Krakowskie Studia Międzynarodowe

LIBERTY AND VIRTUE IN AMERICA

In honor of
Harvey C. Mansfield

edited by
ANDRZEJ BRYK

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Andrzej Bryk

INTRODUCTION: *VIRTUS NOBILITAT*

Virtue, *virtus*, signifies a strength of character, enabling us to face the vicissitudes and harshness of this world's tribulations. It is courage, resilience, insistence to stay on course, and restraint over one's emotions. Such a virtue has little to do, at least overtly, with reason or intelligence. It can reside both in good and bad, wise and silly. It plays itself in a given situation, beyond our will, and demands a particular behavior. Virtue can be abused, it is after all a subjection to a force not subjected to rational consideration, it is a reflex to act as one has to act, and may support an order which is both good and evil. But without virtue no great civilization could ever be created, no existential challenge to a society and personal life could be met with courage. In other words without virtue life would become an endless chain of opportunistic behavior, more and more prone to a fleeting moment of desire, rationally justified. That is why the visible and lamented erosion of virtue in Western civilization, and the corresponding rise of moral autocreation that is a substitution for it, constitutes a colossal change in existential situation, a challenge which the West has to confront in modernity.

Modernity is an enemy of virtue, by the very fact of making an endless autocreation of one's own life not subject to any limitations, let alone limitations which are based on a definite hierarchy of values, the very definition of human existence. This process began in the West with a gradual dissolution of *Christianitas* in Europe and a new redefinition of human nature. Nature began to be treated not as a constant moral entity to be searched for and then approximated by a moral

training, but more as a definite object of experimentation to be shaped according to exigencies of time and place, with the overwhelming aim of attaining not definite moral behavior but, first of all, social peace, material well-being and happiness individually defined. Such was a tone of the first great modern thinkers, despite fundamental differences between them, like Niccolò Machiavelli, Thomas Hobbes or Jean-Jacques Rousseau, or later, for instance, by the great philosophers of disenchantment Karl Marx, Frederick Nietzsche and Sigmund Freud, to be followed at the end of the 20th century by the postmodern wave of philosophers.

America has always been a modern nation, the first modern nation collectively and individually, created at once, not gradually as in Europe, with the latter's elites' slowly spreading their ideas through a post-aristocratic, post-feudal society. At the same time, America has nevertheless been a modern nation with its own distinctive history, cultural code, and a political "proposition", the features which, although belonging to a modern paradigm of thinking, gave Americans a different character and a different view of the modern world. America was forced also to create the first modern intellectual tools to deal with the anomie of modernity. It has attempted successfully to tame it and has suggested some ways of attaining a moral virtuous life, collectively and individually, without this melancholic, debilitating mood of the European civilization, that modernity and virtuous life in a traditional sense of the world were irrevocably acting at cross purposes, or at least were utterly inconsequential. For this reason Alexis de Tocqueville, in his *Democracy in America*, could discern some features of this new arrangement of modernity and virtue and define it as a predicament of the entire modern, democratic world. He did that despite the fact of this arrangement containing within itself the seeds of self-subversion, a process which began in America at the turn of the 20th century and has accelerated since the 1960s. Suddenly the question began to be asked whether America did have a moral character, or it was merely the locus for the play of freedom understood as self-interest.

With that the issue of virtue in a republican society came with a gusto. Was the United States axiologically entirely modern, or not modern, constituting, to put it in symbolic terms, a post-Machiavellian entity or not? Were the philosophical foundations of the United States sufficiently pre-modern to maintain a tradition of justice and freedom, in other words was the United States capable of containing within its distinctive culture and its political system a tradition of virtues which transcended the narrow interests of self-obsession of the commercial culture. In other words still, was the United States capable as a civilization of sustaining questions over Being, and because of that were they still people of a pre-modern, classical and Christian type of virtue, expressed in a civil piety going beyond the immediate urges of egotistical desires?

This type of civil piety, which requires a certain heroic attitude towards reality, asking individuals to be better than they themselves are, the civil piety of that sort which is absolutely immune to any disenchantment, civil piety essentially of

a religious type.[1] The problem thus amounts to a question: does America as a civilization have a moral character? Or is it merely the locus for the play of freedom understood as self-interest? This question may be rephrased in constitutional terms as follows: Does the American constitutional system, the first modern system of constitutional government, contain deeper principles, which amounts to a suggestion that to live under such a constitutional government one automatically encounters deeper principles going beyond the immediate constitutional text, and grapple with a particular moral reasoning which ultimately forces one to confront a need for justification? If so, then laws and concrete policies, institutions such as courts and Congress, elections and eventually the very consent of the governed must be rooted in the fundamental, deep reality of American rights and obligations as moral agents. If not, then such rights and obligations in fact have no rightful claim on the obedience of citizens, who get a license to focus solely on the in autonomous lives moral autocreation as demands thrown against the community.[2]

If the answer is positive, and America has a constitutional moral character, something which Harvey Mansfield named a "constitutional soul", then the question of the ultimate moral justifications – that is, one may say, virtues going beyond the immediate utilitarian, egotistical demands converted into positivistic claims – has to be recognized as standing at the very center of constitutional government, and American constitutional government in particular. In such a case the rule of law and the grounds of all legitimate government lie beyond the immediate positivist claims; they go to "deep principles" which need to be recovered, constitutionally exposed and culturally sustained, and be considered essential for the well being of the people and the constitutional government created by them. This issue comes to the attention of the American people every time there happens to be a dramatic realization of a betrayal of the United States "proposition". Such was the case with the Civil War and the eschatological interpretation of America by Abraham Lincoln. Such was the case again with the civil rights revolution and its meaning as given by Martin Luther King. Both men were, not incidentally, morally obsessed and tormented Christian souls and the best sons of America.

This approach does not mean that it is enough to define the positivistic aims of the constitutional system and to elevate them into a higher constitutional principle, as for instance is the case today with a concept of universal humanity, or dignity of man, or rights as inherently justifying that dignity. Such higher moral entities may be just self-creations of humanity itself, kind of a justification of the moral autocreation of a particular time and place in history, rationally post-factum justified, a disturbing reality today of the otherwise laudable European Union. If the aforementioned approach means anything, it should mean that these deeper principles, or moral virtues, are rooted in a universal, ontologically sound and ju-

[1] D. B. Hart, *Religion in America: Ancient and Moderns*, "The New Criterion", March 2004.

[2] See on that recently: H. Arkes, *Constitutional Illusions and Anchoring Truths: The Touchstone of the Natural Law*, Cambridge 2010.

stified morality outside of history, time and moral autocreation, which in the American context could lead us to the Christian roots of God's will and the limitations of all earthly powers.

In such a context the United States constitutional system and the society which created it would be beyond understanding, if such roots were removed or put beyond the pale of discussion about its moral nature and its virtues. As an astute observer of America Dietrich Bonhoeffer, the heroic anti-Nazi Lutheran pastor executed in 1945 remarked, the federal constitution was rooted in a sense of original sin and "American democracy was founded not on humanity or the dignity of man, but on the kingdom of God and the limitation of all earthly power".[3] The issue, then, is whether Americans understand their freedom as connected with its moral structure and its subsequent understanding that a human person needs not merely a free society, but a virtuous society as well, to be legitimate and lasting. Only then can people defend themselves from this scourge of modernity, two utopian, ultimately deadly dreams – the dream of justice without freedom and the dream of freedom without truth, the first leading to totalitarianism, the second to nihilism calling for such a government as well. We may somehow enlarge Bonhoffer's observation, and say that American constitutionalism has been obsessed from the beginning with the very question of freedom, that is the limits of power, which is ultimately the question of virtue, or in other words the question of the existence of God's Almithy wrath.

This issue of virtue in contemporary America has become especially paramount since the 1960s, when the very idea of virtue began to be perceived within American liberal culture increasingly as synonymous with oppression. Hollowed out managerial liberalism gradually became an intellectual and cultural ally of the New Left concept of "liberation" from any authority, that is ultimately from any virtue. This attack on virtue in America came easily, since it was taking place and perversely identified as necessarily to do away with the contemporaneous, dramatic sins which ravaged the United States.

The denial of civil rights to blacks, the ill-devised, if justified, Vietnam war, a support for which was defined as a perverted form of patriotism, a rebellion against capitalism with an endless toil to no end, and assorted issues, real or imagined, connected Americans' imagination with "oppressive" America. The virtues of America and in America lost their positive connotations. The very word "virtue" was tarnished, associated with, at worst, symbolic violence justifying injustice, at best, false consciousness, a failure of the rational power of analysis, splitting American consciousness and igniting culture wars without end. But the solid American cultural foundations of virtuous behavior and thinking had been eroding culturally for a long time before the 1960s, for a variety of reasons. One was the ascent of psychotherapy as a challenge to a predominant Protestant culture. Psychotherapy became almost the second best substitute, a longing for innocence which allegedly once was and was destroyed by a repressive Protestant morality, soon giving way

[3] Quoted after: E. Metaxas, *Bonhoeffer: Pastor, Martyr, Prophet, Spy*, Scarborough 2010.

to the mass culture of psychotherapeutic sport of Americans. Nowhere else was its message visible more strikingly than in popular works of such social scientists, in large part modern charlatans, such as Margaret Mead or Alfred Kinsey, and later Timothy Leary, William Ryan and Carlos Castaneda, peddlers of "liberation" from civility in all forms. Psychotherapy in America, essentially beginning from noble principles, reflected at the same time a radical break with Protestant individualism, termed repressive and intolerant towards other communities. It focused instead on individualism of an autonomous "self", trying to adjust it to the new conditions of disintegrating traditional communities in a rapidly accelerating industrial civilization.[4]

This focus on the modern "self" was defined sometimes as a prominent virtue of a "liberated" man from the shackles of moribund culture, an idea visible in such diverse personalities as a poet Walt Whitman on the one hand and an educator John Dewey on the other. True, all such attempts were responses to cultural and political contradictions of democracy mixed with advanced capitalism, and a growing helplessness of mass society increasingly looking to a responsive democratic government. Tocqueville in the 1830s observed this democratic-individualistic march as historically inevitable and potentially dangerous as well, but was not willing to let democracy become a cannibal, as Russell Kirk remarked, "he would resist so far as he could, the sacrifice of democracy's virtues upon the altar of democracy's lusts".[5]

The very responsiveness of democratic government to the popular could corrupt the popular will, of course. The more that government tried to satisfy the appetites of particular individuals and groups, the more appetites were inflamed, endangering in this process the very virtues that American democracy presupposed, such as individualism, self restraint, self-reliance and a duty to things higher than a simple desire of consumption of a moment. And that was exactly what was happening in an accelerated form at the end of the nineteenth century with the disintegration of communities, individual helplessness in the face of an industrial monster and the corresponding help of government taking on responsibility in a process of progressive reforms à la Herbert Croly, psychotherapy focusing on the individual, unrestrained "self" cleaned of contaminations of "false" culture", and the democratic education of John Dewey, all proceeding with the more or less self-conscious approach that there is a human core which is essentially good, and a discovery of that "goodness" would enable then a reconstruction of "good" individual and a "good " society.

There was here a fundamentally optimistic streak à la Rousseau, combined with a clear renouncement of character formation which must be based upon a clear notion of individual virtue developed within an unapologetic context of right and wrong, the context which cannot be derived from an "autonomous" self, unless one presupposes it to be "good" by nature. Such a context of right and wrong, of virtues, must be drawn from traditions outside of the self or from nature conta-

[4] See: A. R. Heinze, *Jews and the American Soul*, Princeton 2004.

[5] R. Kirk, *The Conservative Mind: From Burke to Eliot*, Chicago 1986.

ining principles which were put there by a transcendent Being. In America this new anthropology of the combined approaches of social sciences, psychotherapy, new education and the new administrative state began to corrode inculcated virtues, or were a response to the new situation of corrosion. Virtues began to be treated as possible to be explained away by a process of a proper adjustment of psychology, social science, administrative policies, all tending to a liberated "self", cleaned of "false consciousness", shaped by tradition and religion, in wit the very basis of culture operating in a civil society guaranteed by the American constitutional structure. This new anthropology made an individual a helpless creature in need of "liberation" and adjustment within the new "scientific", rational scheme of modern democratic society, a colossal effort at socialization to a society, the image of which, inescapably, had to be imposed by the elites in charge of all such processes. Cultivation of character was reduced to a cultivation of its personal features, which could guarantee only a utilitarian advantage.

Virtue ceased to be treated as its own reward since virtue in a traditional sense was useless; the gnostic impulse of scientific correction of the "fallen" world was to do the trick of human excellence. Excellence meant essentially an adjustment to the world at large in a process of seeking happiness, equated increasingly with consumption and a benign self-satisfaction based on fulfillment of bodily pleasure. The meaning of human existence, the questions of good and bad, of life and death, of love and suffering, sin and redemption, was to come somehow automatically out of such an adjusted personality, which meant they were to be nullified as inconsequential, as wallowing in false consciousness, disturbing debris of repressive civilization. What counted was a proper socialization and "liberation" to a "good" self, the utopia described in Huxley's "Brave New World". Rationality of a particular time and place took over virtues as connecting people to mystery and existential *angst* which has refused to die, and which could only be coped with by proper anthropology and the virtues geared to sustain it in this world.[6]

But in America this multilayered process of change began to destroy the very culture in which virtue could effectively be born, that is the civil society of autonomous institutions, close to people and thus the only one capable of teaching

[6] When Anna Freud, a daughter of Sigmund Freud, visited the United States right after the war, to practice pilot-type psychotherapy, which meant essentially psychotherapy among the aristocracy of the rich, she was asked whether her last psychotherapy session with Lady Astor had been of any good. To which she replied memorably, and surprisingly wisely for a representative of her profession: "She does not need psychotherapy, she needs forgiveness". Anna Freud, one should assume, still thought of religious, transcendental, forgiveness, towards which psychotherapy was mute and deaf, exhibiting an understanding that psychotherapy without proper metaphysics is a road to nowhere. But this defect was soon rectified with psychotherapy getting into the business of "feeling good" about oneself, and forgiving oneself, a move as narcissistic as naïve, or towards neurological experiments excising such "bad" feelings with proper medications and relaxation exercises. It turned subsequently into a disturbing modern habit of exhibitionistic confessions and demands for an outright expression of guilt, repentance and a corresponding demand of forgiveness from the ones we wronged, an empty ritual beyond conversion of the soul, sentimentality defined as empathy so as to feel good, another way of symbolic violence defined as a way towards humanistic, well adjusted society of "good" people. One can recall the statement of Blaise Pascal that the heart knows better: "The heart has its reasons of which reason knows nothing".

them virtues of sacrifice, magnanimity, courage, self-reliance, philanthropy, caritas and ultimately love. They cannot be taught in abstracto in a process of socialization at the general level of the society because what is needed an element of trust, personal contact, intimacy and finally unquestioned authority based on them to follow. The administrative, psychotherapeutic, educational welfare state can do none of this. But such virtues are necessary for a proper enjoyment of freedom as expressed in rights and obligations. They teach what they are and why one should use and obey them as part not of knowledge, but of an inculcated character. Americans were traditionally people of the civil society, people from the roots looking upward, and in that process people of work, self-reliance and service, *homo faber*, men as creatures improved and infused with responsibility towards Being and the other, to wit men of courage, creativity and humility at the same time towards life, essentially religious people at that.

American practical life, which gave way to their only true philosophy of pragmatism (apart from baseball, which is essentially the only non-universal philosophy existing, accessible and understood by no other people), could dispose of the "God question", because the "God question" was taken for granted as sure as the sun rose and set. A lack of Reformation in American Protestantism was real, but essentially non-consequential from the existential point of view, barely consequential from a theological, intellectual view. But people who live their faith do not theorize about it, since if something is intimately felt and true, it does not need concocted arguments. A subsequent rise of the fundamental Protestant movement in America – powerful, democratic, and adjusted to the modern world – is absolutely congruent with modern civilization, and if it needs any theological justifications it can always count on theological, orthodox Catholicism.[7] Such features built the American civilization and gave its people a dynamic unmatched in the world.[8]

But that civilization of virtue in the civil society began to fall apart the moment all the above forces were pushing it into insignificance both in the modern world and in the American constitutional scheme.[9] Americans realized their lives and virtues in such a civil society, the private sphere of life which, of course, meant that the public sphere was not their mission. But that did not mean that Americans were not people interested in politics; they made their politics through a process of filtering their independent civil society initiatives and autonomous organizational life into politics representing them in a larger sphere. They were suspicious of it and

[7] This might sound ironic and facetious, but one has to observe that such a move was predicted between the lines by Tocqueville, and the common theological statements between conservative Protestants, including slowly the Evangelicals, and conservative Catholics in America is a phenomenon of great importance, somehow fulfilling Murray's unexpressed hope that Catholicism might be the best explicator of the truthfulness of the Declaration of Independence and, by other route, the way to Protestant America, including the fundamentalists.

[8] This dynamic of in the entire culture of Americans was captured best by a memorable passage of Edmund Burke's speech about the colonies in Parliament in 1775.

[9] Barack Obama's duel with Americans, represented by such populist movements as Tea Party, is just the latest instance of this process of pressuring civil society within the context of federalism into the abyss of the administrative welfare state.

guarded their independent life, for the simple reason that their virtues, although republican, did not fulfill the meaning of good life, or – to put it another way – public life was not all there was to good life, which is essentially a very good, common sense, or Christian at the same time, point of view. But it was true that if we look at American history and its expression in literature and philosophy we find this elevation of civil society, private pursuit into, a mystical level.

Nevertheless, what we experienced in the twentieth century was a slow decomposition of this role of civil society as a paramount province of American life, but with no corresponding inclusion of Americans in the public sphere. This decline of civil society, something which Robert Putnam captured with a nostalgic phrase "bowling alone", resulted more with a greater intrusion of government into peoples' individual lives. What we have is a decline of civil society as a repository of virtues and an intrusion of government as a provider of goods and rights and virtues giving way to entitlements. This delicate balance between the civil society and the government, the glory of the American constitutional system, seems to be precarious at the moment, but without that balance to be preserved virtues simply have no place to be cultivated at a larger scale, with government institutions, or institutions sponsored by it, providing sociability, not character.

The 1960s were a turning point here, because they launched a train of thought which in fact delegitimized character and any institution which would try to cultivate it, and gave way to such concept of life which was to be against any authority, in pursuance of an incessant authenticity of the self. Virtue was identified with nothingness and emptiness of the set ways of life, which was to produce only social and personal calamity. "Liberation", "emancipation" from such virtues was a goal of the rebellious, with moral autocreation treating virtue as solely a matter of personal choice, subject to constant redefinition at will, in opposition to virtue as an aim to be inculcated, the Aristotelian good. In such a situation the American self-definition of people based on a certain "proposition", the people who were essentially virtuous, a message as expressed by the most culturally founding document, the Declaration of Independence of 1776, a view so much visible in Abraham Lincoln's message or Martin Luther King's fight for civil rights, began to be treated as a problem. With that the very essence of virtue as a necessary ingredient of liberty was questioned. An American was to be someone who did not follow a "proposition", an American was someone who followed his or her inner self-expression.

This has been one of the major fronts of so called the culture was in America and this volume of "Krakowskie Studia Międzynarodowe" is devoted to diverse aspects of virtue as connected with liberty in America. The issue, not incidentally, is published in honor of Harvey C. Mansfield Jr., one of the most prominent and versatile scholars and teachers in liberal arts in America today, for whom this issue of virtue as a necessary ingredient of free life in a republic is to be or not to be of the very existence of the Western civilization itself. It is this very issue which permeates his whole gargantuan opus, whatever the subject matter of his thinking

and writing. Mansfield is been a great scholar and his opus is as enormous as it is diverse. But he has also been an outstanding teacher, remembered by countless generations of his students with gratitude, for the intellectual and moral gravity with which he treated them and the subjects they studied. At this particular time, the late hour of the West, when universities are becoming more and more utilitarian providers of workers for a market, with liberal arts in general treated as an inconsequential addition to a plate of choices for a student as a consumer, and with teachers of humanities becoming just officials of a useless, even if pleasant genre, akin to cooking or another hobby, Mansfield is a treasure.

It is difficult to treat liberal arts seriously in a modern, progressive liberal culture which has officially degraded all quality distinctions as discriminatory, and where hierarchy of values rooted in an objective metaphysical order has turned into moral autocreation, that is subjective choice. Universities have always lived in a tension between preparing for a profession and a mission a role, which the Anglo-Saxons captured by a phrase "liberal-arts education", or, as Coleridge named this process, "clerisy". This mission has always been close to Humboldt's idea of the university as a community [*universitas*], of scholars and students, committed to searching for knowledge about the world and man, knowledge understood as bringing up to wisdom [paideia] and truth, without focusing on the immediate utilitarian aims, the very condition of a civilized, self-conscious civilization. This was a dream which Cardinal Henry Newman put forth in his culturally important *The Idea of the University* of 1875, or which inspired Matthew Arnold's notion of culture, in which such an idea of the university was a necessary ingredient.

