States' due place in the international system.<sup>22</sup>

Dominant today, neoconservatism is a peculiar form of reborn Reaganism: a dynamic *mélange* of authority and principles; combination of the American capacity to overthrow regimes with the evangelical belief that democracy is the only proper system; characterized by the faith in the unquestioned power of America.<sup>23</sup> Worth answering is the question whether considering contemporary neoconservatism that has dominated American policy a conservative trend is indeed justified. The actions undertaken by neoconservative decision makers, at least in a number of areas, seem to challenge this claim:<sup>24</sup>

- first of all, the conviction that American leadership is capable of changing regimes and political systems,
- secondly, the search for ideological justifications for current foreign policy,
- finally, lack of attachment to the role of community and society.

With these in mind, reiterating the earlier statement that imperialism and warmongering than neoconservatism are more proper when referring to the contemporary American leadership seems justified.

The global vision of American foreign policy after the events of the 11th September and accounting for the major elements of the new American doctrine (known as Bush Doctrine) found its full and complete expression in the National Security Strategy, published in September 2002.<sup>25</sup>

The new strategy rejected doctrines of determent and containment that won the cold war and announced a new American policy of the preventive strike. It assumes potential preventive attack against the states that may threaten the security of the United States. Following Bush's concept, Americans may resort to such a strike against terrorist groups and organizations, or against hostile countries in possession of weapons of mass destruction or researching construction of such weapons. The strategy assumes the need to plan and prepare American forces to such a preventive action.

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<sup>22</sup> W. Szyborski, *op. cit.*, pp. 63, 72.

<sup>23</sup> *Ibidem*, p. 78.

<sup>24</sup> J. Smith, *Ought the Neo-Cons Be Properly Considered Conservatives? A Philosophical Response*, "Journal of Contemporary Analysis" 2003, No. 75 (6), pp. 32–33, 40.

<sup>25</sup> For original, see: [www.whitehouse.gov/nsc/nss/html](http://www.whitehouse.gov/nsc/nss/html).

Generalizing, one may also point that one of Bush's fundamental declarations contained in the new global strategy of foreign policy was vesting the United States with the right to restrain other countries in the development and growth of their power that could challenge their strategic supremacy of America. That was tantamount to the claim that Bush administration was not planning to renounce the military cutting edge that United States retained after the fall of the Soviet Union. Americans are planning to use the unquestioned supremacy in the world in a unilateral manner. Even at the expense of a conflict with allies and the international community.

The foundations of the American doctrine binding in international policy may be gathered in the following three statements: promotion of democracy, preventive strikes, and unilateral action.

Planning a defensive preventive attack when the country is facing an imminent threat is nothing out of the ordinary. In the case of United States – the most powerful state in the world, at whose disposal lies a greater defensive power than in the case of any other country – it is not prudent to empower itself with the right to preventive attack and treat such a situation as a rule as this rallies the world's public opinion against the United States. Instead of focusing on the actual threat, this gives birth to a discussion concerning the generally conceived right to intervene at all.<sup>26</sup>

It seems that the American strategy of security and preventive war fails to account for the reality we live in, where the military power has lost its significance and in many cases can hardly be used to solve the complex political and security-related questions we face in the contemporary world. It was rightly remarked that as far as the uncompromising attitude in the ideological struggle against Communism was an advantage of neoconservatism throughout the period of the cold war, the current hard-line and inflexible position of the United States in foreign policy leads to numerous distortions that in the final result may contribute to the drop in America's prestige and power on the international scene.

Moreover, the doctrine does not look ahead to see that action without the consent of the allies is not feasible from the physical point of view. The United States maintains hundreds of military bases all over the world, and operation from these bases may hardly ever be conducted independently of the will of the states, in whose territories the bases are situated. Thus strategic allies and their support, be it only passive, are necessary for any action. America assuming a position above the international law and order is too risky for the White House administration, and such a step will rather not be undertaken, and it's so not without a prior political campaign (as in the case of Iraq), which in turn rules out of the element of surprise, that is crucial for the concept of the preventive attack.<sup>27</sup>

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<sup>26</sup> Rozmowa z Richardem Holbrooke, "Gwałt na gwałt", "Wprost" 2002, November 3.

<sup>27</sup> T. Widłak, *Ameryka kontratakuję – nowa doktryna obronna USA*, after: [www.paneuropa.l.pl/?plus=komentator&id=1063729003](http://www.paneuropa.l.pl/?plus=komentator&id=1063729003) (November 2006).

The new US National Security Strategy of March 2006 proves a greater realism in the assessment of challenges and ways of facing them than the one drafted in 2002. Although it invariably remains a “war” strategy with reference to the times of Cold War (The parallel between war on terror and the Cold War is ever more apparent:

The United States is in the early years of a long struggle, similar to what our country faced in the early years of the Cold War. [...] a new totalitarian ideology now threatens [...] Its content may be different from the ideologies of the last century, but its means are similar: intolerance, murder, terror, enslavement, and repression

and confirms the doctrine of the preventive strike, it also refers to the new threats. There is more emphasis on effective multilateralism and non-military means of policy. It is slightly less pervaded with the spirit of neoconservatism and more realistic in its approach to the threats and ways of opposing them. The major change is the greater emphasis on multilateral actions and diversification of instruments used to influence the international milieu. Both in the case of terrorism and weapons of mass destruction is on the one hand, and natural disasters “efficient multilateral effort” is defined as key to solve these problems.<sup>28</sup>

Closing, it is worth to quote *America at the Crossroads: Democracy, Power, and the Neoconservative Legacy*,<sup>29</sup> the latest book of Francis Fukuyama, and repeat the four basic beliefs, on which today’s neoconservative worldview is based upon. First, America is obliged to defend democracy and human rights. This is why it has the right to intervene with the internal policy of the states that do not respect these standards. Second, American may use its power for moral reasons. Thirdly, international institutions – as e.g. the United Nations – are inefficient and nothing good can be expected from them. Fourthly, the results of high-flying social engineering often unexpectedly turn against itself, which can be understood as the need to avoid sudden top to bottom changes in the society.

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<sup>28</sup> E. Posel-Częściak, *Strategia bezpieczeństwa Stanów Zjednoczonych z 16 marca 2006 roku*, “Biuletyn Polskiego Instytutu Spraw Międzynarodowych” 2006, No. 19 (359).

<sup>29</sup> F. Fukuyama, *Ameryka na rozdrożu. Demokracja, władza i spuścizna neokonserwatyizmu*, Warszawa 2006.



Kazimierz Dadak

## **UNITED STATES AS A MONETARY UNION: A LESSON FOR EUROPE?**

### **Introduction**

Thirteen North American colonies gained independence from the United Kingdom of Great Britain in 1783, four years later the states agreed upon a constitution and set up a federation. Soon afterwards, with the election of the first president in 1789, the new nation established a well functioning central government. However, the country had no single currency until 1879 and no central bank until 1913. Nevertheless, in spite of the absence of institutions that are these days frequently perceived in the European Union (EU) as attributes of a powerful nation, the United States managed to settle vast new territories, develop new industries, as well as, wage and win wars. Consequently, at the time the Federal Reserve Bank (Fed) was created, the nation was already a recognized economic and political superpower. America's entry into the first world war tipped the scale in favor of the Entente and president Wilson was in a position to play key role in the post-war peace conference.

Overall, the American experience shows that a political entity can play a global role without a central bank and a well established national currency. The factor that determines a country's importance is its political cohesion – the US enjoyed a very well functioning democracy and a central government, especially the executive branch, a long time before the American dollar attained an important economic role all over the world.

On the other hand, Europeans seem to hold the opposite view, the founding of a central bank and the creation of a common currency are seen as major steps in the process of political unification. Consequently, as a result of the Maastricht Treaty, on the one hand, the European Union has no representative government (the European Parliament enjoys very limited powers, especially regarding the executive branch – the European Commission), but, on the other, the region has a single currency issued by a central bank totally independent of any political, national or Europe-wide, entity and a set of strict rules that govern fiscal policies. In sum, a “democracy deficit” coexists with rules and regulations that bind still sovereign nations, a development hardly conducive to building a cohesive, super-national political structure.

### **Optimum Currency Area**

In hindsight we can analyze the introduction of a single currency and a central bank in the United States in the light of optimum currency area (OCA) theory, a concept developed only decades later (Mundell 1961, McKinnon 1963, and Kenen 1969). The theory postulates that regions can benefit from a common currency, if they trade a great deal among themselves, there exists a very high degree of mobility of factors of production among them, and there is a mechanism that allows for monetary transfers aimed at softening asymmetric, i.e. region or industry specific, shocks (frequently referred to as “fiscal federalism”).

As of late 19th century, the United States met the above criteria reasonably well. Trade within the country by far exceeded the nation’s foreign economic relations and there was a high degree of competition in factor markets. At the time labor was relatively homogenous and very mobile, and product markets were not overly monopolized either. The only missing factor was fiscal federalism, but also no other nation at the time used fiscal policy to transfer resources from booming parts of the country to regions suffering from recessions. In other words, the American monetary union created no handicap in this respect.

The introduction of a common currency required practically no change to the overall working of the economy, too, because at the time the entire developed world was on the gold standard. In other words, most of the world was on a fixed exchange rate system and adopting a single currency (akin to fixing exchange rates among the different currencies circulating within the United States) made little difference. Additionally, the gold standard allowed no room for discretionary monetary policy, i.e. the adoption of a common currency meant no loss of a mechanism useful in addressing economic shocks.

Overall, American monetary unification and the establishment of the Fed resulted in a small change in the overall economic environment and the events caused little, if any, loss of efficiency. On the other hand, American monetary unification resulted in the elimination of any risk related to businesses operating with more

than one currency, i.e. most likely, presented a small gain. Moreover, the creation of the Federal Reserve System, which had a clear mandate to perform the function of lender of last resort, made the whole American banking system potentially more stable.

It is also worth noting that the American monetary unification coincided with the “first wave of globalization” (Baldwin and Martin 1999), a period characterized with international capital flows that (in relative terms) dwarfed even those of the present time (Crafts 2000). Therefore, by joining the gold standard the US was able to attract foreign capital, a resource that the nation lacked very much. Consequently, it is not surprising that economists who analyzed monetary history of the United States (Friedman and Schwartz 1963, Meltzer 2003) noted *no* significant change in American economic performance following the introduction of a common currency. Unlike in Europe before and after 1999, the monetary union required no significant adjustment in either economic policy or in the functioning of individual markets (labor and product).

However, between late 19th and late 20th centuries economic reality, economic theory, and economic policies changed enormously. First, the structure of American economy changed from a relatively simple system based on agriculture, mining, and commodity-type products into a highly sophisticated organism based on diverse services and high-tech industries. Consequently, particular regions are specialized and labor force is characterized with more diverse skills and knowledge, developments that make labor mobility more difficult. On top of that, factor markets attained a higher level of monopolization and, as a result, their prices became more rigid. Not surprisingly, Tootell (1990) found that today the US no more satisfies criteria for an optimum currency area and, therefore, certain regions suffer prolonged periods of high unemployment resulting from asymmetric shocks.

Secondly, following the collapse of the gold standard a huge change has taken place in domestic and international monetary arrangements. The demise of a link between the stock of gold held by the central bank and the amount of money in circulation signaled the beginning of discretionary monetary policy and its use to rectify economic problems. The downfall of the gold standard also spelled out the end of a fixed exchange rate system and the possible exploitation of currency depreciation in handling trade imbalances and in tackling the underutilization of economic resources. In sum, the general economic environment has changed dramatically; on one hand, factor markets that used to be very competitive and flexible developed into quite rigid ones and, on the other, monetary policy and exchange rates that used to be rigid became flexible and perceived as important tools of economic policy.

The following two sections provide a review of the use of both monetary and fiscal policies in the US with an eye towards the working of the American monetary union.

## Role of monetary policy in the US economy

Since the early 1980s, in the US, monetary policy has been used to address short-term economic shocks, while fiscal policy has been employed to accomplish long-term goals, for instance to stimulate economic growth (Meyer 2000). However, in a monetary union, the central bank has difficulties in addressing regional (or industry specific) shocks without possibly creating adverse conditions in other regions (industries). In particular, expansionary monetary policy aimed at stimulating growth in a depressed region may very well create excessive demand in regions enjoying robust growth and, thus, contribute to inflationary pressures. Therefore, the central monetary authority may frequently face trade offs, for instance, between price stability and economic growth or between the value of domestic currency and employment. Because the Fed is accountable for its actions, the bank needs guidance from the controlling entity (Congress) in resolving these dilemmas.

Most recently, the Congress defined goals of monetary policy when it adopted the Full Employment and Balanced Growth Act (commonly known as the Humphrey-Hawkins Act) in 1978. The law set three objectives for the Fed: affordable long-term interest rates, full employment, and price stability. Because the first aim is a medium for attaining the second, it is commonly assumed that the central bank has “twin goals” of price stability and full employment.

It is important to stress that, although the Humphrey-Hawkins Act contained specific numerical targets, the Congress realized that the goals were overly ambitious and did not penalize the Fed for not meeting them within the prescribed time. Given this fiasco, the Congress has refrained from micromanaging economic policy and has never specified inflation and employment targets since. Similarly, the Fed has also avoided setting specific aims for itself; however, it has had internal working definitions of price stability. It is widely assumed that the bank currently defines price stability as the rate of core inflation of about 2 percent.<sup>1</sup> In sum, on one hand, the American central bank has a great deal of latitude in conducting monetary policy and, on the other, the Congress continuously monitors economic conditions and exerts pressure on the Fed through semi-annual hearings.

The Fed is required by law to present the legislative power with written reports prior to the hearings held separately by the two chambers. Additionally, Fed executives, including the Chairman, may be summoned to testify before each of the chambers of Congress at any time. These meetings serve not only the purpose of assessing the work of the bank, but also of getting the bank’s input into new legislation. Similarly, top executives of the Fed regularly meet with highest officials at the Department of Treasury. These sessions allow for exchange of opinions and

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<sup>1</sup> Core inflation is defined as the overall consumer price level less prices of food and energy. Prices of these items tend to be volatile and by eliminating them from the consumer price index the Fed is able to focus on long-term trends in price movements.

analyses, rather than offer the executive branch an opportunity to exert pressure on the central bank. It is very important to stress that the hearings and required reporting make the Fed fully accountable for its actions. However, the bank is responsible to the general public and the legislative power, not the executive; therefore, there is little danger of the president using monetary policy for short-term political ends, for instance to stimulate the economy before elections. This threat is very much stressed by Nordhaus (1975); however, most economists (for instance, McCallum, 1978, Alesina, 1989) dismiss this hypothesis.

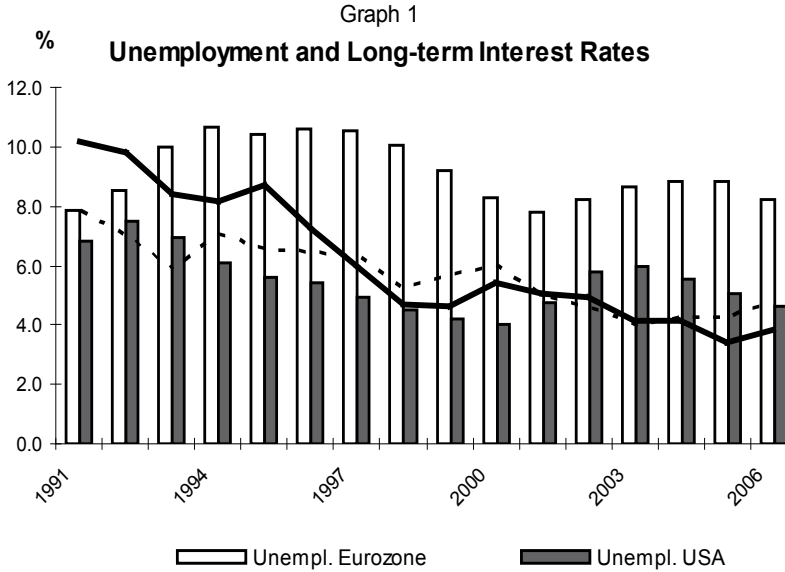
From the above, it is clear that the American central bank enjoys economic but not political independence. According to Grilli, Masciandaro, and Tabellini (1991) the former denotes freedom to choose specific tools of monetary policy (Debelle and Fisher (1994) call this instrument independence) that are used in accomplishing specific targets (goals in the Debelle and Fisher taxonomy) set by another body, in this case, the US Congress. This is consistent with practice in most other developed nations and Debelle and Fisher conclude that this arrangement is most efficient.

Milton Friedman (1968) postulated adhering to a rule in conducting monetary policy, i.e. increasing money supply by a fixed amount consistent with the long-term rate of economic growth and the natural rate of unemployment, commonly known as Non-Accelerating Inflation Rate of Unemployment – NAIRU. This great economist argued that discretionary monetary policy is ineffective, because, on one hand, given rational expectations, the central bank is unable to increase the rate of economic growth (in the long-run, an excessive increase in money supply results only in a higher price level with no increase in the level of real activity – the so-called neutrality of money), and, on the other, monetary policy may not be effective in stimulating a sluggish economy because of an unknown lag between a policy change and the impact of a new level of money supply on the economy. In other words, a monetary stimulus may take effect only when the economic problem is already gone, and, thus, would only contribute to inflation. In spite of his view that only money matters, Friedman did not advocate discretionary monetary policy.

However, actions of the Federal Reserve Bank over the last quarter of a century clearly show that discretionary monetary policy is effective in combating demand-side shocks. During the tenure of Alan Greenspan as the Fed's Chairman, the bank frequently changed the target level of short-term interest rates in order to preempt adverse effects of economic disturbances.

Moreover, as Greenspan (2004) himself stresses, the very significant permanent decrease in NAIRU, from about 6 percent to about 5 percent, that took place in the latter half of the 1990s was possible only because of a very substantial monetary expansion (Graph 1). Not surprisingly, Benjamin Friedman (2006) summarized the Greenspan years at the Fed's helm as a triumph of discretion over rule.

Unfortunately, over the same period, the Eurozone failed to record a similar success in bringing unemployment down in spite of a very significant decline in inflation and, consequently, a large decrease in long-term interest rates (Graphs 1 and 2).



### **Inflation targeting in the US**

At this juncture it is important to add that, most likely, successes in keeping the US economy out of long periods of recession and in lowering NAIRU would not have been possible with the Fed attempting to attain a single goal, that of keeping inflation low. Blinder (2004) makes this point crystal clear stating:

It would take a great deal to convince me that U.S. monetary policy since 1979 – that’s twenty-four years, under two Fed chairmen – would have been better, if only we had instituted inflation targeting back then and stuck with it thick and thin. (p. 32)

Moreover, the author is convinced that

[t]he starkly different legal mandates of the European Central Bank (ECB) and the Fed have [...] allowed Greenspan to gamble on growth in a way that the more cautious ECB (and the

Bundesbank before that) was unwilling to do. This is one, though not the only, reason the United States outperformed Europe in the 1990s (p. 31).

Another important issue is the fact that the Fed showed a good deal of flexibility in targeting inflation. As I mentioned earlier, the Fed has never set a specific goal for an acceptable increase in the consumer price index. This strategy allowed the bank plenty of freedom in addressing this very important issue.

First of all, the Fed has never found itself in a position that it would have to sacrifice employment to prevent inflation exceeding a stated target, especially when commodity prices started to rise after 2000. Second, even more important, the Fed has never fallen into the trap of attaining zero inflation.

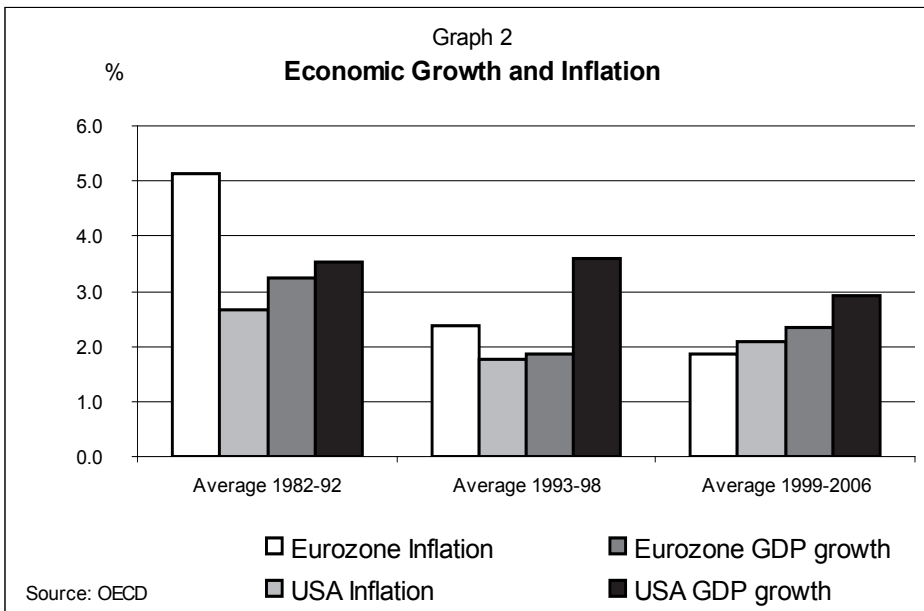
Following the 1970s, a period of stagflation, many economists emphasized the negative impact of inflation on the economy. Indeed, there are important efficiency losses resulting from a high level of price increases (Bernholz 2003) and, the experiences of that period reinforced the belief widely held above all in Germany that price stability is the most important goal of monetary policy (Stern 1999). However, this is by no means an established economic truth. For instance, Barro (1997) showed that inflation hinders economic growth only at high levels, those exceeding 15 percent per year. His study is based on an analysis of 117 countries and, given the Balassa-Samuelson effect (Balassa 1964, Samuelson 1964), may be less applicable to mature economies. Nevertheless, many central banks in developed countries aim at a rate of inflation within the range of 1–3 percent (Collins and Siklos 2004). On the other hand, the ECB established a very ambitious target of no more than 2 percent average price increase, and Blanchard (2003) and Lamy and Pisani-Ferry (2002) argue that the bank should increase its target for inflation.

There are strong arguments in favor of the higher (1–3 percent) level of price changes. For instance, a low level of inflation is helpful in speeding up adjustments in real wages, a process necessary in restoring competitiveness of particular industries or entire nations following an asymmetric shock. In a world with no price increases, real wages decline only when nominal wages go down – a task very difficult to accomplish, because employees resist decreases in nominal wages, a fact commonly referred to as nominal wage downward rigidity. However, with some price rises it is sufficient to keep nominal wages fixed for real wages to decline. Akerloff, Dickens, and Perry (1996) estimate that inflation of just 2 percent per year practically eliminates the problem of downward nominal wage rigidity.

Additionally, some inflation also helps in lowering real minimum wage, if the nominal minimum wage is held constant. Because inflation has been higher in the United States than in Europe, the minimum wage in the US declined much faster than in the EU and Gordon (2004) believes that this drop is a major cause for the unemployment rate in America being much lower than in the EU.

There is yet another very important issue that the Fed has had in mind while targeting inflation – zero-bound interest rates. After the very bad experiences with inflation in the 1970s, the 1990s brought again to central bankers’ attention the question of deflation. Beginning with the early 1990s, Japan has gone through a period of declining prices and extremely slow economic growth. When prices keep going down, even if the central bank lowers nominal interest rates to zero, real interest rates remain positive and, because of that, monetary policy may lose its power to stimulate the economy.

Ahearne et al (2002) agree that Japan’s experience shows that stimulating the economy is more difficult and more uncertain once deflation sets in. These days deflation is perceived as a greater threat to economic prosperity than inflation (for instance, Kumar, et al. 2003, Coenen, Orphanides, and Wieland 2004). For this reason, many central bankers believe that having a positive rate of price rises provides them with a margin for error. In case the economy slows down and there emerges a threat of deflationary spiral, the bank can drastically lower interest rates to keep the real interest rate close to zero, or even make it negative. The Fed adopted this type of monetary policy following the stock market crash of 2000 and, by doing so, most likely, prevented the American economy from slipping into a deep recession.





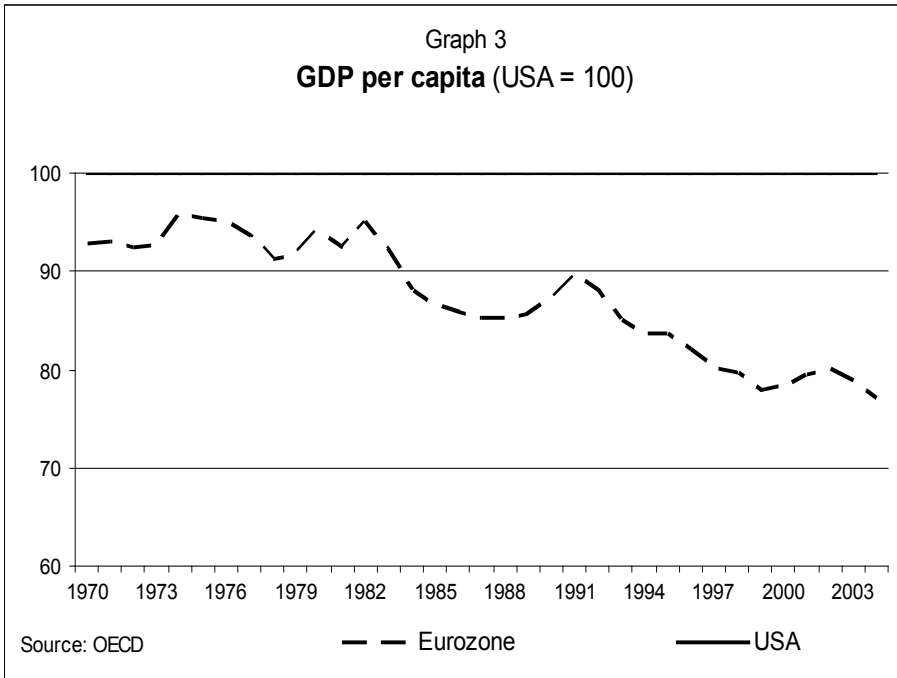
The question remains, what is the “safe” level of inflation, i.e. a speed of price increases that would give the central bank a large enough cushion to avoid a positive real interest rate, even when the nominal interest rate is set at nil. To address this issue it is worth mentioning that reported price increases overestimate actual inflation, because of problems with measuring price changes. First of all, we fail to account properly for the impact of quality improvements on price increases (Kokoski 1993), and, second, consumers tend to substitute cheaper products for more expensive ones (Aizcorbe and Jackman 1993). For the above reasons, it is widely believed that in the US reported price changes overestimate inflation by about 1 percent per year (Moulton 1993). In other words, this is the absolute minimum of price changes and on top of that should come the cushion against the zero-bound interest rates. For instance Orphanides and Wieland (1998) estimate that the danger of monetary policy ineffectiveness goes away when inflation reaches 2 percent per annum. All the above do indeed support the view that for a mature economy to the like of the US or the Eurozone, inflation in the range of 1-3 percent is optimal.

Also economic reality points in this direction, because economic growth in the Eurozone failed to respond to a very significant, post-Maastricht decrease in inflation. The average rate of growth in the Eurozone was substantially below that experienced in the region during the decade leading to the Maastricht Treaty and that recorded in the US over the same period. This was the case, both, during the time of convergence (1993–1998) and after the introduction of the single currency on January 1, 1999. (See Graph 2, where GDP deflator is used as a measure of inflation.)

### **Effectiveness of American monetary policy**

Overall, economic reality shows that, over the last 25 years, the American monetary policy has performed well in keeping the economy out of trouble. During this period America has managed to reverse the economic convergence process that had been present over the previous quarter of a century. Until the late 1970s the standard of living (after adjusting for the difference in price levels, i.e. at the purchasing power parity) of the future Eurozone had been quickly catching up with that of the US; however, beginning with the early 1980s the gap has begun to increase again. (See Graph 3, where the term Eurozone indicates the original eleven EMU members plus Greece).

Moreover, long-term projections indicate a further decline in relative economic power of the two largest economic blocks. OECD (2005) predicts that by 2020 the gap between the average GDP per capita in the Eurozone and the US will increase to 37.5% and that the disparity will grow further by 10% over the following decade.



This accomplishment was possible thanks to, among other factors, the use of monetary policy in combating demand-side shocks. The Fed and the controlling institution (Congress) as well as the executive branch worked well together and managed to keep the American economy growing at a robust rate and to attain a low level of unemployment. Monetary policy has been geared towards attaining these goals, as well as, towards maintaining low inflation. In the US neither full employment nor price stability enjoys primacy – these two goals are seen complimentary. Monetary policy is aimed towards price stability and the minimization of efficiency losses resulting from price increases, but, at the same time, is flexible enough to amortize demand-side shocks and to foster real wage rate adjustments and, thus, support continuous growth in income and employment.

**Fiscal federalism**

In the US, fiscal policy is also designed to support the monetary union. The federal government collects most taxes and federal taxes are used to finance numerous programs, but Washington also makes transfers to state and local governments.

As a result, if a region is going through a recession and its income goes down, the amount of taxes it sends to Washington declines, but the amount of transfers from the federal government does not change. Sala-i-Martin and Sachs (1992) estimate that this “automatic” decrease in contributions to the central government combined with no loss of federal aid may absorb up to 40 percent of an adverse asymmetric shock. In case of a very severe regional recession (or a natural disaster), the federal government may directly aid the affected area further decreasing the pain. Another issue is federal help to underdeveloped regions. Such programs operate at a much greater scale than similar assistance in the EU.

Another important feature of American monetary union is absence of any restrictions on the level of budget deficit or debt level. For instance, in 1986 the state of Louisiana had a budget deficit equal to 5 percent of its revenue and the shortfall grew to 18 percent in 1988. However, this development caused no concern in Washington, because the federal government has no responsibility for local government debts. Eichengreen and von Hagen (1996) analyzed the question of restrictions on the conduct of fiscal policy on sub-national levels among nations with a federal political structure and concluded that restriction on deficit and debt levels are usually imposed when the local government has no power to tax. In such a situation, the federal government collects all taxes and is also responsible for debts of local governments; therefore, it should be able to set limits on local governments’ borrowing. In the US taxes are also collected at the state level and there is no reason to impose federal limits on states’ ability to issue debt.<sup>2</sup>

The very fact that the states face no artificial restriction on their ability to acquire debt does not mean that there is no incentive for state governments to keep their books balanced. However, it is the market that enforces fiscal discipline, not the bureaucrats. Goldstein and Woglom (1992) show that the yield on bonds issued by entities that tolerate high deficits or have high debt levels are higher than on securities sold by local governments showing a more conservative approach to spending. In other words, the market imposes a higher interest rate on less fiscally conservative governments.

It is important to stress that the United States exhibit a great deal of national cohesion and, consequently, transfers from rich to less fortunate regions face less opposition than in other countries. Overall, federal taxation and transfers alleviate the effects of asymmetric shocks and provide assistance to less developed regions.

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<sup>2</sup> It is worth noting that with one exception all American states adopted amendments requiring the state government to maintain balanced budgets. Nevertheless, the wording of those amendments in most cases allows the state government to circumvent the restriction and states frequently run budget deficits.

## Lessons for the European Union?

As stated above, present day United States does not meet criteria for an optimum currency area. Numerous studies show that the European Union is even less suited for such an arrangement (for instance, Bayoumi and Eichengreen 1993, Artis, Kohler, and Mélitz 1998). The main reasons for this surprising conclusion is an insufficient level of openness, susceptibility to asymmetric shocks (i.e. insufficient economic convergence), low mobility of labor, and a lack of fiscal federalism. Unfortunately, in the case of the EU, none of the above problems can be easily overcome.

First, there is no plan or desire to increase taxation at the EU level, because fiscal federalism implies continuous transfers of purchasing power from wealthy nations to less advanced regions. Europe does not exhibit sufficient unity and because of that persistent transfers from one nation to another are not an option that is easily acceptable for political reasons. For instance, in Italy persistent transfers from the North to the South are tearing the nation apart. It is even more difficult to envision handing over additional resources from the affluent North to, for instance, Romania. Another avenue of adjustment, labor mobility, is limited not only because of linguistic and cultural differences, but also because of, for instance, rigid real estate markets.

Different levels of development make the whole of the European Union prone to asymmetric shocks. These kinds of shocks would go away with fast economic convergence. (If all regions were similar, then an external negative shock would disturb the entire area to the same extent and an identical remedy would also apply to all regions.) The prospects for full convergence are not certain, however. De Grauwe (2000) makes a splendid case for convergence, but Krugman's (1991, 1993) arguments that integration leads to regional specialization are also very persuasive. If the latter view prevails, then the prospects for the European Monetary Union (EMU) are not very good, because the alternative mechanisms needed to alleviate the pain caused by asymmetric shocks are fiscal federalism and labor mobility (see above).

The use of monetary policy in addressing economic shocks is also questionable. Maastricht Treaty clearly placed price stability at the top of the European Central Bank's priorities and the bank has been very firm in its commitment to fighting inflation. On numerous occasions the ECB stated that keeping prices stable is the greatest contribution the bank could make to assure full employment and robust economic growth, and, as a result, inflation in the EU has been below that in the US. Nevertheless, a lower rate of price increases and, consequently, a lower interest rate that many members of the EMU now enjoy has failed to translate into a more vigorous economy and a lower unemployment rate (Graphs 1 and 2). As a result, Europe has been losing ground in her race for economic hegemony with

the United States (Graph 3). Unfortunately, there is little prospect for a change in the attitude of the ECB, because the bank is totally independent of any national or Europe-wide power. A change in its status would require an amendment to the Maastricht Treaty, a procedure that would need approval of all Member States.

Finally, it is worth noting that the Maastricht Treaty did not oblige the ECB to play the role of lender of last resort. Therefore, the entire European financial system is deficient in this respect. Although the ECB very much increased lending to European banks during the recent liquidity crisis resulting from problems with mortgage-backed securities, yet, it is unclear whether or not the ECB would actually use its resources to bail out the banking system, if a full-blown crisis erupts.

## Conclusions

The United States adopted a single currency and joined the gold standard, i.e. fixed the dollar's exchange rate and gave up control over monetary policy when such a change necessitated little economic adjustment. At the time factor markets were highly competitive and the adjustment process occurred through changes in prices and wages. On the other hand, the European Monetary Union was adopted at a time when rigid factor markets made variable exchange rates and discretionary monetary policy attractive tools in healing economic imbalances and absorbing economic shocks. If European factor markets do not regain a high degree of flexibility and the EU does not introduce fiscal federalism, then the monetary union will result in a significant loss of efficiency, which will inevitably lead to slow economic growth and persistently high unemployment rates. Unfortunately, the experience of the entire post-Maastricht period, especially the last 9 years, does not point to a quick reversal of the adverse effects of the EMU on European economic performance. So far, the Eurozone has been recording very sluggish growth and high unemployment levels. Moreover, several nations have been exceeding deficit and debt levels and the ECB has been unable to keep inflation within the stated target. Continuation of these trends will certainly put enormous pressure on the EMU and may lead to its collapse.

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Ewa Grzeszczyk

**CONTESTING THE DOMINANT CULTURE?  
THE PROMISE KEEPERS AND AGLOW INTERNATIONAL  
PARACHURCH MOVEMENTS**

In this essay I will focus on two contemporary Christian parachurch movements: one, Aglow International, directed at women, and the other, the Promise Keepers (PK), at men. Although the movements came into existence at different times in the second part of the 20<sup>th</sup> century, aim at different gender groups and vary in their main focus and certain forms of activities, they have a similar set of goals: the rejuvenation of the spiritual life of an individual through submitting one's life to Christ, moral improvement, strengthening family bonds, celebrating gender specificity and finding comfort in belonging to a community of like-minded believers. Both these religious groups stress the need to reinforce the Christian faith, promote conservative morality and advocate a return to the "traditional" family model; but at the same time they accommodate to the mainstream culture they seem to oppose. They are against what they perceive as the dangers of contemporary American culture: excessive individualism and preoccupation with the self, the corruptive influence of the media on morality, the decline of family and community bonds and the dissolution of traditional gender roles. Both PK men and Aglow women believe that in order to improve the situation, change must start in the heart and an individual should stop blaming others for his/her own failures and take responsibility for his/her own life. What is important, individual transformation is best sustained by belonging to a religious community of people of different ages and backgrounds, as "We no longer have the luxury of being

raised by an extended family.”<sup>1</sup> Both the Promise Keepers and Aglow advocate adherence to biblical principles and a return to traditional values and gender roles, and are hence seen by many as “backwards” and even a threat to liberal American culture. However, in certain elements of both their doctrine and practices they can serve as an example of not only resistance but also conformity to the very culture they seem to oppose. In this essay I will highlight these very moments of tension between the need to challenge liberal culture from a conservative position and apparent adaptation to the very culture’s contemporary modes.

## The Promise Keepers

The Promise Keepers is a religious movement which is much better known to the general public than Aglow, as the mass rallies of Christian men gathering at sports stadiums and marching to Washington for the spectacular “Stand in the Gap” event on the Mall received much media coverage in the 1990s. The Promise Keepers, due to their public visibility, also proved to be an attractive subject for scholarly analysis: for example the 2000 issue of “Sociology of Religion” was almost solely devoted to the study of this particular group.<sup>2</sup>

The movement was launched in 1990 in Boulder, Colorado by Bill McCartney, a former Catholic who had switched to the charismatic Vineyard movement. Professionally a renowned college football coach, McCartney envisioned mass gatherings of Christian men in sports stadiums coming together for worship and bonding, intending to revive their faith and bring a positive change to their families and communities. The movement quickly grew, reaching its peak in 1998, when 450,000 men gathered at stadium and arena conferences across the United States. The PK official website states that the movement has directly reached over five and a half million men since its beginning in 1990.<sup>3</sup>

According to Rhys H. Williams, a sociologist of religion, the Promise Keepers movement is “a new phenomenon – men coming to terms with their own vulnerabilities and responsibilities.”<sup>4</sup> In *The Power of a Promise Kept*, the first PK president Randy Philips enumerates the reasons why men join the movement:

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<sup>1</sup> E. Burroughs, *A Garden Path to Mentoring: Planting Your Life in Another and Releasing the Fragrance of Christ*, (Birmingham 1997), quoted in M. Cagney, *Good News for Women? Inspired by Promise Keepers, Upeat for Women Are Flourishing While Avoiding Divisive Issues*, “Christianity Today” 1998, June 4.

<sup>2</sup> “Sociology of Religion” 2000, Vol. 61, No. 1. Recent publications on the subject include J. Newton, *Form Panthers to Promise Keepers: Rethinking the Men’s Movement*, Lanham 2004; J. P. Bartkowski, *The Promise Keepers: Servants, Soldiers, and Godly Men*, New Brunswick 2004; G. N. Lundskow, *Awakening to an Uncertain Future: A Case Study of the Promise Keepers*, New York 2002; *Promise Keepers and the New Masculinity*, ed. R. H. Williams, Lanham 2001.

<sup>3</sup> *About Us: Overview*, [www.promisekeepers.org/about](http://www.promisekeepers.org/about), [2007, December 20].

<sup>4</sup> R. H. Williams, *Introduction: Promise Keepers: A Comment on Religion and Social Movements*, “Sociology of Religion” 2000, Vol. 61, No. 1.

- They desire a deep friendship with other men, but they don't know how to start the process.
- They try to balance their priorities, but they feel trapped by circumstances they can't change.
- They want deeper relationships with their fathers and children, but they don't know how to break negative patterns of communication.
- They face tough decisions of conscience and they feel they have no one in whom they can confide.
- They muddle through marriage knowing their wives are unhappy, but they don't know what to do about it.
- They think about bigger questions of life, like "Why am I here?" but are too busy to search for the answers.<sup>5</sup>

PK members see contemporary American culture as undergoing a process of moral decline, due to moral relativism, the negative influence of the media (violence, pornography, showing negative representations of fatherhood), changes in traditional gender roles, a crisis in the family reflected in high divorce rates,<sup>6</sup> the spread of various addictions and racism. They are especially concerned with the fact that many contemporary American men have failed as husbands, fathers, community members and citizens.

PK members believe that change cannot be effectively introduced at the level of social institutions; it must start in the heart and mind. The most important step is to accept Jesus Christ as one's savior, take responsibility for one's life by admitting sins and failures, repent, and work continuously on self-improvement. To become "a Man of Integrity" an individual should accept and realize in his life the Seven Promises to God, other men, the family, community and church.<sup>7</sup> PK le-

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<sup>5</sup> B. Bright, E. Cole, J. C. Dobson, *Seven Promises of a Promise Keeper*, Colorado Springs 1994, quoted in: J. P. Bloch, *The New and Improved Clint Eastwood: Change and Persistence in Promise Keepers Self-Help Literature*, "Sociology of Religion" 2000, Vol. 61, No. 1, p. 15.