The traditional, knowledge-, wisdom-oriented idea of the university has been dramatically weakened by utilitarian expectations, and with that the idea of a teacher has lost its significance. A process of education has taken over knowledge and wisdom. That process was noticed a long time ago and in America it was captured by a short conversation by one of Ernest Hemingway's heroes in the 1930s, who said: "Education is an opiate of the people" and when asked "You do not believe in education?", answered "No, I believe in knowledge".[10] But great teachers transcend this approach, and they are needed more than ever at this particular point of liberal civilization. They are depositaries, "the last saving remnants" of a humanistic culture that once was and in which politics was a province of the moral world, not a province of sheer power and utility. It is this role which Mansfield has performed ceaselessly for over half a century, educating his students in political philosophy which refuses to treat power as unrestrained by any moral, virtuous considerations. Thus, he has tried to cultivate moral sensibilities of his students in this sea of utilitarian, economizing and essentially deterministic higher education.

Great teachers can recover meanings and tap in to the greatest emotions of truth, beauty, reason and law. This is a dream – as it turns out times and times again

[10] E. Hemingway, *Szuler, zakonnica i radio*, [in:] *49 opowiadań*, transl. M. Michałowska, J. Zakrzewski, B. Zieliński, Warszawa 2003, p. 587.

– which refuses to die. It refuses to die because it corresponds to this indestructible, innermost kernel of human eternal nature, becoming at the same time a proof that it exists. Human nature and its immaterial soul, yearning against all odds for something which it can conceive of, but not attain. But in this process, it can make all of us capable of crossing a threshold of finitude, of sheer animality, of senseless cosmic contingency and ultimately of death itself. Giving us a glimpse, the intimation of something beyond time and history, and ultimately beyond sheer matter itself, an intimation of something, or, better to say, Somebody, who can save us from the insanity of senseless life in a treadmill of futile finite endeavors.

Mansfield is such a teacher, igniting in his students and all readers who ever have come within his orbit this wonder of intimation of things better, more beautiful and more lasting. A liberal would wince and ask: "better than what?", "more beautiful than what?", "more lasting than what?" To which the answer is simple and eternally the same: better than oneself, better than our immediate desires pushing us constantly to be lower than what we can possibly morally attain. That can be a lasting legacy for young people, entering a more and more soulless and arid modern life and with it modern utilitarian university as well, and secretly yearning, as Paul Claudel once said, not for hedonistic but for heroic life. Mansfield has performed such an excellent service for countless young people. It has been an achievement that is lasting and Aristotelic in scope. There has been behind this activity a great humility, gratitude and magnanimity towards those who were before us, that is towards Tradition. As he stated unequivocally: "we must study the tradition that has been handed down to us".

Mansfield does have neither the intellectual arrogance of someone who knows more than his contemporaries, nor the conceit of modern intellectuals who have this childish ignorance of thinking, that with them history and human thought of this particular place and time found their final fulfillment. His approach to the world is full of wisdom, that is that kind of knowledge which teaches us that we are just humble gardeners adding our little bricks to a construction of human thought and knowledge which it is not in our capacity to fully possess, let alone subvert. He works in a classical and Christian tradition of seeking the truth of human existence through particularities of human endeavors. And seeking the truth is always a task which forces people to look not inside themselves, but at others, which is essentially the meaning of a reasoned argument. With that comes another feature of wisdom, silence. Silence in the face of this vast intractability of human existence, its wonderful complexity and metaphysical mystery, harnessing our egos and subjecting them to a ritual of humility and gratitude towards the world and the others who came before.

As for us, his students and friends, there are plenty of reasons why it is a great pleasure and worth reading his works, let alone being around him. But an intellectual feast is not all we owe him. Maybe more important is a gratitude that we have been blessed with encountering someone who elicited from us an urge to seek

and distinguish what is important in life and what is unimportant, what is trivial and passing, and what is eternal, what is heroic and what is merely animal consumption. Someone, who surreptitiously was capable of instilling in us an instinctual hatred of false gods sold by the modern peddlers of intellectual "snake oil". Someone for whom reason was a way of imposing gravity on things immediate. Last but not least, someone who, being more knowledgeable and wiser than we are, has granted us this privilege of being not just his students but also his friends, intellectually and personally. He has been an outstanding teacher in the greatest tradition of learning. He has been an outstanding teacher because, to paraphrase somehow the Catholic political philosopher James V. Schall, he has been immensely influential, and he has been so influential only because he has led us not to himself, but to the truth, to something not just passing and ephemeral but to this which just eternally *Is*. What a feast of life. We are all from him.

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Andrzej Bryk

HARVEY MANSFIELD AND VIRTUE IN THE ARID LAND OF MODERN LIBERALISM

"No cause is ever lost, because none is ever won."
Thomas Stearns Eliot

Harvey C. Mansfield is one of the most distinguished American political philosophers writing today, standing at the very center of a bitter debate over the ultimate meaning of political life in modernity, and here, arguably the most prominent conservative academic teaching in a major American university. Mansfield is usually described as a conservative, or in recent years as neoconservative, due to the prominence some of his alleged students achieved in the ranks of George W. Bush's administration. But this is a very inadequate label, unless it is intended to mean, in general, that he is not a liberal in the contemporary use of the word in America, and that he has had many students who have achieved public prominence, also in the conservative ranks. Mansfield in a personal description of his thought concurs with being labeled as a conservative, using the equivocal understatement that "some people, with some reason, call [me] a conservative".[1] But whatever the merits and demerits of such a description, it seems too narrow, and thus woefully incomplete. Mansfield's range of thought and writings is so wide, so versatile, and his presence as a public intellectual commenting on various aspects of contemporary cultural and political life so ubiquitous, that it would be difficult to compress his intellectual and public activities in such a way as to put on it a definite conservative identification.

Mansfield received his B.A. in 1953 and Ph.D. in 1961 in government from Harvard University, and except for a brief stint of teaching at the University of

[1] Autobiographical sketch in a possession of the author of this article.

California at Berkeley in the early 1960s, his entire professional and public career has been connected with Harvard, where he is currently William R. Kennan Jr. Professor of government. At Harvard Mansfield studied with such known political scientists as Carl J. Friedrich and Samuel Beer, but gradually came under the spell of a political philosopher Leo Strauss. In fact he can be counted as one of the most sophisticated thinkers among the Straussian students. They form a distinctive school, an extremely varied, divided one – sometimes bitterly – nevertheless constituting one of the most influential intellectual currents of contemporary political philosophy, in opposition to the so-called political science dominating universities today.

From Leo Strauss Mansfield learned something rarely present among American scholars in political science departments already then, and nearly extinct today, increasingly enamored with their quantitative, computing methods of analysis of things political. These are methods which treat human political activity as an object of scrutiny commensurate somehow with biologists' description of a beehive. He learned an appreciation of a philosophical dimension of politics, ancient and modern, and a deep understanding of the intractable nature of the moral dimension of human action, non-reducible to behavioral reflexes, and non-responsive to the social engineering methods of the modern administrative state. This was an approach treating human nature as a moral entity radically separated, by the very fact of moral reasoning over an essence of its own true existence, from the materialistic image of it.

In such a perspective, modern liberalism as "science", with its corresponding help of social sciences such as positivism, historicism or behavioralism, as a kind of administrative enterprise responding to the exigencies of raw facts of human life in this as sheer animality, looked woefully inadequate. For Strauss it was obvious that the ultimate error of liberalism is ontological and anthropological, not technical, the latter being merely a consequence of the former. Strauss's influence was truly transforming, since he seemed to thwart singlehandedly the corrupting slide of the American approach to politics, society, philosophy and culture into an abyss of positivism, historicism and behavioralism, a depressing end station of Western humanities. Mansfield has contributed immensely to humanities created within the Straussian paradigm, establishing it as a powerful and increasingly legitimate rival to the philosophical and political liberal monism within which positivism, historicism and behavioralism increasingly began to be taken for granted. An understanding of the Straussian paradigm thus seems to be crucial to the very understanding of the magnitude and influence of Mansfield's achievement.

Educational Lightness of Being and the Moral Illegitimacy of the Modern Regime

Mansfield has become in intellectual life one of the most influential Straussians. Teaching at Harvard University, he has influenced a tremendous number of scho-

lars, community organizers and religious people. He has gone against the whole tradition of political science as "science" and against corruption of higher education, its slant towards political correctness and its visible slide in students' assessments into mediocrity criteria, a crazy assumption about equality as a result and as a right, not as a starting point. In addition Mansfield gradually had to face a certain situation at the university. For him relativism's attack on free thought, the conviction that absolute tolerance, that is New Tolerance understood as ideology and a ban on all moral distinctions by virtue of excellence, was a grave danger not only to moral education, which per se requires precisely that judgments be made, but a danger to free thought as such. In other words it constituted a danger to human freedom and a declaration that nihilism was the essence of education, supervised of course by those who know exactly at a particular place and time which shape of nihilism and politically correct causes of the moment are fashionable and which, for the time being, excluded from its province.

This constituted an unprecedented slide to barbarism not only of thinking, but barbarism of moral intuition, a rejection of all cultures, religions, moral systems and distinctions fundamental to human Being. To make such distinctions one needs not only rigorous thinking, but also a certain moral gravity, a minimum of solidity, of treating life as a serious thing. There thus has to be a conviction that the world in which we live is worth something, that the world in which we conduct our affairs, the world of our experience had an innate value. This is in essence a groundwork for moral education, that is virtue, understood as a general value, or disposition to derive from the existing reality a sense transcending the senseless existence of the contentious human animal. *Virtus nobilitat*: virtue gives nobility and civilizes. It is at the same time a prerequisite of human bonding, of solidarity, since it assumes the common humanity of all striving towards a goal which transcends immediate, individual pleasures. This is a perspective which claims that there are things worth sacrificing, and things which are worth living for, because of their inner, objective, universal moral value.

Modernity constituted a rebellion against virtue as conceived both by the ancients and *Christianitas*, beginning one of the most fascinating debates in the history of philosophy, education, politics, constituting a major front line of human approaches to reality. The ancients and Christianity, in various ways, took the meaningful and rich notion of nature as a standard for individual persons and human societies, as far as morals and also institutional arrangements were concerned. The moderns, in equally various ways, came to regard nature, exactly at that moment hen modern science was accelerating its knowledge of the universe, as something which was either indifferent or even hostile to human beings. As a consequence, nature ceased to be regarded as being any standard of behavior for humans. In other words it provided little or no guidance in human affairs. That meant that morality was to come either from fiat grounded in religious precepts, or, once they were rejected, grounded in an autonomous reason unguided by anything outside of it. As

a result, also all human endeavors, including political ones, acquired an unlimited potential. This potential was limited only by either incapabilities of reason to overcome its own barriers, or the atrophy of the will to use it and change the world. To wit, since modernity's ascent, everything in reality has been up for grabs, to form it according to precepts born in an autonomous mind. The "self" became sovereign, moral autocreation its servant.

In such a perspective learning is a purely conventional affair, and tolerance of all opinions its natural outcome, with relativism and ultimately nihilism surreptitiously creeping in. Liberal democracy's slide towards relativism and nihilism is an outcome of this general theory of education rooted in modernity's methodology starting with moral autocreation, the last best thing of a desperate mind rejecting moral sense and accepting cosmos's utter meaninglessness. But this slide towards nihilism and relativism is never stated per se, openly; it is always wrapped in modern clichés and banalities, sentimentality posing as morality and empathy, to wit a satire posing as drama. It is totally decoupled from the great sagas of humanity, its heroic myths reflecting human essences as something bigger than the immediate desires of the body. These essences are deprived of any sense of a soul, which constituted a definition of human elevation from the animality of the bodily desires, even if justified by reason. It was this human elevation, this incessant urge to look up, in other words to thirst for being better than one is, which created a need for Great Books as repositories of wisdom which never fails. Students not only do not have any image of a solid of a soul bigger than their immediate desires. They do not even imagine, as Allan Bloom observed, that there is such a thing as something bigger than their immediate wants. There is emptiness at the center of their lives and a great proclivity to any idolatry of the body, the soul and the mind, an especially tragic condition, since so easily captured by the cynical, capable of imposing any authority on their confused minds.

Such a condition is not only impoverishing, it is also dangerous. Propelled by this desire of unlimited autocreation of its actors, society has an inexorable tendency to slide towards a cacophony of mere opinions tamed by an administrative, utilitarian policeman, that is a state. Science in the service of will began to give this project efficacy. It was a burning wish to escape from this corrupt, imperfect world. Modernity subconsciously locates "permanent" things always in the future of personal history. Once arriving there, people realize that permanence turns out to be just a fleeting moment in time and in consciousness, convinced that things "permanent" were an illusion, but never giving up locating them in the future again. Modernity in this sense is by its own logic profoundly countercultural, revolutionary. Because of this rebellious disposition of modernity, reality is in a constant danger of being defined by all kinds of daring and cunning usurpers, entrepreneurial, experimenting people using all available ideological, political, economic and moral means to impose their image of the world on the other.

Modernity has thus always been prone to a constant redefinition of reality and human life itself in terms of ideology of a particular time and place in history, even if it has often been understood as an escape from the ravages of it. It has been an incessant attempt to defy and deny reality, and with it man's objective existence in time, a temptation to reject life as such, with a corresponding assault on morality. "Liberation" from life and morality defining the human predicament and giving it a meaningful basis has been its driving logic, a revolt against ontology as such, a consuming fever to save oneself by one's own means, quintessentially baron Münchhausen's dream.

The question of a universal basis of behavior, that is morality justified from outside of the human autonomous "self", loomed here paramount. The problem of morality, thus also virtues shaping character, irrespective of individual choices seeking desires, virtues creating a community of mutual obligations not stemming from a contract or utilitarian means, and thus virtues creating human solidarity as a moral disposition not just as a legal obligation, which is always spurious to sustain in that obligation, seemed to be a problem which could not be avoided.

Modernity posed in this context a definite problem for politics and a "regime" in Aristotle's sense of the world. And here we enter a terrain where Mansfield has become one of the most vocal and brilliant intellectual warriors. A "regime" has begun to be looked upon in modernity not as a means to a definite moral end or ends, deemed now impossible to achieve, but rather as a system of institutional arrangements in which individuals could pursue their ideas of happiness, that is their subjective notions of a good life. That means, in practice, that an individual interest coming from the moral autonomy of the "self" defines totality of human existential goals.

A political order is conceived in such an ontological and anthropological vision merely as a neutral arena of the best environment to achieve political stability, with rights expressing different shades of such individual desires. In the contemporary world the latter are increasingly becoming surreptitiously commensurate with human dignity, a situation creating a new anthropological perspective. In its light man becomes someone who is defining himself and demanding unequivocal recognition of such a desire as being equal to his human dignity. A state becomes in such a case a great stabilizer and watchman of a political order, and the rising prominence of judges reflects this desire of an administrative state to recognize this totality of humanity expressed in rights immediately.[2] But such rights mean essentially interests, and this is where political philosophy turns into political science. Inspired by a famous title of a book by Harold D. Lasswell, published in 1935, *Politics: Who Gets What, When, How?*, political science as Mansfield observes focuses

[2] See on that for instance: P. Manent, *A World Beyond Politics?: A Defence of the Nation State*, Princeton 2006, p. 98–129, 171–196; R. Hirsch, *Towards Juristocracy: The Origins and Consequences of the New Constitutionalism*, Cambridge Mass. 2004, p. 1–8, 149–210.

on the benefits you get – what, when, and how. It ought to be on the *who* – on who you think you are and why you are so important as to deserve what you get. Poets (speaking broadly of all literature) and philosophers have the answer or at least address the question; science does not. The ambition of political science to be scientific in the manner of natural science is the reason why it ignores the question of importance. Scientific truth is objective and is no respecter of persons; it regards the concern for importance as a source of bias, the enemy of truth. Individuals in science can claim prizes, nations can take pride in them, but this sort of recognition is outside science, which is in principle and fact a collective, anonymous enterprise. Political science, which by studying politics ought to be sensitive to importance, to the importance of importance, aims to abstract from individual data with names in order to arrive at universal propositions. Yet human beings and their associations always have names; this is how they maintain their individuality. Names mark off the differences between individuals and societies or other groups, and they do so because the differences are important to us. You can think your way to an abstract individual or society without a name, but you cannot be one or live in one. Science is indifferent to proper names, and confines itself to common nouns, but all human life takes place in an atmosphere of proper nouns. "To make a name for yourself," as we say, is to become important. "To lose your good name," to suffer a stain on your reputation, is to live thinking less well of yourself, or among others who think less well of you. Does this matter? It appears that human beings like to think they are important. Perhaps they have to think so if they are to live responsibly, for how can you do your duties if they are not ascribed to your name?[3]

In such a perspective liberal politics becomes reduced, to use the language of social sciences, to preferences, suggesting a momentary or fleeting interest, a convenient desire that can easily be changed and rationally justified, as circumstances, time, or place may demand. But for Mansfield politics is about much deeper and more fundamental human motivations, motivations that liberal democracy has great difficulty explaining and accounting for, motivations which cause all of us to strive for honor, glory, victory, that is something bigger than the immediate security of living. Such goals cannot be reduced to a set of mere "preferences". A contemporary liberal approach to politics makes it difficult to understand not only culture or cultures, but first of all it excludes a possibility of understanding fundamental aspects of human existence which show themselves in the public space, treating them either as prejudice or a dangerous imposition of private passion illegitimate in the public sphere.

There is no doubt for Mansfield that this is not only an error of judgment, but an error which stems from a liberal anthropology per se which is wrong, limited and in fact dangerous for politics, treating such facts of human existence as honor, pride, love or faith as mere preferences. Reason in such a case reduces itself to scientific, technological, shallow exercises justifying in fact desires, and then construing institutions, education and laws to accommodate such desires, which are left to themselves and cannot be subjected to any process of elevation, sophistication, lifting above the is sheer animality of the momentary. Reason then becomes simply a slave of the rudest kind of desires, in a process defining human existence only by what is immediate and reducing itself to just a utilitarian tool of order. But

[3] H. C. Mansfield, *How to Understand Politics: What the Humanities Can Say to Science*, Jefferson Lecture in the Humanities 2007.

desires pertain to animals, and animality recognized as a fact of life from which we start building order not contaminated by metaphysics, the axiom taken for granted by the first moderns like Machiavelli or Hobbes, became in due time all there is to political life and anthropology.

Mansfield is a modern man. He recognizes the sheer pressure of desires and interests on humans, but together with the authors of the *Federalists Papers* and Alexis de Tocqueville he thinks that interest should be, after Tocqueville's phrase, "well understood". This phrase "implies that your right or true or correct interest includes honor and ambition, though they seem contrary to it. But the words *well understood,* translating Tocqueville's *bien entendu*, allow for the possibility that your interest might accommodate or coexist with something contrary to it. Tocqueville does not adopt 'self-interest well understood' on his own account but attributes it to Americans. Following him my ambition is not to supplant the idea of self-interest but only to supplement it with a remainder of what is buried beneath it".[4] Mansfield applies to this "what is beneath it", that is honor, ambition, pride, courage, moderation, fame, the ancient word *thumos* "which is basic to courage", and delineates its contours in the face of the shallow liberal political or wider, social sciences.[5]

But he is too wise a thinker not to recognize the limitations of this concept for an explanation of human existence, and here he is forced to add to his classical understanding, a metaphysical dimension which is inescapably connected with the Jewish and Christian tradition and their concepts of one personal God. For Mansfield it is obvious that there is a tension between such a classical notion of politics with *thumos* at its centre and this metaphysical dimension, with the former enriching the liberal limited perspective, but still being inadequate to account for the richness of human existence. *Thumos* stems from our inner selves and our achievements, and, however it enlarges our understanding of ourselves and others acting in a public square, it can never account for a deeper urge, in fact a metaphysical one, represented for instance by love and faith, which are simply inexplicable in terms of desires, interests or facts discernable in human life.

Thumos is often at cross purposes with them. As Mansfield writes,

> when you open your soul to God, you can be tempted, prompted by thumos, to believe that God is on your side, instead of wanting to put yourself on God's side. If only love were by itself, and not hitched to thumos, no one would care if his love were not returned. But because of thumos, we do care, and often demand it. Needless to say, neither love nor anger at unrequited love can be explained by self-interest.[6]

Metaphysical humility is required. *Thumos*, although extending itself beyond self-interest and pure utilitarian motives, is prone to shape the outside world through the lenses of feelings and love which has a lot to do with the love of one-

[4] *Mansfield replies to his critics***,** "First Things", December 2007, p. 10.