<sup>6</sup> The divorce rate in 1990 was 47%, 42% in 2000 and 37% in 2004, Divorce Rates by State, 1990–2004, [www.infoplease.com/ipa/A0923080.html](http://www.infoplease.com/ipa/A0923080.html), [accessed 2007, December 20]. Newest statistics indicate 36% divorce rate in 2007: Eldridge RI, Sutton PD, *Births, Marriages, Divorces, and Deaths: Provisional Data for January 2007*, "National Vital Statistics Reports" 2007, Vol. 56, No. 1; [www.cdc.gov/nchs/data/nvsr/nvsr56/nvsr56\\_01.pdf](http://www.cdc.gov/nchs/data/nvsr/nvsr56/nvsr56_01.pdf), [accessed 2007, December 20].

<sup>7</sup> The official PK site lists the following promises:

Seven Promises of a Promise Keeper

PROMISE 1

A Promise Keeper is committed to honoring Jesus Christ through worship, prayer and obedience to God's Word in the power of the Holy Spirit.

PROMISE 2

A Promise Keeper is committed to pursuing vital relationships with a few other men, understanding that he needs brothers to help him keep his promises.

PROMISE 3

A Promise Keeper is committed to practicing spiritual, moral, ethical, and sexual purity.

PROMISE 4

A Promise Keeper is committed to building strong marriages and families through love, protection and biblical values.

PROMISE 5

A Promise Keeper is committed to supporting the mission of his church by honoring and praying for his pastor, and by actively giving his time and resources.

aders argue that contemporary American culture would benefit from a return to the traditional model of masculinity and men would benefit from worship in the “masculine context.” Therefore PK participants gather at stadium and arena events for men, youth and clergy, where they pray and worship together. During these rallies Promise Keepers practice male-bonding, freely expressing their emotions, which may be articulated by jumping, hugging each other and crying. At such meetings conversions are frequent but participants are encouraged to go back to their original church or parish and continue the work by meeting in small men-only groups which are not only devotional in character but also largely therapeutic.

The Promise Keepers have been a spectacular movement, gaining a lot of supporters, but also receiving fierce criticism. The critique has come from both the Left and the Right, but browsing through the internet and press articles one may come to the conclusion that the PK has been most fiercely attacked by groups connected with Christian fundamentalism. Fundamentalists fear that despite the claims of PK leaders that members should deepen their faith by taking part in the life of their local congregation, the movement will draw believers away from their churches and involve them in sect-like activities.<sup>8</sup> Attention was drawn to the over-inclusive character of the organization, affinity to the charismatic movement,<sup>9</sup> little stress on doctrine and especially welcoming Catholics to join.<sup>10</sup> Fundamentalist writers were also wary of the stress on small group activities and the fact that every PK member should be held accountable to a mentor, who has the right to inquire not only on the subject of one’s fight with his afflictions (about which a wife does not necessarily have to be informed) but also on financial matters.<sup>11</sup> One of the books initially endorsed by the PK movement, *The Masculine Journey* by Robert Hicks,<sup>12</sup> was especially targeted because of its borrowings from Jungian psychology (which

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#### PROMISE 6

A Promise Keeper is committed to reaching beyond any racial and denominational barriers to demonstrate the power of biblical unity.

#### PROMISE 7

A Promise Keeper is committed to influencing his world, being obedient to the Great Commandment (see: Mark 12: 30–31) and the Great Commission (see: Matthew 28: 19–20). Promise Keepers, 2007, Seven Promises of a Promise Keeper, [www.promisekeepers.org/about/7promises](http://www.promisekeepers.org/about/7promises), [accessed 2007, December 22].

<sup>8</sup> A. Chaitkin, *Promise Keepers’ Mind Control Techniques*, „Educate Yourself” 2004, June 11, [educate-yourself.org/mc/promisekeepersmctechniques11jun04.shtml](http://educate-yourself.org/mc/promisekeepersmctechniques11jun04.shtml), [accessed 2005, June 28]. On the critique of the PK’s ambivalent relationship with local churches see G. Rugh, *Promise Keepers: A Pastor’s Perspective*, Lincoln 1998, pp. 19–20; *Promise Keepers*, „Watch Unto Prayer” 1997, [www.watchpair.com/promise.html](http://www.watchpair.com/promise.html), [accessed 2005, June 28]; and A. Wolfe, *The Transformation of American Religion*, New York–London 2003, p. 60–61.

<sup>9</sup> *Promise Keepers: Ecumenical “Macho-Men” for Christ?*, “Biblical Discernment Ministries” 1999, No. 8, [www.rapidnet.com/~jbeard/bdm/Psychology/pk/pk.htm](http://www.rapidnet.com/~jbeard/bdm/Psychology/pk/pk.htm), [accessed 2005, June 28]; *Many Christian Leaders Warn of Promise Keepers*, “Way of Life”, [www.wayoflife.org/special/spec0022.htm](http://www.wayoflife.org/special/spec0022.htm), [accessed 2005, June 28]; R. G. Colas, *Promise Keeper Assembly*, “National Mall” 1997, October 4; *An Eye Witness Report*, May 15, 2003, [www.gpp-5grace.com/graceproclamator/pp0498pkew.htm](http://www.gpp-5grace.com/graceproclamator/pp0498pkew.htm), [accessed 2008, January 7].

<sup>10</sup> *Promise Keepers: Ecumenical “Macho-Men” for Christ?...*; *Many Christian Leaders...*

<sup>11</sup> *Ibidem*.

<sup>12</sup> R. Hicks, *The Masculine Journey: Understanding the Six Stages of Manhood: A Promise Keepers Study Guide*, Colorado Springs 1993.

is considered by Christian fundamentalists as occult), misinterpretations of the Bible, a lax attitude towards homosexuality and a generally New Age air.<sup>13</sup> On the other hand the PK has been interpreted by many feminists, especially the National Organization for Women, as the “patriarchal backlash”, or “patriarchy with a human face”, especially because of the statement of one of the PK leaders announcing that men have to reclaim their role as family leaders.<sup>14</sup> The PK has also been criticized because it does not approve of abortion and gay rights (here the statements and actions of the PK founder Bill McCartney were especially significant) and many of the movement members support the Republican agenda.<sup>15</sup> The movement was accused both of being too political and, because of its focus on “the change of the individual heart”, not political enough. It was also accused of being intolerant of gays but at the same time too understanding.<sup>16</sup> Moreover, certain PK materials and teachings were deemed to be dangerous to true masculinity or promoting feminization of spirituality, as members were often instructed to express their emotions and not be afraid of their “feminine side”.<sup>17</sup> Academic literature on the subject presents a more complicated picture: among the authors of the books analyzing the phenomenon we may find a male author criticizing the PK for its patriarchal attitude and a feminist one positively evaluating the movement’s effort to transform the meaning of manliness so that it better serves the family.<sup>18</sup> Some newspapers (such as the “Charlotte News-Observer” or the “Dallas Morning-News”) have presented the Promise Keepers as sincere, religious men trying to be better husbands, fathers and citizens, and noted that PK members’ wives were thrilled with their men’s transformation, or even send them to PK meetings themselves.<sup>19</sup>

My argument is that the Promise Keepers both oppose and adapt to contemporary sociocultural trends, which is visible on the levels of the ideology of the leaders and the behavioral practices of “rank and file” members. This is especially perceptible in the PK use of popular psychology, its attitude towards gender and race, its attempt to be a movement which does not offend anybody’s feelings and its skillful employment of popular culture formats and the new media.

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<sup>13</sup> M. and D. Bobgan, *Promise Keepers & PsychoHeresy* (Including: *Response to Promise Keeper’s Support of The Masculine Journey*), “PsychoHeresy Awareness Ministries”, July–August 1996, [www.pamweb.org/pk&psych.html](http://www.pamweb.org/pk&psych.html), [accessed 2007, January 7]; *Promise Keepers: Ecumenical “Macho-Men” for Christ?...*; A. Chaitkin, *Promise Keepers’ Mind Control Techniques...*

<sup>14</sup> *Promise Keepers and the New Masculinity...*, Introduction, p. 1.

<sup>15</sup> National Organization for Women, *Myths and Facts about the Promise Keepers*, [www.now.org/issues/right/promise/mythfact.html](http://www.now.org/issues/right/promise/mythfact.html), [accessed 2005, June 28]; D. D. Hackett, *Promise Keepers and the Culture Wars*, “Religion in the News” 1998, Vol. 1, No. 1.

<sup>16</sup> *Promise Keepers and the New Masculinity...*

<sup>17</sup> A. Dager, *Promise Keepers: Is What You See What You Get?*, Redmord 1994; H. Pivec, *The Feminization of the Church*, “Biola Connections” 2006, Spring, [www.socalscb.org/The%20Feminization%20of%20the%20Church.pdf](http://www.socalscb.org/The%20Feminization%20of%20the%20Church.pdf), [accessed 2008, January 8].

<sup>18</sup> M. A. Messner, *Politics of Masculinities: Men in Movements*, Thousand Oaks 1997; J. Newton, *From Panthers to Promise Keepers: Rethinking the Men’s Movement*, Lanham 2004.

<sup>19</sup> *Promise Keepers and the New Masculinity...*, Introduction, pp. 1–2; D. D. Hackett, *Promise Keepers and the Culture Wars...*

## Strategies for a Successful Promise Keeper

In fact, as Jon P. Bloch states in his analysis of the books endorsed by the movement, “PK literature is no different from mainstream pop-psychology”<sup>20</sup>. The influence of popular psychology is visible not only in the titles of PK workbooks (such as *Romancing Your Child’s Heart* or *The Married Guy’s Guide to Great Sex*<sup>21</sup>), or the content of the books, but also in the form. The self-help books and study guides used by the PK focus on the “here and now problems” of “the average Joe”: difficult family matters, problems in communication, overcoming various addictions, fighting with different traumas from the past and difficulties in expressing and controlling emotions. Although the literature makes frequent references to the Bible, this source is often treated in such a way that the reader can utilize the biblical teaching to solve his immediate problems. The men from the Bible are often presented in a contemporary context: for example Saint Paul is referred to as “Somebody who’s willing to share his successes and his failures – in other words, what he’s learning in the laboratory of life”<sup>22</sup> and Jesus is depicted as a leader of a ‘small group’ teaching his disciples the value of teamwork.<sup>23</sup> Much more popular than biblical stories are ‘real life’ examples of men trying to come to grips with such problems as the growing distance in a marriage, job insecurity, and difficult relationships with one’s father or children. Much like in popular self-help guides attempting to gain quasi-scientific legitimacy, PK literature introduces different typologies and categorizations and stresses the credentials of the authors presented as experts because of their professional and academic background or experience or both. Moreover, the books often contain exercises for individual or small group use and questions for general discussion.<sup>24</sup> Another example of PK practices being attuned to the contemporary culture of self-improvement are the “accountability groups”. These groups meet about once a week in local churches; they consist of a small number of men only (5 to 15) and have a largely therapeutic character. Apart from praying together the participants discover their “feminine side” or “inner child”, discuss unresolved traumas such as violence in the family or child abuse, learn better communication skills, discuss how to fight addictions to various substances, infidelity and masturbation, and practice male bonding.<sup>25</sup> Such a focus on the personal problems of a contemporary male in the religious context is nothing new, as one author

<sup>20</sup> P. Bloch, *The New and Improved Clint Eastwood...*, p. 15.

<sup>21</sup> M. Swan, D. Biebel, *Romancing Your Child’s Heart*, Sisters OR 2002; C. Penner, J. Penner, *The Married Guy Guide to Great Sex: Building a Passionate, Intimate and Fun Love Life*, Carol Stream 2004.

<sup>22</sup> B. Bright, E. Cole, J. C. Dobson, *Seven Promises of a Promise Keeper*, quoted in: P. Bloch, *The New and Improved Clint Eastwood...*, p. 18; G. Gorsuch, D. Schaffer, *Brothers! Calling Men into Vital Relationships: A Small Group Discussion Guide*, quoted: *ibidem*.

<sup>23</sup> G. Gorsuch, D. Schaffer, *Brothers! Calling Men into Vital Relationships: A Small Group Discussion Guide*, Colorado Springs 1994.

<sup>24</sup> P. Bloch, *The New and Improved Clint Eastwood...*

<sup>25</sup> A. Wolfe, *The Transformation of American Religion...*, pp. 62–63.

claims “the American religious experience – liberal or conservative – historically has featured a present-tense orientation.”<sup>26</sup> However, the preoccupation of the Promise Keepers with the idea of self-improvement coupled with the extensive use of popular psychology shows the group’s adaptation to the preoccupation with the self characteristic of the contemporary American culture, so aptly described in such classic books as *The Culture of Narcissism* and *Habits of the Heart*.<sup>27</sup>

### The PK against Prejudice

Although the Promise Keepers movement is rooted in conservative Christianity, it tries not only to cut across denominational lines but also to attract members from different social groups, a trend reflected in “a growing racial, ethnic and economic diversity among the Promise Keepers leaders and participants.”<sup>28</sup>

Bill McCartney recollects that during the first ever PK conference, in Boulder, Colorado in 1991, he noticed that the crowd in front of him was almost entirely white. Feeling that the Holy Spirit was prompting him he declared that if the following year “we fail to gather a fair representation of all God’s people, God will not join us.”<sup>29</sup> Although this mention of the racial issue resulted in some hate mail, and subsequent messages about the necessity of racial reconciliation were often greeted by silence on the part of the PK audience, McCartney never backed off his original statement.<sup>30</sup> Moreover, PK speakers and authors often stress the need to overcome racism, claiming that this has spiritual roots.

However, it is not only spiritual means such as prayer and biblical teachings that are used to overcome the problem; there are attempts being made to gain the support of black churches, black speakers are invited to meetings and every PK member is encouraged to develop one-to-one relationships with men from different racial or ethnic groups (and also men from a different social class). Although PK leaders stress the spiritual and individual causes of racism, many PK participants locate them in a broader context of historical circumstances, suppressed fear of otherness and economic barriers.<sup>31</sup> Even though some PK members express their frustration at what they perceive as too strong an emphasis on the racial issue and

<sup>26</sup> P. Bloch, *The New and Improved Clint Eastwood...*, p. 14.

<sup>27</sup> Ch. Lasch, *The Culture of Narcissism: American Life in an Age of Diminishing Expectations*, London 1991; R. N. Bellah et. al., *Habits of the Heart: Individualism and Commitment in American Life*, Berkeley 1985.

<sup>28</sup> B. McCartney, D. Holbrook, *Sold Out: Becoming Man Enough to Make a Difference*, quoted in: “Christianity Today” 1998, No. 6; G. Smalley, J. T. Trent, *The Hidden Value of a Man: Created to Lead, Empowered to Succeed*, quoted in: W. H. Lockhart, ‘We Are One Life’, *But Not Of One Gender Ideology: Unity, Ambiguity, and the Promise Keepers*, “Sociology of Religion” 2000, Vol. 61, No. 1.

<sup>29</sup> B. McCartney, D. Holbrook, *Sold Out: Becoming Man Enough to Make a Difference*, Nashville 1997.

<sup>30</sup> *Ibidem*.

<sup>31</sup> L. Dean Allen II, *Promise Keepers and Racism: Frame Resonance as an Indicator of Organizational Vitality*, “Sociology of Religion” 2000, Vol. 61, No. 1.

complain about the fact that too many Spanish songs are sung at PK gatherings, the movement persists in its efforts to embrace men from outside the white middle class. For example, at the Clergy Conference in 1996 there appeared on the podium representatives not only of different ethnic and racial minorities, but also deaf persons and Messianic Jews, and public apologies and prayers of repentance to other races featured too.<sup>32</sup> At PK rallies musical styles are chosen in such a way as to reflect the diverse racial, ethnic and age diversity among the members.<sup>33</sup> Moreover, PK promotes unity across denominations: it not only invites all types of conservative Protestants (fundamentalists, charismatics, confessional churches and mainline evangelicals), but Catholics too, and in 1997 the PK statement of faith was modified in order to accommodate to the doctrine of this group.<sup>34</sup> The PK also stopped endorsing, in response to fiery criticism from conservative evangelicals, the controversial *Masculine Journey* by Hicks, although at the beginning PK members were given a free copy.

The efforts of the PK movement to accommodate different minorities can be interpreted as stemming from the leaders' wish to gain the broadest support possible, yet they also demonstrate how the organization adapts to the contemporary climate of political correctness and understands that in the USA even a religious movement with a conservative background has to function in a highly diversified society.

### The Issue of Gender

The PK stand on the issue of gender equality is one of the most complicated issues to be addressed in analyzing the movement. On the one hand the PK seem to support the concept of 'masculine Christianity' and propagate the biblical model of the husband as the leader of the family. On the other, as one sociologist of religion studying the phenomenon of the PK indicated, "the ideals to which PK men strive often reflect the influence of women in Christianity as well as the influence of feminism on US society."<sup>35</sup> For example, William Lockhart found in his examination of conservative Protestant books on domestic masculinity four dominant approaches: the traditionalist, the psychological archetypes, the biblical feminist, and practical counseling. However, when concentrating on PK literature he discovered that it fits only the last category, namely "pragmatic counseling".<sup>36</sup> This approach presupposes that it is not that important to clearly define what the meanings of masculinity and femininity should be or who should hold most of the power in a family; the essen-

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<sup>32</sup> W. H. Lockhart, *We Are One Life*..., p. 83.

<sup>33</sup> *Ibidem*, p. 82.

<sup>34</sup> *Ibidem*, p. 84.

<sup>35</sup> P. Bloch, *The New and Improved Clint Eastwood*..., p. 25.

<sup>36</sup> W. H. Lockhart, *We Are One Life*..., pp. 73–92.



tial thing is to develop fulfilling relationships and learn how to solve problems. Bill McCartney believes that the quality of a man as a husband is reflected in his wife's face, and if there is no contentment in her eyes, the man has to admit his failure, ask his spouse for forgiveness and work on improvement. PK leaders often claim that they are not in favor of male supremacy in a marriage, but of "mutual submission". For instance, Smalley and Trent, in their best-selling *The Hidden Value of a Man*, focus not on the "positional" power of a man as head of the household but on his "personal" power: the ability "to do whatever it takes to strengthen our families and find the help we need to overcome any strains in our marriages."<sup>37</sup> Another PK writer, Gary Oliver, states that traditional "myths of masculinity" have created "a generation of men who define themselves by the negative."<sup>38</sup> Instead he advocates emotionally expressive masculinity through which men can learn "how to be human, how to feel, how to love, how to be better husbands, fathers and friends."<sup>39</sup> Although PK men are challenged to reclaim their role as family leaders, they are also taught the value of sacrifice and humility. Following the biblical example they are encouraged to wash their wives' feet in order to symbolically express the idea of leadership through servanthood. *The Power of a Promise Kept* presents the example of Sam, who tried for years to gain admittance to a medical school. When his dream finally came true he realized that undertaking the studies would take too much time away from his family. Supported by his PK group he decided to give up the education he had dreamt of.<sup>40</sup> A similar example was provided by Bill McCartney himself, who in 1993 broke a lucrative coaching contract to devote more time to his marriage<sup>41</sup>. Ten years later he resigned from the presidency of the PK movement in order to take care of his ailing wife<sup>42</sup>.

Arlie Russell Hochschild argued that we are experiencing a stalled gender revolution, as women have changed but men have failed to adjust.<sup>43</sup> Surprisingly, it seems that the "new man" – compassionate, not afraid to express his emotions, able to sacrifice for the family – is emerging, but from a direction the feminists would perhaps not expect – the Christian Right. However, the PK still hold to the idea of

<sup>37</sup> G. Smalley, J. T. Trent, *The Hidden Value of a Man...*, p. 14.

<sup>38</sup> G. Oliver, *Real Men Have Feelings Too*, (Chicago 1993), quoted in: J. P. Bartkowski, *Breaking Walls, Raising Fences: Masculinity, Intimacy and Accountability among the Promise Keepers*, "Sociology of Religion" 2000, No. 1, p. 37.

<sup>39</sup> *Ibidem*.

<sup>40</sup> G. Lewis, *The Power of a Promise Kept*, (Colorado Springs 1995), quoted in: P. Bloch, *The New and Improved Clint Eastwood...*, p. 19.

<sup>41</sup> L. Goldstein, *A Marriage Gone Bad Struggles for Redemption*, "The New York Times" 1997, October 29, [www.query.nytimes.com/gst/fullpage.html?res=9F01E7DE1331F93AA15753C1A961958260&sec=&spn=&pagewanted=all](http://www.query.nytimes.com/gst/fullpage.html?res=9F01E7DE1331F93AA15753C1A961958260&sec=&spn=&pagewanted=all), [accessed 2008, January 9].

<sup>42</sup> B. McCartney, *People – president of Promise Keepers resigns to care for ailing wife*, Brief Article, "Christian Century" 2003, October 4, [www.findarticles.com/p/articles/mi\\_m1058/is\\_20\\_120?pnun=2&opg=109132344](http://www.findarticles.com/p/articles/mi_m1058/is_20_120?pnun=2&opg=109132344), [accessed 2008, January 9].

<sup>43</sup> A. R. Hochschild, *The Second Shift: Working Parents and Revolution at Home*, New York 1989; A. R. Hochschild, *The Commercialization of Intimate Life: Notes from Home and Work*, Los Angeles–London 2003, pp. 28–29.

male leadership within the family, a concept which will not please many liberally minded women.

### **The PK's accommodation to popular culture**

Apart from the issues discussed above, the accommodation of the PK to dominant culture is visible in the use they make of popular culture formats and the new media. During their stadium and arena events PK celebrities deliver inspirational speeches, popular contemporary music of different genres is played (members can purchase special CDs prior to the event so that they can join in the singing, and download sample music from the PK website), huge screens are used and the atmosphere is generally upbeat. A visitor to the PK website, apart from gaining information about the history and mission of the PK, can learn about the events scheduled, see where he can find a small group in his region, or visit the PK online store where various items can be purchased: PK apparel (T-shirts, head gear, sweaters, vests), books, CDs and DVDs and various gadgets such as pens, mugs, calendars, posters and even "prayer dog tag necklaces".<sup>44</sup> Recently members have also been able to listen to the PK "Family Night Guy" radio program<sup>45</sup> or download PK radio and video content on their iPods.<sup>46</sup> In its usage of pop culture formats and the newest technology, little stress on doctrine and reliance on psychology, the PK movement resembles the contemporary megachurches whose leaders try to attract as many members as possible, regardless of their denomination, race or ethnicity. Moreover, both these phenomena illustrate well the adoption of contemporary American religiosity to the modern culture in which they function, which was well described in Alan's Wolfe recent book *The Transformation of American Religion*.<sup>47</sup>

### **Aglow International Fellowship**

In contrast to the Promise Keepers, the Aglow International parachurch organization for women has received little media attention, and there are also not many academic studies devoted to the subject. Moreover, the Aglow website fades in comparison with the state-of-the-art PK one and does not provide much information. This comparative lack of recognition of the women's movement stems from the fact that the Promise Keepers have managed to become visible in the public sphere, while Aglow, despite its international reach, to a large extent still operates in the private one. Pentecostally based, Aglow is much older than the PK; it started

<sup>44</sup> Promise Keepers, 2005, <http://www.promisekeepers.org/genr.12>, [accessed 2005, October 21].

<sup>45</sup> [www.promisekeepers.org/family-night-guy](http://www.promisekeepers.org/family-night-guy), [accessed 2007, December 22].

<sup>46</sup> [www.promisekeepers.org/podcast](http://www.promisekeepers.org/podcast), [accessed 2007, December 22].

<sup>47</sup> A. Wolfe, *The Transformation...*

in 1967 as a women's variant of the Full Gospel Business Men's Fellowship, a Pentecostal/charismatic organization.<sup>48</sup> In time Aglow became an independent, interdenominational moment, promoting evangelism and Christian values. Today, Aglow is one of the biggest international organizations of Christian women; it has chapters in both Americas, Europe, Central Asia, the Middle East and Africa. Aglow fellowships can be found in countries as diverse as Afghanistan, Bosnia and Herzegovina and Burkina Faso. In the USA there are about 1,100 Aglow local groups, in which about 20,000 women participate.<sup>49</sup> Aglow women meet in large groups to worship or to hear a speech and in small groups to pray, study and support each other, and also organize conferences and retreats. They reach out to single mothers, women in inner cities, prisons, senior homes, mental institutions, and donate money to various charitable causes. Moreover, they aim to recreate community bonds by initiatives such as "Love Your Neighbor", where Aglow participants are encouraged to befriend and pray for their neighbors.<sup>50</sup>

Aglow's success in the United States can be at least partly attributed to one of the reasons which contributed to the popularity of the PK, namely the need for social bonding, which is especially hard to achieve in contemporary society with its fast pace of life, high mobility, dissolution of local communities and decline of the extended family model. In such circumstances it is hard for many men and women to receive support and nurture outside of the close family and intimate relationships. Movements such as Aglow or the PK offer their participants a sense of belonging to a larger community of like-minded individuals and a purpose and meaning in life based on common religious beliefs.

Aglow, like the PK, both challenges and reflects the culture in which it functions. These processes are visible mainly in two areas: the change in Aglow's doctrine of male spiritual leadership in the family, and the reinterpretation of the doctrine by Aglow's members as the movement reacted to the second wave of feminism and the influence of the therapeutic culture.<sup>51</sup>

Marie Griffith, the author of extensive research on Aglow women presented in scholarly essays<sup>52</sup> and the book *God's Daughters: Evangelical Women and the Power of Submission*, claims that the movement's participants reframe the doctrine

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<sup>48</sup> [www.aglow.org/index.php?option=content&task=view&id=13](http://www.aglow.org/index.php?option=content&task=view&id=13), [accessed 2007, December 22].

<sup>49</sup> *Ibidem*.

<sup>50</sup> For general information about Aglow see the official site of Aglow International, [www.aglow.org](http://www.aglow.org); and N. L. Eiesland, review of *God's Daughters: Evangelical Women and the Power of Submission* by M. R. Griffith, "Sociology of Religion" 1998, No. 4, [www.findarticles.com/p/articles/mi\\_m0SOR/is\\_4\\_59/ai\\_53590314#continue](http://www.findarticles.com/p/articles/mi_m0SOR/is_4_59/ai_53590314#continue), [accessed 2005, October 23]; M. S. Van Leeuwen, review of *God's Daughters: Evangelical Women and the Power of Submission* by M. R. Griffith, "Theology Today" 1999, April, [www.findarticles.com/p/articles/mi\\_qa3664/is\\_1999904/ai\\_n9948693/print](http://www.findarticles.com/p/articles/mi_qa3664/is_1999904/ai_n9948693/print), [accessed 2005, October 10].

<sup>51</sup> S. Van Leeuwen, review of *God's Daughters*...

<sup>52</sup> M. Griffith, *Submissive Wives, Wounded Daughters and Female Soldiers: Prayer and Christian Womanhood in Women's Aglow Fellowship*, [in:] *Lived Religion in America: Toward a History of Practice*, ed. D. D. Hall, Princeton 1997, eadem, *The Affinities Between Feminists and Evangelical Women*, "The Chronicle of Higher Education" 1997, October 17.

of wifely submission in such a way that they draw from it such psychological benefits as improved self-esteem and the feeling of empowerment.<sup>53</sup> The testimonies found in the “Aglow” magazine analyzed by Griffith show that women who had experienced suffering from abusive fathers and disengaged husbands and were often at the brink of despair found comfort in prayer, submitting to the will of God and accepting the family headship of their husbands.<sup>54</sup> These decisions to submit, followed in many cases by action, led to a positive transformation of family life giving the women a sense of having the power to change the negative *status quo*. In Aglow testimonies and literature even women who are married to men who are non-believers are encouraged to submit to the will of their husbands in worldly matters, pray and leave the space for God to act. After all no human relation can be ideal and utterly fulfilling: the perfect relationship, love and nurturance is to be achieved in relating oneself to God and Jesus Christ. Another source of support is to be found in the “family” of Aglow women often referred to as “sisters”. The message of Aglow is similar to that of the PK, in that it stresses not political or institutional change but individual transformation, as in the famous 1970s slogan “You can’t change the world, change yourself!” The women testifying often realize that they cannot change the circumstances they are in (such as the personality of their husband, number of children or a traumatic past), but by changing their attitudes and taking responsibility for their lives they may turn from victims into victors. A changed attitude can even help to cope with such trivial matters as boring chores: treated as worship they may bring pleasure and a sense of fulfillment.<sup>55</sup>

In the example above the spiritual is mixed with the therapeutic, as often happens in the case of contemporary American religious movements. Aglow, again similarly to the PK, relies on self-help books and small group activities to help members cope with the problems of everyday life. Much like PK books, Aglow literature provides advice on how to improve one’s marriage and cope with childhood traumas.<sup>56</sup> Much attention is paid to boosting women’s self-esteem, which can also be done by taking care of one’s appearance, make-up, hair-do and attractive clothes. Wolfe notes that in 1992 Aglow organized an outreach program entitled “Ladies, It’s Your Day”, where before meeting with a prayer counselor women were offered a free appointment at a beauty parlor. This is especially significant when we take into account the fact that Pentecostals traditionally considered not only too much interest in one’s appearance but also Christmas trees, Valentines, visits to the zoo, and meeting acquaintances on a Sunday as sinful.<sup>57</sup> Paying attention to one’s looks

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<sup>53</sup> Eadem, *God’s Daughters: Evangelical Women and the Power of Submission*, Berkeley 2000; eadem, *Submissive Wives...*; eadem, *The Affinities Between Feminists and Evangelical Women...*

<sup>54</sup> Eadem, *Submissive Wives...*

<sup>55</sup> *Ibidem*.

<sup>56</sup> B. Yagel, *Building Better Relationships*, Gospel Light Publications 1998; H. H. Kopp, *Daddy, Where Were You?: Healing for the Father-Deprived Daughter*, Lynwood 1991; K. C. Miller, *Healing the Angry Heart: A Strategy for Confident Mothering*, Lynwood 1984.

<sup>57</sup> A. Wolfe, *The Transformation...*, pp. 157–158.

reflects not only the changing approach to sin in American religion but also the accommodation of even traditional Protestantism to the cult of youth beauty and the psychological well-being.

Aglow adapts to changes not only in mainstream culture but also in other spheres. Griffith observes a shift since the mid-1980s in Aglow literature and the opinions of the movement's leaders from the doctrine of wifely submission to that of 'mutual submission'. For example, the 1985 edition of the popular Aglow Bible study *God's Daughters* contains the following statement: "submission to our husbands does not make us 'second class citizens' or those who are ranked lower on the 'totem pole' as lesser beings than the husband. As viewed by God, we have a side-to-side relationship. He looks at us as equally important but each is designed to function for His glory in his or her role."<sup>58</sup> Also, Aglow authors have since the 1980s had to modify their message, as a large part of their readership no longer fits the traditional wife-homemaker model, so these authors started providing advice and models for career women.<sup>59</sup>

Ministry Watch, an independent Christian evangelical organization presenting information on financial efficiency and transparency and offering critical assessment of different ministries, suggests that Aglow's recent "focus on gender reconciliation within the Church seems to involve accepting women's ordination to pastoral ministry", which might be judged by some Christians as unbiblical. In fact, many women occupying a leadership position within the movement, including Aglow's President and CEO Jane Hansen, are ordained pastors.<sup>60</sup> In addition, as in case of the Promise Keepers, Aglow's ecumenical openness towards Roman Catholics might be of concern for a number of evangelical Christians. Ministry Watch is also concerned with the movement's accommodation of therapeutic culture, noting that Aglow is too much occupied with pop psychology and too little with Christian doctrine.<sup>61</sup>

Both the PK and Aglow, like the evangelical revival which started in the 1970s, are examples of a "psychoreligious culture". On the positive side it is worth noting that these movements seem to satisfy the strong need of their participants for both individual and group identity and self-esteem.<sup>62</sup> They also aim at moral improvement. On the other hand, the question may arise as to whether the groups pose a threat to the achievements of liberal democratic culture. Do they represent the backwards attitudes of fundamentalist groups trying to dominate the public discourse by claiming they are the "moral majority"? As Howard L. Mencken once observed, for every complex problem there is a solution that is simple, straightfor-

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<sup>58</sup> E. V. Goodboy, *God's Daughter: Practical Aspects of a Christians Woman's Life*, (Edmond 1985), quoted in: M. Griffith, *Submissive Wives...*, p. 188..

<sup>59</sup> *Ibidem*.

<sup>60</sup> Ministry Watch.org's Summary Report on Aglow International, "Critics Might Say", [www.ministry-watch.org/mw2.1/F\\_SumRpt.asp?EIN=237275330](http://www.ministry-watch.org/mw2.1/F_SumRpt.asp?EIN=237275330), [accessed 2007, December 22].

<sup>61</sup> *Ibidem*.

<sup>62</sup> P. Bloch, *The New and Improved Clint Eastwood...*, p. 21.

ward and wrong.<sup>63</sup> Both the Promise Keepers and Aglow can be located within the tradition of evangelical social and moral concern. However, taking into account their stress on individual change and not political transformation at the level of institutions, it seems doubtful that these movements will have a significant impact on the present *status quo*.

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<sup>63</sup> R. H. Williams, *Promise Keepers...*, Introduction, p. 1.

Katarzyna Skawińska

## **PHENOMENON OF SUBCULTURE**

People in modern times no longer live in small, homogeneous communities. Those communities have been replaced by large, diverse and complex societies. The societies are composed of multiple smaller groups sharing beliefs, customs and interests that are different from the rest of society. Although such groups are connected with the mainstream by many cultural aspects, they show their own cultural diversity. The groups display boundaries that isolate them from the rest of society. Those groups that share a characteristic set of norms, values and behavior are referred to by sociologists as subcultures. The aim of this article is to look into the mechanisms within a subculture, to analyze different theories of the phenomenon, and to focus on youth and delinquent subculture. Finally it contrasts counterculture with subculture and discusses style and commodification of subculture.

### **Why are people drawn together into groups?**

Culture consists of a huge number of different social groups in which an individual participates. One person may belong to more than one such group. First of all we belong to a parental family, later on to a family of procreation, to an occupational group, which offers smaller inner groups, such as interest groups. Moreover, a person may participate in a group that consists of similar employees from different companies. A person is a member of a particular social class, or we are subjected

to being a member of a certain country by citizenship.<sup>1</sup> In some cases we do not decide on our membership in groups in which we belong, for example in the case of a parental family. There are still many groups in which we participate voluntarily by making a conscious choice. The mechanism behind this is conflict, according to Georg Simmel. He sees conflict as a “sociation”, because it involves interaction between people. “Conflict is admitted to cause or modify interest groups, unifications, organizations”.<sup>2</sup>

There is a kind of paradox in Simmel’s conflict theory. Although conflict is associated with negative factors such as hate, envy, etc., it creates unity. The conflict the group has is with the dominant culture not within the group. Simmel claims that conflict among different social relations – like love or friendship – is the strongest kind, and it alone can produce or sustain a group because it contains several forms of relationship. Conflict is the factor that centralizes the group. The same behavior in the same situation is required from a group, and in the face of conflict the group is as close as it can be. Furthermore, Simmel claims that conflict is the basis of group formation.<sup>3</sup> Not only can it heighten the concentration of an existing group, but it may also bring together people who are total strangers. Simmel emphasizes that though conflict has a unifying power on a group only in wartime, additionally it maintains the unity of this group beyond this period. As we can see, conflict has a long-lasting effect on a group. Not only does it plant the foundations of a group, but it also provides its unity in the long run.

## Subcultures

### Subculture theory

Since about 1960, the issue of subculture has been highly discussed in American academic circles. There is no one proper definition of subculture, as this phenomenon is very broad, complex, and consists of various factors. Many sociologists would probably agree with Sarah Thornton and Ken Gelder that

subcultures are groups of people that have something in common with each other [...] which distinguishes them in a significant way from the members of other social groups.<sup>4</sup>

The drawback of such a definition, as these authors go on to admit, is that it is too broad and applies not only to subcultures but to other groups such as communities and societies. The issue of subcultures brings to mind different connotations.

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<sup>1</sup> G. Simmel, *Conflict: The Web of Group-Affiliations*, New York 1964.

<sup>2</sup> *Ibidem*, p. 13.

<sup>3</sup> *Ibidem*.

<sup>4</sup> *Subcultures Reader*, ed. S. Thornton, K. Gelder, London 1997.



It cannot be discussed without having a closer look at social structure and social interaction, because these are closely related to it.<sup>5</sup> It also relates to terms such as community, public, masses, culture, society, sub-society, etc. Let us discuss some of these terms.

According to Thornton and Gelder, several sociologists use the term 'community' and 'subculture' interchangeably. The key part of community is family; the term suggests a more permanent population, often connected with a particular neighborhood. In contrast 'subcultures' are rather transient phenomena and are mostly studied separately from families.

Subcultures quite often stand in opposition to the 'public'. This term refers to a group of rational citizens who are responsible and who form their own opinions, often expressing them through democratic institutions. On the other hand subcultures are seen as unofficial. Their activities contrast with those of the 'decent' public.<sup>6</sup> 'Society' is another important term in the analysis of subcultures. Both terms imply an association of people that are bound together by a common interest. Still, 'societies' have a formal membership process, written rules and instructions, and some official aspects, whereas subcultures are seen as mostly unofficial and informal in their nature.<sup>7</sup>

The last term we should mention is 'culture', and the ambiguity connected with it as it often has contradictory meanings. According to Willis culture is "a particular way of life which expressed certain meanings and values not only in art and learning but also in institutions and ordinary behavior".<sup>8</sup> Another definition of culture is proposed by Milton Yinger: it is "all those historically created designs for living, explicit and implicit, rational, irrational, and non-rational, that exist at any given time as potential guides for behavior of men".<sup>9</sup> Culture has a socializing influence on subgroups and also subcultures.<sup>10</sup> The most wide and general definition of culture is that formed after analyzing 160 definitions taken from different social sciences, with the conclusion that "culture consists of patterns, explicit and implicit of symbols, constituting the distinctive achievements of human groups, including their embodiments in artifacts; the essential core of culture consists of traditional ideas".<sup>11</sup> The attribute of subcultures is that they are distinct from a particular cultural group and the larger culture. The phenomenon of subcultures is often analyzed in opposition to the dominant or parent culture. This issue will be discussed more thoroughly later on.

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<sup>5</sup> D. O. Arnold et al., *The Sociology of Subcultures*, California 1970.

<sup>6</sup> *Subcultures Reader...*

<sup>7</sup> *Ibidem*.

<sup>8</sup> M. Brake, *Comparative Youth Culture: The Sociology of Youth Subcultures in America, Britain and Canada*, London 1990, p. 1.

<sup>9</sup> M. Yinger, *Countercultures*, New York 1982, p. 39.

<sup>10</sup> M. Brake, *Comparative Youth Culture...*

<sup>11</sup> *Ibidem*, p. 2.

After this brief introduction to key terms in introducing the concept of subcultures, it is time for an analysis of different theories of subculture. As was mentioned earlier, there are many different approaches to the phenomenon of subcultures.

One approach is that of Milton Gordon, who claims that the concept of subculture refers to the subdivision of a national culture that is composed of social situations.<sup>12</sup> Situations such as class status, ethnicity, regional residence or urban residence and religion form a unity that has an impact on a participant. Socialization of a child seems to be crucial in Gordon's definition of subculture. He claims that the fact that a child grows up within a particular subculture has a great influence on him or her, so the research should include environmental background and its effect on a child. What is more, identical factors in different subcultures are not interchangeable. Gordon emphasizes the distinction between separate subcultures and units of the same subcultures. He also claims that subculture also refers to both sexes, all ages, and family groups. For culture of a group that is restricted by age, sex, etc., he suggests the term 'group-culture'. To conclude, Gordon introduces the theory of subculture based on ethnic background, religion, class status and regional differences.<sup>13</sup>

A different theory is based on the assumption that all action we conduct is based on problem-solving. Problems are not only shapes which produce psychological disorders in people's minds, but also situations that produce tension which can be eliminated only by solving the problem. Albert Cohen talks especially about such problems that have no ready-made solutions. The sources of a problem can be our own frame of reference or the 'situation' we are in. According to Cohen a situation is the actual physical setting in which we operate – everything that is around us. A problem may occur because our action is limited by a certain situation.<sup>14</sup>

Cohen compares 'frame of reference' to a glass through which one perceives the world: "The glass consists of the interests, preconceptions, stereotypes and values we bring to the situation".<sup>15</sup> We contemplate the solutions through our frame of reference, and that is why effective solutions involve some change in our frame of reference, says Cohen.

Another factor that builds up this theory of subcultures is that certain problems are specific to certain social groups. We also have to account for differences in dealing with similar or the same problems by different individuals. New cultural forms emerge effectively when a number of people share similar problems of adjustment. An individual is more prone to changing the frame of reference with the support of others. Then a cultural model is enforced and able to persist, when more than one person follows it. Although most people conform to certain rules, and tend to choose the path which is chosen by significant others (a group of people

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<sup>12</sup> M. Gordon, *The Concept of the Sub-culture and its Application*, [in:] *Subcultures Reader...*

<sup>13</sup> *Ibidem*.