[5] H.C. Mansfield, *How to Understand Politics***...**

[6] *Mansfield replies to his critics***...,** p. 10.

self, even if masked in the veil of courage, honor, personal pride defined as importance and recognition, even faith in God.

But the very essence of religious faith – at least Judeo-Christian faith – is that "religion reveals to us that we are important for God because of what God did for us – giving us his law, or redeeming us on the cross – not because of our own achievements",[7] but because of God's grace and our understanding of the very limited time we have here, and our limited abilities to make ultimate sense of our lives. Man in other words cannot explain himself to himself, thus a fairly limited application for such a task in contemporary liberal politics, of concepts enlarging the understanding of human beings beyond sheer utility and self-interest like *thumos*, in which reason itself interacts with self-interest and desire in a way transcending the solitude of human existence. As a consequence it is obvious that not only liberal politics and political philosophy, but any politics and in fact philosophy per se, cannot be the answer to human fulfillment and final emotional rest.

Liberalism has landed itself in an especially precarious situation since it cannot provide any, even limited, justification of its citizens' existence other than self-interest which is the other side of a glorification of an autonomous self's desire to create one's morality by a process of autocreation and self-salvation. Liberalism becomes here more a late child of Nietzsche than Kant, whose project of creating objective morality outside of metaphysics, a.k.a. religion failed. But Mansfield is too wise not to be aware that a return to the ancients, to Socrates, Plato or Aristotle, to *thumos* or other virtues, will not do to rectify this fundamental problem at the center of modern liberalism. The ancients themselves sensed that too, yearning for a fulfillment which their own limited philosophical arsenal could not provide, but they readied for it the very culture itself.

Mansfield realizes that modern society cannot escape a predicament the Enlightenment and liberalism allegedly thought themselves capable of transcending. It is this yearning for meaning and metaphysical dimension which simply cannot be done away with, even if sublimated into all kinds of false gods of multitude progressive, mundane causes. The Enlightenment did not do away with any fundamental mysteries of human existence, neither were the ancients capable of doing that with their much more elevated approach to communal and personal life. The Enlightenment, and with it liberalism, are imprisoned within their narrow circle of self-referential arguments, more and more refined and more and more geared to the mild, prosperous and less and less cruel civilization, but at the same time more and more vacuous, when everything can happen and nothing matters. Mansfield is very aware of this void at the centre of the liberal civilization, and although his main concern is rather that of political philosophy and constitutional politics than of a moralist, there is this unexpressed hidden metaphysical dimension to his thought, or an awareness of its lack.

[7] R. Braque, *Political Misunderstanding*, "First Things", December 2007, p. 6.

Tocqueville is Mansfield's hero, and it is hard to find better company for understanding modern liberal democracy. But even so, Mansfield shares with Tocqueville this hopelessness which the latter expressed in his most bitter and terrifying comments about pantheism as the religion of despair of the modern man. Political philosophy, irrespective of how much it probes deeper and deeper about the motives of human behavior and how much it searches for the sources of the immutable human conduct stemming from nature, cannot define that nature, cannot impose the ultimate meaning on it. Mansfield would share here an observation with the late Polish philosopher Leszek Kołakowski. Kołakowski is treated by modern liberal thinkers as a religious philosopher, which is imprecise. Although Kołakowski is not necessarily a religious thinker he is definitely a metaphysical philosopher, realizing this unrelieved *horror metaphysicus* lurking beyond the modern liberal mind. He knows, and Mansfield would definitely concur, that the human condition, with all its evil and unintended consequences, with all its glory and greatness, remains inexplicable, incomprehensible, void and senseless and ultimately breeding despair, if it is not looked at through the lenses of the sacred history in time, its story of sin and redemption, of fall and resurrection, of narcissism and human self-importance and love transcending it all. This is this silent, but nevertheless present dimension of Mansfield's efforts, to make the arid liberal civilization of today more congruent with the deeper urges of the human soul and nature, the same urge which provoked the ancients to decouple nature from moral reasoning and set off a search for a meaning of allegedly meaningless and silent cosmos.

Virtue, Moral Freedom and the Liberal Autonomous "Self"

In all walks of life Mansfield has become one of the most politically minded Straussians and most relevant to practical politics, and at the same time one of the most philosophically grounded students of modern politics. He is first of all a political philosopher. In this age of positivism, neo-Marxism, behavioralism and many other -isms, regnant at the humanities and political science departments of major Western universities, to be a classical political philosopher seems a little bit of an oddity, since it assumes certain ontological and anthropological assumptions about the human condition, which modern science, including political science, has allegedly overcome as useless analytical tools. As one of the most challenging critics of contemporary liberalism and modernity living in America, Mansfield tries to recover the truly moral, universal dimension of communal life, and puts at its centre the issue of virtue, difficult to contemplate in this age of individualism.

As a political philosopher, however, Mansfield can be better described, it seems to me, as someone who decided to subject to intellectual scrutiny the false intellectual and moral pretensions of contemporary political science, this modern version of social thought, possibly the most "scientific" pretence of modern mana-

gerial liberalism. It subjects the rich and unpredictable reality of human existence in a polis to mechanical categories of thought and action, exhibiting a hidden desire to treat human beings as pawns in a game to reach a perfect society of ultimate justice and equality according to liberal images of them. These are images of a particular place and time, defined in terms of allegedly objective facts about reality and human existence. They are deemed necessary to attain a "good", tolerant society, so as to overcome conflict which must allegedly occur when we focus on the truth of human existence, instead of on the utility of such an existence in relation to others in a well administered state. Thus, as Mansfield writes in one of his most succinct, little great books, politics is partisan: it means taking side. Not only are there sides, but they also argue against each other since each side defends

> defends its own interests…arguments good or bad, are made with reasons and so aimed implicitly, if not usually, at a reasonable judge. Here is where political philosophy enters. Most people reason badly, but they do reason – and political philosophy starts from this fact. I stress the connection between politics and political philosophy because such a connection is not to be found in the kind of political science that tries to ape the natural science. That political science, which dominates political science departments today, is a rival to political philosophy. Instead of addressing the partisan issues of citizens and politicians, it avoids them and replaces their words with scientific terms. Rather than good, just, and noble, you hear political scientists of this kind speaking of utility or preferences. These terms are meant to be neutral, abstracted from partisan disputes. Instead of serving as judge of what is good, just or noble, such political scientists conceive themselves to be disinterested observers, as if they had no stake in the outcomes of politics. As political scientists, they believe they must suppress their opinions as citizens lest they contaminate their scientific selves. The political philosopher, however, takes a stand with Alexis de Tocqueville (1805–1859), who said that while he himself was not partisan, he undertook to see, not differently, but further than the parties. To sum up: political philosophy seeks to judge political partisans, but to do so it must enter into political debate. It wants to be impartial, or to be a partisan for the whole, for the common good; but that impartiality is drawn from the arguments of the parties themselves by extending their claims and not by standing aloof from them, divided between scientists and citizen, half slave to science, half rebel from it. Being involved in partisan dispute does not make the political philosopher fall victim to relativism, for the relativism so fashionable today is a sort of lazy dogmatism. These relativists refuse to enter into political debate because they are sure even before hearing the debate that it cannot be resolved; they believe like the political scientists they otherwise reject that nothing can be just or good or noble unless everyone agrees. The political philosopher knows for sure that politics will always be debatable, whether the debate is open or suppressed, but that fact – rather welcome when you reflect on it – does not stop him from seeking a common good that might be too good for everyone to agree with. Political philosophy reaches for the best regime, a regime so good that it can hardy exist. Political science advances a theory – in fact a number of theories – that promises to bring agreement and put an end to partisan dispute. The one rises above partisanship, the other, as we shall see, undercuts it.[8]

This separation of political science from political philosophy occurred in the seventeenth century, but the radical separation was part of the positivist movement of the late nineteenth century, when political science declared itself totally distinct and as "science" separate from metaphysical alleged "nonsense". But political phi-

[8] H. C. Mansfield Jr., *Political Philosophy*, Wilmington DE 2001, p. 2–9.

losophy, although deeply entrenched, has not disappeared from universities, and the more or less hostile controversy between political science and political philosophy today within university departments stems directly from this earlier rift. Political science has a tendency to consider itself to be dealing with facts, being just descriptive, or empirical, when in its judgment political philosophy was called normative because it expressed values. But such a division occurred even within political science. Soon, especially in the wake of the great 1960s cultural revolution, political science began to accommodate schools which professed their "proper", non-metaphysical values, as contrasted with the usually "improper", a.k.a. metaphysical, or essentialist values of political philosophy. The first values were good and needed to be encouraged, for instance participatory democracy of non-discriminative society, the goals towards which the whole apparatus of social sciences was soon to be adjusted.

The controversy rooted originally in the positivist ascendancy in the nineteenth century repeats itself, in Mansfield's view, in more abstract terms between political science, which is focused on reaching agreement or political order whatever it may be, and political philosophy, which seeks the best regime. In such a case political science likes to stress facts since it thinks it possible to agree on facts as opposed to values which are difficult to reconcile, when political philosophy put forth values or norms because it looks for the best normative order. But when

> contrast[ing] political science and political philosophy we are really speaking of two kinds of political philosophy, modern and ancient. To appreciate the political science we have now, we need to look at its rival; to do that, we must enter into the history of political philosophy. We must study the tradition that has been handed down to us. The great political philosophers read the works of their predecessors and commented on them, sometimes agreeing, often disagreeing. This history has less of the accidental in it than other history because, to a much greater degree than citizens or statesmen, philosophers are reflecting upon, and reacting to, thinkers that came before them. In considering the history of Western civilization, one must not forget the tradition of Western thought that inspires and explains the actions of peoples and statesmen. It is both more and less than a tradition in the usual sense – more, as it is more thoughtful, and less, being divided against itself and open to argument and correction. The tradition of political philosophy is not a sequence of customs; still less is it a 'canon' established by some dominant political power, as is sometimes said. It is the only tradition that does not claim to be an authority, that on the contrary constantly questions authority; unlike the various non-Western traditions, it is non exclusive and not peremptory. It is philosophic. No one can count himself educated who does not have some acquaintance with this tradition. It informs you of the leading possibilities of human life, and by giving you a sense of what has been tried and of what is now dominant, it tells you where we are now in a depth not available from any other source. Much political theory today feels no obligation to examine its history and sometimes looks down on the history of the subject as if it could not be a matter of current interest. But our reasoning shows that the history of political philosophy is required for understanding its substance. In recent decades the political science profession has been subject to successive new theories such as behavioralism and rational choice, each of which promises to put an end to the old debates over values and do away with political philosophy. But somehow political philosophy survives, despite efforts to supersede it, just as, despite the failure of those efforts, political science in the modern sense re-emerges periodically to make another try at bringing consensus and doing away with debate.[9]

[9] *Ibidem*.

For Mansfield, in a true Straussian tradition, contemporary liberalism seems inherently saddled with grave wrong assumptions about human nature, and it is for that reason that the liberal project has evidently shown signs of utter exhaustion. As 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 moral goods in common, that is some form of modern virtues, liberalism seems to fail. Morality based on a search by the autonomous moral subject for some common moral bond cannot sustain itself. The rational rules of the social contract coming from Hobbes through John Rawls cannot give rise to morally sustainable obligations, especially its justice principle, since they in fact constitute a particular form of utilitarian self-rationality of an autonomous subject. This self-rationality is incapable of overcoming the problem of why such a state should be obeyed in the first place, and why it should not be treated as just an object of a constant demand for goods, fulfilling a desire of a moment defined as a modern pursuit of happiness. Such a society constantly has to face the dilemma why it is more reasonable to fulfill a contract than to pretend that one does it.[10]

Liberalism of the modern welfare state based on a social contract cannot create non-egotistical motives in societies as such, in fact corrupts them, pretending that it is just. Human emotions are often more wise than reason, superstitions express human feelings and moral predispositions better than rational constructions. The ideas of justice created rationally by the social planners and bureaucrats tend rather to corrupt human souls than to induce them to justice and other virtues. The mills of justice, as William Blackstone observed, are fuelled by emotions, in fact, strictly speaking by love, the inculcated disposition to do good, that is to be virtuous. An elimination of social processes, which create moral passions from bottom up in autonomous institutions, the only place where one can teach people how to love, can never be substituted by the rational plans of elites, who know best what the just social life and morality of all should look like.

To think that people can be induced to behave justly on the basis of a rational, general plan of social behavior is the greatest fallacy of the modern liberal mind, incapable of providing any basis of virtuous behavior. People cannot be convinced why they should think first of all about others. A need for sentiments, *caritas*, magnanimity, sympathy and other virtues can only be explained on a basis of unreflexive moral impulses. It was for this reason that William Shakespeare in *King Lear* understood well that love and sympathy precede justice. When virtues are rationally concocted by the social planners, reason will find ways to justify injustice – this is a commonsense observation. The rational "scientific" plan how a just society should look is just the way bureaucrats want to devise their image of the perfect society. It also constitutes an utter disdain towards the common people, their passions and loves, different loyalties and attachments, people who are allegedly incapable of governing themselves, that is disdain of the basic right of a democratic-constitutional govern-

[10] R. Scruton, *Modern Philosophy*, New York 1996, p. 39.

ment, the right of consent.[11] Mansfield is quite aware of the inherent limitations of the liberal project, because it disregards the very ancient, classical and Christian question how to explain the conditionality of humanity and above all its conditionality in history, a question that is a starting point for all transcendence. This philosophical question was disregarded in modernity, even if Kant accepted a possibility of the latter's existence. But 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 modern liberal moral, dominant philosophy itself which becomes not the solution, but the problem. Its stress on autonomy with a corresponding ethic is derived from utilitarian history, and 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 consciousnesses, a string of events which cannot be tied to any overreaching meaning making individual life understandable to itself.

We have a situation reminiscent of decadent ancient Rome. There were so many gods that, as Chesterton observed, it was impossible to live without offending at least some of them, which resulted, one might add, with the sight of existential despair and reversion to the immediate sensual and utterly practical. The character of a moral subject, the question of virtue, the content and the structure of his desires and dispositions was pushed aside, became peripheral, ceased to stand at the center of moral philosophy. Moral philosophers from Socrates to even Hume had this issue at the center of their thinking, which meant that this question of character formation constituted the most important educational postulate, whether at an individual or communal level. But it was the hope never to be fulfilled, a wishful thinking of the modern mind. Character could not be properly shaped because the very criteria of rational distinction were deemed irrelevant, a problem Kant wanted to rectify but failed to.

As a consequence, character was replaced by the most modern of modern words in all walks of life, choice. It appeared that 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 objective morality was not only possible to be constructed out of rational thinking, but somehow reproduced at the social, communal level.[12] In the 20th century choice, as for instance in Sartre, was defined as a condition of sheer authenticity. It was authenticity, in popular parlance self-realization, which was to make character in moral philosophy, let alone at mass-culture level, an obsolete, anachronistic idea. As such choice began to replace character formation in public education, the latter being the very essence of education since Aristotle. The ideology of New Tolerance was the natural outcome of such

[11] H. C. Mansfield, *Pride and Justice in Affirmative Action*, [in:] *America's Constitutional Soul*, Baltimore 1991, p. 95–97.

[12] S. Hauerwas, *The Virtues of Alasdair MacIntyre*, "First Things", October 2007, p. 36–37.

a philosophical change. A corresponding blurring of the contours 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 beginning to be simply tantamount to individual choice. The enlargement of the list of human rights indefinitely is its consequence.[13] This replacement of character in moral formation by moral choice, or to put it bluntly moral freedom, is the end station of modern liberalism.

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 Mansfield develops his story of the villains and heroes of modernity. For him liberalism's descriptions have become totally inadequate for humans to be able to act in a manner which would be intelligible to others as well as to individuals themselves.[14] Mansfield's direct and indirect critiques of liberalism have been as consistent as heretical and gained him the status of gadfly at his alma mater, Harvard University. But his perseverance and courage in the face of the "herd instinct of the independent minds" stem from a conviction that human life, enabling a cultivation of virtues necessary for community and solidarity formation, the values of which Western civilization is allegedly proud and constitutes its perfect embodiment, can be lived only when those who are engaged in constructing and engaging in community formation are focused on goods without which such an endeavor is futile. Thus such a big role for the right of consent as a mechanism of morality formed from bottom up.

Liberalism as a doctrine and its modern practical embodiment reached such a stage where an axiom that there is an ultimate human good towards which humans should strive is decisively rejected. It denies any place for a determinative conception of the human good in public discourse and that any model of a common life should be grounded in it. Intellectually this is nothing new: such was the modern liberal project as devised already by Machiavelli, Hobbes or Locke. What is new is the growing disillusion that this methodological, epistemological and ontological stance might form a community of mutual obligations, sustained by other means than the minute rules of the administrative state.

Despite this disillusion, liberalism persists in claiming that this is the right foundational assumption and course of action.

This is visible in all public policy measures, for instance in construing the rigid idea of separation of state and church understood as the separation of religion from public life or in the so called New Tolerance, becoming the main modern

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[13] This was already intimated by some conservative Enlightenment thinkers, like Burke or John Adams. See: A. Bryk, *Liberalism, Constitutionalism and Judicial Review*, [in:] *Historia Integra*, Toruń 2001, p. 318–325.

[14] This was shown by Alasdair MacIntyre in his seminal books: *A Short History of Ethics*, the most important *After Virtue* and *Against the Self-Images of the Age*. See also: S. Hauerwas, *The Virtues of Alasdair MacIntyre...*

liberal ideology. It is also visible in public education, which has been corrupted by the very act of turning itself into a tool of accommodation to the liberal public policy measures, instead of cultivating human minds and souls, the very core of traditional liberal arts education with its "Great Books" narrative, an essence also of political philosophy. Mansfield has constantly defended "Great Books" education and education as a means of getting an insight into things permanent, as a field of cultivating one of the paramount intellectual virtues of the university, intellectual and moral excellence. For Mansfield contemporary universities, including his own Harvard University, have betrayed this tradition, corrupting their mission and turning out students incapable of finding coherence in their lives as citizens. In the most dramatic fashion such policy measures make it a duty of the liberal state to deconstruct by law and administrative measures, that is force, all the autonomous institutions, like for instance churches or families, so they conform to the liberal's state image of the monistic good, a problem Mansfield definitely recognizes as dangerous in the context of his sophisticated analysis of contemporary gender feminism and homosexual movements.[15]

This policy comes out of fear that such independent institutions might be so impudent that they dare teach definite, foundational morality, based on character formation. Government in such a case has a tendency to "attempt perfection by overriding prejudice, but when it does so it can develop a self-serving tyrannical – or bureaucratic – definition of perfection".[16] This liberal totalitarian impulse gives rise to a psychological and educational industry financed by the administrative state. Its aim is to guard the recalcitrant minds from committing the mistake of not being progressive and modern enough, 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. Of course morality and the virtues stemming from it are impossible to be attained in any other way. But such a process is immediately branded as "exclusive" and "discriminating" and by ideological manipulation tied into its alleged consequence of igniting violence and civil war. Contemporary culture wars dividing the liberal societies defy such liberal monistic pretences.

Mansfield is perceptive enough and, like his great contemporaries Charles Taylor and Alasdair MacIntyre, as a conservative he realizes that, as Nietzsche said, "we burned our ships", and there is no past which we might return to as societies, not at least in the foreseeable future. What we have is self-government which might, we trust, use reasoned argument in search of what is natural, not just passing. He understands that we are all inhabitants of advanced modernity, bearing its social and cultural marks, and he is aware that his understanding of the tradition of political philosophy and of virtues they teach might be possible on this side of modernity. He nevertheless takes on the monistic pretensions of modern liberalism in all its

[15] H. C. Mansfield, *Manliness*, New Haven 2006.

[16] Idem, *Pride and Justice in Affirmative Action*..., p. 97.

shades, from the standpoint of a different tradition, the classical one. He begins not with an autonomous "self" as a source of moral autocreation but with the eternal Plato and Aristotle and all the greats after him, including Christian tradition. That is those who begin with a simple, commonsensical, in fact, thought, 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.[17] It is a great contribution of Mansfield to show, in different ways and in different fields that such a condition is lacking in modern liberal moral practice and theory.