<sup>14</sup> A. Cohen, *A General Theory of Subcultures*, [in:] *Subcultures Reader...*

<sup>15</sup> *Ibidem*, p. 45.

whose opinions matter most in a certain period of time), some people decide to stick out from the masses. They establish their own solution but still seek backup of even a small number of other people in order not to be totally alienated from society. They need approval of a new direction. "The acceptability of an idea to oneself depends upon its acceptability to others".<sup>16</sup> If a certain idea wins support from others it can then easily be incorporated into the life of an individual. What are the chances that people with the same problems of adjustment will find each other and communicate in that matter? Actually it is not that easy, as it seems, according to Cohen, that the existence of the problem of adjustment is not sufficient to ensure the emergence of a subcultural solution.<sup>17</sup>

When analyzing subcultures it is essential to take into consideration the young age of those who form them. For young people 'significant others' are the most important. They learn from their peers and reject the values of their parents. The level of group conformity is also higher then. Adolescents can be characterized as other-directed<sup>18</sup> types, as opposed to the inner-directed type of personality propagated by Franklin. Other-directed people copy the patterns of behavior of their age group, and inner-directed types follow their own individual patterns of behavior.

### Youth subcultures

The emergence of youth subcultures is closely related to social strata, as "subculture was a political battleground between the classes".<sup>19</sup> In the post-war years working-class male adolescent city-dwellers saw subcultures, often delinquent forms, as a solution to structurally imposed problems. They faced many generational conflicts in their life on various levels, such as the ideological one. The opposite values of traditional working-class Puritanism and emerging consumerism proved confusing for young people. The function of subcultures was to fight the contradictions that were unresolved in the parent culture.<sup>20</sup>

It is important to stress the fact that subcultures operate within the culture of the class from which they emerged. The behavior of members of a certain subculture may differ from that of their parents; however, they belong to the institutions of the same class (schools, families, etc.).<sup>21</sup>

Youth subcultures should be analyzed in connection with the parent culture and dominant culture. Most sociologists use these terms interchangeably. John Clarke, however, claims that they vary. The parent culture is the culture of working

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<sup>16</sup> *Ibidem*, p. 49.

<sup>17</sup> *Ibidem*.

<sup>18</sup> D. Riesman, *The Lonely Crowd*, Yale 2001.

<sup>19</sup> S. Cohen, *Symbols of Trouble*, [in:] *Subcultures Reader...*, p. 150.

<sup>20</sup> *Ibidem*.

<sup>21</sup> J. Clarke et al., *Subcultures, Cultures and Class*, [in:] *Subcultures Reader...*

classes, and is subordinate to the hegemonic dominant culture. "Working-class culture has consistently 'won space' from the dominant culture".<sup>22</sup> The youth share similar problems with other members of the parent class culture, and subcultures are a response to them. There is a difference, though, because young people experience similar problems differently. Clarke calls this phenomenon "generational specificity", which can be seen in three areas of life, leisure, education and work. Education is present in teenagers' lives and has a strong influence on them. Parents do not go to school any more, and only encounter it through their memories. As far as the area of work is concerned the young are more vulnerable to unemployment. They also have to face the transition from school to work. Furthermore there are many differences in working-class leisure and how adults and youngsters perceive it. These differences were strengthened in the 1950s and 1960s with the growth of consumerism and reorganization of consumption.<sup>23</sup> All the above aspects, and the fact that youth is often a time of rebelliousness, have a great impact on the emergence of youth subcultures. Subcultures emerge because they provide a particular function for the young. First of all, as Phil Cohen argues, they offer a solution to certain structural problems. It is worth mentioning that very often these solutions are only at the magical, imaginary level.<sup>24</sup> Next they offer a culture and elements included in it such as style, norms, values and ideologies. That is why they can offer their members a meaningful way of life. Finally they propose the individuals solutions to existential problems, according to Michael Brake. The success of subcultural solutions among young people lies in their in-born rebelliousness and rejection of parental norms.<sup>25</sup>

### Subculture and Style

It has been argued that structural contradictions, experienced as class problems, are a basic generating force for subcultures. Cultural traditions, when interacting with neighborhood traditions and historic circumstances, shape the cultural form of a subculture. One such form common in a subculture is its style and its symbolic usage. Style expresses a degree of commitment to the subculture. Brake defines style as consisting of three main elements: 'image' – appearance composed of specific clothing, artifacts, haircut, etc.; 'demeanor', which is connected with posture and expression; and 'argot', which is language consisting of a special vocabulary and the way in which it is delivered. Stanley Cohen distinguishes two dominant themes within a subcultural style. For him, style is, first of all, a type of resistance to subordination; secondly the form taken is symbolic or magical. This symbolism

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<sup>22</sup> *Ibidem*, p. 103.

<sup>23</sup> *Ibidem*.

<sup>24</sup> P. Cohen, *Subcultural Conflict and Working-Class Community*, [in:] *Subcultures Reader*...

<sup>25</sup> M. Brake, *Comparative Youth Culture*...

appears in Brake's concepts. Another important aspect of style is that the solution chosen by a subculture is very often magical and brings no major changes in the situation of that group or its members, and it has no political response because of the lack of organization. "Relations with the state are conducted at an imaginary level".<sup>26</sup> The final aspect of symbolism is that style signifies something that goes beyond the surface appearance. This is coded statements about relationships, about the past and present, etc.

In this research there should also be space for analysis of what subcultural style communicates. Dick Hebdige concentrates on the meaning of style, trying to answer the following questions: How does subculture make sense to its members? How is it made to signify disorder? What distinguishes spectacular subcultures from the surrounding culture is the use of intentional communication. Their style is fabricated, and by this style they display their own codes or demonstrate that codes of the society can be abused. Their intention is to react against the mainstream culture. Objects and artifacts used by a subculture have been reordered and placed in new contexts so as to communicate a new meaning.<sup>27</sup> Clarke calls it 're-signification' and Hebdige refers to it as 'bricolage' ('a reassembling of styles into a new subcultural style', a concept associated with the anthropologist Lévi-Strauss). An object from mainstream culture may be incorporated into subcultural artifacts, its meaning being totally different from what it was (e.g. Teddy Boy modifications of Edwardian dress). There is also, as Willis<sup>28</sup> suggests, a fit, or 'homology' between objects, their meaning and behavior. Willis claims that any subculture is characterized by orderliness. Each part and aspect of subculture is closely related to the other, and through this the subcultural member makes sense of the world.<sup>29</sup> Willis argues that there is a homology between activism, physicality and early rock music in such groups as bikers.

The last aspect of style is differentiation of work and leisure. Traditionally, as Thomson<sup>30</sup> points out, work and leisure were separated. Leisure was seen as an attack on work discipline, because the values of leisure present a counter-thesis to work. Mass production and mass consumption created a popular elite that was promoted by the media and advertising. The elite imitated the style that stood outside traditional class definitions. The working class invested its money in certain leisure activities (clubs etc.) to make statements about self-image.<sup>31</sup> The imitation of style is connected with the commodification of subcultures.

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<sup>26</sup> S. Cohen, *Symbols of Trouble...*, p. 155.

<sup>27</sup> D. Hebdige, *Subculture: The Meaning of Style*, London 1979.

<sup>28</sup> M. Brake, *Comparative Youth Culture...*

<sup>29</sup> D. Hebdige, *Subculture...*

<sup>30</sup> M. Brake, *Comparative Youth Culture...*

<sup>31</sup> *Ibidem*.

### Commodification of subcultures

Working-class subcultures could not have existed without an economic background. In the 1950s and 1960s, incomes for teenagers grew very fast in comparison to those for adults, and most of this was 'disposable income' spent on leisure activities.<sup>32</sup> The growth of a consumer market that was directed toward the youth also played an important role in the process of commodification. Industries provided goods that were used by the groups "in the construction of distinctive style".<sup>33</sup> Clarke describes punk style in terms of commodification, when punk clothes and insignia could be bought by mail order or seen in the latest collections of famous designers. Moreover the shops of the hippy era were easily changed into punk boutiques. Hebdige defines commodification as "the conversion of subcultural things (clothes, music etc.) into mass-produced objects".<sup>34</sup> He says that there is an ambiguity in the relationship between the spectacular subculture and the industries that exploit it. The main objective of such a subculture, then, becomes consumption. One may assume that subcultures change their preliminary purpose. The artifacts that signified a subculture became commodities available for everyone. Their subcultural meanings were deciphered and became comprehensible. Moreover artifacts of a subculture changed into highly profitable products. As commodification advanced, problems arose. The subculture was converted into a part of mass culture. It became standardized and passively consumed, according to Leavis. A kind of paradox can be noticed here. At its beginning the subculture was a statement against the mainstream or dominant culture, but over the years it became a productive branch of it. Leavis concludes that as a subculture needs commerciality, it surely cannot be authentic at all. Such a culture creates false needs due to the fact that it has to attract many consumers.

However, not all the authors agree with such a radical statement. For example, teenage culture was interpreted by Hall and Whannel as "a contradictory mixture of the authentic and the manufactured – an area of self expression for the young and lush grazing ground for the commercial providers".<sup>35</sup> According to this approach, commodification of subculture does not exclude its authenticity. One may agree with this statement, as the subculture usually preceded commodification.

Another problem connected with the commercialization of youth culture, according to some researchers, is that it robs young people of "any sense that their lives could be different".<sup>36</sup> It is connected with leisure, clothes, music, etc. Although at the beginning one group of people follows one pattern of behavior or listens

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<sup>32</sup> J. Clarke et al., *Subcultures, Cultures and Class...*

<sup>33</sup> *Ibidem*, p. 104.

<sup>34</sup> D. Hebdige, *Subculture...*, p. 131.

<sup>35</sup> M. Brake, *Comparative Youth Culture...*, p. 185.

<sup>36</sup> *Ibidem*, p. 187.

to a kind of music, sooner or later it will be followed by other young people, which means that this particular group will lose its difference and identity.

### **Subculture and counterculture**

Many sociologists see a vast amount of ambiguity in differentiating between subculture and counterculture. Some use the terms interchangeably and claim that both phenomena have the same characteristics. However, Yinger, among others, suggest that subculture and 'contraculture' demonstrate diversity in several aspects. According to Yinger counterculture is "a set of norms and values of a group that sharply contradict the dominant norms and values of the society of which that group is a part".<sup>37</sup> We may assume that the words 'sharply contradict' are the key words in this definition, as they emphasize the contradictory aspect of counterculture. One may conclude that this is the main difference between subculture and counterculture. Furthermore, Yinger claims that countercultures often arise where there are conflicts of standards or values between subculture groups and the larger society. This proves that a subculture group may turn into a countercultural one if the conflict occurs.<sup>38</sup>

An alternative definition of counterculture, formed by Westhues, refers to ideology, behavior and social structure. He argues that a counterculture is a set of beliefs and values that reject the dominant culture of a society and give alternative norms. This definition works on an ideological level. Another level of reference is a behavioral one. From this point of view a counterculture is a group of people who behave in nonconformist ways according to their values and beliefs, and who are rejected by the rest of the society. As we can see, these definitions also contribute to our analysis. Based on them, one may assume that subculture groups differ from those of a counterculture due to the fact that they are not based on rejection by the society. Subcultures, especially youth ones, take their values from the dominant or parent culture, and what is more, they function in this culture. Members of subcultures are not totally rejected by the rest of the society. Let us take occupational subcultures as an example. They are fully accepted by the society, although they form a subcultural group. All the above proves that subculture and counterculture are distinct phenomena.

Another important characteristic of counterculture is that it is not connected with any native culture, because all the native patterns and traditions are not results of conflict with the society but are part of socialization. Yinger claims that both subculture and counterculture have a set of norms that separates them from the dominant culture; however subculture is not a variety of counterculture. Countercultures are not connected with traditional patterns; they are separate from ethnic background and other subcultures. The term 'counterculture' should be used "whe-

<sup>37</sup> M. Yinger, *Countercultures...*, p. 3.

<sup>38</sup> *Ibidem*.

never the normative system of a group contains, as a primary element, a theme of conflict with the values of the total society, where personality variables are directly involved in the development and maintenance of the group's values, and wherever its norms can be understood only by reference to the relationships of the group to a surrounding dominant culture".<sup>39</sup>

These criteria show that counterculture and subculture have no clear boundaries. Although the values of subcultures can be in conflict with the larger culture to some extent, in a counterculture conflict is central. A group may display subcultural behavior in one situation but in the other it may turn out that the same group falls into the category of counterculture. Empirically, both influences may be mixed.

There is also a difference in the approach to analyzing these phenomena. Yinger forms the hypothesis that subcultural behaviors should be studied from the point of view of general theory of culture. On the other hand, hypotheses concerning countercultures could be derived from social psychological theory, as countercultural norms occur under conditions of deprivation, confusion or frustration.

### **Delinquent subculture**

To deal with delinquent aspects of subculture it is necessary to refer to cultural deviance theory, which suggests that "delinquent behavior is a reflection of life in unique cultural and subcultural settings".<sup>40</sup> This theory also states that delinquent acts are caused by learned behaviors, not by innate impulses. Delinquent behavior is connected with low income, problems of racial and ethnic segregation, and lower classes.

Shaw and McKay's<sup>41</sup> lower-class cultural theory says that delinquent culture exists in slum areas and is connected with adolescent groups. Living in poor conditions in slum communities produces social disorganization. Young people in these conditions lack adult control, and delinquent behavior occurs.

Another theory concentrates on the middle class, suggesting that delinquency is a subcultural variety of it. Adolescents find no patterns of authority and are expected to follow rules that seem contradictory to them (they develop intellects at school but cannot undermine parents' opinions etc.) As a result the generation gap widens, and middle-class youth organizes itself into subcultures. In such groups they are more prone to behave in a delinquent way.<sup>42</sup>

Let us now discuss the emergence of the delinquent subculture. Cohen argues that people adjust to different situations by joining with others to seek a solution.

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<sup>39</sup> *Ibidem*, pp. 126–127.

<sup>40</sup> T. LaMar Empey, M. Strafford, *American Delinquency: It's Meaning and Construction*, California 1991, p. 178.

<sup>41</sup> *Ibidem*.

<sup>42</sup> *Ibidem*.



The notion of significant others is important here. He differentiates three models of adjustments: the corner boy, the college boy and the delinquent boy.<sup>43</sup> We will focus on the third model, as it concerns delinquency. Cohen claims that delinquent subculture is highly malicious, as it follows the delinquent behavior just for the fun of it. Delinquent subculture provides a member with things or feelings he could not meet in society, such as the support of the group or the certain status of being a member of the group. It becomes a substitute for a person who has failed in a middle-class dominated society.

To conclude, subcultures are responses to social problems such as difficulty of adjustment or rebellion against certain values – problems that have no ready-made solutions. The unifying force that brings people together and centralizes the group is conflict. Individuals in the face of conflict tend to look for backup and search for others that share the same or at least similar difficulties. They need support for the change in their frame of reference which can bring solutions mostly at an imaginary level. The members of subcultures are generally young people. Adolescence is a crucial point in time when transition from childhood to adulthood brings certain ambiguities, and in-born rebelliousness as well as rejection of societal norms and values do not help, which is why in many cases delinquent behavior occurs. Members of subcultures create their own style and meaning and manifest them in a specific type of clothing, jargon or artifacts. They want to be distinct from the decent public. However, they have to face another problem: commercialization and media exploitation. In a way they become the products for sale, and their sub-cultural meaning can be consumed by the dominant culture.

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<sup>43</sup> *Ibidem.*



Magdalena Butrymowicz

**THE CHEROKEE CONSTITUTION  
- THE ROAD TO A SOVEREIGN STATE**

The native people of North America are often perceived through the story of the brave colonists fighting with the belligerent and barbaric Indians. All of us like to watch movies about the Wild West, some people dream of visiting Tombstone, but few people are really concerned about who the Indians really were, or whether they had a social or political structure. In fact most of the Indian tribes at the beginning of the Encounter era shifted from egalitarian societies of mobile, hunter-gatherer people to hierarchical sedentary or semi-sedentary chiefdoms. Some tribes developed complex social systems based on a corporation of several tribes or groups. The best example is the League of Five Nations. This religious and political organization of five Iroquois-speaking tribes organized itself as a semi-state organization. Today's American legal doctrine assumes that the Founding Fathers of the United States of America took the structure of the League as a foundation for the American state regime. The Iroquois League is not the only example of higher centralized authority among Indian tribes. The most significant and best-known is the state created by Cherokee Indians from Georgia. However, it is important to stress that the social and political organization of this tribe is different from the structure of the League. The 'Great League of Peace', another appellation of the League of Five Nations, had been founded by Dakanawidah and his disciple Hiawatha at the beginning of the 15th century. The Great Peace was not an overriding authority, but a jural community charged with maintaining the peace through religious ceremo-

nies.<sup>1</sup> The Cherokee state, meanwhile, was a constitutional organization, governed by an elected authority, under the law enacted by a sovereign government. They created their state in the long process of social and political changes of their society at the beginning of the 20th century. Comparing their tribal model of authority to the United States regime, they decided to reorganize their society to a similar structure.

The first signal of change can be noticed in early 1715, when all Cherokee towns and villages decided to accept the authority of the Chief of Tugaloo. At this time the Cherokee tribe was divided into four regions: Upper Town, Middle Town, Overhill Town and Down Town. In each region were about ten towns governed by the council. Some towns were called beloved towns, which emphasized their role in the society as a religious center. Seven such beloved towns are known, with the two most important being Chota and Tugaloo. In each beloved town the sacred fire of the Great Spirit was burned. During wars or ceremonies the chief from a beloved town became the leader of the region. What was special about Tugaloo at this time? First the personal charisma of the then Tugaloo chief, and second the state Carolina government,<sup>2</sup> which recognized the chief as the sole representative of the Cherokee tribe. When the chief died in 1720, Carolina officials asked the Cherokee to choose another main leader. When towns refused to do this in 1725 Carolina chose one of the marginal chiefs from one of the Overhill Towns. In opposition to enforced leadership, Chief Motoy<sup>3</sup> from Great Tellico (another beloved town) named himself chief of all Cherokee Indians. The State of Carolina accepted him as a leader only in 1738, when the Chota chief demanded this same position for himself. Moytoy commanded the Cherokee until his death in 1741, when he was killed by Choctaw warriors. After his death Carolina authorities appointed as his successor his underage son Ammonscozzittie, and as the regent chief Raven from Hiwassee town.

The political situation among the Cherokee seemed not to change until 1751. In this year a conflict arose between the two old enemies, the Cherokee and the Creek Indian. The Cherokee now spent much more time on the war, instead of hunting and farming. Lack of trade goods caused limited supplies from colonial governments. The Indians at this time came to rely upon European goods such as guns and ammunition, which were not only necessary to hunt deer, but more importantly were needed to win the war. This dependence led to the forfeiture of Tellico and Hiwassee by the Creek. Frustrated warriors attacked several warehouses owned by colonists. The Carolina government avenged this by banning all trade with the Cherokee.

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<sup>1</sup> O. P. Dickason, *Canada's First Nations*, Toronto–Oxford–New York 1997, pp. 40–51.

<sup>2</sup> The State of Carolina was at this time the main trade partner of the Cherokee tribe. They not only sold their goods there, but a lot of men were hired in factories and plantations.

<sup>3</sup> This was the name assumed by Christian Gottlieb Priber, a European of unknown origin, who came to the Cherokee country, learned the Cherokee language and called himself Chief of all Cherokee, trying to create a communist system; L. Hargrett, *A Bibliography of the Constitutions and laws of the American Indians*, Cambridge 1947, pp. 3–4.

The political situation was also bad: Ammonscozzittie, without consultation with the tribal elders, ceded some Cherokee land to the Virginia state, thus losing influence and power among the tribe. Into this vacuum of leadership and articles of commerce appeared the new main chief Old Hop. During the great council in February 1753 all Cherokee from Middle Towns handed power over to him, and the towns from the remaining Cherokee regions recognized his power during the meeting in Choctaw. The hitherto chief from Hiwassee, Ostenaco, put himself under his authority too. Old Hop was not only the first elected leader of the tribe, he also started the social and political revolution in the Cherokee tribe. After signing a trade treaty with the Carolina state,<sup>4</sup> he began working on widening the sphere of the main chief's power. The first chief from Chota was named First Warrior and First War Chief of the Cherokee Nation. The second chief of Chota was called Second War Chief of the Whole Nation, and the Second Warrior of the nation was the chief from Hiwassee. Chief Old Hop convoked regular assemblies of the elders and leaders from all Cherokee towns. During these meetings they discussed the main aims of foreign and local politics.<sup>5</sup>

In the middle of the 18th century the prime qualifications for leadership in the Cherokee world become possession of commercial connections and an ability to manipulate trade and colonist aspirations. However, the most important ability for a potential leader was to be held in the high esteem of the whole nation. It was on this assumption that Old Hop based his leadership. One of his most difficult tasks was to prevent clan revenge. The escalation of revenge into open warfare and blood feud was the main reason for the declaration of war by English in 1760.<sup>6</sup> External threats united the whole nation, especially when they realized that they could be defeated by a better-armed colonist. Local leaders organized community warriors to prevent assaults on colonists. Offenses against the colonists provoked retribution on the jeopardized community.<sup>7</sup> The American Revolutionary war was the beginning of the end of Chota authority. Amid the struggle for existence between the French, British and now Americans, young Cherokee chose to expel all white men from their land, and in 1776 there were several actions against colonial settlements. Chiefs from Chota distanced themselves from these acts of aggression which fructified drastically, reducing their influence among Cherokee. The leadership of Chota chiefs finally ended in 1788 during the Festival of Green Corn, when Little Turkey was elected the new leader of the Cherokee tribe.<sup>8</sup>

Until 1794 the demands of Hanging Maw for tribal leadership caused a lack of stability in tribes and for a while prevented further changes. After his death,

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<sup>4</sup> D. Champagne, *Social order and political change constitutional government among the Cherokee, the Choctaw, the Chickasaw and the Creek*, Stanford 1992, pp. 56–58.

<sup>5</sup> *Ibidem*, p. 58.

<sup>6</sup> *Ibidem*, p. 59.

<sup>7</sup> *Ibidem*, p. 58.

<sup>8</sup> *Ibidem*, pp. 76–77.

though, Little Turkey signed a peace treaty with the United States and started to prepare his nation for constitutional political order.<sup>9</sup>

Little Turkey had great support in society, and was known as “the beloved Man of the nation”, and from 1795 he started to use the title of Principle Chief. Some local chiefs refused to admit the validity of his power. Chief Doublehead, for example, started to negotiate a cession treaty with the US government, but when others found out about his betrayal they simply killed him. Another way of concentrating power was to put into the hand of the Principle Chief responsibility for treaty negotiations with the federal government. He was also at the head of the Nation Council. This main Cherokee tribe form of national assembly had developed from the meeting of the representatives of town councils under the threat of common war. The majority of Cherokee in one council decided on the major problems of the tribe and ratified a treaty with the colonists.<sup>10</sup> The procedure of government by council had been institutionalized by the end of the American Revolution. When Little Turkey died his successors Black Fox and Path Killer continued his work.<sup>11</sup>

Before beginning to present the main road to the Cherokee constitution it is worth explaining the political structure of the tribe before the creation of the sovereign state. Tribal organization was formed by the foundation of the state government system. As was stressed before, in each region the basic unit was autonomous towns and villages where political and social life was concentrated. Each particular town was governed by the town council, the source of all internal and external actions. The council made decisions about cooperation with strangers, public buildings, community agriculture or religious ceremonies. To it belonged all the dwellers of the town under the leadership of the three most influential groups of town elders. The principal group was led by the town chief-shaman and his assistants. The second voice belonged to the seven elders’ front men of the town clans. The last group constituted the rest of the elder men and women living in the town. Sometimes they were called ‘beloved people’ During council sessions<sup>12</sup> the respective participants sat only in the place ascribed to them. In the center of the gathering the chief shaman and his assistant always sat, around them there was room for seven elders, and next according to clan division: clan elders, mothers with children, and finally, on the edge, the rest of participants.<sup>13</sup>

Discussions in the council were conducted in this same order. Debate was always peaceful and without arguments. The main speakers were elders who consulted with their clans as to how to deal with a particular topic. They also explained the problem to other participants of the council and sometimes persuaded them of the

<sup>9</sup> J. P. Brown, *Old Frontiers*, Kingsport 1938, p. 444.

<sup>10</sup> R. Strickland, *Fire and the Spirits, Cherokee Law from Clan to Court*, Norman-London 1975, pp. 53–55.

<sup>11</sup> H. T. Malone, *Cherokee of the Old South: A People in Transition*, The University of Georgia Press 1956, pp. 74–75.

<sup>12</sup> There was a special town hall.

<sup>13</sup> H. T. Malone, *op. cit.*, p. 75.

best method to solve the problem. When a consensus was reached and most clans or divisions agreed on this same resolution the decision bound the whole town. In situations where one or two clans or fractions resolved solutions differently from the majority, they were not forced to accept their proposals. The most important thing was amicable cooperation.<sup>14</sup> This peaceful alliance ended in times of war, as did the structure of the town. Town councils elected war chiefs, who competed to call up to duty all warriors and organized a purity ceremony before fighting began. Their power was dependent on their personality and the influence of their family. The war chief would sit in the center of the town council during war, while in peacetime his place was among his clan followers.<sup>15</sup>

Encouraged by the colonists to form a national state from disorganized and scattered settlements, the Cherokee changed almost everything in their society besides some rules of criminal law. The old Cherokee tradition put the role of judges in the hands of clans; the town council executed clan verdicts. Deviations from the established norms which offended community expectations were tried in the court of the town. A significant part of Cherokee criminal law consisted of clan blood regulation of homicide. Clan court decisions depended mostly on the social positions of the defendant and victim. In situations where the chief or an important elder was killed, blood revenge required that someone of the same rank and class of the murderer's clan be killed. The Cherokee strongly believed that the ghost of a murdered clansman could not pass from the earth until the blood had been avenged. A slightly different situation took place when death was caused by accident; the killer could seek asylum in one of the white beloved towns.<sup>16</sup>

Town councils worked on the local level and were not interested in transition or creation of a state, but under the town council was the National Council. Representatives of town councils were delegates not of their clans but of the interests of their towns and regions. Clans were not involved in national politics, so they could not force delegate clansman to clan politics.<sup>17</sup> As it was free from external pressure, the National Council was able to work on the legal transition of the society. The first step was accumulation of financial funds similar to state financial resources.<sup>18</sup> At the XVIII century National Council, which functioned with the same rules as the town council, according to the general law all free members of the Cherokee tribe could participate in the National Council session, but by good chance this never happened. Sending representatives to the National Council was more effective, as decisions in the Council were made unanimously and too many participants could prevent compromise from being reached. Common practice was to inform each

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<sup>14</sup> D. H. King, *The Cherokee Indian Nation, a troubled history*, [in:] V. R. Persico Jr., *Early Nineteenth-Century Cherokee Political Organization*, Knoxville 1979, pp. 92–94.

<sup>15</sup> D. H. King, *Introduction, The Cherokee Indian Nation, A Troubled History*, Knoxville 1979, pp. 95–97.

<sup>16</sup> D. Champagne, *op. cit.*, p. 31.

<sup>17</sup> *Ibidem*, p. 43.

<sup>18</sup> *Ibidem*, pp. 31–32.

town of the reason for convoking a gathering, so the towns could assume a position before the session of the National Council.<sup>19</sup> There were a couple of weaknesses in the function of the Council, but the main reason for its ineffectiveness was lack of constraints. The aforementioned war in 1760 is such an example. The National Council had made the decision to cooperate with the English, when young chiefs and warriors went against the Council conclusion and attacked British soldiers. To prevent such situations in future the Council decided to allow war chiefs to participate in the decision-making process.<sup>20</sup> The division of the tribe at the beginning of the 19th century was also effected by disagreement over external Council politics.<sup>21</sup> Apprehensive of future trouble, the Council initiated policies of change. At the beginning of 1817 the makeup of the Council was changed; now young chiefs and warriors were given permission to speak during Council sessions. The towns were instructed to choose as their delegate a person who had respect not only among the population of his town but also in other towns and even tribes. Decisions made by the National Council were now accepted without opposition by the towns. The sphere of activity of the National Council was also changed: delegates were now careful about all external issues, war and persons outside the tribe living on Cherokee land. Town councils were no longer qualified to engage in external politics.<sup>22</sup> From 1808 the National Council was also responsible for internal affairs which were common to each town.<sup>23</sup> The Council made decisions in a similar way to a town council, but with stronger emphasis on the position of the Principal Chief. He would always in the center of the assembly, on the carpet. To his right on the same carpet was the place of the second chief, and the remaining chiefs sat on chairs in a circle around them, with other participants standing outside the circle.<sup>24</sup>

The Cherokee way to the constitution and sovereign state was not only social or organization changes, but also strong mental changes and a growth of patriotism and desire for national unity in society. The first time the tribe stood together in front of the colonist was at two actions in 1803: against the building of a road connecting Tellico Blockhouse with Athens, Georgia, and resisting the sale of land called Wafford road situated near Chattahoochee.<sup>25</sup> Another very significant example is the betrayal of Chief Doublehead mentioned earlier. In 1805 he was negotiating a land treaty with the Indian agent James Roberts. According to their establishments all land from the Tennessee River, Kingston neighborhood and region of Hiwassee River ought to be sold to Americans. To the general agreement was attached a classified document in which Doublehead was awarded land in the basin river

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<sup>19</sup> D. H. King, *op. cit.*, pp. 96–97.

<sup>20</sup> *Ibidem*, p. 97.

<sup>21</sup> *Ibidem*, pp. 97–98.

<sup>22</sup> *Ibidem*.

<sup>23</sup> *Ibidem*, p. 99.

<sup>24</sup> H. T. Malone, *op. cit.*, p. 82.

<sup>25</sup> J. P. Brown, *Old Frontiers*, Kingsport–Tennessee 1938, p. 449.



Clinch to Hiwassee River. When the National Council learned of this amendment it refused to ratify the treaty. Several months later Doublehead was killed, and his death ended the time of self-government of chiefs without approval from the tribe.<sup>26</sup> Three years later, in Brooms Town on 11 September 1808, the National Council of the Cherokee Nation passed the first written law in the history of the American Indian. The law was called the 'Law of the Cherokee Nation' and was approved by Principal Chief Black Fox, the second-in-command Path Killer and Chief Toochar, who was third in the hierarchy.<sup>27</sup> This new law called into existence the Light Horse agency, whose main task was to prevent horse theft. Agents were not only responsible for catching the thief, but could also punish and even kill them. When the owner of the horse caught the thief in the act, he was allowed to kill him without any consequence. Clan revenge to horse thieves was suspended. The Light Horse law also regulated compensation for the widow of agents killed in action.<sup>28</sup> Some historians claim that the Light Horse law was the first Cherokee written criminal code. In fact, though, this act served to legalize the local horse guard, in existence since 1797.<sup>29</sup> A crucial move on the way to self-government was a resolution passed in July 1809. About 42 Cherokee towns under the leadership of Chief Path Killer denied the right of the US government to support and pursue a policy of assimilation and eviction of the Cherokee people. The same year, in September, during the assembly of the National Council in Wills Town all chiefs and the main elders passed a pact of unity of all Cherokee towns and the beginning of the construction of a sovereign state. As leader of one society was chosen Black Fox, a chief who did not belong to any clan, and second-in-command was Chief Path Killer.<sup>30</sup>

1810 was an important date due to the occurrence of a few legal events in Cherokee politics. Having conducted a policy of unity and unification, during the National Council in Oostanallah on April 1810 all clans decided to put the law system in the hands of national government and criminal justices. The ancient clan power of revenge now passed to the central government. Until this year the criminal investigation was only concerned with the guilt of the perpetrator, especially in the case of murder.<sup>31</sup> The National Council wrote: "if one brother kills his brother at first he should be found guilty of murder, and next punished according to the law".<sup>32</sup> Only one exception was allowed: in act killer, he could not be a judge. The new law for all Cherokee was signed by the Speaker of the Council Turtle at Home, Principle Chief Black Fox and his deputy Chief Path Killer.<sup>33</sup>

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<sup>26</sup> *Ibidem*, p. 451, 453.

<sup>27</sup> E. Starr, *History of the Cherokee Indians, and the Legends and Folklore*, Oklahoma City 1921, p. 41.

<sup>28</sup> *Laws of The Cherokee Nation adopted by the Council at various periods*, Tahlequah 1852, pp. 3–4.

<sup>29</sup> H. T. Malone, *op. cit.*, p. 76.

<sup>30</sup> D. Champagne, *op. cit.*, pp. 99–101.

<sup>31</sup> *Laws of the Cherokee Nation...*, p. 4.

<sup>32</sup> J. P. Brown, *op. cit.*, p. 454.

<sup>33</sup> *Laws of the Cherokee Nation...*, p. 4.

The Cherokee started to think much more seriously about the national constitution on 6 May 1817, when the Little Cherokee Constitution was passed. According to the preamble of the new law representatives from 54 towns and villages had gathered in Amoah<sup>34</sup> to discuss the political and economic situation of the nation, especially the land cession treaty signed that year.<sup>35</sup> To prevent further cession they enacted a memorandum<sup>36</sup> in which the seven most important chiefs decided to stop selling tribal land to any government, and in fact never to start negotiation on this subject; they said “allow us to live on the land of our fathers, without any further cession”. The other most important issue placed in the preamble concerns the reorganization of the tribe into governments by central authorities’ state with constitution.<sup>37</sup>

In order to prepare the society for further change the Little Constitution established a new structure of central power. The legislative body consisted of two houses: the Upper House and the House of Commons. The Stand Committee and National Council were the legislative power, but they too were separate from executive power. Members of both executives were elected by the electors of the districts. At the head of the National Council stood the Major Officer. The first person elected to this function was the young chief John Ross.<sup>38</sup> According to the first article the Stand Committee was made up of thirteen members elected for 3 years with the possibility of reelection for the following period.<sup>39</sup> Of these members one was called the Clerk of the Committee and two were representatives of the Council and Commons House.<sup>40</sup> When a position in the Committee was vacated because of death or any other reason the Principal Chief filled the vacancies. The Stand Committee<sup>41</sup> was responsible only for public affairs<sup>42</sup> and meant to deal with cases which related to common activity. However, this reservation did not prevent ordinary people from laying complaints against the concerns of the Committee. For example Otter Lifter accused the owner of an escaped slave of fraud. The Committee was at this time the substitute of town councils.<sup>43</sup> It was also responsible for cooperation with the federal US Indian Agency.<sup>44</sup> The National Council had the power to pass a law. Before making any final decision the Council was obliged to consult

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<sup>34</sup> E. Starr, *op. cit.*, pp. 42–43.

<sup>35</sup> C. J. Kappler, *Treaty with the Cherokee, 1817 July 8, 1817.7 Stat. 156. Proclamation, Dec. 26, 1817, “Indian Affairs. Laws And Treaties”* 1904, Vol. 2, Treaties, pp. 140–144.

<sup>36</sup> Under the great influence of John Ross, the honorable Chief of Cherokee tribe and the first elected Principle Chief under the constitution.

<sup>37</sup> J. P. Brown, *op. cit.*, p. 472.

<sup>38</sup> J. Mooney, *Historical sketch of the Cherokee*, Chicago 1975, pp. 97–98.

<sup>39</sup> In fact reelection was mandatory.

<sup>40</sup> J. Mooney, *op. cit.*, pp. 97–98.

<sup>41</sup> From 1817 the name *National Council* was used interchangeably with Upper House or for both houses. Persico used the term General Council for the gathering of both houses.

<sup>42</sup> E. Starr, *op. cit.*, p. 43.

<sup>43</sup> *Ibidem.*

<sup>44</sup> *Ibidem.*

with the nation gathered in both Houses, and also all members of the Council were supposed to be unanimous on the new law.<sup>45</sup>

The Little Constitution normalized the extent of the power of the Cherokee tribe; according to article 3 each person who entered Cherokee land came under the tribal law. Tribal cognition ended at the moment of migration or leaving the Cherokee territory. The Little Constitution was a provisional law, passed to test whether the Cherokee society was ready for such changes. Chiefs and local authorities were asked to observe how people reacted to the new regime.<sup>46</sup> The time from the passing of the Little Constitution to the enactment of the major constitution was the only period in Cherokee legal history when the Principal Chief had less power over the people. The duties of the Principle Chief were now only as a figurehead.<sup>47</sup>

Very soon the National Council gathered that for the good functioning of the state they would need money. The National Council established a tax clerk to collect the tribute: 50 cents for each free man under sixty years old.<sup>48</sup> At the end of October 1819 the Council passed a new tax law and established new rules for getting licenses for small businesses. Special conditions of exemption from licensing were established for US citizens, to encourage them to settle among them.<sup>49</sup> In the same year the National Council decided that the Cherokee government was authorized to collect road tax.<sup>50</sup>

Another decisive year in the Cherokee transition was 1820. First the government enacted a law allowing teachers, miners, blacksmiths, boatman and a few other occupations free settlement on Cherokee land. There was one condition for them: they had to receive government permission to work on Cherokee land.<sup>51</sup> In the late fall of 1820 the National Council decided to reorganize the administrative structure of the tribe. After long-running consultations with clan elders and chiefs they managed to reach a compromise and decided to accept the American system of administration. The Cherokee tribe was divided into eight districts:<sup>52</sup> Coosawatee, Chickamaugee, Chattooga, Amohee, Hickory Log., Etowah (Hightower), Tahquohee and Aquohee.<sup>53</sup> The borders of the districts were strictly marked and eighth district courts were established. The new law also defined the court's sitting date and the place where a court would meet. Usually according to tradition court sessions were on the second Monday of May and September.<sup>54</sup> Under the district court was the circuit district as the higher court; there was one circuit court under

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<sup>45</sup> *Ibidem.*

<sup>46</sup> *Ibidem.*

<sup>47</sup> D. H. King, *op. cit.*, pp. 99–101.

<sup>48</sup> G. S. Woodward, *The Cherokees*, University of Oklahoma Press 1963, p. 145.

<sup>49</sup> *Laws of the Cherokee Nation...*, pp. 6–7.

<sup>50</sup> D. H. King, *op. cit.*, p. 103.

<sup>51</sup> E. Starr, *op. cit.*, p. 43.

<sup>52</sup> D. H. King, *op. cit.*, pp. 103–104.

<sup>53</sup> H. T. Malone, *op. cit.*, p. 79.

<sup>54</sup> "Cherokee Phoenix" 1828, No. 7, Vol. 1, p. 1.

two district courts. Judges in both courts applied ancient Cherokee law.<sup>55</sup> To the district court were brought cases of local matters, while the circuit courts dealt with infringement of national law.<sup>56</sup> Execution of the circuit court sentences belonged to the Light Horse agents, who were also responsible for the security of the judges, not only during session.<sup>57</sup>

After a few years of being in force, from 1817 onwards the law showed its weakness. At first the Council was about 200 to 300 delegates from 50 to 60 towns, and it was impossible to reach any consensus on the main policies drafted to make changes in the administrative organization.<sup>58</sup> The new legislative power under the law of 1820 belonged to two houses: the National Committee and National Council. From each district four representatives were sent to legislative organs, which were placed in Newtown or in the capital New Echota.<sup>59</sup> The National Committee (Upper House) consisted of thirteen members elected by the National Council, who were responsible for initiation of the legislative process and hearing the complaints of people about the government and National Council actions. The Nation Council was the lower house of 32 elected by the people's delegates; their main duties were to approve the Committee's decisions. The Principal Chief and second-in-command chief were elected by both houses. They exercised executive power, and also each new law was to be signed by them. On the regional level the district council was in place: this met twice a year to deliberate over local issues. Members of the local council were elected by the citizens of the district.<sup>60</sup>

Organizational changes in society also caused conversion of legal procedures and validation. New bills and acts were now printed and published in English. For example the acts from 1817 and 1820 were published in the Cherokee Law Collection public in Knoxville, Tennessee in 1821, and the printing was sponsored by the Cherokee Nation. From then on all new laws were published,<sup>61</sup> and from 1827 this took place in the Cherokee national printing house in New Echota and in the *Cherokee Phoenix* newspaper.<sup>62</sup>

A significant step in the Cherokee transition, and the final step before the enactment of the constitution of a democratic state, was the law established the Supreme Court in 1821. Creation of the Supreme Court was the answer to the problem of too many cases being put under the consideration of the National Committee by individual persons. The Cherokee did not admit the Supreme Court at the beginning and still preferred the Committee, but in 1823 there were so many cases for the

<sup>55</sup> V. O. King, *op. cit.*, pp. 103–104.

<sup>56</sup> H. T. Malone, *op. cit.*, p. 78.

<sup>57</sup> G. S. Woodward, *op. cit.*, p. 145.

<sup>58</sup> D. Champagne, *op. cit.*, p. 136.

<sup>59</sup> New Echota was a place in the basin of the Conasauga river to Coosawatee river, near today's city Calhoun in the state of Georgia; J. Mooney, *op. cit.*, p. 98.

<sup>60</sup> D. Champagne, *op. cit.*, p. 135.

<sup>61</sup> L. Hargrett, *op. cit.*, p. 5.

<sup>62</sup> *Ibidem*, pp. 5–8.

Committee that the Council decided to postpone prosecutions until the next year. To avoid such a situation in future the Council ordered the Committee to devolve all individual cases to the Supreme Court.<sup>63</sup> Sessions of the Supreme Court were connected with assemblies of the National Council, with the sessions normally taking place once a year, in October and November. The Supreme Court solved not only the Committee cases but also appellations from the circuit courts.<sup>64</sup> All judges of the circuit belonged to the judicial composition of the Supreme Court. They were supposed to make decisions in the name of God, with honor and honest intentions.<sup>65</sup> The basic full bench in a case was four judges with a grand jury.<sup>66</sup> Anybody who wanted to take his cases to the Supreme Court had to pay the common treasury 6% of the value of the claim. Witnesses who did not obey the court summons were obliged to pay 10 dollars to the party who may have taken benefit from their testimony. Another payment was 50 cents per day from each witness who testified, money which was collected for the party who lost the trial. The rest of the money from the payment was given to the National Treasury.<sup>67</sup> The first session of the Supreme Court ran from 9 to 25 October 1823. During the session the court deliberated on 21 cases, out of which 13 cases were about debts, three compensation, two fraud and one each concerned a stolen hug, license to settle, emission and larceny.<sup>68</sup> Over the thirteen years of its existence the Supreme Court of the Cherokee Indian solved nearly 246 cases. Most charges were civil cases concerning: bigamy, larceny, robbery, land issue of Arkansas immigrants, illegal sale of 'spirit drinks',<sup>69</sup> debt cases, illegal employment of American citizens in the Cherokee country and the return of the river ferry.<sup>70</sup> The Supreme Court heard the cases of not only normal citizens but also important chiefs. In 1826 the Supreme Court commended Chief Path Killer to share with James Hughes the ownership of the river ferry.<sup>71</sup> The Court worked continuously until 1835, when the Cherokee were exiled from their homeland.<sup>72</sup>

General analyses of the Cherokee court system would be meaningless without discussion of court procedure and the criminal code. Judicial power is one of the significant parts of state power among the citizens of the country. When the state was able to perform judicial power it had internal sovereignty. Under the law passed on 8 November 1822 judges were responsible for preparing and saving the transcripts and evidence from each case they solved.<sup>73</sup> To help them in this work,

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<sup>63</sup> V. O. King, *op. cit.*, p. 102.

<sup>64</sup> *Ibidem*, p. 145.

<sup>65</sup> *Ibidem*.

<sup>66</sup> H. T. Malone, *op. cit.*, p. 83.

<sup>67</sup> *Ibidem*.

<sup>68</sup> *Ibidem*, p. 83.

<sup>69</sup> Alcohol.

<sup>70</sup> H. T. Malone, *op. cit.*, p. 83.

<sup>71</sup> *Ibidem*, pp. 83–84.

<sup>72</sup> G. S. Woodward, *op. cit.*, pp. 145–146.

<sup>73</sup> "Cherokee Phoenix" 1828, No. 8, Vol. 1, p. 1.

the National Council in 1825 established a court police made up of a marshal and sheriff.<sup>74</sup> Judges, provided with security by the court policemen, were obliged to use in their court a new law, passed by the Council, and dispose of the traditional code. For example under the new law abused or raped women could postulate for the offender a punishment of 50 lashes on the bare back and the cutting off of his left ear. On the occasion of the second conviction the punishment was a hundred lashes and removal of the other ear, and the third conviction resulted in execution. In the case of wrongful accusation the woman was punished by 25 lashes to the bare back.<sup>75</sup> The National Council also passed the same civil law as contract law and the procedure of repayment of debts and civil execution.<sup>76</sup> To explain the influence and significant role of the constitution in Cherokee society it is important to emphasize the transformation of the legal procedure after this major act was passed. The year after the constitution was in force, the National Council passed the rules of legal procedure in the circuit court. According to the new law the country was divided into two circuits, in which the circuit court would proceed. In each circuit court sat two judges elected by the National Council, with no division in cognition between them; both were working on civil and criminal cases. They only presided over major cases like murder, rape or larceny. This system was similar to the American system of criminal procedure, as illustrated by murder cases. When the sheriff was informed of homicide he secured the scene of the crime and notified the incident to the judge, and then decided whether to arrest a suspect. On the first day of the trial the sheriff chose 24 men, from which the defendant selected the 12 members of jury. The duration of the court trial was limited to 5 days. In a situation where the jury's decision was contrary to the law or obvious facts the trial was repeated by the judge. After the correct verdict the court clerk secured all court documents and sent them to the Supreme Court.<sup>77</sup> Murders caused by effect or accident were not punished at all; other homicides were punished by the death penalty, carried out five days after the sentence. Perpetrators of robbery or larceny were punished by lashing and fines. The law from November 1828 also regulated the rendition of court sentences.<sup>78</sup> Contrary to some statements about the lack of Cherokee legal practice alleged in the colonial period, Samuel Worcester wrote in his letters published in the *Cherokee Phoenix*: "as far as my knowledge reaches,<sup>79</sup> abidance to the law is on a high level of efficiency".<sup>80</sup> To sum up, before the enactment of the constitution the Cherokee had an effective legal system and a well-organized court

<sup>74</sup> "Cherokee Phoenix" 1828, No. 11, Vol. 1, p. 1.

<sup>75</sup> "Cherokee Phoenix" 1828, No. 12, Vol. 1, p. 1.

<sup>76</sup> "Cherokee Phoenix" 1828, No. 13, Vol. 1, p. 1.

<sup>77</sup> "Cherokee Phoenix" 1829, No. 45, Vol. 1, p. 1.

<sup>78</sup> *Ibidem*.

<sup>79</sup> During his visit in Cherokee Country he visited almost every region.

<sup>80</sup> Samuel Worcester letter to Mr. William. S. Coodey, written 15 March 1830, published in "Cherokee Phoenix" 1830, No. 3, Vol. 3; *New Echota Letters, contributions of Samuel A. Worcester to the Cherokee Phoenix*, ed. J. F. Kilpatrick, A. Gritts Kilpatrick, Dallas 1968, p. 78.

structure. The government was sovereign on the Cherokee land, had full control of society, and was acclaimed by the whole of society.

The two final steps in the Cherokee transformation were two laws: first, the 1822 act forbidding private persons and individual chiefs from negotiating with the US government on land cession. In support of this law it was said that all land belonged to the nation, not to individuals.<sup>81</sup> Connected with this bill was the act of 1825 under which the National Council took over the ownership of the whole lands and public buildings in Cherokee Country.<sup>82</sup> The Principal Chief could not sign any cession treaty with foreign governments without approval of the National Council.<sup>83</sup> The Cherokee nation was also the exclusive owner of all minerals found in Cherokee ground, especially gold, silver, copper or coal. Explorers of the new deposit got one quarter of the profit from each new main.<sup>84</sup>

In the middle of 1825 the Cherokee tribe was ready to think about its own constitution and creation of the first demarcated Indian state, but the elders and chiefs decided to pass several new laws, which better prepared society for such significant changes. The Cherokee were a young nation learning how to cooperate on the national level under written law. The National Council made unceasing changes in administrative organization, but it not had been necessary to make them under the constitution. It was necessary to change the legislative procedure in the National Council and Committee; from 1825, before major bills like criminal and civil code were passed in both Houses a quorum was needed. Another substantial change concerned the social policy of the state. Until 1825, each citizen of the Cherokee Nation who had the capacity to return the money within six months and be underwritten by two honorable men could receive from the National Treasury a maximum 500-dollar loan. The recipient was obliged to pay 6 percent tax on the loan.<sup>85</sup>

As well as changing the legal system and administration of the country, the Cherokee modified their culture too. In 1825 the National Council passed another important law: a new tax for financing the National Academy, the opening of a national print office in New Echota and the publication of a national newspaper, the *Cherokee Phoenix* referred to above.<sup>86</sup> Finally in November the foundation act of the new capital of the Cherokee state, New Echota, was passed. The capital was built on the same place where the beloved town of Chota had stood. The bill envisaged the construction in the capital of public buildings such as the Supreme Court and National Council headquarters.<sup>87</sup> A further investment in cultural changes was the foundation of schools in Cherokee country. From 1808 the town council started in-

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<sup>81</sup> G. S. Woodward, *op. cit.*, p. 147.

<sup>82</sup> D. H. King, *op. cit.*, p. 101.

<sup>83</sup> G. S. Woodward, *op. cit.*, p. 150.

<sup>84</sup> *Ibidem*, p. 150.

<sup>85</sup> *Ibidem*, pp. 150–151.

<sup>86</sup> *Ibidem*, pp. 143–144.

<sup>87</sup> *Ibidem*, pp. 151–152.

viting missionaries to teach children in the religious or town school. The town offered financial support to such schools. In 1826 there were eighteen schools, in which as of 1821 children had been learning also how to read and write in the Cherokee language. This was possible thanks to Chief Sequoya, who invented the Cherokee alphabet. The National Council also founded the National Cherokee Seminary as a high school. Sequoya's invention allowed the government to publish laws not only in English but also in Cherokee.<sup>88</sup>

At the end of 1826 the National Council and Principal Chief decided that it was time for a major move, and passed the constitution of the Cherokee Nation. On 13 October 1826 the National Council and Committee enacted a resolution on convoking a constitution assembly the following year. According to the act each district elected three from ten delegates to the convention. The right to vote at the *viva voce* was held only by free men with Cherokee origin. Districts were divided into two or three circuits in which a voting house was appointed. The resolution indicated ten candidates from each district; for example John Ross was in first place in the Chickamauga district, or John Ridge was fifth in the Coosewaytee district.<sup>89</sup> The election was in May 1827, and the first meeting of the constitution convent took place on 4 August the same year. Before the debate about the constitution had been initiated, the assembly stressed the sovereignty of the Cherokee Nation by not allowing the American government to build a water canal on a Cherokee river.<sup>90</sup>

The Cherokee National Constitution was enacted at the assembly of the National Council on 26 July 1827, and published in English and Cherokee in the *Cherokee Phoenix* in February<sup>91</sup> and March<sup>92</sup> 1828.

The Cherokee constitution had one significant part which should be stressed at the beginning: the Bill of Rights. Under this regulation, Cherokee individuals and American citizens had a right to: possession of land, freedom of religion and trial by jury. Slaves and blacks were not allowed to possess land.<sup>93</sup> Nevertheless, from the creation of the Cherokee state power-sharing was enforced as the major rule of the legal system.<sup>94</sup>

The first Indian constitution comprised a preamble and six articles, divided into sections. In the preamble we can read that this constitution was enacted under the guard of the Ruler of the Universe to guarantee the Cherokee Nation protection of common welfare and liberty.

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<sup>88</sup> *Ibidem*, p. 143.

<sup>89</sup> *Laws of the Cherokee Nation adopted by the Council at various periods*, Tahlequah 1852, pp. 73–76.

<sup>90</sup> D. Champagne, *op. cit.*, p. 138.

<sup>91</sup> "Cherokee Phoenix" 1828, No. 2, Vol. 1, p. 1, art. IV and V.

<sup>92</sup> "Cherokee Phoenix" 1828, No. 3, Vol. 1, p. 1, art. VI.

<sup>93</sup> D. Champagne, *op. cit.*, p. 140.

<sup>94</sup> G. S. Woodward, *op. cit.*, p. 155.



The constitution established justice and rule for future generations.<sup>95</sup> Generally the constitution established the definite borders of the Cherokee country, without the possibility of changing them. All land in the limits set in section one was managed by the sovereign and legal government of the Cherokee Nation. According to section two, entire territories belonged to the nation. Citizens were awarded the right to possess and improve land, but not to ownership. The right of occupancy was countered by the prohibition of selling one's land, and especially prohibited was selling the right to Cherokee land to the American government and citizens. Members of the tribe who had lived there previously and now wanted to come back had to obtain a patent of selling from the General Council.<sup>96</sup> The power-sharing mentioned above was described in article two. Legislative power was exercised by distinct branches: the Council and Committee. The Committee and the Council constituted together the General Council of the Cherokee Nation. A particular district sent to the Committee two representatives and to the Council three delegates. The voting took place in each second year, counting from 1828. Only free Cherokee male citizens aged at least 18 could vote. Each free man of Cherokee maternal descent aged over 21 years, with the exception of Negro slaves, had the right to be elected.<sup>97</sup>

Sections 8 to 10 considered the rights and duties of members of the Committee and Council. Particular Houses chose from their representatives special clerks to coordinate the sessions. The new law also established the rules of disciplinary measures for members who broke the law. At the first session the elected members took an oath of loyalty and honesty in their work.<sup>98</sup> Under article 4 section 5 all civil servants in the Cherokee state were bound by the rules of the constitution and Cherokee law.<sup>99</sup>

The General Council held exclusive rights to deal in external affairs, especially with the government of the USA and all foreign countries. However, the National Council was responsible for treaty negotiation.<sup>100</sup> The disciplinary procedure, which could be initiated only by the Committee, was regulated in detail, but accusation was the domain of the Council. Financial matters were also put under the consideration of the Committee; all other legal propositions could come from both Houses.<sup>101</sup> The Constitution implemented a prohibition of enactment of the law with retrospective effect or to restrict contract law. International treaties were equated with the law enacted by the Cherokee government.<sup>102</sup>

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<sup>95</sup> *Constitution of the Cherokee Nation...*, p. 1.

<sup>96</sup> *Ibidem*, pp. 1–5.

<sup>97</sup> *Ibidem*, pp. 6–9, 11.

<sup>98</sup> *Ibidem*, p. 10.

<sup>99</sup> *Ibidem*, p. 17.

<sup>100</sup> *Ibidem*, p. 12.

<sup>101</sup> *Ibidem*.

<sup>102</sup> *Ibidem*, pp. 12–13.

Executive power was the domain of the Principal Chief. He was elected by the General Council for four years by unanimous vote. Candidates for Principal Chief had to be Cherokee citizens aged over thirty-five.<sup>103</sup> He was responsible for convocation of the General Council as a prime minister and the guardian of law and order in the state. Each new bill or act before entering into force had to be signed by the Principal Chief, but he could enter a protest to the law. One of the most important duties was visiting districts once every two years to get to know the problems of the local people.<sup>104</sup> He was also responsible for external relations but he acted through agents and delegates the Principle Chief, who acted through agents and delegates. It was the exclusive right of the Principal Chief to convoke the council as an executive government. Both Houses sent their delegates to council, three from each.<sup>105</sup>

The Cherokee Constitution also regulated the finances of the state. The National Treasurer was elected by the Principal Council for two years. He was responsible for allocation and official settlement of the money which accumulated in the treasury. Only the Principle Chief had the right to administrate public money.<sup>106</sup>

Article five of the Cherokee Constitution regulated the judicial power in the new state. Justice administration was exercised by the Supreme Court, circuit courts and local courts invoked by the General Council. Judges were independent and irremovable during their four-year term. Two out of three judges in the Supreme Court had to agree to pass the sentence. Criminal cases were in the hands of the Supreme and circuit judges. The sentences were announced in the name of the Cherokee Nation.<sup>107</sup> Section fourteen of article five regulated the rights of the defendant, whereas section fifteen contained the principles of respect of private ownership and human rights.<sup>108</sup> Nobody, who did not believe in any god could be the clerk in Cherokee state.<sup>109</sup> Also, under sections 8 to 10, Cherokee citizens had guaranteed economical and sociological rights.<sup>110</sup>

The Cherokee constitution was the first Indian written constitution. The Cherokee tribe chose this path to save their nationality, identity and land. When the American Revolution was over, the time of creation of the American dream of big state followed, the Cherokee living on rich soil where gold was found were an obstacle to American citizens. What bother the most american official lwas fact that the legal path to displace the tribe was closed by court rule. From this point of view the Cherokee won the battle of independence and sovereignty of their tri-

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<sup>103</sup> *Ibidem*, pp. 14–15.

<sup>104</sup> *Ibidem*, pp. 16–17.

<sup>105</sup> *Ibidem*, pp. 18–19.

<sup>106</sup> *Ibidem*, p. 19.

<sup>107</sup> *Ibidem*, pp. 20–22.

<sup>108</sup> *Ibidem*, p. 23.

<sup>109</sup> *Ibidem*, pp. 24–25.

<sup>110</sup> *Ibidem*, p. 26.

be. They created an effective state, governed by legal authority. The main process of transformation took only 20 years. It is amazing how in such a short term the tribal society became a democratic state. The development of this people was not a freak event, but a process considered carefully by the whole nation. It is widely agreed that the Cherokee constitution is to some degree similar to the constitution of the USA, but most of its regulations had sources in tribal tradition. The Principle Chief or the National Council were placed in the strong ancient culture of this tribe. Also, the foundation of the capital in the same place as the beloved town of Chota had been emphasized the influence of the past. From the legal point of view the Cherokee Nation was able to self-govern and maintain a self-sufficient existence. The whole nation supported the transformation, they participated in the voting and governance of local society. In fact the Cherokee were wealthy people in the 19th century, and trade developed along with farming and mine production. Education was at a high level, and the national treasury full. The only flaw in this well-oiled machine was the lack of a well-trained army to protect the borders from US invasion and betrayal of a small group of people. The Cherokee believed too strongly in the letter of law, and this is why they lost their battle. Few people under the command of Major Ridge signed the cession treaty in 1835. The National Council and Principal Chief John Ross had never ratified this treaty, but this was a great pretext for the US government to expel the Cherokee Nation from their homeland. They were given a few hours to pack and the army pushed them onto the 'Tears Trail', during which about 7000 Cherokee died. Perhaps surprisingly, those who survived soon started building a new state on land in Oklahoma.



Piotr Michalik

## CHARTER OF MARYLAND AS AN EXAMPLE OF PROPRIETARY COLONIAL CHARTER

Independent of the fact that in the beginning the character of English colonialism, was more of a private trade and colonization enterprise, although colonization efforts were to a greater or lesser degree subject to the control of the Crown. A legal means of that control that at the same time was a tool stimulating the development of trade and settlement were royal charters. They were of strictly feudal character, as they meant transfer of sovereign rights of the monarch to the beneficiary of his or her charter. Depending on the type of person who the charter was issued for, two basic types were distinguished: corporate and proprietary.<sup>1</sup> Both these models were used, while establishing English colonies in America. And although it was a corporate charter that held the historical priority, majority of the 13 colonies were formally associated on the power of proprietary charters.<sup>2</sup>

In the Middle Ages, municipal, merchant, and craftsmen charters, had the power to shape the social and economic face of England. They ensured participation in the *iura regalia*, reserved for the monarch, to corporations – cities, merchants companies, and guilds, and were practically tantamount to monopoly on the given form of economic activity, limited only to a certain location or specific conditions. What is more, these charters awarded corporations with certain sovereign powers, related to the character of their operation, as for example, the right of the guild to

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<sup>1</sup> P. L. Kaye, *The Colonial Executive Prior to the Restoration*, “Johns Hopkins University Studies in Historical and Political Science” 1900, ser. 18, No. 5–6, p. 8.

<sup>2</sup> *Ibidem*, pp. 3 and 7–8.

punish the workers subjected to its laws.<sup>3</sup> In the case of maritime trade, the importance of the charter was the greater, as international trade was inseparably bound to foreign policy that greatly influenced the safety and security of merchants and success of their operation. The specific character of foreign trade, and especially its high costs, enforced financial cooperation of merchants who, on the grounds of personal relations, or the aforementioned fellowships and brotherhoods, joined their capitals into trade corporations, which led to the establishment of the famous trading companies. In the early modern times, the English Crown was too weak, and even more importantly too poor, to conduct independent overseas trade activities. At the same time, the Crown was lively interested in such an activity, mostly for fiscal but also for political and strategic reasons. The only practical, as it turned out later also the best, means to achieve these goals was control and simulation of activity of own merchants through legal formalization of their operation in the charters of incorporation they were issued.<sup>4</sup>

The evolutionary character of the transition from the mediaeval merchant charter to the modern incorporation charter allows only a conventional definition of the latter half of the 16th century as the beginning of the period when the English Crown incorporated first overseas trading companies, whose legal form was akin to that of contemporary corporations.<sup>5</sup> Established in 1357, the fellowship of merchants of the city of York, namely, The Merchant Adventurers of York, dealt with trade with the Netherlands and Germany, even though it had a trading license from King Edward III, it obtained the status of a legally incorporated company only in 1578, which proves the fact that already at that time such a state as was required to conduct large scale overseas trade.<sup>6</sup> It is also a fact that from the incorporation of the Muscovy Company in 1555 to the incorporation of the East India Company in 1600, the Crown issued more than 10 charters for overseas trading companies.<sup>7</sup> Divided on the grounds of legal bases concerning their operation and incorporation, these fall into three categories.

The first and historically oldest was the already described regulated company, based on the model of merchant fellowship. The second category was the company that offered a transitory form between the regulated company a joint-stock company, namely the semi-joint-stock company. Maintaining the legal form of a regulated company, it allowed bringing together the members' capitals to cater for the needs of a specific enterprise, which allowed conducting more extensive and more risky operations. A representative of this type was for, example, the East India Company.<sup>8</sup> The last

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<sup>3</sup> *Ibidem*, p. 9.

<sup>4</sup> Ch. M. Andrews, *The Colonial Period of American History. The Settlements*, New Haven 1936, Vol. 1, pp. 42–44.

<sup>5</sup> H. C. Hockett, *The Constitutional History of the United States 1776–1826*, New York 1955, pp. 5–7.

<sup>6</sup> Ch. M. Andrews, *op. cit.*, Vol. 1, p. 29.

<sup>7</sup> E. P. Cheyney, *European background of American history 1300–1600*, New York 1961, pp. 86–92.

<sup>8</sup> Which in 1650 changed its constitution to *joint-stock company*.

and most modern category was the joint-stock company operating along principles akin to those governing today's joint-stock companies. It was incorporated by a royal charter that awarded the company with a specific trade monopoly, and also a certain scope of sovereign competence much broader than in the case of regulated companies. The members shareholders of the company not only were not bound to prove their trading competence, but would often not deal with trade as such at all. Hence they were frequently representatives of the aristocracy, the Privy Council, and the court, who ensured the company with the appropriate support from the Crown. Both the trading activity and the sovereign powers of a company were vested in the hands of the governing body, whose means of association, operation, and control were regulated in the royal charter. Among the 16th century companies, this was the form of incorporation of the Muscovy Company and the Levant Company established in 1592.<sup>9</sup>

A joint-stock company was best fit to undertake and conduct major trading enterprises, the more so if they were connected to colonizing activity that required vast financial outlay and firm support if not involvement on behalf of the Crown. This is why this very legal form was employed for the first major trade and colonization attempts undertaken in the latter half of the 16th century.<sup>10</sup> It is to be emphasized that in the period in question, besides the companies that were incorporated by legal charter, both trading, and trading and colonization activity was also undertaken by non-formal fellowships and partnerships that in fact operated on the basis of joint capital but were represented before the Crown by natural or legal persons, being their members, also to avoid the costly procedure of incorporation.<sup>11</sup> These groups had their share in the financing of individual colonization and trading missions, as for example the expeditions of Sir Humphrey Gilbert and Sir Walter Raleigh.<sup>12</sup> It was, however, only the project undertaken by a joint-stock company with the full support from the Crown, namely so-called London Company the First Virginia Company, incorporated by King James I on April 10, 1606, that inaugurated the lasting presence of the English in the New World by establishing Jamestown in 1607.<sup>13</sup>

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<sup>9</sup> Ch. M. Andrews, *op. cit.*, Vol. 1, p. 41.

<sup>10</sup> Priority belongs to Muscovite Company, whose charter awarded it the right to take possession of the discovered territories and hold jurisdiction over them, even though the practical operation of that company was of strictly trading nature. A good example of endeavours to carry out colonising activity was the unsuccessful expeditions organised in the years 1577–1578 by the Company of Cathay (China) founded in 1576 under the influence of Martin Frobisher's discoveries on Baffin Island; see: S. Grzybowski, *Polityka kolonialna Tudorów i pierwszych Stuartów*, Wrocław 1970, pp. 63–68 and 106–107.

<sup>11</sup> Ch. M. Andrews, *op. cit.*, Vol. 1, pp. 41–42.

<sup>12</sup> See: below, p. 5.

<sup>13</sup> The Charter of James I produced on that day was issued simultaneously for two companies: the First Company, with shareholders from London, and the Second Company, with shareholders from Bristol, Exeter, and Plymouth (hence known as the Plymouth Company). The Charter allowed the London Company the sole right of settlement on the shores of North America lying from 34 degrees north to 38 degrees north, and joint settlement of the land from 38 degrees north to 41 degrees north together with the Second Company (Plymouth) on the condition that the settlements of the two companies are at least 100 miles apart. *The First Charter of Vir-*

The historical roots of the proprietary charter date back to the days of William the Conqueror. Following the system of marches, that is border counties, introduced by Charles the Great (Charlemagne) to protect the borders of the state from external threats, William developed such territories in England, awarding them with the status of County Palatinates.<sup>14</sup> The most important of those were the County of Chester, protecting the Welsh border, and the County of Durham, protecting the Scottish border.<sup>15</sup> Due to its strategic importance, palatinates were the most independent of all the fiefdoms of the Crown, as the sovereignty of the Count Palatine, modeled on royal, was to guarantee efficient discharge of the defensive function. Following the royal appointment, whose beneficiary in the case of the County of Chester was a lay lord (usually an earl) and in the case of Durham – its prince bishop, palatinate was a fully sovereign *quasi regnum* formerly bound to England only with the oath of loyalty that its proprietor swore to the king. Not a king himself, the palatine had at his disposal full royal power (*iura regalia*). He laid down the law, had his own parliament and developed the judiciary system and administration, with the right to establish offices that were part of the *curia regis*. He said the right to deal capital punishment and pardon all and any crimes, including high treason. He collected taxes, waged and conducted wars, owned a mint, and chartered corporations. At the same time, in his sovereign power, he had the right to establish and practice subinfeudation within the palatinate, and collect his feudal dues from them. Moreover, he also benefited from the natural riches and own domain<sup>16</sup>.

The already mentioned fact that the Count Palatine, remaining a vassal of the King of England, had no obligations towards him other than the oath of fealty, requires special emphasis. A distinctive expression of that was not appointing representatives of County Palatinates to the House of Commons, although the Count Palatine himself had the right to sit in the House of Lords. On the other hand, although Chester and Durham were excluded from the direct royal jurisdiction, be it judiciary or fiscal, they did remain a part of the *Regnum Angliae*, and owed their special status to the royal charter. This charter was limited by Edward the first by issuing in 1290 the Statute of *Quia Emptores*, which practically devoid also the palatines from the power of subinfeudation. A major limitation of the power of the

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*ginia; April 10, 1606, [in:] The Federal and State Constitutions Colonial Charters, and Other Organic Laws of the States, Territories, and Colonies Now or Heretofore Forming the United States of America*, ed. F. Newton Thorpe, Washington DC 1909 (further: Thorpe).

<sup>14</sup> P. L. Kaye, *op. cit.*, p. 9.

<sup>15</sup> These two together with the Lancaster Palatinate established in the 14th century have formally retained their status to this day. Still, they were not the only palatinates. During the reign of King William the Conqueror, also the County of Kent was elevated to this rank, to break the resistance of its inhabitants against the Norman invasion. See: D. R. Bates, *The Character and Career of Odo, Bishop of Bayeux (1049/50–1097)*, “Speculum” 1975, Vol. 50, No. 1, pp. 1–20.

<sup>16</sup> H. L. Osgood, *The Proprietary Province as a Form of Colonial Government*, “The American Historical Review” 1897, Vol. 2, No. 4, pp. 644–645.



uncrowned kings<sup>17</sup> came in turn during the reign of Henry VIII, who, strengthening the central power deprived both the palatinates of court (and Chester also of parliamentary) immunity, which led to the gradual formal and legal unification with other lands of the monarchy, which was finally effected at the time of Restoration.<sup>18</sup>

It does not require arguing that constructed so, a model of managing a province (being a political anachronism in England) could find application in the English colonizing effort. Its basic advantages included combining the interest of the Crown with the interests of potential investors: future lords palatines. The latter, with the view to such a broad scope of competence and immunity, were quite eager to involve their greater or lesser fortunes in highly risky colonizing enterprises. The Crown, on the other hand, especially having had its hopes dashed by the Virginia company, counted on the success of settlement conducted under the powerful and determined command that was to be guaranteed by the royal power of the Lord Palatine. Not without significance were also the personal and courtly connections between the monarch and his future overseas vassals. Therefore it should come as no surprise that it was the palatinate that became the model solution for colonial charters of the proprietary type issued by the Stuarts.<sup>19</sup>

During the Tudors the form of county of palatinate was not used directly in the proprietary individual English colonization enterprise, yet the form of fealty was adopted for all the legalization of the charters. Already in the letters patent issued by King Henry VII in 1496 for a Venetian of the name John Cabot, the King stated that “the aforesayd Iohn and his sonnes, or their heires and assignee may subdue, occupy and possesse all such townes, cities, castles and isles of them found [...] as our vassals, and lieutenants”.<sup>20</sup> Similarly, the charter received by Humphrey Gilbert in 1578 to colonize Newfoundland was not only the first document to put more profound stress on the questions of settlement than on those related to trade, but it also determined that all the territories assumed by Gilbert “shall for ever bee holden by the said Sir Humfrey, his heires and assignee of us, our heires and successors by homage”.<sup>21</sup> Similarly, Walter Raleigh’s charter of 1584, which allowed the establishment of the first English settlement in America on Roanoke Island, uses precisely the same expression as the 1578 charter.<sup>22</sup> Each of the grants mentioned above, entitled the beneficiary to hereditary feudal ownership of the discovered and captured territories together with “the right, royalties, franchises, and iurisdictions” of land

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<sup>17</sup> This is how Anthony Bek, Bishop of Durham (1284–1311) defined his political position in the Kingdom of England: “There are two kings in England, namely the Lord King of England, wearing a crown in sign of his regality and the Lord Bishop of Durham wearing a mitre in place of a crown, in sign of his regality in the diocese of Durham.” Quoted after: *The North East England History Pages*, [www.northeastengland.talktalk.net](http://www.northeastengland.talktalk.net).

<sup>18</sup> H. L. Osgood, *op. cit.*, pp. 645–46. Durham finally lost its parliamentary immunity in 1675.

<sup>19</sup> Re. the entire paragraph, see below for more.

<sup>20</sup> *The Letters Patents of King Henry the Seventh Granted unto Iohn Cabot and his Three Sonnes, Lewis, Sebastian and Sancius for the the Discoverie of New and Unknown Lands*, [in:] Thorpe.

<sup>21</sup> *Letters Patents to Sir Humfrey Gylberte June 11, 1578*, *ibidem*.

<sup>22</sup> *Charter to Sir Walter Raleigh: 1584*, *ibidem*.

and sea.<sup>23</sup> There were, however, significant differences between Cabot's charter and those issued to Gilbert and Raleigh. First of all, in the first the Crown reserved for itself the right to a fifth of all revenues received from the enterprise, which was a great burden levied on the beneficiary of the charter.<sup>24</sup> In the latter case, the document mentions only a fifth part "of all the oare of golde and siluer, that from time to time [...] shal be there gotten and obtained".<sup>25</sup> This last provision would now appear in all the successive proprietor charters, as the only real although hypothetical burden laid on the beneficiary of the appointment.<sup>26</sup> The charters of 1578 and 1584, far more extensive than the one of 1496, developed further the questions related to the territorial sovereignty of the charter's beneficiary, including his position of the feudal proprietor of the conquered territories, and wielding the "full power to dispose thereof, and of euery part in fee-simple or otherwise, according to the order of the lawes of England".<sup>27</sup> These and other differences prove that the search for a formal model for regulation of the activity focused more on settlement than trade brought the royal charters closer to the form used for the palatinate county. As far as the first English individual trade and colonial charters, as e.g. Cabot's, were modeled on their Portuguese and Spanish counterparts<sup>28</sup>, during the reign of Elizabeth Tudor and the first Stuarts, the Crown assumed a model of the proprietary charter based on own and local feudal construction that was to provide an efficient regulatory measure that at the same time promoted colonial activity in America.

In 1622 the massacre of colonists in Jamestown sealed the fate of the Virginia Company. The Royal commission summoned to explain the internal situation within the corporation discovered numerous irregularities. That led to the Company's dissolution by King James I in 1624. Even though the Virginia Company was the first to maintain the continuity of English settlement in America, its operation brought numerous losses and was decidedly negatively appraised by the Crown.<sup>29</sup> This, naturally, did not lead to the withdrawal of the royal support for colonial endeavors of corporations.<sup>30</sup> Nevertheless, even before the liquidation of the Vir-

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<sup>23</sup> *Ibidem*.

<sup>24</sup> *The Letters Patents of King Henry...*, *ibidem*.

<sup>25</sup> *Charter to Sir Walter Raleigh...*, *ibidem*.

<sup>26</sup> In the case of Elizabethan charters, when the idea of discovering gold or silver in the New World was treated very seriously, such a provision was a fairly realistic burden. After the successive failures to find precious metals (especially in Virginia), it must have been treated more formally.

<sup>27</sup> *Charter to Sir Walter Raleigh...*, *ibidem*.

<sup>28</sup> See: S. Grzybowski, *op. cit.*, pp. 35–37.

<sup>29</sup> *Ibidem*, pp. 231–232; M. J. Rozbicki, *Narodziny narodu. Historia Stanów Zjednoczonych do 1861 r.*, Warszawa 1991, pp. 63–64. Primarily due to the fact that during the 17 years of its existence, approx. 4800 settlers died either in Virginia or on their way to the colony, with the four worst years claiming 3500 lives.

<sup>30</sup> In 1620, the Second Virginia Company of Plymouth transformed into the Council for New England on the power of King James' charter: "Councill established at Plymouth, in the County of Devon for the planting, ruling, ordering, and governing of New-England, in America" – *The Charter of New England: 1620*, [in:] Thorpe. Thanks to its corporate endowments, the following were founded: Plymouth (in 1620) and Massachusetts (in 1630), the sounders of the latter received another charter directly from King Charles I in 1629: *The Charter of Massachusetts Bay: 1629*, [in:] Thorpe. Also Georgia was established by a direct

ginia Company, the royal initiative turned rather towards the individual investors, who were furnished by King James with proprietary charters. Beginning with the year 1621, when the Scottish noble, William Alexander, Earl of Stirling, received an appointment for the Province of Nova Scotia,<sup>31</sup> the Stuarts created successive ‘overseas palatinates’ of which the most important were Maryland; Maine granted in 1639 to Sir Ferdinand Gorges;<sup>32</sup> New York, granted to James, Duke of York in 1664;<sup>33</sup> Carolina bestowed to Sir Robert Heath in 1629,<sup>34</sup> and after declaring this charter null and void, to eight other proprietors in 1663<sup>35</sup>; and Pennsylvania granted to William Penn in 1681.<sup>36</sup> Similarly, the beneficiaries of the royal charters, both individual and corporate ones, transferred some of their territories (together with the proprietary rights) to establish new colonies, as was the case with the New Hampshire granted to Captain John Mason by the Council for New England in 1622 and 1629;<sup>37</sup> New Jersey, awarded by the Duke of York to Sir George Carteret, and John Lord Berkeley, in 1664;<sup>38</sup> and Delaware established by William Penn in 1701 from the territories that were given to him in 1682 by the king’s brother<sup>39</sup>. Only a few of the proprietary charters were *expresis verbis* based on the model of palatinate county, and specifically on that of the Durham bishopric. Among those mentioned above, only those issued for Maryland, Maine, and Carolina were of the Durham type. And it is the first of these that may be considered a model charter of the proprietary type.

On June 20, 1632, the *Charter of Maryland* signed by King Charles the first was accompanied by the Great Seal of the Realm.<sup>40</sup> The recipient of the monarch’s

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corporate endowment in 1732: *Charter of Georgia: 1732*, [in:] Thorpe, which in the case of Connecticut, New Haven, and Rhode Island was only indirect: G. B. Tindall, D. E. Shi, *Historia Stanów Zjednoczonych*, Poznań 2002, pp. 76–77.

<sup>31</sup> The text of the charter is available in: J. G. Bourinot, *Builders of Nova Scotia*, Toronto 1900, pp. 104–121.

<sup>32</sup> It was a Durham type charter. *Grant of the Province of Maine: 1639*, [in:] Thorpe. Already in 1622, Gorges together with John Mason received from the Council for New England the territories of future Maine and New Hampshire: *A Grant of the Province of Maine to Sir Ferdinando Gorges and John Mason, esq., 10th of August, 1622*, *ibidem*.

<sup>33</sup> *Grant of the Province of Maine: 1664*, *ibidem*. In this charter, King Charles II endowed his brother with the territories lying between the rivers Connecticut and Delaware, where the Dutch New Netherlands still existed at that time. Later in the year, the Dutch colony was conquered by James and renamed to New York: M. J. Rozbicki, *op. cit.*, p. 145.

<sup>34</sup> It was a charter of the Durham type: *Sir Robert Heath’s Patent 5 Charles 1st; October, 30 1629*, [in:] Thorpe.

<sup>35</sup> They were: Henry Hyde, 2nd Earl of Clarendon, George Monck, 1st Duke of Albemarle, William Craven, 1st Earl Craven, John Berkeley, 1st Baron Berkeley of Stratton, Anthony Ashley Cooper, 1st Earl of Shaftesbury, Sir George Carteret, Sir William Berkeley, and Sir John Colleton. This was another of the Durham type charters: *Charter of Carolina, March 24, 1663*, [in:] Thorpe.

<sup>36</sup> *Charter for the Province of Pennsylvania, 1681*, *ibidem*.

<sup>37</sup> *Grant of Hampshire to Capt. John Mason, 7th of November, 1629*, *ibidem*. See also footnote No. 32.

<sup>38</sup> *The Duke of York’s Release to John Lord Berkeley, and Sir George Carteret, 24th of June, 1664*, [in:] Thorpe.

<sup>39</sup> *Charter of Delaware – 1701*, *ibidem*.

<sup>40</sup> *The Charter of Maryland June 20, 1632, Introduction*, by E. C. Papenfuse, [in:] *Archives of Mary-*

will was the “right Trusty and Wellbeloved Subject *Cecilius Caluert Baron of Baltimore* in our Kingdom of *Ireland*, Sonne and heire of Sir *George Caluert*” who, following an intention of his father decided “to tranfport an ample Colony of the *English* Nation unto a certaine Countrey [...], in the parts of *America*”.<sup>41</sup> Both the very concept of establishing Maryland and acquisition of the proprietary charter from the Crown were not the work of its first proprietor and beneficiary of the charter, Cecil (in fact Cecilius) Calvert, but his father, George Calvert, 1st Baron Baltimore, who devoted considerable part of the five decades of his life to colonial plans.

George Calvert was born around 1580 in Kipling, Yorkshire. His father was Leonard Calvert, a gentleman of Flemish origin, and mother – Alice (Grace) Calvert née Crosland. George began his walk of life, appropriate for a provincial gentry, by entering Trinity College at Oxford University. It was also in Oxford that having completed his studies, he received the degree of Bachelor of Arts in 1597, and an honorary degree of Master of Arts in 1605. At that time he married his first wife, Anne Mynne of Hertfordshire. The fruit of that union were 11 children.<sup>42</sup> In 1606 Calvert became one of private secretaries to the Earl of Salisbury. His tasks, initially those of a translator, and later also of the advisor, included primarily dealing with Spanish and Italian correspondence. Simultaneously, beginning with 1608, he held the post of the Clerk of the Crown of Assize and Peace in Ireland. Besides that, Calvert was elected to the House of Commons, where in the years 1609–1611 he represented the town of Bossiney in Cornwall.<sup>43</sup> It is highly probable that it was then that, making use of his double role and playing that of the intermediary, Calvert came close to James I. Thus, without giving up the entirely his activity in the House of Commons,<sup>44</sup> Sir George focused on the career of a courtier and a clerk. In 1613, he acquired a very important post of the Clerk of the Privy Council, and four years later became knighted by King James.<sup>45</sup>

In 1619, Sir George was nominated one of the two Secretaries of State, and it was him, and not Robert Naunton, who was allowed to use the prestigious title of ‘the Principall Secretary’. This post gave him a vote in the Privy Council, and guaranteed regular contact with the king and influence on entire internal and for-

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*land Online*, <http://aomol.net/html/index.html> (further: AMO), Vol. 549, pp. 5–7. The Latin original of the Charter, that must have been in the possession of the Calvert family, has been lost to us. London’s Public Record Office holds the original of the patent roll (Patent Roll 8 Charles I, Part 3, No. 2594. PRO). Its scan is available from AMO, Vol. 3, pp. 3–12. Currently the oldest known English copy of the charter is the manuscript found in the documents of Sir Edmund Andros, Governor of Maryland in the years 1693–1694 (the so-called Houghton manuscript). It consists of two parts written at different times, of which at least one dates back to the first two years of the colony. Currently, the document is stored in the Maryland Hall of Records. The text of the Houghton manuscript is identical to the oldest known printed English copy of the charter coming from a pamphlet entitled *A Relation of Maryland, 1635* and promoting Maryland. Its scan may also be accessed from AMO, Vol. 657, p. 61–83, which is where the quotes used in this paper come from.