Mansfield tries to ply his trade of political philosophy as a tale of a coherent unity, a narration within which an individual life can acquire attributes and capacity to attain good. This is possible only when a proper foundation is found. In the human case this foundation is human nature, empowering a person with 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. Mansfield instinctually refused to grant modernity the last word on morality. Although we are autonomous in modernity, this autonomy, Mansfield seems to think, operates nevertheless under the influence of principles that do not originate from it.[18]

These principles can be destroyed, and with them the potential for virtues, growth and meaning. 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 the 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 develop properly only in individual communities with set traditions.

For Mansfield, therefore, the notion of a community is paramount. This is a generic term, also including a constitutional community. 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 Mansfield's powerful presence at Harvard, one of the preeminent American liberal arts colleges, has been making a real difference, which has been grudgingly recognized even by his opponents.[19] If the real issue in the 1960s, as James Q. Wilson remarked, "was what one must do to save the University", then Mansfield has done here an outstanding service to save the university, not only in the sense of preserving standards but also in the sense of treating it as a place where young im-

[17] S. Hauerwas, *The Virtues of Alasdair MacIntyre*...

[18] As a student of Strauss, Mansfield would probably feel good with such an exchange between Strauss and one of his students. "But Mr. Strauss. Aren't we Moderns? Yes, replied Strauss, but we are not merely Moderns", quoted in: D. Murray, *Neoconservatism*, New York 2006, p. 12.

[19] J. Tassel, "Harvard Magazine", September–October 1999, p. 56–66.

pressionable minds should be exposed to the things "permanent", things elevating, things remembered in life which was to be always striving, in the best tradition of John Henry Newman and Benedict Arnold.[20]

Machiavelli and America

In his books *The Spirit of Liberalism* (1978) and *America's Constitutional Soul* (1991) as well as in *Taming the Prince* (1989), a work on philosophical origins of executive power, Mansfield shows 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.

But if Machiavelli was a modern man, and America is modern, how come America is not Machiavellian? For Mansfield Machiavelli is 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 the 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. Thus it is necessary to define first the modern problem as seen by Machiavelli, since for Mansfield, as for Strauss, a recovery of virtue in the conditions of modern freedom has to start with Machiavelli's diagnosis and practical solutions. His world is our world, our modernity, and we have to start from it if we are to engage in a meaningful and reasonable search for virtue in modernity of late liberalism, to which pressures the American constitutional system is increasingly subjected.

For Strauss, Machiavelli rejected the pre-modern classical tradition as exemplified by the ancient and Christian sense of virtuous life as a goal of political order. In other words Machiavelli recast virtue in its application to politics, or executed a radical intellectual break in the understanding of morality in public life. This tradition against which Machiavelli revolted – and this was a premeditated and cold rebellion – was characterized by certain beliefs and moral goals. There was no distinction in this tradition between morality and politics. This distinction was made by Machiavelli, who taught at the same time to take a posture of detachment or, better to say, moral indifference, in the presence of vice. Vice was more a technical problem, not a moral problem, for a political order. Thus a wise ruler had to learn how not to be virtuous in the first place, since the major aim of his governance is preservation of order and survival. Among these classical ideas against which Machiavelli revolted was the idea that political philosophy was to be understood as an

[20] Quotation in: *ibidem*, p. 59.

incessant quest for the best political order, the order which was most conducive to the cultivation of virtue, and in which each person gets its 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 the modern language, this search for virtue was highly judgmental, non-tolerant and discriminatory for the sake of elevating people above their beastly impulses. Creation of a political order best suited for a cultivation of the virtuous people was the main goal of politicians and political philosophers.[21]

This classical as well as 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 persuade politicians, albeit such a situation could not be entirely excluded. But the most important classical theme was this idea that nature, in this human nature, dictates the proper limits of conduct on humans. They cannot overcome their nature. If they try, the consequences for them and for a political order itself would be calamitous. The Greeks named this desire *hybris*, the Christians the sin of conceit. This urge was recognized as a deadly sin which, once committed, would result, sooner or later, in the total corruption of a polity and of an individual soul, leading to despair and anomie.[22]

Machiavelli consciously rejected these assumptions, first of all subverting the very idea of nature. Nature was just a pure speculative obstacle to clear-cut thinking. For Machiavelli it constituted a nonhuman 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, a role of political philosophers, in fact the role of speculative, abstract reason as such in search of an ideal, higher order, had to be altered. No longer blazing intellectual trails, philosophers and theologians were reduced from the position of leaders of society. Their place was taken by the prince, the state. The former were reduced to the 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 interests of the basic needs of the society.

As a consequence, chance, the ancient Fortuna, was also to be drastically eliminated. Humans were 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 meeting the objects of their subjects' immediate

[21] Aristotle, *Nicomachean Ethics*, [in:] *The Complete Works of Aristotle*, ed. J. Barnes, Princeton 1984, book I, p. 1743, book II, p. 1103–1104.

[22] T. V. McAllister, *Revolt Against Modernity: Leo Strauss, Eric Voegelin and the Search for a Postliberal Order*, Lawrence 1995, p. 31.

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 the technical problem of achieving a political order best suited to satisfy the basic human desires. But in the course of satisfying such desires, nature became an object of manipulation and understanding, so as to conform to human need, 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 was focused solely on nature being used for immediate human needs. That is science treated nature as an obstacle, ready to remove limitations from it. Teleological, and by implication also theological understanding of nature grew increasingly obsolete, redundant. Soon, for Francis Bacon, a couple of generations after 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.[23]

In addition to such a treatment of nature, Machiavelli changed a meaning of political philosophy. Mansfield dissects the contours of this Machiavellian breakthrough of modernity with a clear understanding that with Machiavelli – and here he follows the footsteps of Strauss – politics began inexorably to follow the path towards gangsterism, the so-called modern "political realism". For Mansfield, Machiavelli recast the meaning of virtue, but he could not do this without at the same time recasting the meaning of morality itself and that without radically changing the ends, that is purposes of political life. This recasting of the classical and for this instance Christian idea of virtue is the key to Mansfield's dissection of Machiavelli, since he understands that what was and is in fact at stake was a question of modernity's regression of politics into a province of immoral conduct, not as a fact but as a normative ideal. For Machiavelli, in Mansfield's interpretation, virtue ceased to mean the province of moral lasting norms but began to mean simply flexibility, cunningness according to the times or situations. What began to count for a politician was the utility of power to produce a result, without being inhibited by any moral constraints. That is to be efficient, with the objectives coming from the logic of power play itself.

Mansfield made an incisive observation that Machiavelli executed an operation which made distinctions between different regimes meaningless, differences which were regarded until his time as deciding whether a particular regime was

[23] Literature on this shift of paradigm between the ancients and the moderns is voluminous. See for instance a classical exposition of this conflict in the works of Leo Strauss, for instance *Natural Rights and History*, also his chapters on Plato, Machiavelli as well as Nathan Tarcov's and Thomas L. Pangle's chapter *Leo Strauss and the History of Political Philosophy*, [in:] *History of Political Philosophy*, ed. L. Strauss, J. Cropsey, Chicago 1987, p. 33–89, 296–317, 907–936. This Machiavelli's breakthrough and its consequences are well exposed in T. V. Allister, *Revolt Against Modernity*..., chapter 1, as well as in P. Manent, *The City of Man*, Princeton 1998, esp. p. 156–182; also L. M. Friedman, *A Republic of Choice*, Cambridge Mass. 1996.

good or bad. This became so because "the ruling part is always the same, and only the relation of princes to each other and of princes to the people discloses the nature of the regime". A regime of "consent" would satisfy their deepest concern, the concern for security and their fear of being governed. Thus a government ruling in the name of the people will be able to convince people to accept much more easily the hardships of being governed. But the forms of the regimes do not matter much, since "regardless of the forms, government will always be in the hands of a few, who will always be in effect 'princes', no matter how they are styled. And even a government republican in form may gratify the 'humors' of those who rule – namely the passion for glory, fame, or – as we say in tamer times – 'recognition'. Machiavelli understood that even a republic would need to be renewed, to be shaken occasionally from its settled conventions, and the instrument of rejuvenation he would find in 'sensational executions'. To rule was to 'execute' with 'effect' – not only to produce the desired result, but to make an impression on the public mind. It also meant to execute in the sense of punishing, and punishment, too, had its utility. For it could at once plant fear and assuage anger".[24]

Here Mansfield recovered from Machiavelli's thought the most striking practical observation which is directly applied to a contemporary world, that is the nature of modern executive power. A contemporary myth has it that to "execute" a policy means to carry the will of the people, or to carry out the mandates of the constitution itself. But Machiavelli was the first modern, and Mansfield recovered this idea perfectly, showing that the law is a very imperfect document, that by nature it could not attain what it attempts, since the law speaks in universal terms and thus needs assistance from outside to decide what was reasonable in each case. Mansfield showed this modern brilliance of Machiavelli in its full exposure, that in the hand of a "good prince" the reality of government means simply ruling with the fictions of the law. In the contemporary world this "execution of laws" depends also increasingly on the interpretative powers of constitutional tribunals or courts in general. Both the executive and the courts in modernity go in fact hand in hand in forming a ruling class, "the modern prince", constituting the essence of the regime's decision process, in the name of the people, but in fact doing what they want to get and bending laws to their ends. That was partially an insight of "Brutus" commenting on the proclivities of the American new federal constitution to form an alliance between the executive, the judiciary and Congress, ruling in the name of the people, but in fact for the interests of the governing elite, something he termed a "coterminous power theory" of federal governance, where the separation of powers and checks and balances would be obliterated by a skillful interpretation of the law of the Constitution by the Super Court.[25]

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[24] H. Arkes, reviewing Mansfield's *Taming the Prince* in *Recasting Virtue*, "New Criterion", September 1996, p. 124–125.

[25] See on that: A. Bryk, *The United States Constitution in the Thought of the Antifederalist's 'Brutus': The Nature of the Compact, the Concept of Representation and the Consolidation Theory"*, [in:] *Szkice z dziejów ustroju i prawa*, Krakow 1997, p. 61–75.

Mansfield showed deftly how this factual state of affairs had to be concealed by the ruling class since "the assent of the multitude could not be gained so readily for a regime that made so brutally clear that it rested on the splendor of *uno solo*, of one man or a gifted few, acting out their passion to rule".[26] But this governing class's will to have its way, justified by the lip service of the "people's rule" formula, has a powerful ally, increasing the power of this governing elite. It is the modern concept of the "reason of the state", a faint, even if a much more powerful echo of the ancient requirement of "self defense". It is this increasing danger of the real threats from abroad and within the state, for instance terrorism, which may make more urgent the unconstrained hand of the Executive, or wider, the ruling elite, justified by the security and wellbeing of the people themselves.

Mansfield showed how Machiavelli's cold realism of this new science of politics totally decoupled a moral reasoning from the province of power as such, something which was visible in the striking absence of any mention in his writings of the "soul", *anima*. Politics thus became in Machiavelli a here-and-now affair of immediate animal passions of humans rationally organized and executed, with the total extinction of a moral dimension towards which political life might be, however tenuously, directed. By doing this, claims Mansfield, Machiavelli repudiated the whole corpus of human thought, nay, culture as such, understanding the latter as a simple utilitarian device to make animal passions of humans more manageable. The greatest traditions of the classics, Christianity and Judaism were cast aside as useless devices which tried fruitlessly to orient humans towards moral goals higher than their immediate desires, devising policies which would make these desires tamed and geared towards virtues which would attempt to make the humans better than they themselves were. But Machiavelli defined such attempts as misguided, not only futile but erroneous. Politics is about power per se, and no morality can do anything about this. It is a virtual entity together with the fictions of the Constitution and the restrains of the laws, justifying in the eyes of the gullible people the inexorable logic of the unrestrained power of the executive, aided by the modern judiciary, to execute policies shaping the world according to their own image of them.

Machiavelli thus opened the gates to all kinds of ideologies which purport to make human beings inhabit a more just and equal world despite the natural order of things. In other words Machiavelli in fact killed the notion of the nature of man, and with this the concept of natural law as an immutable order of things, off limits to certain political experiments. Lessons from this change were eventually drawn by Thomas Hobbes, and later John Locke, who elevated the lowest desires of human will to a level of legitimate desires as the highest political goal. The natural, objective, rooted in ontology right, turned into individual right, at the beginning the right to self-preservation, and then rights of people as members of a state, to relieve humans from some burdens. This was a task which John Locke completed, and it became the ultimate justification and a source of liberal democracy.[27]

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[26] H. Arkes, *Recasting Virtue*...., p. 126.

[27] See on that also L. Strauss, *Natural Right in History*...

Modern Liberalism and Constitutional Government

Here is where Mansfield takes up the gauntlet of modern liberalism and with it modern constitutionalism. If he is a liberal this happens to be for two reasons. One is reluctance of being in constant rebellion against the reigning spirit of one's own age, the rebellion which may yield little immediate gain, begetting instead just an empty frustration, and causing a clouding of sharp thinking, and thus an ability to analyze ways of escaping such liberalism. Here Mansfield is definitely more in the tradition of modernity's critique of his beloved Tocqueville than Chateaubriand, let alone de Maistre. That Tocqueville who knew that understanding rather than impotent rebellion is necessary for the wisdom of saving what is there to save for the future. Second, because after Strauss Mansfield thinks that after all liberalism is the best regime for our time. Nevertheless, liberalism is a political ideology borne out of a modernist impulse, pretending to be the philosophical stone of politics for ages to come.

Constitutionalism is a child of liberalism, and it is here that this feud of Mansfield with contemporary liberals seem to be especially poignant. For Mansfield Machiavelli was the author of modern constitutional executive as a decisive part of modern constitutional order, and despite the denials of contemporary liberals Machiavellism and modern constitutionalism are twin brothers, being a consequence of the same ontological and anthropological assumptions. In such a perspective constitutionalism is definitely opposed to Machiavellism, but not entirely so. Machiavelli disdained the constitutional forms which constitutionalism enshrines, being at the same time a direct means of thwarting criminality in politics. Constitutionalism definitely rejects Machiavelli's shameless idea that the truth of an act is revealed in its effect, in how it turns out rather than how it was done. In other words constitutionalism definitely does not accept the premise that the end justifies the means. But there is a problem with selfishness as an operating principle of action both in Machiavelli and in modern liberal constitutionalism.

Liberalism, according to Mansfield, did not begin on its own, independently of Machiavelli, as liberals like to claim or was filtered through Machiavelli's thought, taking his lessons on a subject of hard political necessity, but then deriving opposite conclusions from him. There is no doubt for Mansfield that liberalism did not have an innocent birth, that it was born out of an "original sin", that is a total metaphysical rebellion which left Cain's stigma on liberalism's conscience, at the same time pretending that such a crime did not occur. This metaphysical rebellion which Machiavelli declared as a starting point of contemporary politics and liberal constitutionalism took for granted hiding its anthropological as well as ontological assumptions, was a colossal act of substitution of man for God, or to put it in other words, a replacement of the immutable moral order of nature by a moral autocreation of a liberated individual. This change was so radical that some of the most perceptive critics of modernity, such as Kant or Dostoyevsky, defined it as the

"to be or not to be" of humanity. They asked a question what were the sources of morality as such which individuals were to listen to, and why they should listen to morality which increasingly began to be defined as a subjective will of happiness understood as a fulfillment of an immediate desire, contravening all established morality as such.

Liberalism, thinks Mansfield, avoided this problem, or hid it deeply under the pretence of creating morality out of the mutual consent of rational individuals. But Mansfield destroys this senseless self-contentment of liberalism, showing that as a doctrine of individualism it was at the same time a powerful demolishing tool of the hitherto known culture based on a distinctive anthropology and ontology. In other words that liberalism was a colossal act of violence which was to produce an individual as a basic, operating agent in a society, in the first place. Hobbes and Locke, the founders of liberalism, arrived at this position via the construction of a state of nature. For them an individual exists in the state of nature, either in a state of war as Hobbes claimed, or of great inconvenience as Locke assumed. This state of nature compels an individual, they thought, to look to himself, and excuses whatever irregularities may be necessary in that state. Contemporary liberals do not talk, or talk in a sanitized way, about the state of nature, preferring to use the idea of "original position", in which rational individuals somehow decide to be compassionate liberals towards humanity as such, in abstracto, but via the welfare state, in connection with each particular human being.

But for Mansfield it is obvious that such a rosy view of liberalism and constitutionalism is a myth because the individual

> in whom we put our faith required a wrenching effort to become realized. The 'perfectly free' individual of whom Locke speaks had to free himself, or be freed by Locke, of the obligations that tie man to God. To break these ties is a decision more active than a mere parting of the ways, as in an uncontested divorce. For the liberal principle of mutual consent cannot be established by consent: one must first show why consent is reasonable and necessary. Why am I not my brother's keeper, as the Bible says I must be, regardless of consent? To answer this question one must venture profanely into sacred precincts and declare them subject to human necessities and human sovereignty, as Machiavelli did when he excused Romulus's fratricide as necessary to make himself *uno solo*. With his demonstration of the daring it takes to make oneself truly alone, Machiavelli unsheathes the original liberal individual. The original individual is a tyrant, and necessarily so, because the selfishness used to defend himself against God carries over to relations with his fellow human beings, [here] Machiavelli reverses the reasoning of the Bible. With his sensational strokes of execution, the prince is the original empowered individual. To ignore the Machiavellian origin of the liberal individual is to deny the need for taming in constitutional government. If power is not essentially encroaching, why does it need to be limited? One also forgets the connection between necessity and virtue, stressed by Machiavelli and accepted by the liberal philosophers. Will our rights be well-exercised and offices in government be well-executed if no pressure is brought to bear? The harm to liberalism from ignoring Machiavelli comes by these avenues of complacency.[28]

[28] H. C. Mansfield, *Taming the Prince: The Ambivalence of Modern Executive Power*, Baltimore 2005, p. XVI–XVII.

Another argument Mansfield has which contemporary liberalism and constitutionalism, is Mansfield's thesis about the modern executive's ambivalent nature, which cannot be harnessed by the most intricate laws. Here liberalism employs its darling child political science, arguing, in the words of its believers, that if the ambivalent executive power means vague, untrustworthy or indeterminate, which may indeed be a problem, then it is possible to correct this challenge precisely by political science, that is proper empirical or other research. Mansfield considers this hope as a ludicrous *hubris* of the liberal mind, in fact a fantasy not meeting a challenge of any reasoned argument, including an empirical one, let alone common sense observation. If such a possibility of construing a perfect legal and administrative system was possible, than we would have full justification for an absence of virtue. There would simply be no need for it, no discussion of it in a democratic republic, since a perpetuum mobile of this administrative, legal system built into a constitutional structure would ensure the proper behavior both of politicians and citizens.

This constitutes a fascinating arrogant belief of political science which is a mirror image of a liberal sociology, which makes human behavior entirely dependent on society's organization, thus trying, for instance, to explain the roots of evil by non-moral sources of human individual conduct, thus trying to organize society in such a way as to relieve men of being good. They have simply to be living in a well organized society, eliminating the root causes of evil. Liberalism does not need virtue here as an aid to a constitutional scheme since

> in a liberal constitution one can construct offices or institutions that tend toward good administration, but there is no guarantee of the virtue required for the effect. Our more scientific brethren, dissatisfied with a mere inclination and seeking certainty in results, eliminate the virtue that may or may not complete the tendencies of institutions. Virtue is a variable in the true, stubborn sense, incapable of being correlated in a system. So, with the best of intentions and seeking to do good, the scientists refuse to speak of good. They believe that once values have been eliminated from the study of facts, the promise of liberalism to enable us to govern ourselves will at last be fulfilled – since fulfillment will no longer be subject to change. The scientists caught in this vain hope are joined by superdemocrats who dislike virtue because it is aristocratic. The latter want democracy without excellence, which they fear as a source of unaccountable power, all too predictable in its harmful effects if not contained. Such a democracy, however, would still need levelers, averages, and flatteners, and still reserve offices and prizes for them. If superdemocracy should come – or have we not seen it already? – virtue will have received a strange twist, turning on itself, not merely to guard against false claims of virtue, the intent of liberalism, but even to try to suppress itself. But virtue cannot suppress itself, because the attempt requires virtue. Virtue will always be present in human affairs in its undiminished ambivalence, indispensable and undependable.[29]

What Mansfield does here is not only a defense of virtue and moral life as such, but a fundamental defense and hymn to freedom as such, freedom as a condition of human life so rich, so indeterminate, so full of passions, contradictions, fists of desire to commit evil as well as commit goodness, that any attempt to make

[29] *Ibidem*, p. XVIII, see also an exchange between S. S. Wolin and Mansfield in "Studies in American Political Development" 1992, vol. 6, p. 211–221.

it predictable or organized under a pretence of one monistic common denominator how a "good" life should look seems to be ridiculous, bordering on utopia pointing towards despotism. Mansfield's is a spirited defense of the freedom of an individual, which is ultimately rooted in the freedom of Someone who made men truly free in the first place, because of Himself being a taboo to Machiavelli, political scientists, or any assorted bunch of people thinking that their particular point in time and history is the perfect vantage point to organize a perfect society.