<sup>41</sup> *The Charter of Maryland*, [in:] AMO, Vol. 657, p. 61.

<sup>42</sup> *The Encyclopaedia Americana International Edition*, Danbury–Connecticut 1993, Vol. 3, p. 127.

<sup>43</sup> *The Concise Dictionary of National Biography*, Oxford 1992, Vol. 1, p. 443.

<sup>44</sup> He will return there in the years 1621–1624, this time for Yorkshire.

<sup>45</sup> *The Columbia Electronic Encyclopaedia*, Sixth Edition, Columbia University Press 2003.

ign policy.<sup>46</sup> The king's grace had also a material dimension, as the new secretary soon received a land endowment in Longford in Ireland, an annual pension of £ 1000, and a share in royal tax on the silk trade, which allowed him to purchase (in 1619) his home town of Kipling and build there the Kipling Hall: a residence of the Calvert family proper for his status.<sup>47</sup>

Almost at the same time as his career of a clerk began, Calvert took to his second life's passion, namely, trade and colonization. Already in 1609 he became a shareholder of the Virginia Company (of London) and the East India Company, and in 1622 also a member of the Council for New England.<sup>48</sup> Being the Secretary to the Earl of Salisbury who at that time managed English colonial policy, and later participating personally in its development, Calvert had the opportunity to acquire the experience necessary to conduct his overseas enterprise. Besides all these, he was still involved in Irish matters, which the English considered a particular 'training ground' for their colonization policy.<sup>49</sup> His tenure of an important position at the court and acquisition of necessary funds, made it possible for Calvert to go forth with his colonization plans.

In 1620, Sir George purchased from a William Vaughan fragment of the coast of Newfoundland. A year later, he sent there a 12-man-strong group of settlers under Captain Edward Wynne. The go behind this expedition was to establish the Ferryland Colony that would become the trans-shipment and trading base for the flourishing Newfoundland fisheries. Initially, everything was developing favorably, which Wynne reported to Calvert not without an undisguised joy.<sup>50</sup> Therefore, Sir George officially appealed to the king to be granted the south-eastern part of Newfoundland.<sup>51</sup> King James granted him his wish, and on April 4, 1623, Calvert received the proprietary charter for the Province of Avalon, encompassing the territory of today's Avalon Peninsula.<sup>52</sup> The choice of such a name, of highly symbolic character, points at the religious intentions of the founder.<sup>53</sup> Of greater importance, however, is the content of the charter listing in detail the immense prerogatives of the proprietor of the new colony. In line with the provisions of the charter, Calvert

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<sup>46</sup> G. E. Aylmer, *The King's Servants. The Civil Service of Charles I 1625–1642*, New York 1961, p. 16.

<sup>47</sup> J. D. Krugler, *English and Catholic. The Lords Baltimore in the Seventeenth Century*, Baltimore & London 2004, p. 39.

<sup>48</sup> *Ibidem*, pp. 33–34, S. Grzybowski, *op. cit.*, p. 237.

<sup>49</sup> N. P. Canny, *The Ideology of English Colonization: From Ireland to America*, "The William and Mary Quarterly" 1973, 3rd Ser., Vol. 30, No. 4, pp. 575–598.

<sup>50</sup> *Edward Wynne Letter to George Calvert, 28 July 1622*, [in:] *Newfoundland Discovered, English Attempts at Colonization, 1610–1630*, London 1982, pp. 195–198.

<sup>51</sup> *Permanent Settlement at Avalon*, [in:] *Colony of Avalon Foundation. The Partnered Project of the Newfoundland and Labrador Heritage Web Site, Memorial University of Newfoundland*, [www.heritage.nf.ca/avalon/history/settlement.html](http://www.heritage.nf.ca/avalon/history/settlement.html). Today, the town of Calvert is situated in the area.

<sup>52</sup> *Charter of Avalon*, [in:] J. T. Sharf, *History of Maryland*, Baltimore 1879, pp. 34–40.

<sup>53</sup> Avalon was the legendary name of Glastonbury, England's earliest centre of Christian worship, according to the legend of King Arthur, founded by Joseph of Arimathea: H. Kirke, *The First English Conquest of Canada*, London 1908, p. 150.

and his successors as “true and absolute Lords and Proprietaryes” of the Province of Avalon could “have, exercise, use and enjoy the same [rights], as any Bishop of Durham, within the Bishopprick, or County *Palatine* of Durham, in our Kingdome of England, hath at any time heretofore had, held, used, or enjoyed, or of right ought, or might have had, held, used, or enjoyed”.<sup>54</sup> In this way, the Charter of Avalon, being the first of the Durham type charters, became directly the model for all the later chapters of the type, and primarily for the Charter of Maryland, which repeated nearly all the provisions of the preceding document.<sup>55</sup>

Calvert owed the acquisition of his overseas palatinate to the favors of King James I, who in this way appreciated the faithful and long-term services of his secretary. On the other hand, Sir George had to cover the costs of the entire enterprise, investing in Avalon, anything between £ 20 000 and 25 000. The value of this investment is a testimony to the strong involvement of Calvert and to the volume of expected revenues, which were to originate primarily from managing Newfoundland fisheries.<sup>56</sup> Yet the establishment of Avalon was not only a trading and financial investment, but was also the result of the religious and political persuasions of Sir George who hailed from a Catholic family. Although at the age of 12, he officially joined the Church of England, it was a move fostering his future career rather than result of religious beliefs.<sup>57</sup> After the outbreak of the Thirty Years’ War, Calvert as the Secretary of State became involved in the English–Spanish alliance intended by James I, which could lead to a great improvement in the situation of the persecuted English Catholics, the so-called Recusants.<sup>58</sup> During the negotiations conducted in the years of 1621–1624, that were to lead to the marriage of Charles, the Prince of Wales to Infanta Maria, Calvert as a specialist in Spanish affairs, prepared, among other documents, legal acts to guarantee the recusants the concessions promised by London to the Spanish Crown.<sup>59</sup>

Should we trust the testimony of a Polish magnate, Jerzy Ossoliński, Sir George was already a Catholic<sup>60</sup> while still conducting ‘the Spanish match’, even though in 1624 as a Member of Parliament, he swore the oath of supremacy.<sup>61</sup> Thus

<sup>54</sup> *Charter of Avalon...*, p. 35.

<sup>55</sup> For this reason I am not analysing its provisions here.

<sup>56</sup> *Sir George Calvert and the Colony of Avalon*, [in:] *Colony of Avalon Foundation...*; M. J. Rozbicki, *Transformation of the English Cultural Ethos in Colonial America: Maryland 1634–1720*, Warszawa 1985, p. 22.

<sup>57</sup> J. D. Krugler, *op. cit.*, pp. 29–30.

<sup>58</sup> For a more comprehensive analysis, see: R. Gardiner, *Prince Charles and the Spanish Marriage: 1617–1623. A Chapter of English History*, London 1869.

<sup>59</sup> The Spanish demanded that a catholic bishop of Madrid demanded also twenty priests an own public chapel, and excluded from the English jurisdiction, are present by the future Queen. Besides, the children of Charles and Mary were to be brought up by the Queen, in accordance with her religion to the 12th year of age. Moreover, immediate suspension of criminal laws against the recusants, and their abrogation by the Parliament within three years. G. Davies, *The Early Stuarts 1603–1660*, Oxford 1959, pp. 56–58. For further reading see footnote No. 102.

<sup>60</sup> J. Ossoliński, *Pamiętniki*, Wrocław 1952, pp. 131–132. Calvert ensured Ossoliński about this during the Polish magnate’s stay in London in 1621.

<sup>61</sup> J. D. Krugler, *op. cit.*, p. 64.

both for political and religious reasons, he counted on the success of the Spanish marriage, which could open before him a path to further career and also an opportunity to combine the future career with official conversion to Catholicism. The fiasco of the Spanish alliance, which – despite the expedition of Charles Stewart, the Prince of Wales, and George Villiers, 1st Duke of Buckingham to Madrid in the years 1622–1623 – was broken down by Habsburg unity,<sup>62</sup> was also a personal defeat for the Secretary of State. In 1624, Calvert was removed by Buckingham both from the matters of war with Spain demanded by the Commons, and from participation in marriage negotiations with France.<sup>63</sup> Faced with these, in January 1625, Sir George officially announced his conversion to Catholicism, and soon, without waiting for the oath of supremacy being applied to him, resigned from the office of the Secretary of State. His resignation, however, did not mean falling from the royal grace. In February, James made Calvert, a Peer of the Kingdom of Ireland, creating him the Baron of Baltimore, and let him retain his membership in the Privy Council.<sup>64</sup> Newly created 1st Baron Baltimore, would however break away from politics by a long way, and devoted himself to his colonial enterprise.

It is hard to say whether these were the hidden religious beliefs of Calvert that influenced his decision to establish the Avalon colony, which from its earliest days was designed to become a refuge for English Catholics should ‘the Spanish match’<sup>65</sup> be lost. Such a treatment of the colony by Baron Baltimore is far more probable after the year 1625. Moreover, it is a fact that the very extensive rights of the beneficiary of the Avalon Charter allowed him a fair degree of freedom in practicing the religion he confessed, and taking the persecuted Catholics into his protection. Some of them reached Avalon after Calvert’s conversion, and Baron Baltimore himself – as testified by the Anglican pastor in Ferryland, Erasmus Stourton – brought to the colony two priests who started the first Catholic mission in the British North America.<sup>66</sup> In the same year, Baron Baltimore, brought his entire family, together with his second wife, Lady Joan Calvert, to Avalon, with the intention to make Newfoundland his permanent residence.<sup>67</sup> These were the religious practices of the Calverts and their coreligionists that brought about the conflict with Stourton who, having been removed from the colony, went to Plymouth, where he made a highly detailed report denouncing Baltimore.<sup>68</sup>

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<sup>62</sup> G. Davies, *op. cit.*, p. 59.

<sup>63</sup> J. D. Krugler, *op. cit.*, p. 63. Commenced after the talks with Spain had been broken, the latter negotiations brought about the marriage of Charles I with the Catholic Henrietta Maria in 1625. J. Z. Kędzierski, *Dzieje Anglii 1485–1830*, Wrocław 1986, pp. 155–156.

<sup>64</sup> *The Concise Dictionary...*, p. 443; J. D. Krugler, *op. cit.*, p. 73.

<sup>65</sup> This assumption is justified by Stanisław Grzybowski, see: S. Grzybowski, *op. cit.*, pp. 236–238. Similarly, the name of the colony points at the same in a symbolic manner.

<sup>66</sup> *Sir George Calvert and the Colony of Avalon...; Erasmus Stourton Examination before the Justices of the Peace at Plymouth, 9 October 1628*, [in:] *Newfoundland Discovered...*, pp. 284–285.

<sup>67</sup> *Permanent Settlement at Avalon...*

<sup>68</sup> *Erasmus Stourton Examination...*

Independent of the religious questions, of key importance for the development of the young colony were its profitability, security, and natural conditions. Unfortunately, all these were not favorable for the colony's proprietor. Having incurred major expenditure,<sup>69</sup> failed to acquire the expected gains,<sup>70</sup> and repulsed the assault of French corsairs on the colony in 1628,<sup>71</sup> Baltimore admitted defeat to the severe climate of the Canadian shores<sup>72</sup>. In autumn 1629, he decided to move out from Avalon, leaving there only a group of fishermen and his agent.<sup>73</sup> This did not mean, however, that he would resign from his colonial plans. Together with his family and servants, Baron Baltimore moved south to Virginia. He counted on King Charles being equally magnanimous as King James, and grant him a new estate within his "Majesty's dominion of Virginia, where if your Majesty will please to grant me a precinct of land with such privileges as the King your father my gracious master was pleased to grant".<sup>74</sup> Yet it was also by the Chesapeake Bay that Sir George faced obstacles. Immediately on his arrival at Jamestown in October 1629, he ended a dispute on the oath of supremacy with the authorities of the colony. The report on that conflict submitted by the Governor of Virginia, John Pott, to the Privy Council suggests that, eager to remain in Virginia, Calvert sought a compromise, which however could not be reached.<sup>75</sup> With matters taking such a turn, Baron Baltimore refuse to swear the oath, and – forced to leave Virginia – returned to England.<sup>76</sup>

The successive defeat did not manage to break Calvert down. Being convinced that the climate of the Chesapeake Bay favors the settlement far better than the aura of the Newfoundland, he became strongly involved in the conclusion of his endeavor to settle in Virginia. However, with a view to previous conflicts on the grounds of religion, Baltimore turned to King Charles for a grant of the land lying south of the James River, as by that time they had not been settled.<sup>77</sup> The king, however, was unable to grant the wish of his Peer as the land Calvert appealed for had earlier been granted to Sir Robert Heath,<sup>78</sup> and also due to the stalwart opposi-

<sup>69</sup> See above, p. 10.

<sup>70</sup> Which was caused by a slump in Newfoundland fishing: *Sir George Calvert and the Colony of Avalon...*

<sup>71</sup> *George Baltimore to the King, 19 August 1629*, AMO, Vol. 3, p. 16.

<sup>72</sup> Who thus described it in a letter to Charles I: "I mett with greater difficultyes and encumbrances here which in this place are no longer to be resisted, but enforce me presently to quitt my residence, and to shift to some other warmer climate of this new world, where the wynters be shorter and lesse rigorous. [...] your Majesty may please to understand that [...] from the middst of October to the middst of May there is a sadd face of wynter upon all this land, both sea and land so frozen for the greatest part of the tyme as they are not penetrable no plant or vegetable thing appearing out of the earth untill it bee about the beginning of May, nor fish in the sea besides the ayre so intolerable cold as it is hardly to be endured." *George Baltimore to the King, 19 August 1629...*

<sup>73</sup> *Sir David Kirke and the Newfoundland Plantation*, [w:] *Colony of Avalon Foundation...*

<sup>74</sup> *George Baltimore to the King, 19 August 1629...*

<sup>75</sup> *Governor Pott and others to the Council, 30 November 1629*, AMO, Vol. 3, p. 16.

<sup>76</sup> J. D. Krugler, *op. cit.*, pp. 105–106.

<sup>77</sup> L. G. Carr, E. C. Papenfuse, *A Declaration of The Lord Baltimore's Plantation in Maryland. The Charter of Maryland*, AMO, Vol. 550, p. 12.

<sup>78</sup> *Ibidem*, p. 7.



tion from the authorities of Virginia. Stronger averse to Baltimore, the government of Virginia fought a fierce battle from 1629 to 1633 not to allow the Calverts on the shores of the Chesapeake Bay, and presented the King and the privy Council with any imaginable arguments against papists.<sup>79</sup> Nevertheless, in the spring of 1632, Charles agreed to grant Baron Baltimore the land situated south of the Potomac river. Fulfilling the wish of Baltimore, the new colony was named ‘the land of Mary’ (Mary land) to honor the catholic wife of the King.<sup>80</sup> Properly assessing the colonization competence of Calvert, the Stuart king supported his endeavors, primarily for the benefit of his own overseas estates, as the future Baltimore’s colony was to reinforce and expand the English influence over the American shores, being pitted against the Dutch New Netherland established south of the Delaware River by the Dutch West India Company in 1624.<sup>81</sup> Moreover, the memory of the faithful service of Calvert at the court of James I and the effort he undertook to carry out the decisions of the Charter of Avalon must have been not without significance for this decision.

The 1st Baron Baltimore died in London on April 15, 1632, leaving the fulfillment of his dream to his successor and eldest son, Cecil, 2nd Baron Baltimore and the First Proprietor of the Maryland Colony.<sup>82</sup> Following the provisions of the Charter of Maryland, Cecil Calvert received from Charles I a vast area of around 6 million acres of land, situated north of the Potomac River, and south-west of the Delaware River, covering the Delaware Peninsula and reaching approximately 250 km deep into the American continent.<sup>83</sup> As has been said, Sir Cecil received this territory on the rights of the Prince Bishop of Durham, “in free and common foccage, by fealty onely, for all feruices”.<sup>84</sup> Tenure in free and common socage was for the tenant the most advantageous form of tenure of all the forms of land endowments practiced at the time in England. It meant that the tenant’s duties towards his feudal overlord were limited solely to an annual rental, which could be of symbolic nature.<sup>85</sup> In the Charter of Maryland, this rental was defined as the duty to deliver two Native American arrows to Windsor Castle, on the first Tuesday after Easter, every year, and the right of the Crown to a fifth of the gold and silver mined, naturally, only in the case it has been found.<sup>86</sup> The charter itself emphasizes that the Calverts were not receiving their new province in any other feudal form, that is *in capite*

<sup>79</sup> *Documents relating to the Settlement of Maryland, 1629–1637*, AMO, Vol. 3, pp. 16–22.

<sup>80</sup> See footnote No. 63.

<sup>81</sup> E. C. Papenfuse, *op. cit.*, p. 4.

<sup>82</sup> *Will of sir George Calvert Baron Baltimore dated 14. Ap: 1632*, [in:] *The Calvert Papers. Maryland Historical Society Fund Publication*, No. 28, Baltimore 1899, Vol. 1, p. 48.

<sup>83</sup> M. J. Rozbicki, *Wirginia, Maryland i Karolina*, [in:] *Historia Stanów Zjednoczonych Ameryki*, t. 1: 1607–1763, Warszawa 1995, p. 67. I.e. equivalent to ca. 2 400 000 hectares.

<sup>84</sup> See above, pp. 10, 65–66.

<sup>85</sup> Ch. M. Andrews, *Our Earliest Colonial Settlements. Their diversities of origin and later characteristics*, New York, 1961, p. 147; for a more comprehensive analysis, see: J. Lawler, G. G. Lawler, *A Short Historical Introduction to the Law of Real Property*, Beard Books 2000, pp. 13–15.

<sup>86</sup> E. C. Papenfuse, *op. cit.*, p. 66.

and *by knight's service*<sup>87</sup> that they would find less beneficial, definitely because both these forms were used in the Charter of Avalon, and the King Charles' Charter granted Sir Robert Heath.<sup>88</sup>

Awarding Baltimore's colony the form of bishopric–palatinate emphasized the legal and feudal character of the entire undertaking. In line with the provisions of the Charter, Baron Baltimore, being the proprietor of entire Maryland, became the sole proprietor of the natural riches of his province, to the like of the monarchs' regale.<sup>89</sup> Besides this, within his estate, the Proprietary Governor had the right "to erect and incorporate" towns and villages, in which he could settle the colonists that he has brought from overseas.<sup>90</sup> To achieve this, the right of royal subjects to emigrate to Maryland together with the permit to have them shipped to America were clearly stated in the Charter.<sup>91</sup> Moreover, King Charles granted English citizenship on a one-off, conclusive basis to all residents of Maryland and their descendants, with all the resultant "Liberties, Franchises, and Privileges",<sup>92</sup> which was definitely very favorable for future settlers and for the development of the province itself.

Of special importance, however, was a privilege that was peculiar to Maryland and allowed Calvert to develop within his colony a feudal manorial system that was fully subjected to him.<sup>93</sup> Excluding the Calverts from the under the power of the Statute of *Quia Emptores* and other legal acts related thereto, King Charles awarded the proprietors of Maryland with "full and absolute licence, power, and authoritie [...] to erect any parcells of land within the Province aforefaid, into Mannors, and in every of the faid Mannors, to have, and to hold a *Court Baron*, with all things whatsoever witch to a *Court Baron* doe belong".<sup>94</sup> This immunity resulted in direct dependence of the beneficiary of the grant from Proprietor and not, as was the case in England, from the monarch<sup>95</sup>. This above was attested by the wording of the Charter that claimed that "Lord *Baltimore*, his heires and affignes" may award landed property to anyone who is "willing to take or purchase [...] in fee fimple, or fee taile, or for terme of life, or lives, or yeeres [...] by fuch feruices, cuftomes,

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<sup>87</sup> *Ibidem*.

<sup>88</sup> *Charter of Avalon...*, p. 35; *Sir Robert Heath's Patent 5 Charles 1st; October, 30 1629...* The Charter of Avalon envisaged a grey horse as a payment in kind, and the Charter of Carolina "one Circle of Gold formed in the fashion of a crowne", yet only in the case of the King's arrival at the colony. Of far greater importance, however, was the obligation of military service, contained in both the charters, and resulting from the "tenure by knight's service", which was excluded from the Charter of Maryland. For more information, see: J. Lawler, G. G. Lawler, *op. cit.*, pp. 4–11.

<sup>89</sup> *The Charter of Maryland...*, p. 64.

<sup>90</sup> *Ibidem*, p. 75.

<sup>91</sup> *Ibidem*, p. 70.

<sup>92</sup> *Ibidem*, p. 71.

<sup>93</sup> This privilege was not included in the Charter of Avalon, nor was it a part of Heath's Charter. Much like the Charter of Maryland, the two entitled the proprietors, only to grant awards, titles and honours, on condition that they will be "not fuch as are now ufed in England" – *Charter of Avalon...*, p. 38; *Sir Robert Heath's Patent 5 Charles 1st; October, 30 1629...*; *The Charter of Maryland...*, p. 75.

<sup>94</sup> *Ibidem*, p. 79–80.

<sup>95</sup> *Ibidem*, p. 5.

and rents, as fhall feeme fit to the faid now Lord *Baltemore*, his heires and affignes; and not immediately of Vs".<sup>96</sup>

Certainly, the above-mentioned privilege was based on a concept of organizing the colony's social and economic structure that would be based on aristocratic and feudal models.<sup>97</sup> Yet neither its form nor ideology are to be overestimated even if they continued to shape the social landscape of the 17th-century England.<sup>98</sup> The charter itself proves that its goal was the "the confervation of the peace, and the better government of thofe Parts", and in that spirit its clauses are to be construed.<sup>99</sup> Both Sir George and King Charles – being advocates of powerful authority based on personal feudal relations – could assume that a system of land endowments or grants would ensure the population, although the colony at first, and later – development and maintenance of internal order. The mechanism working in such a structure was simple, at least in theory. The Proprietor made large land endowments to wealthy settlers, at least ones who as younger sons of aristocracy were capable of a one-time investment on the other side of the ocean. Then, these landholders would in turn grant parts of their land to those of lesser wealth, and the process would continue further. All the beneficiaries of these endowments, together with their family and servants would populate the colony that – thanks to its quasi-feudal social structure – had the structure of power instantly organized and concentrated in the person of Baron Baltimore. Besides all these, such a system was to ensure the Calverts a continuous profit from the feudal rent.<sup>100</sup>

Baltimore's right to build the manorial system is the more understandable when one is examined it in the context of the function planned for Maryland, namely that of a refuge for the Catholics in the place of the abandoned Avalon.<sup>101</sup> It goes without saying that the Calverts were keen on making their coreligionist residents of Maryland. Yet at the time of incorporation of the colony, the number of recusants – primarily due to the administrative and fiscal repressions they suffered under Queen Elizabeth and King James – was no longer high, and they belonged mostly to the higher social strata that were capable of adapting themselves to the current conditions. For that reason, although Catholic nobility definitely desired an improvement of their political, social and religious situation, they were far from

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<sup>96</sup> *Ibidem*, p. 79. The "Tenure in fee simple" allowed free ownership of the property both *inter vivos* and *mortis causa*, while "fee taile" allowed hereditary ownership of the property, yet without the right of its transfer. The remaining is the right to temporary ownership. For a more comprehensive analysis, see: J. Lawler, G. G. Lawler, *op. cit.*, pp. 37, 73 and 82.

<sup>97</sup> J. D. Krugler, *op. cit.*, p. 126; L. B. Wright, *The Atlantic Frontier, 1607–1763*, Ithaca 1951, p. 65.

<sup>98</sup> M. J. Rozbicki, *Transformation of the...*, pp. 24nn. Rozbicki is right to note that in this place the provisions of the Charter diverged from the contemporary social and economic reality. This does not contradict the classical statement by Ch. Andrews that the 17th-century British society continued to be mentally feudal and aristocratic, and that what the beneficiaries of royal endowments transferred to America were the models of social and economic order in which they "were born and grew up": Ch. M. Andrews, *Our Earliest...*, pp. 142–145.

<sup>99</sup> E. C. Papenfuse, *The Charter of Maryland...*, p. 80.

<sup>100</sup> L. G. Carr, E. C. Papenfuse, *op. cit.*, p. 15; J. D. Krugler, *op. cit.*, p. 126.

<sup>101</sup> See above, p. 11 and below pp. 21–22.

being ready to embark on a risky and uncertain project of emigration overseas.<sup>102</sup> The manorial system, on the other hand, was capable of encouraging them to invest in estate on the other side of the ocean, by guaranteeing them an appropriate social status and a prominent place among the colony's authorities. This allowed the hope that the catholic character of the province could be maintained. Even with the view to the – after all, indispensable – inflow of Protestant population. The family, personal, and property ties between the Proprietary Governor and his future catholic vassals, which would thus be reinforced further, were certainly not without significance here. The Royal lawyer examining the document turned his critical attention to this very religious and personal character of the institution of land endowments in the Charter. He believed that the Charter should lead to the population of Maryland, by “persons of all sorts whatsoever different from the other Colonies in Religion Assertion or otherwise”.<sup>103</sup>

It should, however, not be forgotten that following the intentions of the Crown, the privileges of the Proprietor were necessary for him, especially “for the good government, and fiate of his Colony”.<sup>104</sup> Notably, it was to allow Calvert to endure the first, and definitely the most difficult, stage of the overseas enterprise. To this end, the Charter of Maryland awarded Baron Baltimore with “free, full, and absolute power” in the colony.<sup>105</sup> To ensure security of the province that could suspect raids of Native Americans,<sup>106</sup> and assorted “other enemies, pyrates and robbers”, the Charter granted Baron Baltimore with the right to recruit, possess, and train an army and navy that could be used to conduct war both on land and on sea.<sup>107</sup> Besides these, within his province, the Proprietor had the right “to build and fortifie Castles, Forts, and other places of strength”.<sup>108</sup> Such an extensive empowerment of the Calverts in military matters, that in fact, was subject to no control, must have raised controversies, especially in the neighboring Virginia. Moreover, they were understood as a potential threat to other English colonies in America.<sup>109</sup> However exaggerated these apprehensions seem to be, it is a fact that the Calverts did not flinch to resort to power in defense of their own interest.<sup>110</sup> Interestingly, while mak-

<sup>102</sup> W. W. Sweet, *The story of religion in America*, New York 1950, p. 77; H. G. Alexander, *Religion in England 1558–1662*, London 1968, p. 106; M. D. R. Leys, *Catholics in England 1559–1829. A social history*, London 1961, pp. 59–60.

<sup>103</sup> *Considerations upon the Patent to the Baron Baltimore dat: 20. Junij. Octavo. Car. [1632.]*, AMO, Vol. 3, p. 19.

<sup>104</sup> *The Charter of Maryland...*, p. 62.

<sup>105</sup> *Ibidem*, p. 67.

<sup>106</sup> The original uses the word ‘savages’.

<sup>107</sup> *Ibidem*, p. 73.

<sup>108</sup> *Ibidem*, p. 70.

<sup>109</sup> *Considerations upon the Patent to the Baron Baltimore dat: 20. Junij. Octavo. Car. [1632.]...*, p. 18: “It is inconvenient that the Baron Baltimore should have power to make peace or entertain warre with any att his [...] pleasure and soe to ingage all the rest of the English Colonies (which as to Strangers cannot bee distinguished the One Colonie from the other) by his [...] owne voluntary Acts which matter is of that Importance as concerns the utter ruine or essentiall safety of the whole English Plantation in all that Country of America”.

<sup>110</sup> Concerning the armed conflicts conducted by the Calverts, see e.g.: Ch. M. Andrews, *The Colonial*

ing it possible for this Peer to be protected from an external enemy, Charles I did not forget altogether about the internal dangers, as Baron Baltimore received “in cafe of Rebellion, Tumult, or Sedition, if any fhould happen (which God forbid)” the right to introduce martial law, both in the colony and at the sea.<sup>111</sup> As it was to become apparent later, this right was of great use for the Calverts, as these were the settlers of Maryland, who turned out to be a far more serious threat to their rule of Maryland than their neighbors, be they white settlers or Native Americans.<sup>112</sup>

Consistent with the Charter also the jurisdiction of Proprietor in the colony was absolute and free. Within its territory, Sir Cecil and his descendants could at their discretion nominate and dismiss judges and all the officers “for what caufes foever, and with what power foever, and in fuch forme, as to the faid now Lord *Baltmore*, or his heires, fhall feeme moft conuenient”.<sup>113</sup> Besides this, Baron Baltimore, wielded civil and criminal jurisdiction over the settlers, including the right to sentence to death “if it shall be needfull, and that the quality of the offence require it” and pardon.<sup>114</sup> It is worth noting here, that the Charter had clearly reserved the right and obligation of the colonists to conduct and resolve all cases “criminall as civill” and any other whatsoever within the territory of Maryland, and before its courts that dealt judgment in the name of Proprietor.<sup>115</sup> This provision was further reinforced by the fact that in line with the privileges of the Durham Palatinate, the Charter did not provide for appealing from the decisions of Maryland courts to the metropolis. This privilege was not only the subject of discussions at its issuance,<sup>116</sup> but also later remained the object of complaints of the colony’s residents against its conformity to the “liberties and priviledges off the freeborne Subjects of England”.<sup>117</sup>

The question of the jurisdiction turns attention to the crucial problems of application of law and its establishment in the colony. For the Charter vested Baron Baltimore with the “free, full, and absolute power [...] for the good and happy government of the faid Province, to ordaine, make, enact, and under his [...] feales to publifh any Lawes whatsoever, appertaining either unto the publike State of the faid Province, or unto the private utility of particular Perfons”.<sup>118</sup> This provision, awarding the Calverts with the legislative power in the colony, was nevertheless

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*Period...*, Vol. 2, pp. 274nn.

<sup>111</sup> *The Charter of Maryland...*, p. 74.

<sup>112</sup> See: T. B. Riordan, *The Plundering Time: Maryland in the English Civil War, 1642–1650*, Maryland 1997.

<sup>113</sup> *The Charter of Maryland...*, p. 68.

<sup>114</sup> *Ibidem*, pp. 67–68.

<sup>115</sup> *Ibidem*, p. 68.

<sup>116</sup> *Considerations upon the Patent to the Baron Baltimore dat. 20. Junij. Octavo. Car. [1632.]...*, p. 18: “There is intended to bee granted the Liberties of a County Palantine and there is noe exception [...] of the last appeale to the King as by lawe ought to bee”.

<sup>117</sup> *Proceedings of the Council of Maryland, 1667–1675*, AMO, Vol. 5, p. 140.

<sup>118</sup> *The Charter of Maryland...*, p. 67.

limited in a fairly significant manner, both in the content of laws and in the form of its establishment. Firstly the Charter clearly stated that the statutory laws in Maryland were to be “confonant to reafon” and, which is most important, “be not repugnant or contrary, but as neere as conueniently may be, agreeable to the Lawes, Statutes, Cuftomes, and Rights of this our Kingdome of *England*”.<sup>119</sup> The formula of being ‘consonant to reason’, which also appears in other proprietary charters,<sup>120</sup> was understood as the fundamental principle of common law limiting every arbitrary power and subjecting it to the abstractly conceived ‘ancient constitution of England’ as the form of higher law, and thus superior to that established by the King or the Parliament.<sup>121</sup> The second proviso, on the other hand, leaves no doubt that, according to the wording of the Charter, Proprietor, should make laws in line with the principles of common and statute law binding in England.<sup>122</sup> The provisions of the Charter did not envisage any form of control of Baltimore’s acts from the metropolis, as in line with the privileges of the Durham Bishopric, they were exempt from the obligation to obtain royal approval.<sup>123</sup> Consequently, the limitations described above were only of no more than formal nature, especially with respect to the fact that before 1660, when King Charles II established the Committee of the Privy Council for colonial matters, no systematic control of colonial legislation had been conducted.<sup>124</sup>

Of far more realistic significance was the provision concerning the procedure of legislation, which stated that the Calverts were to make laws “with the aduife affent and approbation of the Free-men of the faid Province, or the greater part of them, or of their delegates or deputies”.<sup>125</sup> Being in fact a limitation of Baltimores’ absolute power, this was in line with the English parliamentary tradition, and even though neither King Charles nor the Calverts were ‘partisans’ of this tradition, they could not afford to reject it.<sup>126</sup> Even though the Charter required that the Proprietor receives only advice and approbation “for the enacting of the faid Lawes”, it actually made the legislative competence of the Calverts depend on the convention of the assembly of residents enjoying the full rights of the colony.<sup>127</sup> It is true that the Charter of Maryland, envisaged the right of Proprietor to issue sovereign ordinan-

<sup>119</sup> *Ibidem*, p. 69.

<sup>120</sup> *Charter of Avalon...*, p. 36; *Sir Robert Heath’s Patent 5 Charles 1st; October, 30 1629...*

<sup>121</sup> A. Bryk, *The Origins of Constitutional Government. Higher law and the source of judicial review*, Kraków 1999, pp. 171. The concept was formed by Edward Coke early in the 17th c.

<sup>122</sup> E. B. Russell, *The Review of American Colonial Legislation by the King in Council*, New York 1976, p. 17.

<sup>123</sup> P. P. Reinsch, *English Common Law in the Early American Colonies*, New York 1970, p. 40.

<sup>124</sup> E. B. Russell, *op. cit.*, pp. 16 and 19.

<sup>125</sup> *The Charter of Maryland...*, p. 67.

<sup>126</sup> It is found in all the charters of the proprietary type: *Charter of Avalon...*, p. 36; *Sir Robert Heath’s Patent 5 Charles 1st; October, 30 1629...*; *Grant of the Province of Maine: 1639...*; *Charter for the Province of Pennsylvania, 1681...*

<sup>127</sup> *The Charter of Maryland...*, p. 67. The term *free-men* denotes these settlers who besides personal freedom enjoyed a distinct property status that entitled them to participate in the Assembly, in person or by proxy.

ces, which were a type of minor regulations,<sup>128</sup> these could only be introduced when it “will be necessary to apply a remedy, before the Free-holders [...] can be assembled to the making of Lawes”.<sup>129</sup> These ordinances also had to be in line with the laws of England, and moreover could in no way violate the rights of the province’s residents, their lives, and property.<sup>130</sup> This last proviso was clearly directed against the Baltimores’ potential attempts to exclude the settlers from participation in lawmaking that the Charter granted them, by limiting the legislation of the colony to ordinances only.

It would be hard to fail to perceive the significance of the clause on the participation of the colony’s residents in lawmaking. It was capable of encouraging the transfer of the conflict between the King and the Parliament, which at the time was escalating in England, to Maryland. This in fact took place soon after the first settlers arrived at the colony in 1634. In February 1635, Leonard Calvert, Sir Cecil’s younger brother who he appointed the governor, summoned to St. Mary’s the first General Assembly of colonists. The assembly passed a collection of laws on its own, and turned for their approval to Baltimore<sup>131</sup> who refused it, as following the interpretation of the Charter favorable to himself, he believed that it was a competence of the assembly only to approve or reject the drafts of laws, prepared by the Proprietor.<sup>132</sup> This is why in the *Commission* of 1637, Baltimore, instructed his brother that during the successive general Assembly, planned for January 1638, he made it clear to the settlers that “We doe dissassent unto all the Laws by them heretofore or at any time made within our Said Province, as We doe hereby declare them to be voyd”.<sup>133</sup> As an answer to Baltimore’s position, the settlers gathered in St. Mary’s rejected the body of laws presented by the governor, and passed themselves a few scores of bills, in which they regulated the most burning matters of the province. Subsequently, these bills were sent to England for approval of Sir Cecil.<sup>134</sup> Despite the requests and explanations received from his brother,<sup>135</sup> Proprietor maintained his position, which brought about an impasse in the lawmaking that was one of the elements of complex conflict between Baltimore and the group of prominent colonists, at whose lead stood the most important of the colony’s ba-

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<sup>128</sup> *Ibidem*, p. 70.

<sup>129</sup> *Ibidem*.

<sup>130</sup> *Ibidem*, p. 71.

<sup>131</sup> B. C. Steiner, *Beginnings of Maryland 1631–1639*, “John Hopkins University Studies in Historical and Political Science” 1903, Ser. 21, Nos 8–9–10, p. 55. Even though there are no files preserved from that Assembly, *An Act for the attainder of William Cleyborne* of 1638 quotes to criminal regulations approved by that Assembly that were *de facto* in force in Maryland until 1638: *Proceedings and Acts of the General Assembly January 1637/8–September 1664*, AMO, Vol. 1, p. 23.

<sup>132</sup> Ch. M. Andrews, *The Colonial Period...*, pp. 300–302.

<sup>133</sup> *Commission to Governor Leonard Calvert and Council, 15 April 1637*, AMO, Vol. 3, p. 50.

<sup>134</sup> *Bacon’s Laws of Maryland*, AMO, Vol. 75, p. 22.

<sup>135</sup> *Gov. Leonard Calvert to Baron Baltimore, 25 April 1638*, [in:] *The Calvert Papers...*, Vol. 1, pp. 189–190.

rons, Thomas Cornwallis.<sup>136</sup> Finally, Calvert gave up and approved the Assembly's first bills in 1640,<sup>137</sup> only to award the Assembly with the right "for the consulting preparing & enacting of wholesome Lawes and Ordinances for the govern' & well ordering of the said Province & people within the same" two years later.<sup>138</sup> In this matter, Maryland gained the formal and legal basis to the gradual shaping of representative government.

Another group all the privileges that the Stuart was ready to grant his 'colonial entrepreneur' were ones of trading and fiscal nature. It goes without saying that they were of fundamental importance to the success of the entire undertaking and for Proprietor himself. Thus, so that all the future residents of Maryland "may be the rather encouraged to undertake this expedition, with ready and cheerefull minds", they received the permit to transport and import all the goods they needed from the metropolis to the colony. In line with the provision of the Charter, this license could not be withdrawn or limited, and the only burden imposed on the trade it covered could be the generally binding fees and customs on specific goods.<sup>139</sup> The clause that entitled the settlers to export all the goods acquired in Maryland to the metropolis, the lands of the British Empire, and also to the friendly foreign states.<sup>140</sup> Moreover, to make the practical execution of the awarded trading licenses possible, the Calverts received the exclusive right to establish ports, and all other maritime trading centers in Maryland, and also to furnish them with appropriate charters.<sup>141</sup> Another expression of the palatine sovereignty of the Proprietor was the right to levy and collect "the Cufomes and Subfidies" in all the "Ports, Harbours, and other Creekes and places" of Maryland.<sup>142</sup> This was a result of taking over due prerogatives of the Crown, which – in line with the immunity of the county palatinate – renounced all the rights to levy any "Impofition, Cufome, or other Taxation, Rate, or Contribution" on the residents of Maryland, their property – both estate and chattels, and also on all and any goods loaded and unloaded in the colony.<sup>143</sup>

The collection of privileges granted in the Charter of Maryland, would be incomplete without the religious prerogatives granted to the Proprietor. Although few, they require special examination due to the specific circumstances of foundation and origin of Maryland, as already mentioned.<sup>144</sup> In line with the mentality

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<sup>136</sup> P. P. Reinsch, *op. cit.*, p. 41; L. G. Carr, *The First Expedition to Maryland*, AMO, Vol. 551, p. 18–20; *Gov. Leonard Calvert to Baron Baltimore, 25 April 1638...*, p. 190.

<sup>137</sup> *Bacon's Laws of Maryland...*, pp. 24 and 26.

<sup>138</sup> *Proceedings of the Council of Maryland, 1636–1667...*, p. 110.

<sup>139</sup> *The Charter of Maryland...*, pp. 72–73.

<sup>140</sup> *Ibidem*, p. 76.

<sup>141</sup> *Ibidem*, pp. 76–77. An exception to this rule made by the Crown was the reservation of the right of English subjects to fish in the maritime waters of Maryland, and also to use its shores for drying and salting fish and other necessary fishing-related activities.