Mansfield treats Machiavelli's project not only as a subject of merciless intellectual dissection about the sources of modernity. Machiavelli is for him also a stepping stone for recovery of the moral grounds of politics. Mansfield does not count much on the character of a ruler or an elite to constrain themselves, to respect the law equally. That would require an ingrained religious belief or natural law grounded in it; the ingrained ethics of the secular making would not do. But religion and natural law have simply ceased today to be an anchor for the character of men in politics, let alone cultural elite. If, then, such sources are non-existent, since Machiavelli killed the classical or Christian natural law, and as a consequence Christian natural right, as irrelevant, if not overtly superstitious, then what would constrain such a ruler or the elite from doing what they would like to do? If any Constitution is a fiction, the people gullible, the notions of moral truths or natural law laughed at, and Christianity all but gone from culture, then what is going to guard us against the despotism looming behind such politics?

Mansfield's answer is as romantic as it is opaque, but at the same time it follows the great tradition of Strauss. Realistic doctrine of virtue has simply to be conveyed to students as covert teaching. But what would be the efficacy of it? Here Mansfield somehow counters his sober argument about the lack of any moral sources lying behind the sheer will of power of the ruler and the elite, even if executed with the best of their intentions, which are nevertheless their intentions of the best possible course of action. If covert teaching might be of any use it is because there must be an inner moral kernel of a human being, a moral soul which can resist all attempts to obliterate it. It is the role of great teachers to keep this moral soul alive, to nourish it and to hope that enough such souls will be saved to carry the human race into the post-Machiavellian future.

Mansfield's appeal is as much a call for a resurrection of a political philosophy as a call for a return to a classical liberal education. The latter was once in the liberal-democratic society a basis for meaningful knowledge, and is now being buried under this debilitating idea that the aim of education is just utilitarian preparation of young people for a 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 Ancients, kind of a cry in the wilderness. This cry is also unfortunately applicable to Harvard University, Mansfield's alma mater and his teaching turf for the last half a century, the first American university. Founded in 1636, Harvard has become by many judgments and in the company of

other great American universities, despite its brilliant history and the highest market utility of its diplomas, an institution deserting this idea for which universities were founded. Worryingly, it has begun in its humanities departments to be increasingly an epiphany of a useless, porridge-like, ideological and acedic education to nothingness. Mansfield has become for generations a conscious rebel in this arid land, not because he has been an especially pugnacious and revolutionary spirit – one can imagine no more kind and gentle person than he is – but because he could do no otherwise, because his faithfulness to truth and himself required this as a civil duty.[30]

Constitutionalism, Virtue and the Culture of Rights

If America is quintessentially a modern nation, it is at the same time a unique modern nation with an interesting response to all the inherent challenges and dangers of modernity to human freedom. Mansfield refuses to grant Machiavelli the last word on the American constitutional system. Although America is a modern society, it was also built on the clear understanding that for this type of society to survive real virtues have to be developed, inculcated and defended. But virtue in the American constitutional system is not and cannot be directly inculcated. How could it be 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 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 [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? Americans are, and think themselves to be, a free people first of all. Whatever virtue they have, and how much of it, is a counterpoint to the theme of liberty. But how do they manage to make virtue and liberty harmonious?[31]

Mansfield tries to answer this fundamental question of American modernity and constitutional system, a tension between freedom and virtue, through an extensive review of the different approaches to it taken up by John Locke, Charles de Montesquieu, Benjamin Franklin and finally the Federalist Papers, the original commentary on the Constitution of 1787. Freedom understood in a modern sense is essentially unrestrained. It is a will-obsessed impulse. Virtue is on the other hand a force of guided restraint, guided in a condition when guidance is increasingly being derived essentially from the sheer will of an autonomous self and its moral autocreation. Where in such a situation, asks Mansfield, can we thus find a semblan-

[30] 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 against diminishing humanistic education see J. Tassel, *Thirty Years' War*...

[31] H. C. Mansfield, *Liberty and Virtue in the American Founding*, "Krakowskie Studia Międzynarodowe" 2008, No. 1, p. 91.

ce 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 that permits and requires the cooperation of virtue. The lesson overall is that moral philosophy is incomplete without political philosophy.[32]

If so, Mansfield seems to suggest, then political philosophy understood as wisdom gained out of the constitutional experience of free people may lead us into gaining an insight into things permanent, kind of a *déjà vu* for a modern philosopher. It is political philosophy again which might lure us into turning around our lives onto 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 oeuvre is also shot through with perceptive observations about how the modern culture of rights destroys self-government and constitutionalism. He is, in the context of American constitutionalism, a critic of transforming constitutional rights into human rights trumping the former. Human rights, increasingly lacking a firm ontological and anthropological basis, incessantly expand. The sole justification of such an expansion becomes a wish of the autonomous self, put forth as a demand for more equality in all spheres of life. In this new version

> we have seen, rights are no longer 'civil' as distinguished from and related to natural rights. They are human rights and as such have no necessary relationship to civil society, the Constitution, or the common good. In our own day they are also known 'entitlements', originally a technical term for claims on a budget that must be paid out regardless of how many claim them. When rights in general are taken as entitlements, even the sky is not the limit, and your rights culminate, not in the right of consent, but in your right to feel dissatisfied. One could sum up entitlements in this manner: they have no reference to the common good; they result from no actual or potential contribution by the entitled; they do not have to be individually, much less responsibly, exercised; and they deny past progress in rights while producing a static society of defensive special interests.[33]

Mansfield looks at contemporary rights understood as entitlements as a result of a tectonic change in the very concept of rights in modernity, which ceased to be subjected to a structural ordering of a constitutional state operating through a right of consent. This right of consent is both natural and civil, lying between natural and civil rights. It is natural, shows Mansfield, since it is prior to civil rights. It is civil insofar as it is through consent that conventional, limited civil rights are established, including here the right to vote, which is a civil version of the right of consent. Consent is crucial because it creates government; at the same time it is security which tells government that although rights are secured by government, they

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[32] *Ibidem*, p. 106–107.

[33] H. C. Mansfield, *The Revival of Constitutionalism*, [in:] *The Revival of Constitutionalism*, ed. J. W. Muller, Lincoln–London 1988, p. 222.

were not created by government and do not exist at the convenience of government. They are in fact natural, of which the consent is the conscious guarantee of them being orderly implemented through government.

What is crucial here is that rights must be understood as being accompanied by a form of government because only the government, its constitutional form, can guarantee them. That form simply secures rights by governing under law, and this rule is exercised by the majority which is constitutional, as opposed to a factious majority. This situation is not tantamount to the tyranny of the majority. Constitutional government operates by the majority rule, but this majority is never the same. The right of consent is the right absorbing in time a democratic discussion and giving minorities a stake and security in such a constitutional state. If the minorities want to challenge that mechanism, they argue from a right going against the constitutional structure, and they have an obligation also to provide reasons why their rights are not sheer entitlements. In other words they have to subject their conception of rights to a reasoned argument in public and not to push for their full realization in public, in every sphere of life, to push for their conception of a political order and culture solely for themselves.

There is a tendency here to argue from first principles, which in modernity, decoupled from any fundamental justification of rights grounded in any common anthropology and ontology, are very often tantamount to the subjective wishes of an autonomous self. This subverts constitutionalism which is also subject to outside pressures, especially contemporary social sciences. It is social science today which

> refuses to tolerate the indeterminacy of a situation in which the Constitution may or may not achieve its end. Social science wants a guarantee of the result. To get this guarantee, it will conceive the problem differently. It is much friendlier, for example, to the checking function of the separation of powers than to its tendency to produce good administration because the checking function relies on self-interest rather than virtue, and of course self-interest is more reliable than virtue. That is self-interest is more predictable than virtue, not more responsible. To get determinate results social science favors predictability over responsibility in the description of constitutional government. But it is in the nature of a form to leave open the content or behavior which it formalizes; hence it is in the nature of a constitutional form to describe or embody, without describing a function that may or may not be performed. The insistence of social science on determinate, predictable results requires to look through or overlook constitutional forms to uncover what it regards as the actual behavior behind those forms… Social science does not accept the distinction essential to the *Federalist* between the people's will and their reason or intention. It takes note that we have no assurance from the working of the Constitution that popular will become a reasoned intention. An aptitude to refine the people's will or a tendency in that direction is not enough, since the Constitution must do what it does without fail and without dispute. Therefore, instead of studying promised tendencies in the Constitution of its asserted functions, which are frequently not delivered in fact, social science turns to search for the determinants of popular will…In order to achieve the determinacy of a science that is universal, necessary, and exact, social science looks beneath popular will rather than beyond it. For what determines or correlates with popular will cannot be will.[34]
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> [...] The social science disregards the people's will, considering it as a problem, whereas the *Federalist* elevates it to an quiding intention. Once you try to understand the people's will, you must

[34] *Ibidem*, p. 223–224.

apply rational criteria of your own maleing, meaning you must disregard that will and be led above or below it. Social science, as a kind of positivist science looks below, to find out why people will as they do, because of their income, sex, race, locality, and other determining, possible to be measured criteria of social science. The majority of social scientists agree that constitutional checks on popular will are necessary. Such checks are based on a calculation of self-interest, a more determinate and predictable motive than virtue. But they are unable to say why they approve of them. As a consequence, their theories bellie, in fact, their sense of responsibility and their political judgment, and issue in a certain *democratism*, which is the result of seeking determinacy. Social scientists see that the forms of the Constitution do not surely elevate popular will, as intended; they believe their analyses show that only certain fortunate minorities are surely elevated by these forms, for example, property holders. The consequence of social science is to debunk these groups as 'elites'. When social science rejects the explanatory value of the constitutional in favor of the extraconstitutional, it necessarily denies the political contribution of those who claim to use the constitutional forms as intended… The democratism of social science is a strange one, however, because it discloses a democracy without a people-that is, a democracy in which the people are not a whole. The people could be a whole only if their will were a whole, if it could be understood as an intention with a common good. But since there is no guarantee of this, social science seeks indeterminants of popular will, as we have seen. But in seeking those determinants, social science dissolves the people's will into wills. Different groups in the people have wills that are determined differently. Since there is no determinate common good, one cannot speak of 'the people'; even a 'majority' is made up of not for good or ill, as in *Federalist* No.10, but arbitrarily. All democratic politics come as bargaining, every democratic majority is nothing but 'a coalition'. But if this is the case, minorities or elites must necessarily prevail in democracy. Partisanship for democracy turns out to be merely partisanship for the groups that the social scientist happens to prefer within democracy.[35]

There is, Mansfield suggests, a great impatience with such constitutionalism, and a dangerous one at that. It brings social science as a superior tool of determining the goals of the community, and as a consequence tries to bring executive power to act against the people's expression of immediate, constitutional will in allegedly their best interests executed by the elites. But such a stance usually views a definition of people's interests as commensurate with the interests of the elites, who know best what ordinary people want. This constitutes a paternalistic, disdainful attitude towards those who do not want to recognize such elites as having a better insight into the political and existential, in fact, matters, as being, in wit, wiser. This conflict creates a silent resistance of the society at large, which thinks that there is a hidden alliance between elites, in this contemporary case, mainly liberal-left elites and minorities which act against their concept of life, their freedom. On the other hand it causes impatience and a revolt of the elites against their own societies.

Such a revolt of the elites against their own traditional societies has been inherent in the European liberal culture at least since the French Revolution of 1789, and has become a permanent feature of the Enlightenment mind so well described by Goethe in *Faust*. But it got a radical boost in the wake of the 1968 countercultural revolution which made such ideas as "liberation" from any authority, as well as "the private is political", geared to the new anthropology of autonomous self as a sovereign source of moral judgment its sine qua non condition of legitimate society.

[35] *Ibidem*, p. 224–225.

Such a revolt of the elites against the masses in America was essentially a much later phenomenon and has met with much stronger resistance of the American people for reasons of them being better organized, less dependent on the welfare state, financially more abundant and ready to challenge such tendencies from bottom up by a process of self-organization. Nevertheless such a revolt began clearly at the turn of the 20th century with progressive liberalism, psychotherapy as a new science of adjustment to the progressive society, and last but not least the split within Protestant Christianity into a fundamentalist and progressive, social gospel wings, the latter increasingly playing the role of justifying the various liberal progressive actions of the elites against recalcitrant society.[36]

For Mansfield the best protection of rights in the U.S. Constitution was, in general, the principle embodied in the very text of the Constitution as written in 1787, before the Bill of Rights was added. In other words the best way to protect rights was through proper institutions.[37] The Bill of Rights had a potential of going beyond that principle and in fact changed the terms of the debate, even if what might be at stake was not entirely clear. This danger was somehow sensed by the Federalists and the Anti-Federalists, the Bill of Rights' main proponents. The latter disregarded this fear too lightly, except maybe "Brutus", whose logic of the expansion of the Supreme Court power should have made him more cautious as far as putting too much stress on the formal Bill of Rights. Nevertheless from the time of the adoption of the Constitution to the Civil War, the view was that individual rights were in essence constitutional rights, the language and the logic of the Declaration of Independence being suppressed, or better to say disregarded.

The rights were to be protected through the employment of proper institutions, something visible in the Acts of Congress, as reflected in the Judiciary Act of 1789 or the U.S. Supreme Court judgments. In a more pernicious way this interpretation was visible in the Southern states' adamant efforts to treat states' rights as a means of preserving slavery, or from a different angle by the Northern states' attempts before the Civil War to impose particular state laws nullifying the application of the federal fugitive slave laws. The Southern strategy was ironic. It ostensibly diffused a classical Hamilton's and Madison's Federalist argument against the federal Bill of Rights. But from the Federalist perspective, the states becoming the principal defenders of a model of using state institutions to secure rights, were in fact mocking the very essence of rights and the whole constitutional system.

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[36] On this revolt of the elites in Europe as contrasted to America see: A. Bryk, *The United States, the European Union, Eastern Europe: Challenges and Different Responses to Modernity*, "Krakowskie Studia Międzynarodowe" 2008, No. 1, p. 206–227; the post-1968 analysis of the phenomenon, especially in America see: C. Lash, *The Revolt of the Elites and the Betrayal of Democracy...*, New York 1994.

[37] This was visible, for instance, in James Madison's letter to Thomas Jefferson of October 17, 1788, [in:] *The Mind of the Founder: Sources of Political Thought of James Madison*, ed. M. Meyers, New York 1973, p. 205–209. For a good exposition of this aspect of institutions as protectors of rights see: M. Diamond, *The Founding of the Democratic Republic*, Itasca 1981, also his: *The Separation of Powers and the Mixed Regime*, "Publius" 1978, Vol. 8, p. 33–43.

For some, this crucial step of transformation was taken by Abraham Lincoln, who appealed to the Declaration of Independence's language of natural rights, especially equality, as a controlling and interpreting value of the entire American constitutional system. For some, like Harry Jaffa, James McPherson or Garry Wills, this reinterpretation of the American constitutional tradition in the light of the Declaration of Independence was not only logical, even if forgotten, but desperately necessary to make the American political practice commensurate with exactly the very essence of the American constitutional tradition. For others, like M.E. Bradley or Wilmoore Kendall, such an interpretation, whatever its motives, was revolutionary, in fact subverting the U.S. Constitution, and unleashing a train of thought which would make this principle of equality a loose canon and a pernicious influence on American political life, eventually subverting it against the best efforts of the Founders.

This argument between the two camps was honest, not entirely commensurate with the traditional liberal and conservative split, and amounted to a difference between a faith in the automatic efficacy of the constitutional institutions, even if delayed, to rectify the practical wrongs of the American system, and the necessity to go beyond the institutions and appeal beyond the Constitution to eternal rights, natural or divine, to bring the Constitution in accord with its true potential. Lincoln's interpretation got a boost through the adoption of the Thirteenth, Fourteenth, and Fifteenth Amendments, which enabled a clarification and constitutionalization of individual rights and opened a debate about what constituted individual rights within the American system, with courts added to traditional legislatures, beginning increasingly to enforce those rights. During the course of the next century the individual rights, the interpretation of which became increasingly the province of the courts, began to be interpreted not only as rights stemming from the Constitution itself, but from humanity, that is natural rights defined as modern human rights as such, if need be requiring an alteration of the U.S. constitutional system.[38] The change was radical, although not visible for a long time, and amounts today to a crucial question what are the ultimate sources of legitimacy of the U.S. political system, the Constitution stemming from the will of "We, the people", or the human rights.[39]

In the 1950s and '60s this movement towards enlargement of individual rights reached its nadir, being imposed by the Supreme Court verdicts, in the wake

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[38] The expansion of rights was very much strengthened, of course, by the concept of unenumerated rights which the Constitution allowed, with the Ninth Amendment being interpreted as a license to this, the unenumerated rights being a safety valve retained by "the people". See on that a voluminous literature, for instance: *The Rights Retained by the People: the History and meaning of the Ninth Amendment***,** ed. R. E. Barnett, Fairfax VA 1989, 1993.

[39] See: J. A. Rabkin, *Law Without Nations? Why Constitutional Government Requires Sovereign States*, Princeton 2005; A. Bryk, *Is a Nation State Obsolete?*, [in:] *America in Transition*, Warszawa 2010; R. H. Bork, *Coercing Virtue: The Worldwide Rule of Judges*, Washington D.C. 2003; from a slightly different perspective of Europe see C. Delsol, *Unjust Justice: Against the Tyranny of International Law*, Wilmington DE 2004; P. Manent, *Democracy without Nations: The Fate of Self-Government in Europe*, ISI Books 2007, and his *A World Beyond Politics? A Defense of the Nation-State*, Princeton 2006; R. Hirsch, *Towards Juristocracy: The Origins and Consequences of the New Constitutionalism*, Cambridge MA. 2004.

of "Brown v. Board of Education" of 1954, on the legislative agenda and executive orders of presidents. Civil rights increasingly came to mean individual rights in the most radical sense, the right of every individual to be free of all but the most minimal external constraints, including group constraints, including also constraints of the communal norms.

Here the countercultural revolution of 1968 and the New Left concept of "liberation" and "emancipation" from every "oppression", accepted into the mainstream of progressive liberalism provided a perfect match to such a tendency of interpreting rights. This was the case, again as the New Left slogan declared, especially in its feminist version, that "the private was political", that is that every facet of human life was riddled with unequal, a.k.a. unjust relations. The rights began to be treated increasingly as a province of human wants and desires, defined by an autonomous self's moral autocreation of self-explicating reason. This was coupled increasingly with an idea of civil rights as being in congruence with human rights, gaining legitimacy in the international context. Created as the sole justifying characteristics of a just political regime in the wake of the Second World War, they slowly ceased to be defined by the then prevailing Christian anthropology and ontology, referring instead to a generic concept of human dignity as its justification. But that concept meant in practical terms that humans have rights because they have dignity which is expressed in rights, which is essentially a circular argument. Such dignity becomes, in fact, defined by an autonomous self, demanding rights from others and the welfare state without any pretence of universal justification in relation to a criterion higher than an autonomous moral autocreation.[40]

We have increasingly got into a postmodern conception of rights defined simply as including both liberties and entitlements. In such a situation people are at liberty

> to do what they will, provided that what they do does not seriously infringe upon the rights of others to do the same… [Moreover] individuals are free to do almost anything, but the civil society, usually in its institutions of government, is expected to guarantee individuals their basic needs and more-in essence entitlements… Accompanying this shift is the loss of the general consensus that there is an Author of Nature. Belief in God is still the predominant popular belief … But the new image of God is one of a benign crutch who makes almost no demands other than we love one another [whoever we are and whatever we do]. This God is no longer seen as the best owner or definer of rights and obligations, or even as the Author of nature, from whose moral order rights and obligations flow. This causes matters to be much more fluid and easily fosters the new understanding of rights as liberties and entitlements. This further sharpen and clarify the contrast between modern and postmodern conception of rights … The principal modern rights – life, liberty, property, and the pursuit of happiness – were Aristotelian in nature. That is to say, they had some view of civil society as a comprehensive whole. The triad of postmodern rights – welfare, expression, and privacy as liberties and entitlements – are Epicurean in nature; they have to do with the individual, not with civil society. No social dimension is necessary involved here… The isolated individual takes precedence over any social dimension that might be introduced… The new doctrine of rights treats the moral autonomy of the individual as an absolute. This is the total reversal of

[40] P. Manent, *The City of Man*...

the earlier understanding of rights as growing out of civil society … the moral truth of the correct moral theory is replaced by relativism. Whatever the moral beliefs of the people happen to be will determine what rights the people have. Under such circumstances constitutionalism itself is challenged. Under the original theory, although the constitutions could be interpreted often with great liberality and flexibility, still they had a veto over actions that went beyond a certain point-that is, were unconstitutional. That indeed, was the whole purpose of a constitution. Under the relativistic conditions of postmodern understanding of rights, the most that a constitution will have is a vote. This eliminates the whole purpose of constitutionalism and opens up unlimited possibilities for a relativistic system of rights and actions.[41]

In other words a constitution ceased to be an instrument for protecting particular people defining for themselves a good concept of life as a community, subject only to periodic alterations. It became a framework of ensuring rights and entitlements of individuals defined by an autonomous self, with courts guarding access to such rights in the public sphere, and state agencies having obligations to fulfill such rights and entitlements whatever they are, subject only to limitations of peace and order, and guaranteed by an increasing motley of administrative rules ensuring the non-collision nature of such entitlements. A state, subject to such demands and obligations, gradually abandons its political character, becoming a purely administrative body of the therapeutic welfare state.[42]

Mansfield stands at the center of this debate, although his argument is as nuanced as it is prudent. His conception of rights is taken from the classical liberal tradition as represented by John Locke and the American Founding. The old rights as presented by them, he claims, were the rights of man, that is human beings who had a fixed nature and lived also according to alterable laws and customs. Men of course have by nature the power to alter laws and customs, thus one can say that their nature is partly fixed and partly alterable. But the rights pertain to the fixed part and thus they are inalienable, and cannot be taken away by bad customs and laws, because they are not granted by good ones. Without fixed human nature, there could be no inalienable rights. Natural rights belong to natural man, that is a man in a state of nature, not in the sense as Rousseau conceived them, but in the Biblical one in the Book of Genesis. In the United States these were the rights to life, liberty, and the pursuit of happiness stated in the Declaration of Independence of 1776, the rights for the sake of which Americans established the Constitution of 1787.