<sup>142</sup> *Ibidem*, p. 78.

<sup>143</sup> *Ibidem*, p. 81.

<sup>144</sup> See above, pp. 11 and 16.



prevalent in those times and colonial rhetoric, one of the main goals in the establishment of colonies was the Christianization of overseas territories and the pagan peoples inhabiting them. This goal was defined in the Charter as the “laudable and pious zeale for the propagation of the Chrifian Faith”.<sup>145</sup> At the same time, however, which is fully understandable, in none of its clauses did the Charter point at the Catholic character of the Calverts’ enterprise. On the contrary, one of the first privileges it mentioned was awarding the Baltimores the rights of founders and protectors of the Church of England. The Charter granted Sir Cecil and his descendants the “Patronages and Aduowfons of all Churches, which (as Chrifian Religion fhall encreafe within the Countrey) [...] fhall happen hereafter to bee erected: together with licence and power, to build and found Churches, Chappells, and Oratories [...] and to caufe them to be dedicated, and confecrated according to the Ecclefiastical Lawes of our Kingdome of *England*”.<sup>146</sup>

It would be difficult to deny that the provision of the Charter mentioned above seems to be slightly grotesque in the light of the catholic persuasion of the Calverts being a generally known fact. Yet it becomes fully understandable, if we construe it not as a law, but a duty of the Proprietor.<sup>147</sup> Awarding the Baltimores the right to patronage over the church in Maryland was one of the basic elements of the proprietary Charter.<sup>148</sup> Yet the analogous provisions set in the Charter of Avalon and in Sir Robert Heath’s Charter do not include a clause about executing them in accordance with the laws of the Church of England. The clause in question was added during the editing of the Charter of Maryland and was to be repeated also in the later charters.<sup>149</sup> The reason why this change was made must have been the conversion of Sir George, which justified the need of direct protection of the Church of England in Maryland.<sup>150</sup> An additional argument that proves that the right to erect churches in the colony was in fact a duty of the Proprietor to erect them in accordance with the laws of the Church of England is found in the final clause of the Charter of Maryland, in which Charles I makes a reservation that the interpretation of the Charter may in no way violate “Gods Holy and Truely Chrifian Religion, or the alleageance due unto Vs, Our Heires and Succeffors”.<sup>151</sup> It goes without saying that the notion of ‘the truly Christian religion’ is to be construed as the Anglican religion, and that consecration of a church in the Catholic rite would stand in direct breach of this.<sup>152</sup> At the same time public practi-

<sup>145</sup> *The Charter of Maryland...*, p. 62.

<sup>146</sup> *Ibidem*, pp. 64–65.

<sup>147</sup> G. Petrie, *Church and State in Early Maryland*, “John Hopkins University Studies in Historical and Political Science” 1892, Ser. 9, No. 4, p. 7.

<sup>148</sup> Its is found in all Durham type charters: *Charter of Avalon...*, p. 35; *Sir Robert Heath’s Patent 5 Charles 1st; October, 30 1629...*; *Grant of the Province of Maine: 1639...*; *Charter of Carolina, March 24, 1663...*

<sup>149</sup> *Ibidem*.

<sup>150</sup> J. D. Krugler, *op. cit.*, p. 124.

<sup>151</sup> *The Charter of Maryland...*, p. 83.

<sup>152</sup> G. Petrie, *op. cit.*, p. 10.

cing of Catholicism, legally forbidden in England, would in any case be a breach of allegiance to the King.<sup>153</sup>

It may be assumed that, in the light of the interpretation of the Charter's provisions most favorable for the Baltimores, that the Proprietor, should he decide to a public erection of a church in his colony, was made to do this only "according to the Eccleiafticall Lawes of our Kingdome *of England*". This clearly proves that even though Charles I trusted the Calverts, faced with the strong opposition of the authorities of Virginia<sup>154</sup> and with full awareness of the cooperation of Sir Cecil with the English Jesuits,<sup>155</sup> the King did not fail to provide a formal guarantee to secure his overseas dominion against the potential spread of papism. On the other hand, the Crown in fact did not frustrate the Catholic character of Maryland, whose Proprietor abided by the religion-related provisions of the Charter of Maryland, and did not introduce any public religion in the colony.<sup>156</sup>

It was through the religious privileges, that Charles I integrated the sovereignty of Proprietor, awarding him the rights altogether greater than he himself enjoyed in his kingdom. Moreover, the King made sure that the competences of his Lord Palatine should not be reduced. The Charter of Maryland clearly states that should "any doubts or queftions fhould arife, concerning the true fence and underftanding of any word, claufe, or fente(n)ce contained in this Our prefent Charter, Wee will ordaine, and command, that at all times, and in all things, fuch Interpretation bee made thereof [...] as fhall be judged moft aduantageous, and favourable unto the the faid now Lord *Baltemore*, his heires and affignes".<sup>157</sup> Even though this clause was limited by the already mentioned proviso of the unassailability of the Anglican faith and fealty to the monarch, it would be hard not to agree with the royal lawyer who thus recapitulated his objections concerning the Charter issued by the King "Royall and Imperiall Power which is granted in all things of Sovraignty saving only Allegiance to the Kings Majestie, to the Baron Baltimore to bee granted to any Person in ffee Simple in Places soe remote [...] may prove very dangerous [...] the Baron Baltimore's Colonie haveinge power in themselves to manage their Affaires free from all dependancy on others".<sup>158</sup>

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<sup>153</sup> J. D. Krugler, *op. cit.*, p. 125. See also above, footnote 102.

<sup>154</sup> See: *Documents relating to the Settlement of Maryland, 1629–1637...*

<sup>155</sup> L. G. Carr, *op. cit.*, p. 12; J. T. Ellis, *American Catholicism*, Chicago 1962, p. 24.

<sup>156</sup> J. D. Krugler, *op. cit.*, p. 124: The issue of the Calverts' religious policy in Maryland goes beyond the subject scope of this paper.

<sup>157</sup> *Charter of Maryland...*, pp. 82–83.

<sup>158</sup> *Considerations upon the Patent to the Baron Baltimore dat: 20. Junij. Octavo. Car. [1632.]...*, p. 19.

Michał Chlipała

## THE BLUES, THE GRAYS, AND THE RED & WHITES

*To my Parents*

United States armed forces are today among the most powerful armies in the world. Currently only the active personnel of land forces of United States Army exceeds 519 000 soldiers.<sup>1</sup> added on top of that should be the hundreds of thousands of people who form the National Guard, Army Reserve, State Defense Forces, and United States Navy, Air Force and Marine Corps. The fact that the American expenditure on Armed Forces reaches approximately 3% of the GDP makes US armed forces have at their disposal state-of-the-art weapons and equipment, which lets them fulfill their mission in different parts of the world. Voices may sometimes be heard that the USA should not co-operate with the United Nations in the framework of peace missions, as “UN forces conducting peacekeeping missions neither are nor will in the nearest future be a factor increasing the military value of the American army”.<sup>2</sup>

Much like the American nation, the American army was shaped by immigrants. As far as the participation in the Revolutionary War is fairly well described and documented (although the mass American audience would probably remember only the French, while the memory about volunteers hailing from other nations is in the best case scanty), the effort of soldiers of all the nations of the Old Continent who fought in wars conducted by the USA at later times is, least to say, hardly known at all.

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<sup>1</sup> After [www.siadapp.dmdc.osd.mil/personnel/MILITARY/ms1.pdf](http://www.siadapp.dmdc.osd.mil/personnel/MILITARY/ms1.pdf), as of late August 2007.

<sup>2</sup> S. Groves, *Sity pokojowe ONZ a wartość bojowa sił zbrojnych USA*, “Międzynarodowy Przegląd Polityczny” 2007, No. 3, pp. 63–66.

The situation in Poland is not dissimilar: while the participation of a few Polish officers in the War of 1776–1783 somehow made its way to general public awareness, the fact that large groups of Polish migrants, who moved to the US, participated in the Civil War remains known only to a small group of experts.

For reasons I shall try to explain below, this paper is not an attempt at a thorough definition of the entire Polish participation in the war between the North and the South. Nevertheless, I do hope that it shall grasp the reader's attention and at the same time provide a stimulus to undertake on research of the subject.

The title, naturally, makes reference to the popular monikers for the two opposing sides: "The Blues" soldiers of the Union, while "The Grays" Confederates. The Polish reader does not have to be told the "White-and-Reds" are.

### First Poles in American armed conflicts

The subject of the presence of Polish armed forces on the North American continent from the earliest days of its colonization is worth devoting a few words. As it is now, the first Poles arrived there already in October 1608, being part of a group of colonists who arrived at Jamestown, Virginia. They are mentioned by one of the colony's founders, Captain John Smith, in his book entitled *The Generale Historie of Virginia, New England and the Summer Isles with the names of the Adventurers, Planters and Governours*.<sup>3</sup> They were chiefly craftsmen: carpenters, the burners, and glassblowers, the last of these founded America's first glass works in Jamestown. Their first joint effort, in the capacity of the close-knit group, was not of military character, as they organized a strike protesting against being disallowed – as non English – to vote for the Virginia House of Burgesses. The protest ended in a success, Poles were awarded the right to vote together with the obligation to take young colonists for apprenticeship, so that the skills that the colony found useful, would not perish with the craftsmen.<sup>4</sup> The number of Poles was increasing and soon they were inhabiting also other settlements in Virginia. Despite the fact that they could hardly be called professional in military matters, together with other colonists, they were forced to fight off the attacks staged by e.g. indigenous peoples. The record's claim that the clashes of 1622, claimed, among other victims, the life of Mateusz Polak (Mathew a Polander) during one of the raids on settlements neighboring on Jamestown.<sup>5</sup>

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<sup>3</sup> B. Grzełoński, *Polacy w Stanach Zjednoczonych Ameryki 1776–1865*, Warszawa 1976, pp. 5–7. See also by the same author: *Wkład polskiej emigracji do cywilizacji amerykańskiej*, [in:] *Dzieje Polonii w XIX i XX wieku. Materiały XI Powszechnego Zjazdu Historyków Polskich w Toruniu*, ed. M. Drozdowski, Toruń 1974, pp. 48–57; A. Ławrowski, *Polacy w dziejach Stanów Zjednoczonych*, Warszawa 1977, pp. 5–7. In the English language, outstanding works on the subject were written by M. Haiman, *Polish Past in America 1608–1865*, Chicago 1974, pp. 3–20; J. A. Wyrtrwał, *Poles in American History and Tradition*, Detroit 1969, pp. 5–40.

<sup>4</sup> *Ibidem*.

<sup>5</sup> A. Ławrowski, *Polacy w dziejach...*, pp. 7; I. Rusinowa, *Za niepodległość Trzynastu Kolonii*, [in:]

Military ambitions, on the other hand, were in the mind of Daniel Liczko (Łyczko?), whose name has been preserved in the records as Litscho or Litchoe. One of the inhabitants of the Dutch colony near Amsterdam, Liczko or Łyczko arrived there before 1650 and the rank of the ensign in one of Dutch detachments that were stationed in the city. Soon after that, acting as Lieutenant of the City Garrison, he became famous as the owner of a highly praised tavern and pub. Despite his local duties, he took part in a raid on Swedish settlers in Delaware organized in 1655 by the governor of new Amsterdam, Peter Stuyvesant. It is said that it was to honor King of Poland, John Casimir (Jan Kazimierz) – who at the time was fighting King of Sweden, Charles X Gustav of Sweden – one of the forts defending new Amsterdam bore the name of Casimir, and was sometime under the command of the Deputy Mayor of New Amsterdam, a certain Marcin Krygier from Poland.<sup>6</sup>

The might have been some Poles in the Swedish garrisons of New World colonies, as attested by Wiesław Fijałkowski who speaks of a Polish orphan whose parents were killed during the Dutch attack on Christina Fort in Delaware.<sup>7</sup>

Scantiness of data and lack of clear criteria for defining nationality make it impossible to estimate the volume of Polish migration to North America in the 17th and 18th centuries. It is, however, certain that from the earliest days Polish settlers carried all the responsibilities related to the establishment of new colonies, the obligation to defend them from external threats not excluded.

### **In the American War of Independence**

When in the 18th century 13 British colonies stood up to fight, they had no organized armed forces, while the few officers who supported the rebels had expertise in guerrilla warfare against Native Americans and the French, a skill they acquired during the American episode of the Seven Years' War, rather than in regular battles against the perfectly trained British Army. That is why the professional officers from Europe to the like of von Steuben and Kościuszko – whose expert knowledge combined with enthusiasm and self-sacrifice of American volunteers was able to ensure the victory of rebelling colonies – played a critical role in the formation of the new army.

The most notable names among Poles participating in the American Revolutionary War are of course Tadeusz Kościuszko and Kazimierz Pułaski. The first was in America in the years 1776–1784 and turned out to be a most precious 'acquisition' for the Continental Army. A graduate of Szkoła Rycerska (Knights' School), known

B. Grzełoński, I. Rusinowa, *Polacy w wojnach amerykańskich, 1775–1783, 1861–1864*, Warszawa 1973, p. 17.

<sup>6</sup> B. Grzełoński, *Polacy w Stanach...*, pp. 13; A. Ławrowski, *Polacy w dziejach...*, p. 7; I. Rusinowa, *Za niepodległość...*, pp. 20–22.

<sup>7</sup> W. Fijałkowski, *Polacy i ich potomkowie w historii Stanów Zjednoczonych Ameryki*, Warszawa 1976, p. 8.

also as Akademia Szlachecka Korpusu Kadetów (Nobles' Academy of the Corps of Cadets), Kościuszko was well and formally educated officer. It was especially his knowledge of military engineering that turned out impossible to overestimate. It is hard to put an exact date on Kościuszko's arrival in America, but he offered his services to the Congress already in 1776, that is before La Fayette, von Steuben, and de Kalb.<sup>8</sup> Owing to his expertise (and knowledge of the English language, which he mastered at the Knights' School), the young officer was commissioned a Colonel of Engineers in the Continental Army. His first appointment was to fortify Philadelphia and subsequently, after the escape of the Congress to Baltimore, he conducted the fortification of the banks of the Delaware River in December 1776. There he made friends with general Horatio Gates, who ordered him, among other tasks, to reinforce the defenses of Ticonderoga, and the construction of defense ramparts against Burgoyne's army at Saratoga, and design and construction of engineering works for the stronghold at West Point. Together with Gates's, and later Greene's, he fought in the South, participating among others in this siege of Fort Mifflin (where he was wounded) and Charleston. Kościuszko left very fond memories. General Gates wrote: "He [Kościuszko] is a skilful engineer and one of the best and most subtle draughtsman I have ever seen".<sup>9</sup> Writing to the Congress, George Washington thus portrayed Kościuszko: "I take the liberty to mention that an engineer in the North Army (his name apparently being Kościuszko) is a man of knowledge and merit".<sup>10</sup> Last but not least, this is how General Greene portrayed the Polish officer: "among the most useful and pleasant among my comrades-at-arms was Colonel Kościuszko. Nothing may exceed his passion for public service, nor can be of greater use than he is diligence, activity, and ingenuity in performing various tasks during our small but busy soldiering".<sup>11</sup>

Yet, besides these words of praise, a negative opinion on Kościuszko – quite frequently quoted in American works – must be quoted. It came from Colonel Henry Lee, and American Revolutionary War veteran and father of Robert, who later became a general of the Confederation. He believed Kościuszko's errors resulted in the fiasco of the American siege of Mifflin. He spoke of the Polish engineer a second-rater devoid of energy.<sup>12</sup> Recent research, however, proves that Colonel Lee yielded to his private version rather than provided a realistic assessment of the situation, failing to consider the colonists' inability to lay sieges, and the unusually quick relief that forced American armies to withdraw.

The crowning of Kościuszko's services for the army of the newly established United States was promoting him to the rank of brigadier general in 1783

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<sup>8</sup> B. Grzełowski, *Polacy w Stanach...*, pp. 29–58; A. Ławrowski, *Polacy w dziejach...*, pp. 8–9; I. Rusinowa, *Za niepodległość...*, pp. 40–68.

<sup>9</sup> *Ibidem*.

<sup>10</sup> *Ibidem*.

<sup>11</sup> *Ibidem*.

<sup>12</sup> *Ibidem*.

(which was not an individual promotion, at the part of the general rule that all the officers and soldiers of the Continental Army were elevated to a higher rank on leaving the service) and admitting him to the prestigious Society of the Cincinnati. Besides these, Kościuszko received a laudation from the US Congress. Importantly, the Pole became very close friends with most commanding officers of the War of Independence, which were to help him in future.

The second most famous Polish participant in this armed effort, Kazimierz Pułaski, did not enjoy such a good repute as Kościuszko. A participant of the Confederation of Bar, aimed to curtail Russian interventionism in the affairs of Poland, Pułaski was portrayed throughout Europe as the “Kingslayer” by the agents of Tsarina Catherine II of Russia.<sup>13</sup> Not a professional officer though born to a family of strong military traditions, Kazimierz Pułaski gained his experience on battlefields, where he fought against Russian armies in the years 1768–1772. Not only a talented commander of cavalry units, he became famous for defending a few fortresses, including Jasna Góra monastery in Częstochowa. Following the opinion of the Russian commanding officers (including that infamous Ivan Drevich, whose cruelty made its way into folk songs) Pułaski was among the most talented leaders among the Bar Confederates. On the other hand, Charles Dumouriez, working for the Confederates and later a famous general of the French Revolution, praised Pułaski for sincerity and daring, at the same time disapproving of lack of discipline among his troops.<sup>14</sup>

In July 1777, unable to find a safe haven for himself in Europe and knowing that the Russians may kidnap him and deport to Siberia, Pułaski arrived in America. Even though he did not know the English language, he offered his services to the Congress and suggested formation of cavalry units, whose command he was to assume single-handedly.

Not waiting for his nomination, he participated in the Battle of Brandywine and performed scouting tasks for George Washington’s army at Warren Tavern. Eventually, he was made brigadier general by the Congress and entrusted with the command of the “Light Dragoons”. Yet beginning with the 1777/1778 Winter spent in Trenton, not far away from George Washington stationed in Valley Forge, throughout the most of his stay in America, Pułaski strove against insufficient funds, and the lack of experienced cavalymen and horses of military value. In the spring of 1778, “Father of the American Cavalry” was allowed by the Congress to create an independent “legion” under his own command. It was to consist of lancers<sup>15</sup> and light infantry soldiers, and specialize in “the small war”, that is scouting, forays, and small and sudden attacks on the enemy.

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<sup>13</sup> B. Grzełoński, *Polacy w Stanach...*, pp. 69–95; A. Ławrowski, *Polacy w dziejach...*, pp. 8–9; I. Rusinowa, *Za niepodległość...*, pp. 59–81.

<sup>14</sup> *Ibidem*.

<sup>15</sup> This was the first and one of the few cases when a lancer unit was formed in American army. The poor general training of the American cavalry, and lack of deeper tactical reflection on the weapon that let Polish, Russian, Austrian, and British cavalries defeat far more numerous enemies, made the US never recognize the lance.

Under Pułaski's command, the Legion fought a succession of battles, including the one at Egg Harbor, and – after a few months' idleness and transfer to South Carolina – the Siege of Charleston, Farr's Plantation, and numerous others, continuously seeing action against the enemy's patrols, while reconnoitering. His people continuously lacked supplies as the Congress failed to pay at the same time bickering with Pułaski about the flaws in his accounting.

Eventually, Pułaski reached Savannah together with his legion. Here, on October 9, 1779, together with his aide-de-camps the general himself joined the charge to maintain the momentum of the attack. Wounded heavily by a grapeshot during the attack, Pułaski was taken on board of a ship that was to sail him to Charleston. Never reaching the destination, he died on his way on October 11, 1779.

There were several Polish officers who fought hand in hand with Pułaski. Some of them, as Colonel Michał Kowacz, a veteran of the Seven Years' War fallen at Charleston and Captain Jan Zieliński fallen at Savannah gave their lives for the freedom of the newly established country. Others, as Captain Kotkowski (first name unknown, former Confederate of Bar), Karol Litomski (possibly Pułaski's aide-de-camp), Captain Józef Baldesqui (or Baldeski, whose name is present only in French spelling making it hard to guess whether he was a Pole), and Captain Fryderyk Paschke survived the war. Some, as Karol Litomski went to participate in Napoleonic Wars, while the future life of others (e.g. Paschke's) remains unknown.<sup>16</sup>

It is probable that any number from 110 to 120 Poles and Americans of Polish origin served in the Continental Army and state militias. The number included members of the Zabriski (Zaborowski) family, who had arrived in America in the 17th century, and descendants of other families from Massachusetts, Pennsylvania, and New York.<sup>17</sup>

Moreover, Poles were among the soldiers of the formation known under the name of *Volontaires Etrangeres de la Marine*, that fought under the command of Duc de Lauzun. There were at least three Polish officers serving there: Captain Jan Kwiryn Mieszkowski and Lieutenants Michał Grabowski and Jerzy Uzdowski. They later returned to France to participate in the French Revolution. Mieszkowski and Grabowski survived it; the first died in 1819, and the latter lived in Paris until 1814.<sup>18</sup>

A mention must be made of those who helped to supply the fighting colonies. One of them was a privateer, Feliks Mikłaszewicz, the captain of the vessels *Scotch Trick* and *Prince Radzivill* (Sic!). The latter name, suggests that we may be dealing here with a former Confederate of Bar who, fleeing Russian persecution, found refuge in America. Operating from Boston, Mikłaszewicz waylaid English ships in the years 1782–1783. He must have stayed in the US after the war, as there

<sup>16</sup> B. Grzełoński, *Polacy w Stanach...*, pp. 16–39; I. Rusinowa, *Za niepodległość...*, pp. 82–117; for more on Paschke, see: M. Haiman, *Ślady polskie w Ameryce. Szkice historyczne*, Chicago 1938, pp. 19–25; T. Lachowicz, *Weterani polscy w Ameryce do 1939 roku*, Warszawa 2002, pp. 15–16.

<sup>17</sup> B. Grzełoński, *Polacy w Stanach...*, pp. 16–39; found here is also a list of names which the author, after M. Haiman, believes to be Polish; I. Rusinowa, *Za niepodległość...*, pp. 82–117.

<sup>18</sup> *Ibidem*.



are records about trade transactions he participated in.<sup>19</sup> Among those catering for the smallish fleet that remained in the hands of rebel colonies, was a merchant of the name Samuel Hrabowski who lived in Charleston.

For honesty's sake, one must add that Poles were fighting also on the British side, believing that they are fighting "rebels" in the defense of the holy and inviolable rights of the British Crown to its colony. Their number included Paweł Grabowski of the Topór coat-of-arms, a colonel in the Polish Army and officer in Russian. He is the only Pole to be known to have volunteered to the British Army. An aide-de-camp of General Sir Henry Clinton, he was killed in battle on October 5, 1777. Among the English engineers and military topographers, there was Karol Błaszkwicz, considered to be Polish, and there were also John and Albert Zabriski fighting on the Loyalist side.<sup>20</sup>

### **Polish military in North America in the earlier half of the 19th century**

Although Tadeusz Kościuszko no longer served in American army, he returned to the continent in the years 1797–1798, freed from Russian captivity, after he had been taken prisoner after the defeat in the Battle of Maciejowice (October 10, 1794). Kościuszko was pardoned and set free only in 1796, when the Russian throne was assumed by Tsar Paul I of Russia. Together with his secretary, Julian Ursyn Niemcewicz, Kościuszko arrived in Philadelphia in August 1797 and received a very warm welcome. Nevertheless, already in May 1798 you left the US under an assumed name and set sail to France, possibly acting on the orders of Thomas Jefferson, quizzed generally believed to have ordered him a secret, diplomatic mission.<sup>21</sup>

Yet American army was present once again in the life of Kościuszko. Asked by the American Envoy to France, General William R. Davie, Kościuszko is believed to have written the rules and regulations for horse artillery. The development of this mobile formation in the French army left General Davie under great impression, and Kościuszko – who had an opportunity to see the formation in mock action – agreed to establish its counterparts in America. The result of this was the work entitled *Manoeuvres of Horse Artillery*, originally written in French, and passed to General Davie.<sup>22</sup>

It was brought to light only as late as 1808, as a result of deteriorating relations between the US and Great Britain. In the same year, the manual was translated into English by the Commander of West Point, Colonel Williams, and published to become (in 1812) the official book of regulations for American artillery. Used by the regular army until 1821, it is believed to survive much longer in state militias,

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<sup>19</sup> *Ibidem*.

<sup>20</sup> B. Grzełoński, *Polacy w Stanach...*, pp. 16–39; I. Rusinowa, *Za niepodległość...*, pp. 82–117.

<sup>21</sup> B. Grzełoński, *Polacy w Stanach...*, pp. 98–99.

<sup>22</sup> M. Haiman, *Ślady polskie w Ameryce. Szkice historyczne...*, pp. 29–95.

who also made use of it.<sup>23</sup> A large group of Polish officers found their way to the United States after the defeat of French forces in San Domingo (Haiti) in 1803. Their number included two Polish demi-brigades, namely the 113th (former Second League, that is the Danubian League) and the 114th (formerly the second Demi-Brigade of the Italian League). The British allowed officers – but only those who could afford it – to return to France via the United States. One of them was General Kazimierz Małachowski. Almost the entire group who arrived in the United States returned to France.<sup>24</sup>

A few refugees from San Domingo joined the crews of pirate ships sailing in the Caribbean and the Gulf of Mexico. Lieutenant Kazimierz Lux and captains Ignacy Blumer and Wincenty Kobyłański are known to have been among their number. The latter two even “earned” own vessels, which they used to hold up other ships, mostly British. They might have been joined even by a few score of soldiers staying under their command.<sup>25</sup> We do not know for sure if in their raids and voyages they happened to make port in the United States.

It is certain, however, that there was a large group of Poles participating in the following war, conducted in the years 1812–1815 between the United States and Great Britain.<sup>26</sup> Much like in the previous war, they entered the conflict on both sides of the front and wore uniforms of both the armies. What differed, however, were their motivations and numbers.

In his research, Mieczysław Haiman found approximately 30 Polish names among those who fought for the United States. They are found in the documents pertaining to military formations from Massachusetts, Kentucky, Pennsylvania, New York, Virginia, Maryland, and Ohio.<sup>27</sup>

There were, however, far more Poles joined the ranks of ‘red coats’ in Watteville’s (nearly everyone) and De Meuron’s regiments stationed in Canada. Having analyzed the documents of the British War Office, Haiman estimates the number of Poles fighting in the British Army in Canada at approximately 600 (Sic!), quoting 529 names of Polish soldiers.<sup>28</sup> The Poles who found their way to these regiments were in most cases, prisoners of war. Following the line of reasoning of Stanisław Kirkor, who researched the problem of Polish prisoners of war in Great Britain, most of these were taken captive by the English, while fighting in

<sup>23</sup> *Ibidem*; see also: I. Rusinowa, *Za niepodległość...*, pp. 129.

<sup>24</sup> J. Pachoński, *Polacy na Antylach i Morzu Karaibskim*, Kraków 1979, pp. 190–197; F. Stasik, *Polska emigracja polityczna w Stanach Zjednoczonych Ameryki 1831–1864*, Warszawa 1973, p. 14.

<sup>25</sup> A. Ziółkowski, *Pułk Jazdy Legionowej. Pułk Lansjerów Nadwiślańskich. 1799–1815*, Warszawa 2006, pp. 68–69.

<sup>26</sup> Although peace had already been concluded in Ghent (December 1814), due to problems with communication, the English General, Sir Edward Pakenham, did not know about it while leading an assault on New Orleans on January 8, 1815.

<sup>27</sup> M. Haiman, *Ślady polskie w Ameryce...* The author provides a list of all the names together with a short description of each soldier’s service. See also: T. Lachowicz, *Weterani polscy...*, pp. 21–22.

<sup>28</sup> *Ibidem*. The two regiments were foreign units in the British Army. Initially composed of the Swiss, they were purchased to serve the English.

Calabria, and especially after the defeat of Napoleonic forces at Maida on July 4, 1806.<sup>29</sup> De Watteville's Regiment, stationed at that time in Sicily, was reinforced with prisoners of war who came to serve in the British Army forced by the outrageous conditions they were forced to suffer: due to the lack of prisons and POW camps, they were grouped on the so-called "pontoons", that is all ships anchored in quays, were the horrible living conditions resulted in frequent epidemics and numerous deaths. Later, it must have been reinforced with prisoners of war taken captive in Spain, who found it the only salvation from "pontoons" in Cadiz or a detention on the rocky Isle of Cabrera, which became the grave to 13 000 POWs from Napoleonic armies.

De Watteville's regiment took part in the siege of Fort Erie in 1814. However highly praised was the courage and industriousness of Polish soldiers, some of whom must have benefited from the grants awarded for valor mainly to the soldiers of the grenadier company (They were given land in Canada, Quebec, and Ontario.), desertion was spreading. It was desertion that resulted in the execution of private Danielkowicz in Kingston in 1813, while privates Żeleźniak and Szubacki were sentenced to life servers at the rank of a private in the king's army.<sup>30</sup>

A veteran of the previous war in America, Karol Błaszkwicz, served in the Army for quite a short time due to his age and ailments. Enlisted in the provincial Canadian forces were also three Głębiński brothers: Maksymilian, Filip and Fryderyk Eugeniusz, all of whom joined the officers' ranks.

The outbreak of the November Uprising was received with great enthusiasm in the United States. The Poles' involvement in struggle aimed at the defense of their constitution, being broken by the tsar, was something for those US citizens who followed the fates on the Old Continent to identify with. On the wave of the brief fascination with Poland, the Polish American Committees were established. The collected money for financing further fight, and even an idea to create a volunteer unit to fight in Poland was put forth. Interestingly, even Edgar Allan Poe<sup>31</sup> himself considered participation in the Uprising. Nevertheless, not unlike many similar ideas, these glorious designs never went beyond declarations, rallies, and addresses.

The only US citizen who participated in the Uprising was a physician, Paul Fitzsimons Eve, who was studying medicine in Paris at the time. Together with a group of approximately 600 French physicians, he arrived in Poland, where he served as a field doctor first in Warsaw, and later with the 19th Infantry Regiment. He was awarded the Order of *Virtuti Militari* for his services, and returned to the

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<sup>29</sup> S. Kirkor, *Polacy w niewoli angielskiej w latach 1803–1814*, Kraków 1981, p. 114. For the Battle of Maida, see: J. Pachoński, *Bitwa pod Mایدą 4 VII 1806*, "Studia i Materiały do Historii Wojskowości", Vol. XI, part 2.

<sup>30</sup> M. Haiman, *Ślady polskie w Ameryce...*

<sup>31</sup> F. Stasik, *Polska emigracja...*, pp. 27–28.

United States in January 1832.<sup>32</sup> After the defeat of the Uprising, more than 50 000 of its participants escaped from the Kingdom of Poland, and found shelter in the Prussian and Austrian Partitions. Although some returned home, following the amnesty announced by Tsar on November 1, 1831, there were around 13 000 former soldiers who decided to remain emigrants. Initially, the majority of the Polish forces (together with the last high commander, General Rybiński) stayed within the borders of the Prussian Partition, while others took to the Austrian Partition. As the partitioning powers did nothing to assist those in need, they were helped by Polish émigrés and a great variety of people of good will, whose number included an American Samuel Gridley Howe.<sup>33</sup>

After some time, the partitioning powers considered the Polish insurrectionists to great effect for the internal security, and the stay of such large groups of people within their territory – too large a financial burden. They began to exert different forms of pressure on Poles to make them leave their countries. Most Poles would move to France and German states. Poor knowledge of English and the fact that hardly anyone had at their disposal funds sufficient for such a long journey were the obstacles that made leaving for the United States impossible.<sup>34</sup>

After Colonel Zaliwski's failed expedition to the Kingdom of Poland, which the Polish émigrés hoped to become the beginning of a new uprising, the partitioning powers (especially Austrian) increased the pressure on the former insurrectionists to make them leave the realms of Habsburgs. They were given a choice: either being delivered into the hands of Russians (which spelt certain exile) or departure to the United States at the expense of Austrian government. The Prussian authorities, cooperating with Austrians on the power of the Munchengratz Convention, followed a similar course. The Convention conducted by Russia, Prussia, and Austria in September 1833, was aimed against the Polish independence movement.

These efforts resulted in transporting former insurrectionists to the ports of Trieste (and that time in Austria) and Gdańsk (at the time in Prussia). By the end of 1833, the total number of Poles forced to leave for the US had reached 929. Those deported from Gdańsk were far more lucky, as unfavorable weather forced the ships to make port in Portsmouth or Le Havre, when most of them simply disembarked.<sup>35</sup>

Altogether, approximately 530 former Polish insurrectionists had arrived in the United States by 1838.<sup>36</sup> Due to their inability to communicate, many of them suffered poverty. Worth remembering is also the fact that most of the émigrés were officers who, hailing from the landed gentry knew nothing about crafts or trade and

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<sup>32</sup> *Ibidem*, see also: T. Lachowicz, *Polscy weterani...*, p. 24.

<sup>33</sup> *Ibidem*; F. Stasik, *Polska emigracja...*, pp. 39–75; see also: A. Chwalba, *Historia Polski 1795–1918*, pp. 288–291.

<sup>34</sup> A. Chwalba, *Historia Polski...*, quotes detailed data on Polish emigration in individual countries.

<sup>35</sup> F. Stasik, *Polska emigracja...*

<sup>36</sup> *Ibidem*, p. 126.

were forced to the hardest physical labor to bear and their keeps. Due to the poverty, they were even unable to benefit from the donation from the US Congress that the Polish Committee, established by Polish émigrés, obtained for them not without considerable effort. The donation consisted of properties in Illinois that were awarded to the newcomers. Many of them, however, were unable to reach Illinois, due to lack of funds, while those who set forth on foot would reach their properties two years later only to find them occupied.<sup>37</sup>

Despite all these hardships, Poles participated in wars conducted by the United States as well as in plenty of unofficial military actions conducted from the US territory.

After the fall of the November rising, Poles became a nation without a homeland. Therefore, much like the Irish, they would enlist into all and sundry revolutionary movements, and join any army fighting anywhere on the globe. To quote Andrzej Chwalba: “Throughout the period of Romanticism, Poles participated in European revolutions. They were professional soldiers, and in your circumstances they would become professional revolutionaries”.<sup>38</sup>

A similar observation was made by *Times* in 1863. Describing another Polish uprising, it claimed that “Poles are the Irish of the Continent”.<sup>39</sup>

As Mieczysław Haiman claims, there was a Pole, Doctor Józef Aleksander Czyczeryn participating in Doctor James Long expedition to Texas remaining at the time in Mexican hands. Later, the number of Poles who joined the struggle to liberate Texas, included F. Piotrowicz, M. Dembiński, L. Dębicki, and J. Kornicki were killed in the massacre of Colonel Fannin’s troops at Goliad in 1836. Felix Wardzinski is known to have fought at the Battle of San Jacinto.<sup>40</sup>

Poles participated also in the war conducted in Florida against the militant tribe of Seminoles inhabiting the region. When in 1834, President Jackson decided to displace Seminoles to the other side of the Mississippi, the first wave of Polish emigrants fleeing the country in the wake of the fall of November Uprising had already arrived in the US. Some of them must have enlisted entertaining the illusion that the army may open to them a career. Falling back on the preserved documents of American army, Mieczysław Haiman estimates the number at 25, and quotes the names of six Polish soldiers lost their lives in that campaign. Apart from one who earned the rank of corporal, they were all privates. All of them died from the diseases that tormented the army is fighting in 1842 in the rotten climate of Flori-

<sup>37</sup> *Ibidem*, pp. 76–170; an outstanding source of information about the history of Polish emigration at the time are the memoirs of Julian Juźwikiewicz, lieutenant in the insurrectionist forces, deported by the Austrians from Trieste to the USA. In 1835 he left for France, where he published a book entitled *Polacy w Ameryce* [Poles in America]. Its fragments are reprinted by M. Haiman in his *Ślady polskie w Ameryce...*, pp. 99–152.

<sup>38</sup> A. Chwalba, *Historia Polski...*

<sup>39</sup> N. Davies, *Zachód i Wschód, czyli Piękna i Bestia*, [in:] idem, *Smok wawelski nad Tamizą*, Kraków 2001, p. 150.

<sup>40</sup> M. Haiman, *Polish past...*, pp. 84–85; F. Stasiak, *Polska emigracja...*, p. 115; the name of F. Piotrowicz is at least dubious, as Haiman has him among those killed in Goliad, while Joseph Wyrwał claims that he served in the American army in war against Mexico in 1846–1848 (see footnotes 43 and 44).

da everglades<sup>41</sup>. Besides the soldiers mentioned above, also Aleksander Bielawski, a graduate of office, School of engineering in St Petersburg and a veteran of the November Uprising, stayed in Florida as railway engineer. Although he was involved in the making of civilian measurements, his name and will later turn up in the annals of American armed forces.

Colonel Gustaw Szulc, also a veteran of the November Uprising, participated in an expedition to Canada of November 1838 that marched to participate in the burning out guerrilla skirmishes in Upper Canada. Szulc took part in the Battle of Windmill, where on November 16, 1838 he was captured by the British and hanged in Kingston on December 8 as a rebel on the order of Canadian authorities.<sup>42</sup>

Polish military participated also in the War against Mexico (1846–1848). Besides the sons of old Polish settlers (e.g. the Zabriski family) approximately 50 former insurgents enlisted in the American army.<sup>43</sup> Among those who distinguished themselves were captains Karol Radziwiński and Napoleon Kościalkowski, and Sergeant Ignacy Szumowski. Private Soliński of the 2nd Pennsylvania Regiment was promoted to Junior Lieutenant for bravery he showed while fighting in Mexico City. Józef Szulakiewicz of the 2nd Dragoons Regiment received an order from President Polk, and Adolf Wengierski's services during the siege of Puebla were "beyond value". Participating in the fight were also Hipolit Oladowski (former insurgent) and Felix Wordzinski (veteran of Texas conflict in 1836). Captain Jacob Zabriski of 1st Regiment Illinois, was to relatives also served in the American army, died at Buena Vista on February 23, 1847. Second Lieutenant Maurycy Małachowski of the 2nd New York Volunteer Infantry Regiment was wounded at Churubusco. Doctor Paweł Feliks Wierzbicki, later the author of the first guidebook to California, served as a field doctor.<sup>44</sup>

Despite the atmosphere built up in the Army under the influence of commanding officers hailing from among American WASPs that was, needless to say, highly unfriendly for migrants arriving from countries with Catholic majority, Poles would not deflect to the Mexican side. (While Irish soldiers gathered into the so-called St Patrick's Battalion: a unit of the Mexican army solely composed of deserters from US forces.) There were, quite naturally, Polish officers serving in Mexico, as for example General Konstanty Tarnawa-Malczewski or field surgeon Seweryn Gałęzowski.

Interestingly, in 1853 Major Józef Jerzmanowski and a few other Poles living in the United States (supported by Prince Adam Czartoryski's faction) submitted to Jefferson Davis, then U.S. Secretary of War, a project of developing autonomous

<sup>41</sup> M. Haiman, *Ślady polskie w Ameryce...*, pp. 155–158; T. Lachowicz, *Polscy weterani...*, p. 34.

<sup>42</sup> M. Haiman, *Polish past in America 1608–1865...*, pp. 85–86; T. Lachowicz, *Polscy weterani...*, pp. 34–35; J. Wytrwał, *Poles in...*, p. 121.

<sup>43</sup> T. Lachowicz, *Polscy weterani...*, pp. 43–44.

<sup>44</sup> M. Haiman, *Polish past in America 1608–1865*, pp. 86–89; T. Lachowicz, *Polscy weterani...*, pp. 37–44; F. Stasik, *Polska emigracja...*, pp. 167; J. Wytrwał, *Poles in...*, p. 145.

Polish Corps that was to be deployed in the Crimea so as to assist Turkish army in their war on Russia. For reasons of legal and financial nature, the project was never put into practice.<sup>45</sup> of consequence here was also the fact that the relations between the US government and tsarist Russia were improving, mostly thanks to the joint anti-British position.

### **Poles in the United States on the eve of the Civil War**

Any attempt at precise calculation of the number of Polish citizens (or those with Polish roots) in the United States at the turn of 1850s, is doomed to failure. This results from a number of factors that require presentation.