The rights secured in the Constitution are civil rights, like the ones written in the Bill of Rights. They are more specific and more limited than natural rights, since by entering civil society people deprive themselves of the exercise of natural rights in order to establish a constitution securing precisely such rights. In other words, rights are defined by law in a concrete, precise, operational way. For Mansfield therefore there should be a necessity of constitutional form standing over natural rights. The Consti-

[41] D. J. Elazar, *How the Present Conception of Human Rights Shape the Protection of Rights in the United States*, [in:] *Old Rights and New*, ed. R. A. Licht, Washington D.C. 1993, p. 46–49.

[42] See on that, for instance, P.E. Gottfried, *After Liberalism: Mass Democracy in the Managerial State*, Princeton 1999.

tution of 1787 thus puts, Mansfield claims, its own form before the end its serves, as a kind of a safety valve. Crucial for this transformation from natural rights to civil rights is the consent of the governed to a government with the power to make and enforce laws. This right of consent is both natural and civil, and a crucial bridge between natural and civil rights.

It is true that the Founders, for instance Madison, claimed that the ultimate aim of a constitutional system was justice, "the end of government". Mansfield, though, does not want to claim that the standard for rule is the regime itself, a position close to mere legal positivism. But nature and reason were not enough to define the proper means of governance and the proper scope of rights. They have to be filtered by the constitutional mechanism of consent, construed in a deft way, so the moral sense of the people, equal politically in a process of consent, can show itself. Thus the people use their right of consent to establish a constitution that secures and thereby limits their rights, specifying certain civil rights in the Bill of Rights. But

> the principal security it offers, more than the naming of those rights, is the form of government it constructs. A well-formed constitutional government gives effect to the right of consent, which would otherwise remain abstract. In such a government the majority rules, but not a factious, willful majority. With such constitutional provisions as the separation of powers and federalism, the ruling majority should be a constitutional majority. Though of course partisan, it should be respectful of the rights of the minorities and mindful of the common good. Without a working constitutional government a list of rights is of little account, even if all agree on their desirability. Not merely the judiciary but the whole government serves to secure rights; and this means that prompt executive action is as necessary as careful legislation and wise adjudication.[43]

Rights in the old conception have two opposite qualities, thinks Mansfield. They are formal and they are connected to interests. The formality of rights refers to a difference between the formal possession of a right and its actual exercise; it is the business of government to secure the former and not the latter. We have to execute our rights. If a government exercises such a right for the people, then the people have no rights. Formality of rights causes difficulty, of course, since, as Mansfield claims,

> though rights are equal formally, they are in practice necessarily unequal. Natural differences in human nature, combined with the variance of luck, will cause some to exercise the right of free speech or the right of acquiring property more successfully than others. A gap between the idea of equal rights and the reality of unequal exercise will appear it is an inevitable feature of any society based on rights. An attempt to close it completely would require so much force and regulation that the rights intended to be secured would in fact be suffocated. Any such attempt would inevitably contravene the right of consent or the right to vote.[44]

But the rights are connected to interests, an eighteenth-century feature added to the Lockean conception of rights. Interests are of course opposite to the formality of rights, since they describe in general how one can expect rights actually to be

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[43] H. C. Mansfield jr., *Responsibility vs. Self-Expression*, [in:] *Old Rights and New*..., p. 98–99.

[44] *Ibidem*, p. 99.

exercised. But interests are not commensurate with a whimsical desire about what one wants to do. Interests, as Mansfield understands well, are not tantamount to license but normatively to virtue, or should be educated this way. Our interest

> derives from our human nature, but it is not confined, like natural rights, to the state of nature; it continues with equal or heightened alertness into civil society… Through the connection of interests, rights gain not only sobriety but also many supporters, whose interests lie in the maintenance of the rights by which they profit. Since interests derive from human nature, they are active in all human societies… [But] what interests consist of?... They are an average reason joined – and confined – to an impersonal self. [The United States constitutional system] relies [thus] on a sense of responsibility. Responsibility is the rights-based transformation of what used to be called duty or virtue. Duty implies devotion to something higher than ourselves, and virtue implies a concern with perfection of one's soul. Both can be found in a society of rights, but they are not truly consistent with its emphasis on the self-preservation of individuals. Rights seem to say that human beings are sovereign and that devotion to a higher being or a larger whole is a matter of choice, not duty. Virtue is self-assured, as one cannot be fully virtuous without an awareness of the worth of virtue.[45]

But virtue calls for perfection, thus as Edmund Brudke rightly said, seems to be limited to a few. It also requires us, even demands to admire, even abey, those few. Virtue is not tantamount to the equality of rights. But responsibility is of human origin and it is democratic. Responsibility is the act voluntarily taking charge of a situation in order to improve it. Such responsibility is exercised in the context of rights and interests, which consitute two pillars of human moral life, but is not identical to them. Human right is wider than his reponsibility, but human interest is narrower. Liberalism in practice needs responsibility, because rights and interests are too theoretical to suffice for themselves. That is why many people have to be willing to take actions for which, in rights theory at least, the lack sufficient reason. The old conception of rights grounds them in the human nature that gives human beings certain abilities. For this reason, one does not have a right without an ability to claim it. Thus the best evidence for this ability is the actual claiming of right by someone.

> One must … 'stand up for' one's rights. When one stands up for his own rights, he also stands up for others in a like situation. He renounces inactivity; he refuses to 'take this sitting down'. Perhaps a certain aristocratic sense of honor and generosity is at the origin of the democratic notion of responsibility. Through the notion of responsibility liberal democracies recapture the love of the noble and the concern for the whole that seems so foreign to them and yet so ineradicably human. That achievement is the basis of Uncle Sam. To summarize the old rights… They are derived from a fixed human nature; they belong to competent individuals; they are equal; they are protected by private property; they are divided into natural and civil rights; their key is the right of consent; they are constitutional; they are formal; they are connected to interests; and they are responsible. Every one of these qualities is denied or radically modified in the new rights that are claimed today.[46]

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[45] *Ibidem*, p. 100–101

[46] *Ibidem*, p. 101–102.

What are these new rights? Mansfield gives one of the best analyses of the new situation of liberal societies subverting themselves with this new conception of rights which were decoupled from responsibility as such. An idea was that

> rights are not secure unless they are entitlements, protected from the common good. [Thus] judges have expected the rights of defendants without regard to the effect on crime. The women's movement has gained equal rights for women without considering, or in some cases caring, for the consequences of the family. In particular, the right of abortion releases fathers from responsibility for children because it necessarily implies that every child is born through the sole decision of the mother to abort … the rights were conceived and established without regard for, and even in defiance of, their effect on responsibility. The new rights are irresponsible not so much because they are careless of the cost-benefit equation, or because they are insufficiently utilitarian, as because they make people irresponsible: 'I have my right; it's up to you to adjust'.[47]

This new conception of rights was born with Friedrich Nietzsche's doctrine of the creative self and came to American politics in full force in the 1960s, coupled with the New Left slogan of "liberation" from all oppressions. But German historicism taken from German philosophy influenced American pragmatism, which in turn influenced the progressives, both the most influential intellectual movements as for as theory of rights. According to Mansfield pragmatism, generally thought to be quintessentially American, was in fact subverting American tradition since

> it denies human nature and thus subjects rights to the contingency of circumstances. That historical circumstances could be harnessed under democratic control was the reformist faith of the pragmatists, the progressives and the New dealers. But with the abandonment of human nature, they lost the rational ground of rights and launched themselves, to some extent unwittingly, towards Nietzsche's unfixed self, the self that has to create itself. This new self, lacking any natural definition, is obliged to define itself by self-expression. It is obliged, that is, only to the extent of its energy. Those selves who are content with convention – or too weak to oppose it – will allow themselves to be defined, passively and unauthentically. The creative ones will lead them, not by seeking their counsel but by pushing them aside. The creatives are not obliged to respect the rights of other selves that lack a natural definition requiring respect, that are inchoate, malleable, or conformist. Equal respect goes to those equal in nature; if there are no natures, men are equal only at their uninformed origins. As they 'find their identities', and acquire qualities, they become unequal.[48]

But Mansfield shows how this inconsistent doctrine rooted in the idea of an authentic and autonomous self, having a tendency to be egotistical and subjugating the weak, is eager, more than ever at the turn of the 21st century, to push for an expanding list of rights, allegedly protecting the weak. This stems both from inconsistency in the doctrine itself, with people who carry it still moored in the old instincts of moral equality dictated by nature, and from certain paternalistic tendencies of the elites having an urge of *noblesse oblige*, towards, as John Rawls called them, the "least advantaged". But since no natural basis for equality exists any more, equality depends on public recognition, meaning "equality in public es-

[47] *Ibidem***,** p. 102.

[48] *Ibidem*, p. 103.

teem". Public equality is the only recognizable aspect of rights and the demand to push for it is incessant. This is a push for equal status which of course never ends, the process analyzed well already by Tocqueville or Weber. If you are not equal in full public recognition, you do not exist as an equal bearer of rights, since there is no intrinsic value of what you do or who you are in relation to human nature. You exist because you are public, and your right is what you demand in public on the basis of your autonomous decision and on the basis of morality which is essentially a form of moral auto-creation by sheer will.

Thus a right is something which is commensurate with the public recognition of a desire of a moment, even if justifications for that right might be elaborate. This way the definition of a human being changes. The human being has no intrinsic value any more, no human dignity in relation to a fixed nature and nature's God which gives him or her an untouchable ontological position, irrespective of what the public image of that is. Human dignity is now defined solely in terms of rights, defined in turn as the totality of actual desires of an autonomous self. The human being thus becomes a possessor of rights which he or she defines increasingly for him/herself on the basis of an autonomous will, without any universal reference pointing towards immutable, unchangeable nature or God. As such, an individual demands full recognition of himself on equal basis with others, defining human dignity as a full recognition of the totality of his desires defined as rights, for a simple reason that he or she possesses no criteria of differentiating between them on the basis of any value judgment and hierarchical ordering.[49]

Mansfield shows this paradoxical debasement of the modern concept of rights in relation to nature and a push for a public recognition of equality of rights, in fact a baing recognition of desires, especially in relation to women. This is so since such a concept of rights greatly affected relations between sexes, pushing women into a position of competition for public recognition. Until this change occurred, women had largely been excluded from "responsible positions", that is jobs recognized as having public reputation, not solely by the fact of having formal rights denied. But women recognized then the highest value of ordinary tasks of life for a civilized order of human relations and relations between men and women in general, as being of equal value to public tasks in the limelight. They had no need to prove themselves to be equal to men in moral terms, recognizing the equal moral status of complementarity.

Now, due to a new feminist understanding of equal rights,

> women may still feel drawn to the woman's job that is never done, but because their identities must be created by public esteem, they have no justification for doing what they very well see still needs doing. The new rights of equality do not put supper on the table. They only make women who do cook feel like fools.[50]

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[49] An excellent exposition of this problem from another angle is in P. Manent, *The City of God*... and *A World Beyond Politics?*...

[50] H. C. Mansfield, *Responsibility vs. Self-Expression*..., p. 103.

There are dire consequences of this new conception of rights, which creates an unpredictable, insecure individuals, ever thirsting for a position of power. This happens for the simple reason that creative beings in such a situation become open-ended. Their only mode of operation is will, moral-autocreation and the constant fever of transformation in the process of thirsting for something new in the future, allegedly better, at least in terms of refreshing one's image in relations to others, and thus being recognized by others. The open-endedness of one's life requires constant movement; there is no stable point of reference in relation to which one can psychologically, morally and eventually psychically rest.

The whole life becomes nomadic, shifting sands of existential anxiety. Relative beings are open-ended not merely in their formal potentialities yet. Such beings in fact have great difficulties recognizing their own interests; in fact they do not have them, for

> who can say what is in the interest of a being that is becoming something unknown? Thus the society of new rights is characterized by a loss of predictability and normality: no one knows what to respect, even from his closest companions. Under the old rights the notion of interest was used as a lever to pry individuals and groups out of the fates destined for them by tradition: it was in one's interest to get ahead. But now those interests are seen as confining; instead of liberating they imprison their victims in stultifying 'roles'. A role is where one has been put formal promise of liberty. In the case of women, the system of new rights does not permit one to consult women's interests to see whether they are likely to benefit from equalized rights. Nor are women given any guide except the trend fashion, which is ambivalent between work and home. What remains is choice, unguided and untended by society, as if it did not matter whether women like to have children and whether society needs them. To put it mildly, the element of society supplied by the notion of interest to a rights-based society is forgone.[51]

The consequences of such a conception of rights for political life, as Mansfield observed, was grave. In such a situation, government is not needed to moderate natural rights in this new scheme, nor does it provide a framework for an expression of consent which moderates between natural and civil rights. The activity of citizens as a community, and with that the indispensability and necessity of government, are not so sure any more. The formulation of rights is increasingly being done, as Mansfield said, by philosophy professors, not political scientists. Liberalism was a doctrine which originally was concerned with conditions under which rights were surrendered as well as conditions when rights were elaborated. Liberalism, in other words, was originally about something political philosophers forgot, it was about constitutionalism:

> the making of a government to control and to be controlled by the people. The constitution of that government is the focus of attention because all rights are secured by and from the government. Its form or structure secures rights by governing under law, so that the rule of the majority is the rule of a constitutional majority as opposed to a factious majority. The new rights, however, are postconstitutional. Since self-expression is the norm, the new rights have little to do with self-

[51] *Ibidem*, p. 104.

government. Self-expression can lead to 'participation', especially in demonstrations of protest, but such participation shows little respect for the persuasion, deliberation, and moderation that constitutional structure encourage. Promoters of the new rights look on the Constitution as a system to be manipulated – hence, part instrument, part obstacle. They do not think that they live under the Constitution, much less that it is a fundamental law to be venerated. They believe that government is for providing services and collecting taxes, and they would be hard put to say what makes it free.[52]

Human beings, having thus creative rather than natural selves, are in a process of constant self-creation, including moral autocreation. But they do not know their own selves since they do not exist as stable natures. They are just constructs in a fleeting moment of time and an assemblage of personality to fit a particular desire. Their personalities, their selves are thus constantly in the future, since there is no resting moment when one can "find" oneself. This causes an incessant existential angst, a feeling that one is never in the right place and for this reason must strive for more, so as to find one's true self. This moment of liquidating such an existential anxiety, that is the moment of liquidation of alienation, can never come, since a human being cannot save itself by itself. It can only rest in a transcending Being which gives an individual a universal and lasting identity and protection. The constant search for a true identity of this new "liberated" creative self is like running on a treadmill for eternity, a senseless existential predicament.[53] Since creative individuals cannot know their true selves, since they can never be pinpointed for more than a fleeting moment in the time and history of the incessant march of auto-creation. They can also not know the selves of others, and precisely because of that, they cannot have any respect for their rights. The others' rights are simply equally fleeting states of mind and psyche on the way towards constant autocreation. Self-creation of all nullifies any gravity of any claim whatsoever. There simply cannot be any reason why such a claim should have a universal validity for others to recognize and respect it, since there are objective criteria of judgment towards which such a claim can be subjected. But there is another consequence of such self-creation of individual existence and with it the rights.

Self-centered, self-created individuals are simply busy with their own lives, they become obsessively narcissistic, including their own rights. They not only do not bother to persuade others to accept the latter, since they have absolutely no universal criteria of validity through which they could persuade others to accept them, but they also do not want to be bothered by the persuasion of others, who in turn also think the same way. The very idea of rational public debate of a community, that is a way of reaching a consensus and formulating legitimate consent, is gone. Politics, as life itself, is not only inauthentic, but it has to be that way, since individuals have abdicated any pretence that their self-created wills and lives could have any universal coherence and gravity extending beyond their individual, subjective

[52] *Ibidem*, p. 108.

[53] P. Haffner, *Creation and Scientific Creativity: A Study in the Thought of S.L. Jaki*, Fort Royal 1991, p. 72.

desire for a moment. They are pure historical beings, where past history, as Henry Ford famously remarked in another context, was sheer bunk, with no meaning related to anything. Creative individuals can relate nothing in their lives and history to a definition of themselves as natural beings, with a fixed nature, in other words with a definite anthropological and ontological core transcending their constantly shifting self-definitions.

A human being becomes truly a God to himself or herself, creating the situation so poignantly observed at the end of the Roman Empire, that there were so many gods that it was impossible not to offend at least some of them for some of the time. This is a condition of a disintegration of society as such, the state of a loss of meaning, with individuals left as solitary beings in search of their true selves, and with fear of others, who might prevent their desires from being realized. It is for this reason that "the rights of historicized beings are impossible to distinguish from wants; even 'needs' come to mean 'felt needs'. These wants alternate in status between posited rights whose positing is not necessary but is merely asserted – the deontological view, according to contemporary philosophy – and preferences, capable of being 'traded off' for one another – the utilitarian view. Their status alternates because, in practice, proponents find the first view too absolute and the second too relative. They have abandoned the distinction between natural and civil rights, by which the absoluteness and the relativity of rights are reconciled through the right of consent. They have substituted for it two partisan views that cannot be reconciled and hence must be alternated".[54] The consequences of such an approach are grave. When rights become wants those with wants are no longer pushed to claim their rights and to fight for them, and once gained to defend them.

Rights in other words are a consequence of freedom and of conscious citizenship, or to put it a better way, a political expression of common humanity of equal moral people. But wants are merely passive; they do not require conscious efforts to gain or defend them; they may be an equivalent of animal functions which, whether psychical or psychological or merely emotional, can be provided by somebody else. In such conditions when modern rights are understood as wants, they may be provided by proxy, which means by the elites, or elite groups which may make necessary claims on behalf of those who want. Wants can be realized by means of rights, but they can as well be realized irrespective of rights, by others exercising such rights in the name of those who just want to fulfill their wants. This is an observation which Tocqueville made in *Democracy in America*, in a language of equality as a factor which gives the welfare state its full power of control over people's lives.

But wants are not presented as such. They are presented as rights, since there is nothing in a formal contemporary definition of a human being which would distinguish them from a mere self-definition of one's condition on exactly this basis of mere desires, that is wants. For these reasons wants presented as rights force individuals to claim them in equal measure, and if they cannot be gotten in a nor-

[54] *Ibidem*, p. 109.

mal, individual way in a political democratic process, they are being claimed from government as an entitlement. Governments, prompted by elite groups, will step to guarantee those rights, in effect exercising them better than an individual. When government intervenes, it does not have the right to seek someone's consent or the consent of his fellow-citizens, because one's consent may be too weak and one's fellow citizens may disregard it, overlooking his wants. Under such circumstances

> the new rights become 'entitlements', originally a technical term for claims on a budget that must be paid out regardless of how many claim them. Entitlements are thus secure from responsibility to what the common good may require… Entitlements do not result from a potential or actual contribution of the entitled to the community: not requiring any prior or subsequent action, they do not reward rights responsibly exercised. We can certainly get someone else to demand our entitlements for us, and we can get someone else to apply for them on our behalf. We do not have an answer for how we spend our entitlements, since any failure, for example, to find decent housing, is accounted to society, and the remedy is to extend its responsibility to equalize".[55]

Equalizing proceeds by denigrating past progress in rights as merely formal, not serious, while at the same time demanding that society be perfectly equal and thus to equalize all relations in infinite approximation. This causes a situation of anxiety, anger, restlessness and *la lotta continua* to equalize everything, but on the other hand such a society of entitlements is rather static, with special interests guarding their turf and demanding rights, that is wants, for themselves as they understand them. This way they make themselves dependent on government largesse or administrative and judicial rules, and in the process becoming restless, suspicious, demanding and ungrateful, incompetent, and last but not least utterly post-political. This means passive and abdicating any interest in public affairs, let alone interest to participate, producing a society of utterly non-communal individuals, without solidarity and without any ethic of responsibility.

However, the more individual wants, defined as rights, demand from society and government their due on the basis of their autonomous will of the unencumbered "self", the more they want to guard their privacy to enjoy their subjectively defined wants, i.e. desires from any outside intrusions, whether of others or government itself. This is the reason why the right to privacy is the sacred right of the unencumbered "self" of the modern human being. This new right to privacy is at the surface guarding against government, but in fact it increases dependency on it, increasing, not diminishing, responsibility for personal rights. Of course, the old rights were all private rights, belonging to private individuals, but they were at the same time civil rights, that is limited for the sake of others' rights and the common good, in which the responsible individuals with rights engaged themselves.

The modern right to privacy is yet different. It attempts to define that right irrespective of others and community, a sphere into which others' rights and community requirements cannot enter. Such rights today might be, for instance,

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[55] *Ibidem*.

a woman's right to abortion or a homosexual's right to "marry". The most baleful effect of such a right is a colossal misrepresentation of privacy which becomes an absolute, a kind of solipsistic engagement in one's own life as a solitary experience. In fact privacy traditionally belonged to the province of civil society; it was a right to do with others things which government was not allowed to interfere with. Others – that is family, friends or private associations. There was never the right to privacy to shape one's own life outside a moral framework of decent, moral life, against others. Absolute privacy is available in solitary confinement, of course, but its consequences are far-fetched in other areas of human life. It causes a dismantling of human solidarity and responsibility on a massive scale, for the simple reason that such qualities of character require sharing one's privacy understood as a sovereign will to do with one's own life what the unencumbered "self" wills. Absolute privacy renounces any ties with others as an unnecessary burden causing others to do the same towards us.[56]

Abortion in the United States provides a perfect example how such privacy had to be construed, first by government. It is not only a right to be simply claimed and recognized by an individual from government. It became much more than that. The Supreme Court seized on the right to privacy to defend an unmarried couple's use of not only contraceptives, as was the case in the "Griswold v. Connecticut" case of 1965, but also in a way which denied any family interference in the individual choice of abortion in "Roe v. Wade" of 1973. The right of privacy defined that way was willfully construed by American government in a massive way of transformation of culture, where this new right of privacy in fact reflected this government's decision to define what is private and what is not, and then sustain that condition by the government's power. Thus, because the government defines what is private, it has to intrude on the private.

When this government upholds laws which ban contraceptives and abortion since they were democratically defined as being against the common good, this decision might be wrong, but the message was clear: to tell citizens that private actions have public consequences which require responsibility. The source and immediate ends might be private, but the manner of exercise of it is to promote civil society and human solidarity as such, that is community. The absolute right to privacy, in turn, cuts itself off from any such accompaniment, encouraging citizens to forget their citizenship and to become solitary individuals unencumbered by anything but their private solipsistic wills of autonomous moral "selves". Government, or better to say a polity, ceases to be a communal affair; it is just an administrative body through which individuals have their solitary rights. Such rights are first secured,

[56] Thus the absolute right of a woman to abortion and its underlying philosophy of "my body, my child" causes men to look at women as a sexual commodity with their right to "dispose of" the unwanted consequences and with a total liberation of them from any responsibility, any caring, in fact any love. In other words I do not want you into my life in such a profound act of creation in which you are a necessary condition of that creation, but only as a giver of semen. The revenge of men treated that way as simple tools of woman's desire to shape her life in a totally unencumbered way might be, and today very often is, total and brutal.

and then absolutely guaranteed, in a kind of moral extremism defined as fighting for rights, with rights defined in their totality as against others.

This is done absolutely irrespective of any communal concern, that is a universal framework of human life, that is irrespective of truth, except the truth of a momentary desire of an autonomous, unencumbered "self", creating itself in a process of total moral autocreation. Government is here a powerful engine of equalization of rights defined in a new ontological and anthropological way, thus it is an engine of monistic ideology defined by means of rights.[57] But an additional consequence of such radical equalization of privacy rights is dependency on government, more than dependency on other people, including the closest ones, with taking moral responsibility for them. They have to be responsible for themselves, with government providing institutional conditions of that responsibility. Thus government organizes all the economic, political, moral and emotional energies of solitary individuals into a new kind of communal life which depends this time on politically correct actions, "good causes", changing according to any new fashion. Loyalty to government and the nexus of powers that be, which define the content of such new causes, becomes this time the essence of patriotism.[58]

Mansfield does not claim that the old rights as civil rights were perfect, including a defect between the right and its exercise. But he somehow shies away from the fundamental question of whether such civil rights have any validity beyond the immediate life of a community, or whether they are, or must be, fundamentally derived from a source higher than consent as such. If they are, what is their source and how can they be translated into civil rights? Mansfield, a student of Strauss, is too much a lover of truth, and with that a lover of classics and the American Founding, of which the Declaration of Independence is a part, to renounce such a source. Nevertheless, he seems to think that consent is still crucial to a discovery of that source.[59] Such an approach caused one of the most fascinating, if somewhat misunderstood, debates within the Straussian camp [but not only], between the proponents of natural law as a source of American regime, and the proponents of the Constitution as a consensual, institutional framework of deciding the rules of life of American community. The argument is symbolized by two contestants, Harry Jaffa and Harvey Mansfield, with followers on both sides.[60]

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[57] See on that: J. B. Elshtain, *The Bright Line: Liberalism and Religion*, [in:] *The Betrayal of Liberalism*, eds. H. Kramer, R. Kimball, I. R. Dee, Chicago 1999, p. 148–149; also M. Sandel, *Democracy's Discontent: America in Search of a Public Philosophy*, Cambridge Mass. 1996, p. 3–122.

[58] K. Minogue, *Polityka*, Warszawa 1997, p. 123–125.

[59] This is a tradition of James Wilson and his concept of a moral sense inherent in everybody and thus possibly to be argued in public by consent. See for instance: R. Rossum, *James Wilson and the "Pyramid of Government"*, "The Political Science Reviewer", Fall 1976, p. 123–124.

[60] See a thorough account of the argument, if somewhat misunderstood and not altogether fair to H. C. Mansfield, [in:] *Jaffa versus Mansfield*, www.claremont.org/publications/pubid.2.

Affirmative Action and Tribal Liberalism

Mansfield has also taken up many topics at the center of contemporary liberal monism which seem to him ill-conceived and corrupting. He is a critic of affirmative action, basing it on the right of consent, the only true source of a moral, free society. Affirmative action is slowly beginning to be established as a right of minorities to make demands on society, for a variety of reasons, starting from a demand to rectify past discrimination, and ending with quota representation reflecting group composition in a given society, which would allegedly guarantee a just distribution of power. For Mansfield affirmative action is wrong not only because it undermines individual merit, the essence of liberal democracy. From the point of view of American constitutionalism it "undermines the basic principle of [the American] Constitution".[61] It subverts a cornerstone of American constitutional system, that is the right of consent, and yields to a temptation to establish a universal law of justice by means of governmental pressures and judicial verdicts, even against such a consent, treating people increasingly as pawns of social engineering concocted by the liberal elites.

In that sense the right of consent, an essentially community right, is the most fundamental right of free people to deliberate about the virtuous life of that community and about rights which may provide conditions for eliciting virtues as such. Modern liberalism, which tries to influence society's attitudes by governmental engineering, so as to make it allegedly more just and equal, comes close to subverting constitutional government and its basic right of consent as the best way of ensuring a moral life of all. For Mansfield consent is in such a case a basic right stemming from the inherent moral equality of individuals in a polity, but also because all other rights depend on it. Without this right of consent, other rights are merely a gift of government, to be granted as well as to be withdrawn by government. Government, that is a state, comprising all branches, including the judges, may in such a case place upon itself the duty to judge reality outside of people's consent, or even against it, thinking that it is the government which decides the questions of moral life, thus rights which are to ensure it. In other words that the government is in a position to determine questions of justice against the people, or in case of judges that they can adjudicate in the name of justice and impartial humanity against a particular community at hand.

This also has consequences for the push to establish a worldwide "government of human rights", a menacing quasi-totalitarian structure, which would amount in fact to the government of "the just" elites, international organizations and the most powerful NGOs, all grinding their ideological axes in the name of human rights.[62] This trend is against legitimate, sovereign power of the people of the Uni-

[61] Idem, *Pride and Justice in the Affirmative Action*, [in:] *America's Constitutional Soul*, Baltimore 1991, p. 97.

[62] See: P. Manent, *A World beyond Politics?...*, R. Hirsch, *Towards Judistocracy…*; J. A. Rabkin, *Law Without Nations...*; C. Delsol, *The Unjust Justice***...**

ted States giving their consent to their government. In addition, in American constitutionalism it was understood from the beginning that the right of consent is the right which, when it is

> exercised to establish a constitution, other rights pass from natural rights, or human rights to civil rights, rights enforceable by law that are more limited but more effectually protected than abstract natural rights. The right of consent is a matter of justice, because it is just to count each person as one. But it is also a matter of pride, for to count as one, each person must count for something, must be worth something. The right of consent presupposes that each adult is worthy of being taken seriously as a rational creature capable of choice, hence worthy of being persuaded and not taken for granted. His dignity requires that his consent be sought through persuasion, and neither ignored nor presumed. Affirmative action both ignores and presumes. Usually enforced by the judiciary, the branch that is furthest from consent, it ignores white males because they are presumed to be racist and it presumes the consent of blacks and women because of their race and sex[63] [which is questionable.]

In other words, there is no other way, claims Mansfield, to build a free and inherently just society based on *virtus* commonly accepted than by this right of consent. There might be a desire to start defining rights in abstracto, and showing a gap between reality and our ideals to take a shortcut to engineering a society according to the logic of right and power of government, including justices to implement that right, for instance according to the abstract logic of justice understood as equality. But this gap between ideals and reality is a gap arising from the right of consent and reflecting the reality that free men are not free of prejudice. But freedom cannot be withheld until all prejudices or inhibitions be cleared away. Otherwise there would be a logical conclusion derived from the opposite statement, that men are worthy of freedom but not of gaining it on their own.[64]

This would entail a presupposition that people are not free and have to wait until government has declared them worthy of it. Such a presupposition, claims Mansfield, would be an absurdity in a constitutional republic, since there is absolutely no logical presumption that government is in a better position to assess the imperatives of justice than a democratic process itself, properly construed, in which a right of consent is expressed. Even if government were take on itself a right to determine the requirements of justice, that would also be partial and dangerous as well, since that might also entail a perverse understanding of justice without a chance of correction, a case, for instance, with the contemporary Supreme Court, treated here as part of government, which declaring a constitutional right is not subject to any control or correction but a possible new precedent.[65]

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[63] H. C. Mansfield, *Pride and Justice*…, p. 95.

[64] This was, by the way, the logic of the French revolutionary constitutionalism of 1789, and the inherent tendency of the European elites which have looked at their societies in a paternalistic way, an old tradition rooted also in the medieval *noblesse oblige*.

[65] "Dred Scott v. Sandford" of 1857 concerning the status of slaves under the Constitution, and "Roe v. Wade" of 1973 pertaining to unlimited access to abortion defined as a constitutional right, constitute the most blatant examples of such judicial actions.

But even if such a choice was properly assessed,

> living together in freedom requires more than justice, for after justice has been exacted, people are not always in a mood to live together. To put ourselves in the right mood for free society we must recognize the dignity of being persuaded. This morality of consent requires us to consent, for the sake of our morality, to a gap between reality and our ideals. It also provides a necessary check on our moralism, when we try to rush into reform too confident that those who are opposed are merely prejudiced. Moralism gives morality a bad name and makes free citizens angry and impatient with one another… The right of consent neither prevents us from resorting to compulsion when necessary nor disables us from attempting reform when desirable.[66]

Properly understood, consent operates within certain institutional forms and procedures whose observance requires that citizens have to be persuade. Consent is registered in legal elections to offices in instutions established by law so that it is clear who is the winner and who is the loser, even if only at this particular moment. But it tis the majority which has to be able to act after the minority has been held. A person right of consent

> is not violated when he has been outvoted, and his dignity has not been denied when he has been outargued. The forms and procedures of a free government give definition to the dignity of free citizens. It knows when it can act, and we know when we have been consulted. All these forms and procedures, together with the spirit in which they are practiced, have been called constitutionalism. They ensure respect for the means by which the right of consent is exercised, and thereby they secure respect for the right of consent. They constitute a free society; without such forms a society might be tempted to believe that freedom is doing as one pleases, or doing what someone thinks is required by justice.[67]

There is no doubt for Mansfield that affirmative action has no regard for the forms and procedures that serve as protection of the right of consent. Such procedures are treated as obstacles on the way to the universal law of justice, and the new ones are established so as to advance this goal. Justice ceases to be in such a case a deliberative attempt of free people to establish a decent society according to the procedures which ensure dialogical form of democracy and final consent agreed to by all, even if imperfect, and even if in a course of such an action some are temporarily outvoted. Justice it begins to be treated as an ideal guarded and implemented by the self-proclaimed elites acting along the lines of aristocratic *noblesse oblige*, in the name and sometimes against free will of the people expressed through democratic procedures.

That is why, claims Mansfield, what is "worst about affirmative action is the Machiavellian underhandedness of pretence and manipulation with which it aims to secure a good result".[68] For this reason this inherent gap between the idea and reality is not only a price which democracy pays for being a place of free people

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[66] H. C. Mansfield, *Pride and Justice*..., p. 96–97.

[67] *Ibidem*, p. 97.

[68] *Ibidem*.

deciding about their conception of life, but it is also a prudent attempt to establish such procedures and rules so a rush to form a perfect society could be slowed down, an adult understanding of the inherent traps of reality and human existence as such. Prudence is here a proper word which Mansfield uses in many other instances very frequently, and which reflects an understanding that a free society is a delicate and imperfect construction which requires great statesmanship, rightly understood politics and a great dose of humility coming from a sober thoughtfulness, in which political philosophy may be one of the aides.

Gender Feminism and the Incessant War on Men and Women

Mansfield is also a great critic of gender feminism as a form of modern ideology based not only on false, taken for granted anthropological assumptions, but also contributing mightily to a subversion of the delicate balance between sexes. Gender feminism terrorizes both sides with its ideology, and brutalizes both language and mutual relations sowing mistrust and bitterness. Mansfield has touched upon feminism in many ways and many places, but his major work in which he deals with the issue is *Manliness*, a book both about manliness and a not so subtle polemic with gender feminism, in fact the main villain of the book.

Manliness, as Mansfield puts it, is a concept closely related to the one that Plato and Aristotle called *andreia*, for which the usual English translation is "courage", and it is *andreia* which is his subject. To title a book *Manliness* at the American academy was surely inviting the strict scrutiny of feminist ideologues and their acolytes. But to structure the book in such a way as to defend the very concept of manliness and showing how radical gender feminism destroys it, destroying at the same time mutual relations between men and women, was surely to provoke a torrent of the most vicious attacks from the feminist orthodoxy and its followers, acting like Pavlov's dogs. In itself it was an act of intellectual and moral courage.

Modern feminism is a hugely diverse set of positions and arguments. Mansfield has no problem with equity feminism, which was sorely needed and which has, in principle, been accomplished. He has, though, an insurmountable problem with gender feminism, also extremely diversified within itself. Gender feminism defines its view of the world on the basis of some a priori stated assumptions about the reality of human life and then tries to reorient it accordingly. The main problem with gender feminism is that it is not verifiable and that it is ideological, and last but not least that there is no definite end point of the revolution it conducts, with the feminist ideologues deciding arbitrarily on the victories or defeats of particular stages of their fight. Or to put it in another words: that in fact radical gender feminism is not about equality and justice, but about a power grab and identity politics, and justifying such a policy with high-brow values aimed at silencing the enemy.

Some feminists would respond, as Martha Nussbaum did, that Mansfield

> utterly ignores the existence of male feminists though they are many. Feminism is a concern with justice, not an exercise in identity politics… Feminists, then have not typically sought a society in which there are no gender distinctions. They have challenged imposed and unchosen gender norms that interfere with women's freedom and functioning… What feminists have sought above all is a society in which there are no sex-based hierarchies, in which the sheer luck of being born a female does not slot one into an inferior category for the purposes of basic political and social functioning.[69]

But Mansfield calmly responds that it is not the overt slogans and aims of the radical gender feminist movement which should be looked at, but the verity of the assumptions taken for granted and the means employed to execute them. In other words it is not propaganda which counts, but the congruence of idea with real life, which when found wanting elicits a campaign for social engineering akin to the once executed plan of equating the liberation of workers with the victory of the Bolshevik Soviet Union. Again, as Nussbaum says, showing the utter helplessness of the gender feminist ideology itself,

> What non-discrimination means for gender difference is not yet clear, because people have only begun to experience non-discrimination. Using the religious analogy, however, we might predict that once gender is no longer a source of hierarchy and subordination, people will express themselves more and more personally where gender is concerned… In sum, when people are not forced their choices make sense for them and the lives they want to lead. So, too, in relationships, some women will choose flirtiness, others a "manly" directness. Some men will like taking care of children, if government and employers give them decent support; others will try to avoid care, and women will be able, let us hope, to see that one coming in advance and make the choices they want to make in response. Some women attach great importance to that identity, and others will care less. What really troubles Mansfield, I fear, is personal liberty itself, and the diversity that a culture of personal self-expression fostered by non-discrimination, brings with it.[70]

There is nothing wrong with such a vision of a non-discriminating society, except two things which are certainly crucial, and Mansfield knows that. First there is absolutely no end point to the concept of discrimination since we do not know what the concept of discrimination is, or what the concept of non-discrimination in fact means. There is absolutely no way such a society which seeks for itself what discrimination and justice means in relations between sexes can be left to individual means to determine it, it has to be pressured to obliterate a boundary between the private and the public, despite all the disclaimers of Nussbaum to the contrary. Second, there is assumed here the definite concept of a human being as an absolute autonomous individual making choices for herself and himself on the basis of moral autocreation and self-perception of such an individual life, which must be, allegedly, the end point of discrimination. But that presupposes that this is the only

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[69] M. C. Nussbaum, *Man Overboard*, "The New Republic" 2006, June 26, p. 31–32.

[70] *Ibidem*, p. 32.

legitimate concept of human existence worth pursuing, and that there is no non-discrimination until individuals become such autonomous human beings, absolutely fluid according to their choices.

This means that if there are institutions which profess overtly to shape peoples' characters, like families or churches, according to a different vision of human anthropology, of who a human being truly is, or should be, they are by definition suspect, defined immediately as discriminatory. If so, such institutions should be pressured to give up their pretences to any education or in Nussbaum's vision "discrimination" in terms of an alternative vision, and should be pressured to give up their teachings. This freedom of such autonomous institutions is then obliterated, and with that human freedom as such. Nussbaum would say that the individuals could choose freely also such positions as those autonomous institutions teach them, without inculcating them. This is a fallacy; no one can choose a definite morality as morality without first a vision of a particular anthropology informing it being inculcated into their character by a conscious teaching. Nussbaum's vision understands non-discrimination as a kind of society with solitary, egotistical human beings, including women and men. This is exactly, reading between the lines, Mansfield's concern, an utter inability to teach in such a civilization of any definite character, in a truly Aristotelian fashion, thus to teach caritas, which Nussbaum in another place puts as an end of education of autonomous individuals under the supervision of proper pedagogues. She writes that

> we want to produce young people who have the sort of courage that [for instance] the rescuers [of the Jews during the war] embody ... we want to be sure that boys and girls both grow up with the capacity for concern and care, and the ability to take responsibility for the situation of others, traits that seem to be sorely lacking in American society today … so many people in our money and fame – focused society do not get much experience taking care of anyone or anything and are too lacking in a sense of responsibility.[71]

It is sheer fallacy to create such concerns in a society in which, first of all, people are pressured to be autonomous beings making choices for themselves. What one may create are not caring individuals, but individuals paying more for the welfare state disposing of the problems of human heart. Second of all, the notion of caring is predicated on a particular anthropology. Caring in such a case, in Nussbaum's vocabulary, includes tending to the poor but also excluding tending to the unborn. In other words Nussbaum's vision is purely ideological and non-pluralistic, that is profoundly discriminatory at a much deeper level than just the relations between men and women. It is fundamentally discriminatory at the level of anthropology, in fact ontology, allowed to be pursued in a liberal society and the one which could not be pursued. It is in fact anti-pluralistic, anti-freedom and anti-politics, to wit totalitarian. And this is exactly Mansfield's point. One can explicate and develop the point Mansfield just implies in more elaborate terms, since his criticism is a critique

[71] *Ibidem*, p. 33.

of a certain strand of liberalism which has a totalitarian potential and threatens the constitutional government *per se*.