First, that was the time when the modern notion of a nation, based primarily on shared ethnicity, was only being born. In the days preceding the fall of the Commonwealth of Poland–Lithuania, that is before the end of the 18th century, the notion of the nation was primarily perceived in the category of a “political nation”, and was related mostly to the nobility. All who aspired to Polish culture and/or followed Polish customs, independent of their ethnic origin, were referred to as Poles. This was especially true in the eastern marches of the Commonwealth, where the term ‘Pole’ referred for example to the German burghers of Kamieniec Podolski. In such a country, one could easily refer to oneself as “*natione Polonus, gente Lithuanus, originae Judaeus, religione catholicus*”. It goes without saying, that the multiethnicity of the former Commonwealth was highly conducive to this, as besides Poles the state was inhabited by Ukrainians, Germans, Jews, Lithuanians, Armenians, Tartars, and representatives of many other nations.

Secondly, being partitioned, Poland ceased to exist as a political entity, and its citizens became subjects of the neighboring powers. For that reason, when they arrived in America from those parts of the Poland that were annexed by Prussia, they would often be considered Germans. Needless to say that their knowledge of the German language, enforced by the conquerors, encouraged such treatment. The situation was similar in the case of immigrants from the other two partitions.

The third major problem is the fragmentary character and lack of precision in American data on the number of immigrants. Mieczysław Haiman, who examined official American data for the 19th century, states that in the records speak of only 1 659 persons in the years 1820–1860. (On the other hand, the data from the Department of Treasury, speak about 1164 Poles, but the number they quote most probably refers only to the inhabitants of the former Kingdom of Poland.) As the same time, the federal government recorded as many as 60 000 persons coming from Prussia in the period in question. Haiman has found numerous occurrences of incoherence in these records. It is enough to look in to the yet 1834: according to

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<sup>45</sup> M. Haiman, *Polish past in America 1608–1865...*, p. 89; F. Stasiak, *Polska emigracja...*, pp. 230–232.

the data provided by the US government, there were only 54 Polish migrants who reached the USA, while it was in that year that two Austrian frigates brought from Trieste 234 Polish insurrectionists from their previous detention in Brno (Moravia).<sup>46</sup> Materials of the New York State Emigration Commission claim that in the period 1851–1860 as many as 1 980 Poles were recorded. In the period beginning with 1847 (the year when the Commission was established) and ending in 1860, that Commission found 2 406 Poles only in the state of New York.<sup>47</sup>

The problem that renders the research of American files and records much more difficult is the vast difference in the phonetics of the two languages. What follows, the Polish names, transcribed phonetically by American civil servants, may differ to an extent making their recognition impossible. Moreover, it was frequently the case that both the first and last names were purposefully Americanized.

The last problem pertains to the group of family names that did not sound Polish from the very beginning. The multi-ethnic and multicultural Commonwealth of Poland–Lithuania was inhabited by plenty of foreigners who, considering themselves Poles, would maintain the original names. Little wonder then that the family name Denhoff was common to Polish Grand Commanders and Prussian cadets. The Bibersztajn (alternatively spelt Biberstein) and Kotwicz (Kottwitz) coats-of-arms are present in the books of heraldry in Poland and in a large part of Germany. The names of bourgeoisie were a similar case, with such names as e.g. Brandt, Dekert, and Dietl being popular in both the countries.

Considering the total number of Poles in the US, the general census of 1870 (being slightly more precise than the previous ones) defines it at 14 436. Nevertheless, it must be remembered that the number pertains only to those people who not only deliberately presented themselves as Poles but also stood fast by being recognized as such in the census, as those who only stated that they arrived from e.g. Poznań would end up being considered Prussian. A well-known researcher of Polonia, Father Waclaw Kruszkka estimates the number of Poles stained in the United States in 1870 at 50 000 persons. With this in mind, Mieczysław Haiman believes that during the Civil War there might have been approximately 30 000 Poles in the US.<sup>48</sup> It is to be remembered that his approximations refer only to the Polish immigrants who settled in the USA in the 19th century, thus excluding the descendants of Poles who had settled there earlier.<sup>49</sup>

This shows how impossible is the task of defining the exact number of Poles serving in the armies of the Union and the Confederation. Based on the rolls of officers of the Federal Army, Mirosław Haiman believes there were around 160 Polish

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<sup>46</sup> M. Haiman, *Historia udziału Polaków w amerykańskiej wojnie domowej*, Chicago 1928, pp. 24–41; F. Stasik on immigrants who reached the US in 1834, *Polska emigracja...*, pp. 61–106.

<sup>47</sup> M. Haiman, *Historia udziału...*

<sup>48</sup> *Ibidem*.

<sup>49</sup> Haiman considers political émigrés who settled after the November Uprising and the defeat of Zaliwski's expedition, those fleeing from the defeat of European Spring of Nations, and eventually the phenomenon that originated at that time, namely, emigration for profit.



officers serving in it. As in the armies of the Union the ratio between officers and soldiers was 1 to 20, the researcher arrived at the number of 3200 persons. Having added a few hundred of those who he believed to have been missed from the official rolls, he estimated the total number of Poles in the armies of the Union at 4 000 persons.<sup>50</sup>

Of great importance here is the fact that the search criterion assumed by Haiman was Polish-sounding family name. For the reasons concerning the sound of names and listed earlier in this paper, such an estimation may be burdened with a high error margin, which the researcher himself was aware of.

His computations concerning Poles serving under the Confederate flag turn out the number of 1000. Thus, following Haiman, there were all together approximately 5000 Poles soldiers participating in the Civil War. To quote the researcher. "This number is definitely not exaggerated; on the contrary, I would rather believe that to be too modest".<sup>51</sup>

Nevertheless, it is questioned by other historians. Marian Kukiel, for example, believed (though without conducting any deeper study), that no more than 500 Poles could have participated in the Civil War<sup>52</sup>. Bogdan Grzełoński in turn believes that the number of Poles in the USA in 1860 did not exceed 16 000 persons, which makes him estimate the number of Poles participating in the war at around 2 500.<sup>53</sup>

The figures provided by Mieczysław Haiman are accepted by Joseph A. Wyrwał, who however remarks that some researchers believe that the involvement of Poles in the war might have been greater than the studies show.<sup>54</sup>

An interesting point in this discussion is put forth by an American scholar, James S. Pula. In his monographic work on general Krzyżanowski's brigade, he states that the number of Poles participating in the Civil War was closer to 10 000.<sup>55</sup>

Due to difficulties with proper estimations, the offer of this paper is inclined to subscribe to the point of view of the last of the authors quoted above, believing that the American author sufficiently justifies his position in his study.

### **Presence of Poles in individual detachments of Unionist and Confederation armies**

As listing of all the detachments where Poles served would be too difficult the task, I shall limit myself to naming only those known best.

<sup>50</sup> M. Haiman, *Historia udziału...*

<sup>51</sup> *Ibidem*.

<sup>52</sup> M. Kukiel, *Dzieje Polski porozbiorowe, 1795–1921*, London 1961, p. 482.

<sup>53</sup> B. Grzełoński, *Za Unię i skonfederowane Stany*, [in:] B. Grzełoński, I. Rusinowa, *Polacy w wojnach amerykańskich, 1775–1783, 1861–1864*, Warszawa 1973, pp. 156–159; B. Grzełoński, *Polacy w Stanach...*, p. 142.

<sup>54</sup> J. Wyrwał, *Poles in ...*, p. 149.

<sup>55</sup> J. S. Pula, *The History of a German–Polish Civil War Brigade*, San Francisco 1976, p. 2.

The first Polish unit served in the Company C of the 31st New York Volunteer Infantry Regiment, and was formed by Captain Aleksander Raszewski. Polish officers serving in its ranks included: Lieutenant Ludwik Domański and Second Lieutenant Wincenty Kochanowski. It was to be a predominantly Polish unit that together with another Company of the 31st Regiment was to wear Polish peaked caps (*rogatywki*) until the standardization of Unionist army uniforms.<sup>56</sup>

There were large number of Poles fighting in other New York infantry regiments: 7th (“Steuben Guards”), 8th (“First German Rifles”), 20th (“United Turner Rifles”), 29th (“Astor Rifles”) 39th (“Garibaldi Guard” – a highly international unit, it gathered veterans of Italian wars including a large group of Poles), 41st (“De Kalb Regiment”), 45th, 46th, 52nd, 54th (“Schwarze Jager”), and 55th.<sup>57</sup>

Already on July 2, 1861, Julian Allen (who referred to himself as “a Pole of the Mosaic faith”) connected with the pre-war Democratic Society of Polish Exiles (*Towarzystwo Demokratyczne Wýgnańców Polskich*) received a colonel’s commission and undertook to put out a “Polish legion”. As recruitment did not go smoothly, Allen resigned from the post, and was replaced by Captain Włodzimierz Krzyżanowski, a participant of the Poznań events of 1846 hailing from Wielkopolska. As he was to recruit another infantry regiment, used the human resources gathered by Allen, and reinforced the unit with soldiers of non-Polish origin. That was the origin of the 58th New York Infantry Regiment, which officially continued to be known as “The Polish Legion”.<sup>58</sup> A preserved print portrays a warrant officer of this unit, wearing *rogatywka*, that is the Polish peaked cap, yet it should be believed that when the uniforms were standardized, it was replaced by the Unionist chasseur cap (*kepi*).<sup>59</sup>

And the very beginning of the Civil War, at least 200 Poles From St Louis joined the Unionist army. Most of them were enlisted to the Company A of the 1st Missouri Volunteer Infantry Regiment, under the command of Captain Władysław Koniuszewski.

Of all the Ohio’s infantry regiments, most Poles were serving in the 9th and 28th, and in those from Illinois – in the 24th. In Wisconsin’s army, most Poles served in the 9th and 26th infantry regiments.<sup>60</sup>

Information about Polish units would not be complete without mentioning the attempt to form a regiment of “United States Uhlans”, by Colonel Józef Smoliński, Knight of the *Virtuti Militari* Order, the veteran of the November Uprising, the French Foreign Legion, and the British Army. In the latter he fought at Sevastopol<sup>61</sup>. The unit was finally disbanded, possibly as a result of the complaints of American

<sup>56</sup> M. Haiman, *Historia udziału...*, p. 35; confirmed by J. S. Puła, *The History...*, p. 8.

<sup>57</sup> *Ibidem*, pp. 35–39. Haiman claims that Emil Schoenig from Poland was a colonel of the 52th Regiment.

<sup>58</sup> *Ibidem*, here and further, unless stated otherwise.

<sup>59</sup> J. S. Puła, *The History...*, p. 8.

<sup>60</sup> *Ibidem*, p. 54.

<sup>61</sup> For an extensive biogram of the colonel, see: *Polski słownik biograficzny* (henceforth referred to as PSB), Vol. 39, Warszawa–Kraków 2000, pp. 300–305.

officers against harsh discipline introduced in it. Its formations were incorporated into the 9th Regiment of New York Cavalry, with the exception of the Squadrons A and B which became part of the 4th Regiment of Heavy Artillery. There were also Polish troopers in Colonel Karl Schurz's 1st Regiment of New York Cavalry, and in the 4th Mounted Regiment from the same state.<sup>62</sup>

In the fall of 1861, an attempt was made at St Louis to establish "Independent Company of Sobolewski's Uhlans" to be commanded by Łukasz Sobolewski. Early in 1862 it was merged into other units to increase the military power of the weak Unionist cavalry. Poles served also in the 16th Regiment of Illinois Cavalry.

Finally, there were such artillery detachments as the 9th Independent Battery, New York Light Artillery, from the name of its commander, Wojciech Morozowicz, called "Morozowicz Battery". Fighting in the 2nd Regiment Light Artillery of Illinois was "Hulanicki's Battery", while that of Captain Stanisław Młotkowski was stationed in Pennsylvania.

In the words of Mieczysław Haiman. "It can safely be said that there were hardly any foreign regiments in the Unionist army. That would not have at least few Poles at its service".<sup>63</sup>

The situation is much more difficult when it comes to finding Confederate regiments where Poles served. The largest group of Poles must have been that in the 14th Infantry Regiment of Louisiana. It was formed by a veteran of the November Uprising and Knight of the Order of Virtuti Militari, Kasper Tochman. He settled in the United States in 1837, quickly becoming a highly recognized attorney. At the same time, he was actively supporting the Polish case, traveling all over the country with presentations and publishing articles about the situation of Poland in popular press. He was frequently invited to gatherings of states' legislative assemblies, where he delivered speeches portraying the tragic situation of Poland and Russian repressions. Beginning from 1852, he lived in his own estate in Virginia, but he was equally often staying in Washington where he had numerous contacts among the local high society. The number of his friends included the future president of the Confederates, Jefferson Davis, Samuel Tilden – future US presidential candidate, Levi Woodbury and John McKinley – justices of the United States Supreme Court, Jared Sparks – an American historian very popular at the time, Horace Greeley – publisher of the "New York Tribune", and William H. Seward, later Secretary of State.

Tochman felt himself to be primarily a citizen of Virginia, and considered Lincoln's actions a violation of US Constitution. He defended the claim that although the states passed some of its prerogatives to the Union, they were capable of revoking them at any time.

This is why, already in May 1861 he offered the Confederates his services and those of his former client, a distant descendant of Kościuszko and former captain of tsarist army, Władysław Wańkowicz. At the same time in a most polite

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<sup>62</sup> *Ibidem*, see also: M. Haiman, *Historia udziału...*

<sup>63</sup> *Ibidem*.

manner, with assurance of his friendship, he notified Seward that he was unable to assume the post of the US Consul in Paris that had been offered to him.

Tochman was offered the command over the Regiment at the rank of Colonel. Moreover, the Confederate States of America Department of War and Davis ensured him that he would be awarded the rank of brigadier general if he recruits two infantry regiments.

Tochman operated in New Orleans, a city with a fairly large Polish population. His considerable expenditure soon rallied the 1st Polish Infantry Regiment which was soon renamed into the 14th Infantry Regiment of Louisiana. It marched into battle already on June 29, 1861 commanded by Colonel Walerian Sulakowski.

While Tochman was already organizing a battalion for another regiment, the Confederate government refused approving his rank of brigadier general due to political pressure from Louisiana legislature, who Tochman was fell out with for reasons today unknown. Rebuffed, Tochman handed in his resignation and to the end of the war tried to regain the expenses he had made.

Another battalion was formed as the 15th Infantry Regiment of Louisiana, and the two units were merged under the name of “The Polish Brigade”, yet the Polish presence (especially in the 15th Regiment) was relatively low.

Another stronghold of Polonia in the South, second only to Louisiana, was Texas. This is where the Polish migrants escaping from Upper Silesia, at that time under Prussian occupation, continued to settle since early 1850s. The first of these settlements was Panna Maria (literally: Virgin Mary) founded in Texas by Father Leopold Moczygemba.<sup>64</sup> Poles hailed mostly from the counties of Opole, Strzelce, Toszek, Lubliniec and Oleśno, and from the municipality of Opole. According to the 1867 census, there were approximately 1080 Poles living in a few hamlets.

Farmers were not eager at all to serve in the Confederate army, the more so as many of them escaped from the compulsory draft to Prussian army. Moreover, at the outbreak of war they were struggling with the consequences of the tragic drought that the area experience. It was only after Confederate States introduced drafting in 1862 that some of them went to join the army. Although records have been preserved in the Poles around Martinez in Texas refused military service.<sup>65</sup>

According to the frequently cited article by Gertrude Harris Cook (1932), an entire Polish company was supposedly formed in the Karnes District. This does not find any confirmation in the sources, while the roll of the Company “Virgin Mary Grace” formed in the district included only four Polish names in the summer of 1862, with only one earlier in that year.<sup>66</sup>

Most Polish Texans are believed to have served in the 6th Infantry Regiment of Texas and 24th Cavalry. Single soldiers are believed to have found their way to

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<sup>64</sup> T. L. Baker, *Historia najstarszych polskich osad w Ameryce*, Wrocław–Warszawa–Kraków–Gdańsk–Łódź 1981, pp. 10–40.

<sup>65</sup> *Ibidem*, p. 107.

<sup>66</sup> *Ibidem*, p. 111.

the 2nd and 8th infantry regiments of that state, and in the 2nd, 31st, 32nd, 33rd, and 36th cavalry in regiments formed in Texas.<sup>67</sup> Poles would be more eagerly recruited to the troops that defended Texans from Mexican and Native American attacks, as e.g. the 30th Militia Battery. The best testimony to their negative attitude to the Civil War is a what of Silesian peasants wrote in a letter to his family remaining in Poland: “And eventually the Lord had mercy on us, the local Confederates lost.”<sup>68</sup> (Sic!)

### Wartime stories

The literature I quote describes in detail the wartime biographies of Polish soldiers and officers, whose names could be identified. A number of monographic works on individual regiments published in the English language make it possible to retrace their combat histories. So as not to repeat too much of what has already been recorded, I would only point at a number of interesting facts related to the lives of military units and persons I mentioned earlier.<sup>69</sup>

“The Polish Legion” made its way into Bohlen’s Brigade in Blenker’s Division. It fought in a campaign of General Fremont against “Stonewall” Jackson in Shenandoah Valley in the spring of 1862. It was then that Colonel Krzyżanowski distinguished himself for the first time, leading a bayonet counter-charge of his regiment at Cross Keys on June 8, 1862.<sup>70</sup>

Soon, the corps went under the command of General Franz Sigel, with General Karl Schurz receiving the command over the division. It may be claimed that the “foreign corps” was the best and most experienced of the Unionists armed formations. It was so as its officers and the large share of soldiers had served in various European armies (mostly, however, Prussian), participated in the Spring of Nations or in the wars for Italian independence. Unlike their comrades-in-arms from the US, who had not yet had an opportunity to smell the gunpowder, Sigel’s corps was a unit standing at much higher level.

In the summer of 1862, Krzyżanowski, in his capacity of the commander of the brigade that included “The Polish Legion” participated in Pope’s campaign in Virginia that ended with the Battle of Manassas (Second Battle of Bull Run) on August 30. Krzyżanowski’s Brigade proved great courage in that battle, much like a day earlier at Groveton, where they beat off the attacks of Confederate forces for eight hours. At Manassas, Krzyżanowski was covering the retreat of the defeated Unionist forces. The colonel earned a commendation from general Schurz, yet he never received his brigadier general nomination, as the Senate never approved it.

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<sup>67</sup> *Ibidem*, pp. 122–129.

<sup>68</sup> *Ibidem*, p. 129; See also by the same author: *Polish Texans*, San Antonio 1982, pp. 47–54.

<sup>69</sup> I suggest that aficionados of online information, research the Civil War Soldiers & Sailors System database at: <http://www.civilwar.nps.gov/cwss>.

<sup>70</sup> J. S. Puła, *op. cit.*; see also: M. Haiman, *Historia udziału...*, pp. 42–61.

The reason was the name of the colonel that sounded too foreign. After the campaign, Sigel left the corps and was replaced by Maj. Gen. Oliver O. Howard, a feckless puritan. Together with the high commander of the Union Army, Major General Joseph Hooker, they brought about the significant defeat of the army at Chancellorsville on May 2, 1863. Their actions were not only erroneous in the terms of the art of war, but verged on lack of common sense characteristic for reasonable man. These were only the foreign units that distinguished themselves in the battle, not yielding to panic despite being surrounded, and to that end, covered the retreat of American units. These were the soldiers of the brigades fighting under Gilsa, Krzyżanowski, Schimmelfennig, and Buschbeck that were the true heroes of the day. Yet, to cover up for the incompetence, generals Hooker and Howard, spread the story about the escape of foreign troops, a version which came down well in the aggressive and xenophobic WASP milieu. It was insisted that every tenth soldier of the XI Corps (that was the name of Howard's foreign corps) be executed.

The 58th Regiment fought also at Gettysburg (June 1–3, 1863). Already on the first day of the battle, two companies of the regiment distinguished themselves (with the remaining ones being stuck in the camp), when the brigade was engaged by prevailing Confederate armies and, unlike the neighboring American units, did not yield to them, before withdrawing to the Cemetery Hill in the evening. Equal valor was displayed by the 26th Infantry Regiment of Wisconsin, a unit in Krzyżanowski's brigade, when numerous Poles served. On the second day of the battle, the 58th and 119th New York regiments commanded by Krzyżanowski made a daring charge on positions of Confederates threatening the Federal artillery. Only selected units of the 58th Regiment participated in the third day of the battle. Today, there is information about only two killed Poles on the monument of the regiment erected in the Gettysburg National Military Park. Yet, as James Pula correctly remarked, at least three officers of the regiment died from wounds received in the battle.<sup>71</sup>

Later, Krzyżanowski's brigade fought in Tennessee. With the three years it was commissioned for being over, Krzyżanowski persuaded its soldiers to continue their service. The brigade finished its wartime involvements guarding the Nashville–Chattanooga train line from raids by Confederate guerilla troops.

The wartime history of the "Polish Brigade" fighting under Confederate flag is not equally well documented. The 14th Regiment in whose ranks Poles served, fought at Chancellorsville, Gettysburg, Yorktown, Williamsburg, Seven Pines, and in a number of other battles.<sup>72</sup>

The Texan regiments (6th Infantry and 24th Cavalry) were moved to Arkansas, where they defended the massive earthworks known as Arkansas Post. Early in 1863 it was captured by Unionist troops, and soldiers of the regiments were

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<sup>71</sup> J. S. Pula, *The History...*, pp. 90–91.

<sup>72</sup> M. Haiman, *Historia udziału...*, p. 130.

taken captive by the Unionists, at which time some of them changed sides.<sup>73</sup> It is obviously a paradox that Poles were among the first victims of the Civil War. It was still at the time of the “armed peace” early in 1861 that Tadeusz Strawiński Jr. enlisted in the Confederate army, together with his father (insurrectionist of 1831). Tadeusz Strawiński Jr., born already in Charleston and a student of South Carolina University, died as a sentry on duty on January 27, 1861 when accidental shots were exchanged with the Fort Sumter garrison.<sup>74</sup>

In the Unionist army, one of the first victims was Konstanty Błędowski (Blandowski), an officer with the 3rd Volunteer Regiment of Missouri. He was badly wounded on May 10, 1863 at camp Jackson and died on May 25. This made him the first Unionist officer mortally wounded in battle, while the first victim among Unionist officers was Captain Ellsworth.<sup>75</sup>

Florian Stasik writes that there were 2 generals, 2 colonels, 5 majors, and 60 captains among Poles fighting in the Unionist army. These numbers cannot be precise, as at times they are hard to classify properly. For example, General Albin Franciszek Schoepf, born in 1822 in Podgórze (at that time still a city independent from Kraków) from Hungarian father and Polish mother. Schoepf was a professional Austrian officer who went to Hungary to fight at the side of Kossuth in 1848, yet he enlisted not to Hungarian Army but to the Polish Legion. Nevertheless, having arrived in the United States, he called himself Hungarian.<sup>76</sup>

It seems that Schoepf was the only full general in the federal army, as the other two Poles (i.e. those counted by Stasik among generals) were only generals of volunteers and not regular army. Moreover, they were nominated through the so-called a brevet that is an honorary warrant authorizing the holder to a higher rank (but without receiving the higher pay). After the war, such ranks were verified if the given officer did not command a detachment problem for his rank.

Włodzimierz Krzyżanowski and Józef Karge (both hailing from the Prussian Partition) were brevetted brigadier generals. Born in Oleandry Terespolskie, Karge was an officer of Prussian cavalry imprisoned by Prussians after he had fought on the Polish side in 1848. He fled from captivity, and reached the United States via Holland, France, and England. A passionate teacher, he presided over a small scientific institute in New York. When the war broke out he joined volunteer cavalry in New Jersey. He was first the deputy commander, and later commander of the 1st Cavalry Regiment of the state despite controversies with American officers who were not used to military discipline. Despite the diseases and wounds suffered, he fought throughout the entire war, in the summer of 1864 commanding temporarily, a cavalry division in Tennessee. He fought against “Jeb” Stewart (e.g. Edinburgh and the station in August 1862), the armies of General Forrest in spring 1864, and

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<sup>73</sup> T. L. Baker, *Historia najstarszych...*, pp. 112–113.

<sup>74</sup> Mentioned also by J. Wytrwał, *Poles in...*, p. 149.

<sup>75</sup> *Ibidem*, p. 150; M. Haiman, *Historia udziału...*, p. 41.

<sup>76</sup> T. Lachowicz, *Weterani polscy...*, p. 59; J. Wytrwał, *Poles in...*, p. 169; PSB, Vol. 35, pp. 591–592.

other enemies. Having been praised as an outstanding, battle wise commander of cavalry, after the war Karge fought for some time in American cavalry in the west to become later a professor in Princeton, where he was in charge of the Chair of European Languages for 22 years before he died in 1892.<sup>77</sup>

The other general was naturally Włodzimierz Krzyżanowski who had not received to the brevet to his rank until March 2, 1865<sup>78</sup> (Sic!). Despite that, he had not become disgruntled towards his new homeland, and his post-war memoirs are pervaded with the fascination with the political system of the United States. “the prime own their land, the United States to its today’s power is its constitution – one whose equivalent no race has produced.”<sup>79</sup>

After the end of the war which found him the commander of Bridgeport garrison, she worked for the Department of Treasury. Having participated in negotiations with Russia on Alaska purchase, he later worked in its American administration. For a time, he represented the Department of Treasury in Panama (1879). Krzyżanowski died in 1887, and since 1938 his mortal remains have been buried at Arlington Cemetery, being a major American military necropolis.

Those who reached higher ranks in the Confederate Army, besides Tochman, included Walerian Sulakowski, a colonel, and staff officer of General Magruder’s, who received the Confederate Government’s approval for feeding CSA’s army with soldiers from Poland. Yet the ship used to transport cotton, which was to be sold to pay the soldiers, was captured by the Union’s fleet, and Sulakowski found himself in Mexico.<sup>80</sup> Lieutenant Colonel Hipolit Oladowski, was the head of supplies in the army of General Bragg.<sup>81</sup> Ignacy Szymański, a soldier of 1831, commanded the Chalmette Regiment defending New Orleans in the rank of Colonel.

Lower-ranking Polish officers often served as the so-called additional aides-de-camp, which meant that as professionals and graduates of military academies of St Petersburg, Vienna, and Berlin. They were to offer their assistance to American generals who had no idea about the work of military command. There are number included Captain Aleksander Bielawski, a veteran of the November Uprising, aide-de-camp of General McClermand, killed at Belmont, where – with a banner in hand – he was rallying soldiers to a charge on November 7, 1861 and Captain Wilhelm Kossak.<sup>82</sup>

Poles fought bravely, even though – especially Unionist – armies were not a friendly place for them. Let us remember that when the January Uprising broke out in Poland in 1863, Russia – endeavoring to have it considered its internal affair,

<sup>77</sup> M. Haiman, *Historia udziału...*, pp. 62–75; J. Wytrwał, *Poles in...*, pp. 161–169.

<sup>78</sup> M. Haiman, *Polish past...* p. 122; J. Wytrwał, *Poles in...*, p. 160.

<sup>79</sup> W. Krzyżanowski, *Wspomnienia z pobytu w Ameryce Gen. Włodzimierza Krzyżanowskiego, podczas wojny 1861–1864*; “Roczniki Historyczne Polskiego Muzeum w Ameryce” 1963, Vol. 1, p. 20.

<sup>80</sup> M. Haiman, *Historia udziału...*, pp. 131–140; J. Wytrwał, *Poles in...*, pp. 198–201.

<sup>81</sup> M. Haiman, *Historia udziału...*, pp. 141–151; J. Wytrwał, *Poles in...*, pp. 202–211. Both the works contain a fairly complete list of Polish officers and some soldiers serving in Confederate army.

<sup>82</sup> M. Haiman, *Historia udziału...*, pp. 94–119.



and careful not to provoke an English or French intervention – allied with the United States, afraid that France and England will support the Confederates. Hence the numerous formal letters sent by Lincoln to Tsar Alexander II, and hence the visit of Russian fleets in the US in 1863.<sup>83</sup>

During the visit, an act of exceptional atrocity and violation of international law by the American Government took place. Early in January 1864, a Polish sailor, Aleksander Milewski, escaped from one of the men-of-war of the Russian Baltic Fleet spending the winter in New York. He enlisted with the one of New York artillery regiments and went to fight in Virginia. The Russian command notified the Secretary of War, Edwin M. Stanton, who ordered to have the soldier found. Milewski was extradited to the Russians and after a short trial hanged on a spar of one of the ships.<sup>84</sup>

Eager to return to his homeland fighting for independence, Ludwik Żychliński, a lieutenant in the Union's Army, was forced to feign illness and asked the treatment in Europe. Under an assumed name, he reached Poland and fought a victorious battle against Russian troops at Ossa. Sentenced to exile in Siberia after the defeat. In Poland he participated in the uprising of Polish exiles in Trans-Baikalia in 1866.<sup>85</sup>

Józef Smoliński, who left his son in the Union's Army, tried to reach Poland too, but was detained and interned in Olomouc. Later he participated in the Irish Fenian raids of Canada in 1866 and in the preparation of another in 1870.<sup>86</sup>

As it is impossible to portray here all the Poles who participated in the war of 1861–1865 and referred to in available materials, let the finish with quotations from the General Krzyżanowski, who thus explained why he went into combat:

[...] I went where I was summoned both by the duty of gratitude towards the foster homeland, and by the memory true to the ideals of my fatherland.<sup>87</sup>

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<sup>83</sup> For more on US and Russian Polish policies of the period, see: S. Bóbr-Tylingo, *The January Uprising and the American Civil War*, "Antemurale" 1976, Vol. 20, pp. 51–73.

<sup>84</sup> F. Stasik, *Polska emigracja...*, pp. 288–289.

<sup>85</sup> M. Haiman, *Historia udziału...*, pp. 76–93; *Ameryka w oczach Polaków – antologia*, ed. B. Grzełowski, Warszawa 1975, p. 147; J. Wytrwał, *Poles in...*, pp. 181–184.

<sup>86</sup> See footnote 61.

<sup>87</sup> W. Krzyżanowski, *Wspomnienia...*, pp. 65–66.



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**ARCHIVE**

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Russell Kirk

## CONSERVATIVE MIND. FROM BURKE TO ELIOT

### **The Idea of Conservatism**

“The stupid party”: this is John Stuart Mill’s description of conservatives. Like certain other summary dicta which nineteenth-century liberals thought to be forever triumphant, his judgment needs review in our age of disintegrating liberal and radical notions. Certainly many dull and unreflecting people have lent their inertia to the cause of conservatism: “It is commonly sufficient for practical purposes if conservatives, without saying anything, just sit and think, or even if they merely sit,” F.J.C. Hearnshaw observed. Edmund Burke, the greatest of modern conservative thinkers, was not ashamed to acknowledge the allegiance of humble men whose sureties are prejudice and prescription; for, with affection, he likened them to cattle under the English oaks, deaf to the insects of radical innovation. But the conservative principle has been defended, these past two centuries, by men of learning and genius. To review conservative ideas, examining their validity for this perplexed age, is the purpose of this book, which does not pretend to be a history of conservative parties. This study is a prolonged essay in definition. What is the essence of British and American conservatism? What sentiments, common to England and the United States, have sustained men of conservative impulse in their resistance against radical theories and social transformation ever since the beginning of the French Revolution?

Walk beside the Liffey in Dublin, a little way east of the dome of the Four Courts, and you come to an old doorway in a blank wall. This is the roofless wreck

of an eighteenth-century house, and until recently the house still was here, inhabited although condemned: Number 12, Arran Quay, formerly a brick building of three stories, which began as a gentleman's residence, sank to the condition of a shop, presently was used as a governmental office of the meaner sort, and was demolished in 1950 – a history suggestive of changes on a mightier scale in Irish society since 1729. For in that year, Edmund Burke was born here. Modern Dublin's memories do not extend much beyond the era of O'Connell, and the annihilation of Burke's birth-place seems to have stirred up no protest. Still more recently many of the other old houses along the Quays have been demolished; indeed most of the eighteenth-century town falls into dereliction. The physical past shrivels. Behind Burke's house (or the sad scrap of it that remains), toward the old church of St. Michan in which, they say, he was baptised, stretch tottering brick slums where barefoot children scramble over broken walls. If you turn toward O'Connell Street, an easy stroll takes you to the noble facade of Trinity College and the statues of Burke and Goldsmith; northward, near Parnell Square, you may hear living Irish orators proclaiming through amplifiers that they know how to lead the little streets against the great. And you may reflect, with Burke, "What shadows we are, and what shadows we pursue!"

Since Burke's day, there have been alterations aplenty in Dublin. Yet to the visitor, Ireland sometimes seems a refuge of tradition amidst the flux of our age, and Dublin a conservative old city; and so they are. A world that damns tradition, exalts equality, and welcomes change; a world that has clutched at Rousseau, swallowed him whole, and demanded prophets yet more radical; a world smudged by industrialism, standardized by the masses, consolidated by government; a world crippled by war, trembling between the colossi of East and West, and peering over a smashed barricade into the gulf of dissolution: this, our era, is the society Burke foretold, with all the burning energy of his rhetoric, in 1790. By and large, radical thinkers have won the day. For a century and a half, conservatives have yielded ground in a manner which, except for occasionally successful rear-guard actions, must be described as a rout.

As yet the causes of their shattering defeat are not wholly clear. Two general explanations are possible, however: first, that throughout the modern world "*things* are in the saddle," and conservative ideas, however sound, cannot resist the unreasoning forces of industrialism, centralization, secularism, and the levelling impulse; second, that conservative thinkers have lacked perspicacity sufficient to meet the conundrums of modern times. And either explanation has some foundation.

This book is a criticism of conservative *thought*; and space does not allow any very thorough discussion of the material forces and political currents which have been at once the forcing-bed and the harvest of conservative ideas. For similar reasons, one can deal only laconically with the radical adversaries of conservatism. But there are good political histories of the years since 1790, and the doctrines of liberalism and radicalism are sufficiently established in the popular mind; while conservatism has had few historians. Although the study of French and German

conservative ideas (linked with British and American thought by the debt to Burke of Maistre, Bonald, Guizot, Gentz, Metternich, and a dozen other men of high talents) is full of interest, that subject is too intricate for treatment here; only Tocqueville, out of all the Continental men of ideas, has been properly recognized in this volume, and he chiefly because of his enduring influence upon Americans and Englishmen.

*The Conservative Mind*, then, is confined to British and American thinkers who have stood by tradition and old establishments. Only Britain and America, among the great nations, have escaped revolution since 1790, which seems attestation that their conservatism is a sturdy growth and that investigation of it may be rewarding. To confine the field more narrowly still, this book is an analysis of thinkers in the line of Burke. Convinced that Burke's is the true school of conservative principle, I have left out of consideration most anti-democratic Liberals like Lowe, most antigovernmental individualists like Spencer, most anti-parliamentary writers like Carlyle. Every conservative thinker discussed in the following chapters – even the Federalists who were Burke's contemporaries – felt the influence of the great Whig, although sometimes the ideas of Burke penetrated to them only through a species of intellectual filter.

Conscious conservatism, in the modern sense, did not manifest itself until 1790, with the publication of *Reflections on the Revolution in France*. In that year the prophetic powers of Burke fixed in the public consciousness, for the first time, the opposing poles of conservation and innovation. The Carmagnole announced the opening of our era, and the smoky energy of coal and steam in the north of England was the signal for another revolution. If one attempts to trace conservative ideas back to an earlier time in Britain, soon he is enmeshed in Whiggery, Toryism, and intellectual antiquarianism; for the modern issues, though earlier taking substance, were not yet distinct. Nor does the American struggle between conservatives and radicals become intense until Citizen Genet and Tom Paine transport across the Atlantic enthusiasm for French liberty: the American Revolution, substantially, had been a conservative reaction, in the English political tradition, against royal innovation. If one really must find a preceptor for conservatism who is older than Burke, he cannot rest satisfied with Bolingbroke, whose skepticism in religion disqualifies him, or with the Machiavellian Hobbes, or that old-fangled absolutist Filmer. Falkland, indeed, and Clarendon and Halifax and Strafford, deserve study; still more, in Richard Hooker one discovers profound conservative observations which Burke inherited with his Anglicanism and which Hooker drew in part from the Schoolmen and their authorities; but already one is back in the sixteenth century, and then in the thirteenth, and this book is concerned with modern problems. In any practical sense, Burke is the founder of our conservatism.

Canning and Coleridge and Scott and Southey and Wordsworth owed their political principles to the imagination of Burke; Hamilton and John Adams read Burke in America, and Randolph promulgated Burke's ideas in the Southern states.

Burke's French disciples adopted the word "conservative," which Croker, Canning, and Peel clapped to the great party that no longer was Tory or Whig, once the followers of Pitt and Portland had joined forces. Tocqueville applied the wisdom of Burke to his own liberal ends; Macaulay copied the reforming talents of his model. And these men passed on the tradition of Burke to succeeding generations. With such a roster of pupils, Burke's claim to speak for the real conservative genius should be difficult to deny. Yet scholars of some eminence have endeavored to establish Hegel as a kind of coadjutor to Burke. "Sir," said Samuel Johnson concerning Hume, "the fellow is a Tory by chance." Hegel's conservatism is similarly accidental, as Tocqueville remarks: "Hegel exacted submission to the ancient established powers of his own time; which he held to be legitimate, not only from existence, but from their origin. His scholars wished to establish powers of another kind [...]. From this Pandora's box have escaped all sorts of moral disease from which the people are still suffering. But I have remarked that a general reaction is taking place against this sensual and socialist philosophy." Schlegel, Gorres, and Stolberg – and Taine's school, in France – were admirers of both Hegel and Burke, which perhaps explains the confounding of their superficial resemblance with their fundamental inimicality. Hegel's metaphysics would have been as abhorrent to Burke as his style; Hegel himself does not seem to have read Burke; and people who think that these two men represent different facets of the same system are in danger of confusing authoritarianism (in the political sense) with conservatism. Marx could draw upon Hegel's magazine; he could find nothing to suit him in Burke.

But such distinctions are more appropriate in a concluding chapter than in a preface. Just now, a preliminary definition of the conservative idea is required.

Any informed conservative is reluctant to condense profound and intricate intellectual systems to a few pretentious phrases; he prefers to leave that technique to the enthusiasm of radicals. Conservatism is not a fixed and immutable body of dogmata; conservatives inherit from Burke a talent for re-expressing their convictions to fit the time. As a working premise, nevertheless, one can observe here that the essence of social conservatism is preservation of the ancient moral traditions of humanity. Conservatives respect the wisdom of their ancestors (this phrase was Strafford's, and Hooker's, before Burke illuminated it); they are dubious of wholesale alteration. They think society is a spiritual reality, possessing an eternal life but a delicate constitution: it cannot be scrapped and recast as if it were a machine. "What is conservatism?" Abraham Lincoln inquired once. "Is it not adherence to the old and tried, against the new and untried?" It is that, but it is more. F.J.C. Hearnshaw, in his *Conservatism in England*, lists a dozen principles of conservatives, but possibly these may be comprehended in a briefer catalogue. I think that there are six canons of conservative thought.

(1) Belief in a transcendent order, or body of natural law, which rules society as well as conscience. Political problems, at bottom, are religious and moral problems. A narrow rationality, what Coleridge called the Understanding, cannot of



itself satisfy human needs. "Every Tory is a realist," says Keith Feiling: "he knows that there are great forces in heaven and earth that man's philosophy cannot plumb or fathom." True politics is the art of apprehending and applying the Justice which ought to prevail in a community of souls.

(2) Affection for the proliferating variety and mystery of human existence, as opposed to the narrowing uniformity, egalitarianism, and utilitarian aims of most radical systems; conservatives resist what Robert Graves calls "Logicalism" in society. This prejudice has been called "the conservatism of enjoyment" – a sense that life is worth living, according to Walter Bagehot "the proper source of an animated Conservatism."

(3) Conviction that civilized society requires orders and classes, as against the notion of a "classless society." With reason, conservatives often have been called "the party of order." If natural distinctions are effaced among men, oligarchs fill the vacuum. Ultimate equality in the judgment of God, and equality before courts of law, are recognized by conservatives; but equality of condition, they think, means equality in servitude and boredom.

(4) Persuasion that freedom and property are closely linked: separate property from private possession, and Leviathan becomes master of all. Economic levelling, they maintain, is not economic progress.

(5) Faith in prescription and distrust of "sophisters, calculators, and economists" who would reconstruct society upon abstract designs. Custom, convention, and old prescription are checks both upon man's anarchic impulse and upon the innovator's lust for power.

(6) Recognition that change may not be salutary reform: hasty innovation may be a devouring conflagration, rather than a torch of progress. Society must alter, for prudent change is the means of social preservation; but a statesman must take Providence into his calculations, and a statesman's chief virtue, according to Plato and Burke, is prudence.

Various deviations from this body of opinion have occurred, and there are numerous appendages to it; but in general conservatives have adhered to these convictions or sentiments with some consistency, for two centuries. To catalogue the principles of their opponents is more difficult. At least five major schools of radical thought have competed for public favor since Burke entered politics: the rationalism of the *philosophes*, the romantic emancipation of Rousseau and his allies, the utilitarianism of the Benthamites, the positivism of Comte's school, and the collectivistic materialism of Marx and other socialists. This list leaves out of account those scientific doctrines, Darwinism chief among them, which have done so much to undermine the first principles of a conservative order. To express these several radicalisms in terms of a common denominator probably is presumptuous, foreign to the philosophical tenets of conservatism. All the same, in a hastily generalizing fashion one may say that radicalism since 1790 has tended to attack the prescriptive arrangement of society on the following grounds.

The perfectibility of man and the illimitable progress of society: meliorism. Radicals believe that education, positive legislation, and alteration of environment can produce men like gods; they deny that humanity has a natural proclivity toward violence and sin.

(1) Contempt for tradition. Reason, impulse, and materialistic determinism are severally preferred as guides to social welfare, trustier than the wisdom of our ancestors. Formal religion is rejected and various ideologies are presented as substitutes.

(2) Political levelling. Order and privilege are condemned; total democracy, as direct as practicable, is the professed radical ideal. Allied with this spirit, generally, is a dislike of old parliamentary arrangements and an eagerness for centralization and consolidation.

(3) Economic levelling. The ancient rights of property, especially property in land, are suspect to almost all radicals; and collectivistic reformers hack at the institution of private property root and branch.

As a fifth point, one might try to define a common radical view of the state's function; but here the chasm of opinion between the chief schools of innovation is too deep for any satisfactory generalization. One can only remark that radicals unite in detesting Burke's description of the state as ordained of God, and his concept of society as joined in perpetuity by a moral bond among the dead, the living, and those yet to be born – the community of souls.

So much for preliminary delineation. The radical, when all is said, is a neoterrorist, in love with change; the conservative, a man who says with Joubert, *Ce sont les crampons qui unissent une generation a une autre* – these ancient institutions of politics and religion. *Conservez ce qu'ont vu vos peres*. If one seeks by way of definition more than this, the sooner he turns to particular thinkers, the safer ground he is on. In the following chapters, the conservative is described as statesman, as critic, as metaphysician, as man of letters. Men of imagination, rather than party leaders, determine the ultimate course of things, as Napoleon knew; and I have chosen my conservatives accordingly. There are some conservative thinkers – Lord Salisbury and Justice Story, for instance – about whom I would have liked to write more; some interesting disciples of Burke, among them Arnold, Morley, and Bryce, I have omitted because they were not regular conservatives. But the main stream of conservative ideas is followed from 1790 to 1986.

In a revolutionary epoch, sometimes men taste every novelty, sicken of them all, and return to ancient principles so long disused that they seem refreshingly hearty when they are rediscovered. History often appears to resemble a roulette wheel; there is truth in the old Greek idea of cycles, and round again may come the number which signifies a conservative order. One of those flaming clouds which we deny to the Deity but arrogate to our own employment may erase our present elaborate constructions so abruptly as the tocsin in the Faubourg St. Germain terminated an age equally tired of itself. Yet this roulette-wheel simile would be repugnant to Burke (or to John Adams), who knew history to be the unfolding of a Design. The

true conservative thinks of this process, which looks like chance or fate, as, rather, the providential operation of a moral law of polarity. And Burke, could he see our century, never would concede that a consumption-society, so near to suicide, is the end for which Providence has prepared man. If a conservative order is indeed to return, we ought to know the tradition which is attached to it, so that we may rebuild society; if it is not to be restored, still we ought to understand conservative ideas so that we may rake from the ashes what scorched fragments of civilization escape the conflagration of unchecked will and appetite.

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R.K.

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**NOTE**

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Monika Zbrojewska

**DARTMOUTH COLLEGE V. WOODWARD  
- FREEDOM OF CONTRACTS AND PRIVATE EDUCATION**

*The Constitution is a mere thing of wax in the hands of the judiciary,  
which they may twist and shape into any form they please.*

Thomas Jefferson

Initially the United States Supreme Court did not have clearly defined tasks and competences. On its introduction, the separation of powers demanded that judiciary authority is treated as equal to legislative and executive. However, in practice the position of the recently established court was not overly high. The prestige of the Supreme Court consolidated only under Chief Justice John Marshall.<sup>1</sup>

John Marshall,<sup>2</sup> the Chief Justice of the United States Supreme Court in the years 1801–1835 contributed decisively to such an interpretation of the Constitution that defined the framework of US legal and economic development for the years to come. Of all the numerous decisions made by Marshall, three seem especially crucial today.

In the first of them, in the *Marbury v. Madison* case of 1803, Marshall affirmed the right of the Supreme Court to Judicial Review. The holding of the court was a landmark precedence for American constitutionalism.

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<sup>1</sup> John Marshall assumed the post of Chief Justice of the Supreme Court, while the institution was still taking shape, which gave him the opportunity to be one of the framers of constitutionalism being born at that time.

<sup>2</sup> Marshall participated in the American Revolutionary War and was named Secretary of State. He never completed any studies in law and letters, only in a few months' long course in law. Was a man of extreme intelligence, hence the decisions issued by Marshall Court are based on logic hard as nails.

Marshall's opinion in the *McCulloch v. Maryland*<sup>3</sup> case of 1819 defined the manner of understanding American federalism. The successive decision was the 1819 verdict in the case *Dartmouth College v. Woodward*. This decision was of great importance for setting the principle of protecting contracts on the grounds of Federal Constitution, as the same time laying down the new definition of corporate entity. In the general opinion held by the researchers of American law "*Dartmouth College* marked an epochal moment in the history of American Corporation".<sup>4</sup>

In the colonial and state period, corporations were established mostly to implement public tasks designated by the authorities, and never of private business character. Devoid to a great extent of independence, they had to bear with the interventions of state authorities that controlled every aspect of their operation. State authorities participated in the revenue of the corporation, held numerous shares, and also appointed members of the body that provided the external representation of the corporation.

The 19th century was to bring a profound change in this *status quo*. Corporations begun to be noticed as efficient not only in attaining public goals. They could be private institutions undertaking certain tasks for the benefit of the society. This was the vision and understanding of the corporate institution, as defined by the Supreme Court in the verdict of John Marshall concerning the *Dartmouth College v. Woodward* case, where the majority case opinion was drafted by Marshall himself.

Dartmouth College was one of the nine colonial colleges founded before the American Revolution, as an initiative of Eleazar Whellock. Although officially incorporated in the name of the Crown, it received its charter of incorporation not from King George III but from the Royal Governor of the Province. The basic task of the college was to provide tuition for Protestant elites of New Hampshire, whose official and state denomination was Congregationalism.<sup>5</sup>

The beginning of the 19th century heralded major social and economic changes in the United States. In the year 1800, the Federalists,<sup>6</sup> being the party supporting powerful federal authority, were defeated in presidential election. The victorious Republicans were, however, suspicious about the mixing of state and church structures, and aimed at the severance of official churches from the State at the level of individual states, following Jefferson's opinion and interpretation of the First Amendment. Hence a protestant college, which was to forge the elites for the

<sup>3</sup> *McCulloch v. Maryland*, 17 U.S. (4 Wheat.) 316, 421 (1819).

<sup>4</sup> W. M. Wiecek, *Liberty under law. Supreme Court in American Life*, Baltimore 1988, pp. 44–45.

<sup>5</sup> Congregationalism, popular, especially in the US and the UK, is one of the trends in Protestantism. Congregationalists emphasise especially the freedom of man in questions of faith and morality. Moreover, Congregationalism is democratic form of church governance. Some claim that Congregationalism exerted indirect influence on American constitutionalism. (The first American universities, as e.g. Yale and Harvard, were established by Congregationalists.)

<sup>6</sup> Federalists supported strong power of the Federal Government and had a tendency to a broader and interpretation of US constitution which they considered the supreme law; they wanted to weaken state authorities to the benefit of the Federal Government. Alexander Hamilton was the leader of the federalists.



entire state, did not go well with the Republicans, and its interception by the state was treated as contrary to the Republican philosophy. The source of the reluctance was the fact that the majority of the Board of Trustees of the Dartmouth College, were Federalists.

In 1815, the newly elected legislature of New Hampshire attempted to change the character of the college from private to state. They argued to have the right to it, as these were the state authorities that provided for its operation and chose to alter a clause in the original Dartmouth's charter, which made the board a self-perpetuating one. By the decision of state legislature, the new board was to be appointed, and the right to nominate its members was to be a task of the new governor. Additionally, by changing the statutory provisions, they supervision of the state over the operation of Dartmouth College was expanded.

This resulted in outrage and objections of the current Board of Trustees of the college. The decision was understood to overcome the contractually guaranteed status of the college. Considering this act an obvious violation of guaranteed clauses of the contract, members of the dismissed board decided to take the case against William Woodward to court. William Woodward was the treasurer, who kept the seal and documents in the name of state authorities. They Trustees appointed Daniel Webster<sup>7</sup> their defense attorney. A young man, Webster already enjoyed much respect and fame as a lawyer. Moreover, he knew the case of Dartmouth College from its very beginning.

He believed that by converting the school to a state university, the state legislature acted against the Constitution of the State of New Hampshire, "which provided that no person should be deprived of his property except by the 'law of the land', meaning the common law and not a legislative act".<sup>8</sup> Webster believed that it was only through court procedure that the rights and duties acquired earlier could be changed.

In the court, state authorities quoted the argument that they were the only legal successors of the authorities of the Colony of New Hampshire, the founders of Dartmouth College, which entitled them to changing stipulations of the charter.

Daniel Webster lost the case in the Supreme Court of New Hampshire. The judge leading the case, William M. Richardson, believed that changing the character of the college into a public State University, the state authorities did not act against the law. In his opinion, the college founded from public funds and established by state authority came under the control of the same authority, which was therefore entitled to introduce changes into its charter of incorporation. Hence the contractual clause in the charter of incorporation could not limit the prerogatives of the government. His line of argumentation assumed that "corporations were of two

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<sup>7</sup> Daniel Webster (1782–1852), American lawyer involved in the political life of the country; Secretary of State 1841–1843 and 1850–1852.

<sup>8</sup> Richard N. Current, "It is ... a small college ... yet, there are those who love it" Dartmouth College v. Woodward.

classes. Private corporations were created by individuals for the private benefit. Their property stood on the same ground as that of individuals; their charters were created by the state for public purpose. The legislature had the power to regulate them without limitation by the contract clause. Because the education of future generations was a matter of the highest public concern, Dartmouth College was a public corporation and subject to legislative control.” Daniel Webster successfully appealed to the United States Supreme Court. With John Marshall as the Chief Justice, Webster, who had known Marshall’s opinion on contracts, invoked the Contract Clause of the Federal Constitution.

The adding of the contract clause in the constitution resulted from the fear that state authorities would continue a practice that had been widespread under the Articles of Confederation, namely grant “private relief” by passing bills relieving particular (especially influential) persons of their obligation to pay their debts. The same phenomenon prompted the authors of the Constitution to make bankruptcy law a province of the Federal Government.<sup>9</sup> The Contract Clause appearing in the United States Constitution, Article I, section 10, states that

No State shall [...] pass any Bill of Attainder, *ex post facto* Law, or Law impairing the Obligation of Contracts.<sup>10</sup>

Yet it was not only the fact of quoting the contract clause that guaranteed Webster his success before the Supreme Court. Speaking before Marshall, he made a speech so convincing and rhetorically perfect that it is still considered among the most famous court oratory pieces in the history of US jurisprudence.

He argued that Dartmouth College should remain beyond the realm of intervention of state authorities, lest the tradition of the college is destroyed and the uncertainty of contracts results in legal chaos. Webster quoted the ruling of the Supreme Court in *Fletcher v. Peck* of 1810, which was also written by Marshall. In that ruling, Marshall proved that state legislature violating contract clause was against the Constitution.

The defender of Dartmouth College turned to the Chief Justice of US Supreme Court with the following address:

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<sup>9</sup> [www.en.wikipedia.org/wiki/Contract\\_Clause](http://www.en.wikipedia.org/wiki/Contract_Clause).

<sup>10</sup> Article 1, Section 10 of the United States Constitution reads: “No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, *ex post facto* Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing its inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Control of the Congress.

No State shall, without the Consent of Congress, lay any duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.”

This, Sir, is my case! It is the case not merely of that humble institution, it is the case of every college in our Land! It is more! It is the case of every eleemosynary institution throughout our country – of all those great charities founded by the piety of our ancestors to alleviate human misery, and scatter blessings along the pathway of life! It is more! It is, in some sense, the case of every man among us who has property of which he may be stripped, for the question is simply this, ‘Shall our State Legislatures be allowed to take that which is not their own, to turn it from its original use, and apply it to such ends and purposes as they in their discretion shall see fit! Sir, you may destroy this little institution, it is weak, it is in your hands! I know it is one of the lesser lights in the literary horizon of our country. You may put it out! But if you do so, you must carry through your work! You must extinguish, one after another, all those great lights of science which for more than a century have thrown their radiance over our land! It is, Sir, as I have said, a small college. And yet there are those who love it!

Sir, I know not how others may feel but for myself, when I see my Alma Mater surrounded, like Cesar in the senate house, by those who are reiterating stab upon stab, I would not for this right hand have her say to me, ‘Et tu quoque, mi fili!’<sup>11</sup>

Marshall was thus convinced by the arguments that he himself considered to be the only proper and valid. Nevertheless, unwilling to undertake a rash judgment, he investigated the problem in depth. Knowing how important was the precedent in such a case, he wanted to learn the opinions of the other members of the court. It was the opinion of two justices, Joseph Story<sup>12</sup> and Bushrod Washington, that Marshall found considered especially vital in awarding legal significance to the precedent. The two eminent legists were a powerful expert support for Marshall.

Especially, Story appeared to be of key importance. He was not only the most eminent, besides Marshall himself, Justice of the Supreme Court and expert in law, but also the future author of *Commentaries on the Constitution of the United States*,<sup>13</sup> and an authority on the interpretation of the Federal Constitution for generations to come. Story supported to Marshall’s point of view.

In 1819, Marshall’s eighteen-page-long decision finally closed the case. In the document, Marshall focused on a number of the most important questions. The first was performing such an interpretation of the actual state of affairs related to the case that it proved that the college’s charter must be construed as a contract. Marshall believed the rights set in Constitution to be flexible, that is potentially adaptable to most cases, which he believed to leave ample room for interpretation and guarantee the longevity of the Constitution. It was so as Marshall claimed that a flexible interpretation should be used for all new challenges and necessities of life for current and future times. This is how Marshall defined contract:

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<sup>11</sup> D. Webster, *The papers of Daniel Webster*, ed. by Ch. M. Wiltse, Series Two, Legal Papers, Vol. 3, *The Federal Practice*, Part 1, ed. A. J. King, pp. 153–154.

<sup>12</sup> Joseph Story was nominated a Justice of the Supreme Court by President Madison in 1811, at the age of 32 which made him the youngest nominated Justice. The closest collaborator of Marshall, Story held his office until his death in 1845.

<sup>13</sup> The work entitled *Commentaries on the Constitution of the United States* was written in 1833.

A contract is a compact between two or more persons, and is either executory or executed. An executory contract is one in which a party binds himself to do or not to do a particular thing. A contract executed is one in which the object of the contract is performed, and this, says Blackstone, differs in nothing from a grant. [...] A contract executed, as well as one that is executory, contains obligations binding on the parties. A grant, in its own nature, amounts to an extinguishment of the right of the grantor, and implies a contract not to reassert that right.<sup>14</sup>

It can require no argument to prove that the circumstances of this case constitute a contract. An application is made to the Crown for a charter to incorporate a religious and literary institution. In the application, it is stated that large contributions have been made for the object, which will be conferred on the corporation as soon as it shall be created. The charter is granted, and on its faith the property is conveyed. Surely, in this transaction, every ingredient of a complete and legitimate contract is to be found.

From the fact, then, that a charter of incorporation has been granted, nothing can be inferred which changes the character of the institution or transfers to the government any new power over it. The character of civil institutions does not grow out of their incorporation, but out of the manner in which they are formed and the objects for which they are created. The right to change them is not founded on their being incorporated, but on their being the instruments of government, created for its purposes. The same institutions, created for the same objects, though not incorporated, would be public institutions, and, of course, be controllable by the legislature. The incorporating act neither gives nor prevents this control. Neither, in reason, can the incorporating act change the character of a private eleemosynary institution.<sup>15</sup>

In this manner, Marshall reinstated the character of Dartmouth College, which it was granted on the power of the original contract that could not be changed.

In the other cases examined, Marshall proved that by interfering with their charter of incorporation, that is stipulations of a binding contract, the authorities of New Hampshire acted unlawfully, breaking contract law.

The State legislatures were forbidden ‘to pass any law impairing the obligation of contracts’, that is, of contracts respecting property, under which some individual could claim a right to something beneficial to himself, and that, since the clause in the Constitution must in construction receive some limitation, it may be confined, and ought to be confined, to cases of this description, to cases within the mischief it was intended to remedy [...].

The framers of the Constitution did not intend to restrain the States in the regulation of their civil institutions, adopted for internal government, and that the instrument they have given us is not to be so construed, may be admitted. The provision of the Constitution never has been understood to embrace other contracts than those which respect property, or some object of value, and confer rights which may be asserted in a court of justice. It never has been understood to restrict the general right of the legislature to legislate on the subject of divorces. Those acts enable some tribunals not to impair a marriage contract, but to liberate one of the parties, because it has been broken by the other. When any State legislature shall pass an act annulling all marriage contracts, or allowing either party to annul it, without the consent of the other, it will be time enough to inquire, whether such an act be constitutional.<sup>16</sup>

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<sup>14</sup> The Court laid down its exposition of the word “contract” in *Fletcher v. Peck*, 6 Cranch 87, 136.

<sup>15</sup> C. J. Marshall, Opinion of the Court, Supreme Court of The United States, 17 U.S. 518, *Trustees of Dartmouth College v. Woodward*, Error to The Superior Court of the state of New Hampshire.

<sup>16</sup> C. J. Marshall, Opinion of the Court, Supreme Court of The United States, 17 U.S. 518.

In his capacity of the Chief Justice of the United States, Marshall imposed his interpretation pointing out that the legal character of state legislature intervention. He bade it be more careful and prudent in future while drafting charters. For charters of incorporation, perceived as contractual agreements, decide unambiguously about the rights and obligations that result from them.

The *Dartmouth College v. Woodward* precedent provided on the one hand a clear definition of the limits of State intervention into legally binding contracts, and support for private enterprise on the other. Private corporations became independent legal persons. The result of the decision was the increase of legal security and attraction of private capital into corporations followed by their operation expanding on an increasing social and economic scale.

In his decision, Marshall precisely laid down his own concept of a legal person. In his understanding, corporations were persons that could also be the subjects of all rights and duties, and could act in their own name. What follows, private corporations began to be treated in legal transactions at par with other – private – persons.

The case *Dartmouth College v. Woodward* set the constitutional principle of inviolability of contracts in the United States. This inviolability, or sanctity, of contracts has been since then considered the basic fact. Placed at a par with freedom of religion and the due process of law, the freedom of contracts has been treated as one of the most important individual rights. It was an interpretation cleanly in Lockian spirit, as in his treatises in political philosophy.<sup>17</sup> Locke wrote that the protection of contracts and protection of the property right is a prerequisite for freedom, while the right to private property is a natural and inalienable right.

One of the effects of the decision in the case *Dartmouth College v. Woodward* was the establishment of a network of private schools and colleges, being the most powerful and most efficient system of education in the world. A system that, being independent of state authorities, is at the same time free and pluralistic.

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<sup>17</sup> *Two Treatises of Civil Government* of 1689. Locke, developed the theory of liberal democracy. He believed the most important rights of an individual to be freedom and property, which needed protection from the authorities.



## ABSTRACTS

### KENNETH MINOGUE

Minogue undertakes one of the subjects that are most crucial for contemporary liberal societies, namely that of social inequalities. It is not a new question, even though what was known the 19th century as the distinction between the ‘deserving’ and the ‘non-deserving’ poor that they themselves believed to be the most basic moral judgement has been abandoned. Currently, “the entire realm of moral actions has been interpreted as a function of social conditions.” Man is increasingly rarely perceived as a moral subject responsible for own deeds, and an increasing number of judgements concerning man is constrained by social conditions. A reason to worry is the ‘objectification’ of the person: “we are who we are on the power of social conditions, in which we have come to live”.

The weakening of man’s autonomy is paralleled by the increase in the power of the state, which takes over the task of fighting inequalities. “If we are to prevent discrimination, the state must wield the power to control human preferences.” What follows, “if the state is to acquire this additional authority, discrimination must be recognised as an unfairness known as ‘social exclusion’”.

The task of levelling up inequalities is the more dangerous that in every society there are inequalities that may be interpreted through the paradigm of ‘social exclusion’. To prove the existence of the social inequalities that need levelling up, the ‘gap metaphor’ is used. Constructed with statistical data which not only use approximate averages but, moreover, say nothing about the reasons behind the inequalities themselves. This in turn may lead to the solutions that absolutely miss the point from the point of view of social needs.

One of the cases quoted by Minogue is the difference in life expectancy. In the United Kingdom, it is on average greater for the middle than for the working class. Does this mean discrimination that the state should fight? The actual difference results from the fact that the middleclass pays more attention to their lifestyle. “It is an irony of the progress that in the past we would imagine the poor as thin and undernourished, while today they are often obese and consume too much improper food.”

The means provided by the state based on the statistics and the resultant gaps never solve the problems. The final paradox of the welfare state is that the same unfavourable situation which such means are to offset is continually reproduced through the unlimited provision of goods and services to the people who can cope quite well.

### DAVID LORENZO INZQUIERDO

In the world where individualism has become an obvious quality, the views of Alasdair MacIntyre may be considered peculiar, which does not spell ‘mistaken’. David Lorenzo is convinced that there is a reason to have MacIntyre’s views brought into attention, as they may offer a remedy against the radical individualism.

In MacIntyre’s concept, a person has the ability to develop, and is not therefore a static entity that could easily be defined by attributing unchanging characteristics. The correct development means that a person ‘flourishes’, i.e. “attains independence in practical reasoning”. Human life is a coherent unity, a ‘narration’ of the individual ‘flourish’, that is a development in which the capacity to attain ‘good’ increases.

For something to flourish, a beginning or foundation is needed. In the case of a human, the foundation is provided in ‘human nature’ which empowers the person with the elementary skills for further growth. The goal of the development, in turn, is striving to the ‘good’ that is defined by the rules of natural law, whose foundations lie in the common ‘human nature’. Thus, “following MacIntyre’s system, we may notice that human autonomy operates under the influence of principles that do not originate from it”.

Nevertheless, the recognition of the principles of natural law is impossible for an average human without falling back upon good ‘practices’. ‘Practices’ through which ‘virtue’, i.e. the “capacities of the mind that allow the recognition of relative goods and the use of skills to attain them” is cultivated. They may develop properly only in individual communities with set traditions. Hence such a major importance of the notion of ‘community’ in MacIntyre, who claims that the “recognition of dependence [on community] is the key to independence”. In other words, only the recognition of the superior role of community in the life of the individual allows the individual full exercise of the capacities offered by their nature.

### HARVEY MANSFIELD

Mansfield have not been discussing the virtue of the majority of Americans at the time of the Founding, for that would be more Christian and Protestant than what can found in Locke, Montesquieu, Ben Franklin or the authors of *The Federalist*. His intent was to see what is more innovative and at the same time more peculiarly American than what most Americans practiced and believed. Part of the innovation is in Franklin’s list of virtues for a free, democratic society, in which religion is assumed but depreciated. More of the innovation, Mansfield would say, is in Publius, who is an underrated source of – one cannot say moral inspiration – but moral suggestion and definition in America. Publius’ notions of ambition, energy, and responsibility had behind them the force of the Constitution, the force deriving from the form, which provides constitutional space. What is this force? It is not self-interest generally or theoretically understood but “the interest of the office.” And the interest of the office is a kind of interest that permits and requires the cooperation of virtue. The lesson overall is that moral philosophy is incomplete without political philosophy.

### ANDRZEJ BRYK

The controversies between the United States and the European Union of the last decade signify much deeper cultural differences between these two parts of the transatlantic civilization than just their immediate political responses to particular events after 9/11 2001. Both America and the Western part of the European Union are modern political and cultural entities, but their responses to modernity and modernization have since the 17th century and 18th century been different. Inside the European Union the cultural rift is also visible between the original western European countries



and the post-soviet, post-Yalta countries of Eastern Europe accepted in 2004 and 2007, which have belonged to Europe for a thousand years, but have been affected much less by modernity and modernization of the 18th century Enlightenment type. What we thus have is a tripartite division within transatlantic civilization which has many consequences as far as the immediate political choices and aims taken up by the United States, the western dominant countries of the European Union and the latter's new part in Eastern Europe. The major difference between the United States and the western part of the European Union concerns the way both entities were built, America from bottom up, Europe and then the European Union from top down. There are also other significant differences concerning religious life, a much more pronounced ideological character of the United States, and the way the relationship between the elites and their societies are structured. The differences between the western part of the European Union and the post-Yalta countries of Eastern Europe concern mainly the mutual images what the new common European Union should be, the different strategies of modernization applied to the Eastern part, especially cultural modernization which touches on such sensitive issues as post-colonialism, cultural identity or a question of solidarity of all countries of the European Union or domination within it of the strongest ones.

### **MACIEJ BRACHOWICZ**

It is often argued that to build political union Member States of the European Union should follow the American example and experience of nation building. However, there are some factors of political, historical and philosophical nature that make the US model unsuitable. Rather than dwelling upon these, the article deals with the main reasons why, as the author believes, it is impossible to create pan-European democracy through a simple political act. The main focus of the article is the Treaty establishing Constitution for Europe (2003) and its successor, the EU Reform Treaty (Lisbon), which resembles the former in the overwhelming majority of its provisions, and is to replace the existing constitutional framework of the EU in 2009.

### **CHRISTOPHER WOLFE**

Wolfe analyses the current understanding of two clauses contained in the 1st Amendment to U.S. Constitution concerning the relations between the church and the state: the clause that sets up the freedom of the creed (Free Exercise Clause) and the one prohibiting the establishment of state religion (Establishment Clause). On the basis of opinions of members of the Supreme Court, the author claims that the far-going interpretation of the latter clause, which provides the grounds for decisions resulting, among others, in bans on hanging the Decalogue in court buildings or performance of Christian nativity plays in schools, as contradictory to civil freedoms guaranteed in the first clause. For how can such prohibitions be reconciled with the freedom of public manifestation of religion? The problem goes beyond constitutional discourse. In their views of religion, the Founding Fathers followed rather Locke and his guarantee for religious freedom to the believing but not to atheists. The modern, liberal concept of constitutional law presented by the Supreme Court reads the notion of 'religion' along the lines of the Free Exercise Clause in a broader sense, as "various potential answers to the question of faith", including the negation in the form of atheism or agnosticism.

This far-reaching, 'separatist' interpretation of the 1st Amendment is motivated by the mistaken, as Wolfe believes, understanding of intentions of the Constitution's authors. Most Supreme Court judges believe that any involvement of state structures on the side of religious or denominational institutions must inevitably lead to the establishment of social divides. This belief of the intellectual elites is the result of their specific outlook at religion, which is "not tainted by the acquaintance with numerous believers".

Actually, this separatist model is not only inconsistent with the tradition of the American nation but also a threat for the American democracy, whose power was perceived already by Tocqueville in the common moral foundations of citizens resulting from Christian faith.

#### **FR. ROBERT A. SIRICO**

Sirico undertakes an attempt to apply argumentation supporting John C. Murray's religious freedom to economic activity. Against all semblances, economic freedom displays plenty of features common with the freedom of creed: "also here, the consciousness, choice, and human nature play crucial roles in the moral drama of social life". The two individual freedoms are crucial for the operation of free society.

Murray founded his teaching on two principles deeply set in the Catholic tradition, namely the principle of freedom and the principle of subsidiarity. The two are consolidated by two ideas of equally deep roots: 'the principle of consent' and 'free institutions'. The first of these has its source in medieval monarchy, when to rule the king needed the consent of his subjects (or at least lack of their resistance). 'Free institutions' on the other hand are the foundation of the division between the society and the state, with the latter being markedly limited in its functions.

An example of application of these principles to religious freedom is the 1st Amendment to U.S. Constitution. As Murray has noticed, this amendment does not answer any "eternal question about the nature of truth of freedom, or the way the spiritual order of human life should follow [...]. [It] does not need expressing religious consent, but only the guarantee of rational civil obedience." In this position, a vast benefit for the Church is the fact that the area of its operation lies beyond the competencies of the state which endows it with a broad freedom of religion.

Why can this system be applied also for economic activity? It is so, because much like the internal realm of the human, also business activity must operate in the conditions of freedom to be able to come to full fruition. The role of the state is to ensure conditions for good-will cooperation between free subjects, which will be beneficial for the society as a whole. Therefore the market, not unlike the constitutional framework of the state, "is not a creed but a condition for peace".

#### **MARTA DU VALL**

The subject of the paper are the events and that provide the source of popularity of the neoconservative thought at the threshold of the 21st century. The events of 11th September 2001 gave the American neoconservatives an opportunity to take over full control over the short-term political assumptions of the federal government. It was the first step in the execution of the neoconservatives' broader plan concerning foreign policy and proving the dominant position of America in the contemporary geopolitical system. The author indicates that the roots of today's neoconservatives' ideas are to be sought in the early 1990s. With the end of the cold war, the neoconservatives were forced to change their concept of foreign policy. A question of the future objective that the US should try to attain as an actor on the international stage arose. One of the results of the following debate was a split in the Republican Party. One faction were the supporters of the 'enlightened nationalism' advocating foreign policy based on the principle of non-intervention. The other were primarily the neoconservatives who did not want a return to the past but desired an across-the-board campaign for spreading democracy all over the world. The result of these actions was to be the broadening of the area of freedom and liberty.

Briefly speaking, the neoconservatives believed that the post-cold-war foreign policy should be based on the assumption that the security of the United States keeps declining parallel to the shrinking of the area of democracy, and democracy and individual liberties are universal, therefore supporting them in the world is justifiable. The neoconservatives believed that world security hin-

ges on US readiness to assume the role of the leader. They favoured the view put forth by Charles Krauthammer stating that the United States is the world's only country to possess the military, diplomatic, political, and economic advantages that let it assume the role of the decisive player in any conflict, anywhere in the world. It seems that the contemporary imperialism-tainted policy is a necessary consequence of assuming the neoconservative beliefs in foreign policy. The power of the empire became the foundation for US security. In the consolidated and enlightened leadership of America, the neoconservatives see the solution that may help to eliminate the sense of a threat, encourage increased world security, and build better conditions for the development of the area of freedom and democracy.

### **KAZIMIERZ DADAK**

The United States had not introduced a single currency until 1879, and had not established the central bank before 1913. At that time, both wages and prices were highly flexible, and therefore there was no need for resorting to currency exchange rates and monetary policy for dampening demand-side asymmetric shocks. On the other hand, the European Monetary Union (EMU) was set up at the moment when the situation was just the opposite, with rigid wages and prices, and liquid currency exchange rates and flexible monetary policy provide the main weapon in fighting recession. Moreover, economic research has proved that the Eurozone fails to meet the requirements necessary to accept a single currency (optimum currency area), and is therefore susceptible to demand-side asymmetric shocks (affecting only selected areas). For that reason, establishment of a single currency for a large group of countries and transferring control over monetary policy to a supra-national institution deprived all members of the group of efficient tools for combating asymmetric economic shocks. It is not a coincidence therefore that since the Treaty of Maastricht, the pace of economic growth in the Eurozone remained markedly below the American GNP growth dynamics. This in turn caused a significant growth of unemployment in Europe, while in the US the number of the unemployed dropped considerably. Unfortunately, the long-term forecasts bring no grounds for optimism: a reason why the success of the EMU remains an open question.

### **EWA GRZESZCZYK**

The analysis presented in this article focuses on two contemporary Christian religious movements, which originated in the United States: one (the Promise Keepers) gathering men and one (Aglow International) – women. They share similar goals: spiritual and moral revival through devotion of life to Christ, strengthening of family ties and construction of the community of people sharing similar values. Both Promise Keepers and Aglow oppose the phenomena they consider dangerous in contemporary culture: excessive individualism and decreasing importance of local communes and the traditional family, declining morality, racism, negative media influence, and the decomposition of the traditional models of femininity and masculinity. As an antidote against these threats the two movements propose the return to Christian principles, traditional values, and roles of sexes, which makes them often perceived as an example of conservative reaction towards the liberal culture dominant in the United States. Nevertheless, in some aspects of both doctrine and concrete social practices both Promise Keepers and Aglow markedly succumb to the very culture they seem so stalwartly to contest.

### **KATARZYNA SKAWIŃSKA**

In modern times people no longer live in small, homogeneous communities. They have been replaced by more diverse and complex societies composed of numerous smaller groups sharing common be-

liefs, customs, and interests distinguishing them from the rest of the society. Although there are plenty of cultural aspects that connect such groups to the mainstream culture, the groups themselves manifest their own cultural individuality. Such groups put up boundaries that isolate them from the rest of society. Sociologists use the term 'subculture' to denote a group that shares a distinctive set of norms, values, and behaviors. The aim of the article is to look into the mechanisms operating within subcultures, to analyze different theories of subcultures, and to focus on youth and delinquent subculture. Finally, it juxtaposes counterculture with subculture, and discusses the style and commodification of subculture.

### **PIOTR MICHALIK**

Depending on the type of the person being the benefactor of the grant, the English colonial charters issued by the Crown since the end of the 15th century may be divided into corporate and proprietary licences. Both the legal form and the content of such charters was based on mediaeval standards. The basic model for the proprietary charter meant infeudation of a border county enjoying the special status of County Palatinate, and was established as early as at the time of William the Conqueror. The beneficiary of such a grant, the Count Palatine, discharged full royal power within his county, and was attached to the crown only by the oath of fealty. Although Henry VIII greatly limited the privileges of the Count Palatines, this specific legal status was successfully applied in colonial charters issued by the Stuarts beginning with the 1620s. A special place among those documents is held by the Charter of Maryland – a model proprietary charter of the Durham type issued in 1632 by King Charles I for the founder and first proprietor of Maryland, Cecil Calvert Lord Baltimore. A comparative analysis of the individual decisions of the Charter provides not only an opportunity to learn the structure and content of the proprietor colonial charter but also allows focusing on important political, social, and economic questions that shaped the 17th-century British colonialism in America. Their number includes legal and practical aspects of a colonial enterprise portrayed against the lives of George and Cecil Calverts, the scope and limits of the colony proprietor's power, the question of legislation and the binding force of law in the colony and – which is closely related to it – the shaping of the representational government in the form of General Assembly standing in opposition to the proprietor, the question of transposing feudal social relations of the metropolis to the colony through the manorial system, and political and denominational relations within the colony. The last of the above is particularly important in the case of Maryland, due to the fact of the Calverts being Catholic.

### **MAGDALENA BUTRYMOWICZ**

The Cherokee People are one of the League of Five (Civilized) Nations of North America gathering, besides the Cherokees, the Creek, the Chickasaw, the Choctaw, and the Seminole. The colonists called this group of tribes civilized as they chose to follow the white man's path. The first tribe to start relevant transformations was the Cherokee Nation who not only changed the tribal model but also saved their culture, language, tradition and the law of the ancestors. The Cherokee people decided to transform their tribal society into a modern state in the beginning of the 19th century. In no more than 28 years, the Cherokee National Council enacted numerous written laws, established state capital, organized financial structure of the state, and established a system of justice. The culmination of these changes was the passing of the state constitution. It was the first Native American written constitution in North America which brought together European and tribal law. It was, quite obviously, based on the American model, yet only in its structure and in the case of certain significant regulations unknown to the Cherokee, as e.g. the separation of powers and the taxation system. The Bill of Rights was also included in their constitution. This article reviews the 28 years

of building the Cherokee state, crowned by the enacted constitution. The time when the great chiefs and elders gradually prepared their tribal followers to follow on the path of building a constitutional state, being the only way to survive in the world of white man so unreceptive for the Cherokee.

### **MICHAŁ CHLIPALA**

The article is devoted to the Polish contribution to the building of US Army from the War of Independence to the Civil War. The author focuses especially on the later as it was the largest armed conflict in the US. Having explained the origins and motivations of the individual immigrant groups who decided to join the Union or the Confederation, the author attempts ascertaining their actual contribution to the war of 1861–1865. The problem with defining the actual number of soldiers of Polish origin fighting on both sides is highlighted, as the number is frequently strongly understated even by Polish historians. Furthermore, the article is an essay in showing that wherever they fought, Polish soldiers – although bereft of fatherland – were devoted to the ideal of fighting for freedom, even despite numerous proofs of intolerance and cases of negative bias of American society they encountered.

### **MONIKA ZBROJEWSKA**

The case *Dartmouth College v. Woodward* set the constitutional principle of inviolability of contracts in the United States. This inviolability, or sanctity, of contracts has been since then considered the basic fact. Placed at a par with freedom of religion and the due process of law, the freedom of contracts has been treated as one of the most important individual rights. One of the effects of the decision in the case *Dartmouth College v. Woodward* was the establishment of a network of private schools and colleges, being the most powerful and most efficient system of education in the world. A system that, being independent of state authorities, is at the same time free and pluralistic.



## ABOUT THE AUTHORS

Kenneth Minogue – one of the most remarkable political philosophers writing today connected with the London School of Economics. His more important publications: *The Liberal Mind* (1963), *Nationalism* (1967), *The Concept of a University* (1974), *Alien Powers: The Pure Theory of Ideology* (1985), *Politics: A Very Short Introduction* (1995), *The Silencing of Society: The True Cost of the Lust for News* (1997) and *Waitangi: Morality and Reality* (1998). He has written academic essays on a great range of problems in political theory.

David Lorenzo Izquierdo – teaches ethics, philosophy and sociology at Universitat Internacional de Catalunya in Barcelona. A scholar on political philosophy teaching both in Europe and the United States he has published various studies concerning contemporary liberalism, communitarianism, especially on John Rawls and Alasdair McIntyre. His recent book is *Comunitarismo contra Individualismo* (2007).

Harvey C. Mansfield – one of the most distinguished political theorists writing today. He teaches at Harvard University. A scholar of Machiavelli, Burke, Tocqueville, also a political philosopher of American constitutionalism. With his wife Delba he translated Tocqueville's *Democracy in America* (2000). Author of many influential books on Machiavelli, Tocqueville and American political tradition His recent book *Manliness* (2006) is a thorough analysis of the concept since antiquity till today.

Andrzej Bryk – teaches constitutional and political history at the Jagiellonian University and American politics and constitutionalism at the Andrzej Frycz Modrzewski Krakow University College. He is a Director of the Institute of American Studies at the Krakow University College. He has taught, among other places, at Harvard University, Amherst College, Marquette University. His many publications concern political philosophy, constitutional history and contemporary constitutional law of the United States.

Maciej Brachowicz – graduate of the Jagiellonian University, member of the World Youth Alliance and the Jagiellonian Club, teaches at the Andrzej Frycz Modrzewski Krakow University College

Christopher Wolfe – a preeminent American scholar on Constitutional Law, the author of many books. The most influential is *The Rise of Modern Judicial Review* (1986) which was listed in "Wall Street Journal" in 2006 as one of the five best books on the Constitution. His current work is in political

philosophy, especially the relation of natural law and liberal political theory. Wolfe's most recent book *Natural Law Liberalism* (2006) criticizes contemporary liberal political theory and argues that liberalism and natural law, properly understood, are not hostile, but mutually reinforcing. Founder of the American Public Philosophy Institute, a group of scholars from various disciplines seeking to bring natural law theory to bear on contemporary scholarly and public discussions. He is now Vice-President of the Thomas International project and Co-Director of the Ralph McInerny Center for Thomistic Studies.

Robert A. Sirico – political philosopher, a Catholic priest and a pastor at St. Mary's Church in Kalamazoo, Michigan, a member of the Mont Pelegrin Society. In 1990 he founded the Acton Institute for the Study of Religion and Liberty, a non-profit organization dedicated to promoting "a free and virtuous society characterized by individual liberty and sustained by religious principles". His most recent book is *The Soul of Liberty* (Acton Institute 2002). His articles have been published, among others, in "First Things", "Crisis", "Journal of Markets and Morality", "New York Times", "Wall Street Journal" and "National Review".

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Russell Kirk (1918–1994) – one of the principal founders of the post-World War conservative intellectual revival. Author of numerous influential books on political theory, intellectual history, education, cultural criticism and supernatural tales. His examination and vigorous defense of tradition, order, and the 'permanent things' was instrumental in shaping the substance and direction of the conservative movement in America, which resulted in the 70s and 80s in one of the most enduring realignments of American political scene in history.

Monika Zbrojewska – a doctoral student at the Andrzej Frycz Modrzewski Krakow University College, a specialist in American constitution history and intentional civil law