Nussbaum, criticizing Mansfield, defines the human being as a person solely through a prism of egalitarianism in all walks of life and in relation to everything, which requires a particular concept of anthropology based on the radical choice of an autonomous subject interacting with other such subjects.[72] This is a definite anthropology narrowing human person to a particular frame, which also requires a constant overview of human relations and power to execute them according to a preconceived, ideological vision. The egalitarians bear the burden of explaining why their theory should be the sole organizing axis of human relations and governmental policy executing it. In other words they should justify their standards of a non-discriminatory society. This is nearly impossible, since their ideal dictates them standards then applied to a non-ideal, complicated, but first all wonderfully rich society with people living in it. Such an approach is of course extremely dangerous, since on its basis egalitarians evaluate political and private arrangements. And they, of course, are always forced to find them wanting, since this richness of life and the recalcitrance of relations between the sexes belie their best efforts to make such a society operative.

This forces them to apply more and more sophisticated policies to dismantle this rich, actual web of relations between, for instance, the sexes, to use force when necessary, the force of law as well as the symbolic violence of castrating a language and enforcing a particular behavior. They become more and more frustrated and thus focused on a continuous fight for such a nondiscriminatory society, the fight which must go on incessantly, against both the men and the women who are not conscious of their own interests and exhibit false consciousness. *La lotta continua* has to go on and delve deeper and deeper into the private sphere, and then ultimately into the human mind and psyche in a process of forced psychotherapy, ultimately ending with biological engineering when confronted with the resisting barrier of biology.[73] There is thus a profound paradox in the feminist thought, stemming from its ideological framework, akin to the once regnant Stalin's idea, for whom the more a society was becoming socialist, the more the class warfare was exacerbating. The gender feminist approach is wrong right from the beginning, since it is based on the illusion that to improve bad political and private arrangements is to make them conform ever closely to an ideal taken for granted and arbitrarily chosen in a process of subjecting the richness of life to a monistic ideology.

This gives rise to policies which are dangerously utopian, since this ideal theory from which they stem are anthropologically wrong, historically uninformed, politically cost-ridden and impractical and, last but not least, morally unacceptable. They ignore not only the actual conditions of particular societies, but also the real freedom of individual human beings, and this fairly tale about the non-discri-

[72] See on that J. Kekes, *The Illusions of Egalitarianism*, Ithaca 2003, p. 100–105, 107–114, 145–150.

[73] On this *la lotta continua* character of such a liberal frame of mind see K. Minogue, *Polityka*, Warszawa 2001, p. 124–125.

minatory society shows the inescapable sinister face of a utopian totalitarian, for whom any fact contradicting the ideal is treated, must be treated as evidence that the conditions of a society are not ideal, that is, in this instance, not non-discriminatory. This is also dangerous for another reason. It puts the burden of shaping such a non-discriminatory society, and individual relations between sexes in it, solely on the social conditions properly construed. Individual women and men are treated as innocent victims of forces beyond their control, forces which gender feminist "experts" and ideologues can dissect and then properly arrange, supposedly having a privileged insight of the wise "chosen" into the intricacies of human existence.

This is a gnostic impulse which requires an enlightened elite saving people incapable of that insight. But there is an additional assumption here, an assumption that human beings are inherently good, that evil is of social origin and with proper social and individual relations this evil will be eliminated. This widespread evidence of evil makes egalitarians absolutely helpless not only in the face of its obvious intractability as a fact of human personal existence, making people somehow relieved of an effort to recognize good and bad deeds morally and to take responsibility for them, including the expectation of punishment and reward, and possibly striving to be better than they themselves are. This evidence of evil as a result of arrangements lying beyond human control, until the proper political and social arrangements have been put in place, makes human beings demanding, and absolutely incapable of accepting any unequal relations between people, any just policies which aim at rewarding or punishing people for their individual moral deeds, in other words incapable of accepting any moral discrimination as just.

Egalitarians, to wit, are forced to accept such a stance and to demand to treat people with equal respect regardless of their moral standing. If such facts of discrimination on the basis of moral judgments concerning individual behavior occur, the egalitarians view them as lamentable and also predictable in an imperfect society of discrimination.

This new society has to replace the present, discriminatory one. The immediate problems of discrimination necessarily bear no relation to this new one.[74] The liberal egalitarians, like gender feminists, thus start from an abstract definition of a social problem defined as unequal, or discriminatory, or non-tolerant. In fact it bears little relevance to the particular society at hand. Social dysfunction or incoherence arise out of an ideal which liberal egalitarians concoct. Then this ideal is couched in moral, positive terms and defined as a need to be realized if a society is to be described as equal, just, non-discriminatory. The State, its laws and force can impose such an ideal of this order on actual society. This way egalitarian liberals, including gender feminists as well, want to make society into a single organization reflecting their ideal administered by the state.

But there is a paradox in such a liberal thinking, connected with two of its enshrined concepts of autonomy and toleration. For liberal egalitarians like Nuss-

[74] Idem, *The Liberal Mind*, Indianapolis 1963, p. 123–138.

baum, autonomy and choice over one's own life as a precondition of equality of relations between men and women is a sine qua non condition of just, and ultimately good life. Liberal egalitarianism of this version – and this is a dominant version of it today – defines a "good life" thoroughly in terms of autonomy, the view constitutionally sealed in the notorious judgment of the Supreme Court in "Planned Parenthood v. Casey" of 1992.[75] The core of such a definition is its insistence that forms of social life, to be equal and just, are to "be rooted in the self-conscious affirmations of autonomous individuals".[76] One of the main proponents of this shape of liberalism of choice, or moral autocreation, Ronald Dworkin, allegedly harking back to the Kantian autonomy principle, but in fact resembling the nihilistic choice of desire justified by reason, wrote that

> the most important task for which autonomy has been harnessed in contemporary political philosophy is to argue for a certain ideal of the liberal state… The root idea is that the state must recognize and acknowledge the autonomy of persons.[77]

Rationality in such a case is tantamount to subjective choice, allegedly moral, but it is difficult to understand why it should be so. Thus, as David Gauthier writes,

> the liberal individual is fully rational where rationality embraces both autonomy and the capacity to choose among possible actions on the basis of one's conception of the good as determined by one's reflective preferences… As an autonomous being, the liberal individual is aware of the reflective process by which her later selves emerge from her present self, so that her preferences are modified not in random or uncontrolled way, but in the light of her own experiences and understanding.[78]

The most canonical of such liberal egalitarians beginning with anthropology of subjective individual moral autocreation is John Rawls, for whom

> acting autonomously is acting from principles that we would consent to as free and equal rational beings… They are the principles that we would want everyone, including ourselves, to follow were we to take up together the appropriate general point of view. The original position defines its perspective.[79]

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[75] In this case Justices Anthony Kennedy, Sandra Day O'Connor, and David Souter authored an opinion that defended a woman's right to end her pregnancy by justifying that right by a new concept of liberty, in fact old but explicitly expressed in a Supreme Court opinion for the first time. They stated that "at the heart of liberty [as protected by the due process of clause] is the right to define one's own concept of existence, of meaning, and of the mystery of human life". There is no word in the Constitution which of course acknowledges such a right rooted in a definite anthropological and ultimately ontological vision of who a human person is. In fact if this approach was accepted as a fact of life autonomous liberalism would have to allow all kinds of social practices, for instance of sharia law etc, to be recognized by law.

[76] B. A. Ackerman, *Social Justice and the Liberal State*, New Haven 1980, p. 196.

[77] R. Dworkin, *Autonomy*, [in:] *A Companion to Contemporary Political Philosophy*, ed. R. Goodwin, P. Petit, Oxford 1993, p. 361.

[78] D. Gauthier, *Morals by Agreement*, Oxford 1986, p. 346.

[79] J. Rawls, *A Theory of Justice*, Harvard 1971, p. 518; and *Political Liberalism*, New York 1993, p. 72.

Again John Raz states that "one common strand in liberal thought regards the promotion and protection of personal autonomy as the core of the liberal concern".[80] And Alan Ryan adds that

> the essence of liberalism is that individuals are self-creating, that no single good defines successful self-creation, and that taking responsibility for one's life and making of it what one can is itself part of the good life.[81]

But if such an autonomous choice is part and parcel of a just, "good life", with an equal and non-discriminatory society as its precondition, and individuals as Ryan defined them as "self-creating", then it follows that such conditions when this choice of this autonomous life can be executed must be ensured, that is when absolute tolerance of every choice is as good as anyone else's choice, a road to coercion of every organization which prevents such a choice being possible into providing conditions of it being absolute, a clear recipe for a nihilistic approach. This thus entails an enforcement of toleration, in fact an enforcement of a particular morality which is at the same time no morality at all. It is in fact a requirement that everyone should be committed to reason and morality of one particular sort stemming from a particular narrow anthropology taken for granted as axiomatic. This is contrary to the liberal claim that its model is neutral towards conceptions of a "good life" that its proponents hold.

Because if such a liberal morality of an autonomous choice has to be guaranteed, then in fact it has to be enforced, that is not to be tolerant or neutral towards competitive moral theories stemming from different anthropological concepts. Such a liberal society cannot be reasonable and neutral between conceptions of a "good life" that violate this basic moral identity rooted in an unrestrained autonomous choice. It cannot, in other words, treat with equal concern the protectors and violators of such a concept of a human being. For this reason such an

> ideology of toleration is untenable. Egalitarians certainly tolerate some practices but equally certainly, they use the legal system to prohibit others. The real question is not whether toleration is good and enforcement bad but what, according to reason and morality should be tolerated and what should be enforced.[82]

For Mansfield it is obvious that, despite disclaimers, the war on men, and women, when such a liberal ideal of nondiscrimination based on an unrestrained guarantee of choice of an autonomous subject is accepted, can never end. Not only it can never end, but it provoces a corresponding vengeful response from men themselves, and equally bitter women, the vicious circle of recriminations which is the state of the real relations between sexes today. This has baleful consequences

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[80] J. Raz, *The Morality of Freedom*, Oxford 1986, p. 203.

[81] A. Ryan, *Liberalism*, [in:] *Companion to Contemporary Political Philosophy*..., p. 304.

[82] J. Kekes, *The Illusions of Egalitarianism*..., p. 186.

for both men and women, who after brutalizing their lives and dismantling the cultural protections of their respective spheres, not only began to shout at each other, but simply are utterly baffled what to do with this mess.

Mansfield thinks that the gender feminist approach in politics, law, education and culture constitutes, in its later stages, even if granted the nobility of intention and not ulterior motives of power play and identity politics, a lame effort not to implement just and equal rights society, but that it mainly tries to deal, lamely, with the consequences of the ill-concocted feminist revolution. The approach to the sexual revolution is exactly a case in point. Feminists, writes Mansfield

> were radicals, inspired by Simone de Beauvoir, [who] thought it necessary to show that all sex differences were bourgeois conventions or stereotypes. They would show this not so much in regard to careers as in sex itself. They bought into the sexual revolution and decided that women could best show they are equal to men by becoming as predatory as the most wolfish men. This demonstration required the fallback on abortion in case something should go wrong and it gave new legitimacy to – this word is never used – spinsterhood. Single-parent families also gained respectability as women pressed their husbands with newly justifiable equality grievances, often leading to divorce. As sex goes up in social estimation love goes down. The trouble with love is that it narrows your options and endangers your independence. If you loved a man, you might actually want to put up with, even admire, his ways. Feminist women are unerotic.[83]

This mess is caused by the fact that when there are

> no sexual boundaries, either official or informal, the standard becomes the extreme. The traditional double standard of sexual conduct – more restricted for women than for men – has been replaced by the single standard of the predatory male… [For instance] according to one feminist professor of health – the head of a recent Harvard committee on student sexual relations – sex on campus should be 'mature, respectful and life-affirming'. But instead it degrades both women and men. Women lose their sense of having a choice, to say nothing of 'autonomy', the supposed goal of sexual liberation. They feel compelled to offer a hook-up when they really want a date without expectation of sex. And yet they fear 'getting a reputation' for doing just what they are expected to do… College men, meanwhile degrade themselves by becoming callous. They behave like charmless Don Giovanni's who cannot sing. They are indignant at girls who 'want to spend time with guys during the day'. The nerve! One young man … concludes that it is more acceptable for girls to be virgins than boys because girls are 'a more docile gender'. His experience has led him to speak in generalities about women – something supposedly now forbidden – and even to discern the traditional double standard in the very practices that are intended to destroy it. The only thing he has learned from promoters of sexual liberation is to say 'gender' instead of 'sex' … One is inclined to admire the students who attempt to meet the purity culture's strict demands [existing at some Evangelical and Catholic colleges – AB]. But it is clear that such students often suffer deep anxiety in their search for a mate. The boys find it troublingly difficult to put off sex, and the girls are fearful that they will have failed in college if they do not get a "ring by spring" [of their senior year]. While students in the hook-up culture appear more promiscuous than they are, purity students appear more virtuous than they are.[84]

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[83] H. C. Mansfield, *Was Feminism Necessary?*, "Forbes", September 15, 2008.

[84] H. C. Mansfield, *Hook-up or Shut Up*, "The Wall Street Journal", April 29, 2008.

If, as one researcher concludes, sex is a yearning of the soul, something which goes contrary to the feminist slogan that sex is about power, then the secular colleges in the United States are a place of a frantic search for a "spiritual", "meaningful" relationship, at least on the part of women. But for both sexes it is a chance for something bigger than the sheer animality of sex, whatever the appearances. But both sexes would like

> to have a shot at the romance, from older times, they have read about. But romance requires holding back and no one [in such colleges] has a respectable reason for doing so … Colleges find it risky … to oppose the hook-up culture. They do not boast of it when parents visit, but they are happy to look the other way throughout the year. Their main concern is to be sure that they cannot be accused of treating men and women differently, and they do not care, or do not see, that the end result of sexual liberation is a culture that does harm to young people caught within it. [There is no easy way out], because there isn't one. But it makes us eager for something better than the going-on at colleges today, or anywhere else.[85]

This yearning for something higher of which sex is just a tool and which the young call today romantic love is in fact a yearning – all cultures and religions have known it – for transcendental love, of which sex is just a gateway to an understanding that such an understanding, even fleetingly on this earth, is possible. And this is the very essence of happy life, something which the liberal feminist approach cannot even comprehend, let alone provide.

To radical feminists, all men are more or less subconsciously enemies or descendants of the enemies in need of constant self-justification, a worthy target upon which to project rage, more or less subconscious, for not being able to achieve all the positive goals women want, the latter still having inferior positions in society, while forced to accept men's game as a precondition of winning. As for men, who have been vilified and maligned and in principle have refused to defend themselves, they responded in another, less documented way. For them such a vilification of themselves has elicited in a large part a hidden contempt and an instrumental attitude towards women, with the sexual revolution as its main tool. This revolution in the plans of feminists was to liberate women, putting them on a par with men, but in fact liberated men, who for thousands of years dreamed of having unlimited access to women without any consequences and commitments.

Mansfield thinks that the sexual revolution, being a fact of life, was enormously aided by the gender feminist ideology. *Manliness* came out at such a time of Western civilization in which the utter ugliness of the gender feminist revolution both for men and women has become increasingly visible, with both sides not liking such a state of affairs and not knowing what to do about it. Something which was to bring equality, happiness and understanding, has brought mutual, deep mistrust, brutalization of sex between people, a demanding attitude towards each other and a torrent of programs on the part of government via law and edu-

[85] *Ibidem*.

cational system to impose in subtle ways some axioms of the feminist ideology, with affirmative action, divorce and custody proceedings, sexual harassment laws endemically biased against men.

Mansfield is a fierce critic of gender-neutral civilization, although he recognizes the fact of its existence. He points out that there are definitely traits of a contemporary civilization in which women have an increasing advantage due precisely to their different traits of character, as for instance the increasing bureaucratization of human conduct. But he realizes that with gender-neutral civilization, once it is being recognized as the only legitimate one, with the role models defined as traits of oppressive culture abandoned and in need of legal and cultural delegitimization, we are on the road to a total abolishment of human freedom, since such a civilization excludes just the diversity of mutual relations in the privacy of contacts between the sexes, and it has to elicit massive social engineering.

As a dogma the roles between the sexes are to be, in the radical feminist perspective, absolutely interchangeable and thus endlessly negotiable. But that requires social engineering of a society in which the endless search by the feminist police for instances where the sexes act differently is a constant threat. Such differences, by definition, can never be for gender feminists an expression of natural differences, but they must obviously constitute an instance of a criminal behavior in need of instant rectifying. For Mansfield, and he is here in the company of other wise people, the idiocy of such an endeavor is obvious. Not only is there no way the end point of such a reform can be envisioned, but what is being defined as equality in a gender-neutral civilization is an equality defined by feminist "experts" of this particular time and place, a kind of modern oligarchy imposing its particular view on a pluralistic society. What is supposed to be the widest possible extension of the equal and non-discriminatory concept of life between men and women turns out to be an ideal of a narrow group which sets up its standard of such a life.

Manliness is of course a notoriously difficult concept to define, and if manliness meant what the radical feminists wanted it to be, that is animal aggression, traditionally aimed at women, and also the feeling of brutal aggression for the sake of self-preservation or self-aggrandizement, then there would be no chance of defending it. But definitely there is a rule of thumb, corroborated by all research, that there are real differences between the sexes, though not in every case. Social science shows that sex differences are deeply rooted, since they are the product of evolution. That would not necessarily mean that such features are today any more needed, but Mansfield thinks that that is exactly the point. For him in general, manliness stands in for a universal human need to have some importance in the cosmos, and the human need to feel that humans matter on some deep level seems here only natural. But it is first of all a willingness to fight and defend oneself, and here to sacrifice for honor or for a cause – in all walks of life and in different garbs.

For this very reason, manliness constitutes a profoundly creative force in human relations,[86] even if it can also be a destructive force. It was a creative force, since the Western civilization in its intellectual and technological aspect was built mainly by men. This was done, of course, with the very strong and essential complementary role of women, but there is no doubt that manliness was an extremely powerful creative force, including the Christian aspect of it. It was also a destructive force, because there is inherently nothing in such a concept which ensures that a cause for which manly men sacrifice themselves is a genuinely praiseworthy one; in fact it harbors within it the possibility of real terror. But it does not follow from this that it would be well if we could just abolish manliness; in fact a sense of reality tells us that something might be profoundly wrong, and the confused and frustrated attitudes of contemporary women towards men exhibit this longing for something, which they willingly wanted to kill and in large measures have been successful in doing. Complementarity of the sexes has always been a great cultural power and a source of their mutual psychological safety rest.

Mansfield not only believes that there are separate natures of men and women and beyond the public sphere their mutual relationships should be left to them as private persona. He also believes that radical, gender-neutral civilization based on meticulous rights codes does not create equal society, but a society of warring parties vying for power, a situation which could not lead to a civilization in which men and women can finally rest in their mutual company. As there is manly nihilism which "tries to make self-assertion the core of the human good, womanly nihilism takes the opposite track and tries to suppress manliness", with radical feminism here meaning such feminism "that seeks the essential problem not just as individual men behaving badly but as human [man's] nature itself".[87] Moreover, such a civilization is increasingly based on a hidden assumption, which radical feminists have sealed into dogma without realizing what has happened, that there are separate fates of men and women fighting for respect and rights within a culture which is increasingly questionable. If this assumption of a lack of separate, in fact, natures of men and women is even subconsciously taken for granted, then we have here the first civilization which looks at the relations between the sexes in such a way. All hitherto, so much different, civilizations and religions claimed exactly the opposite. There are of course no separate fates for men and women; this is one fate, although it is not easy to adjust both sexes to each other.[88] This assumption of eternal enmity and fight for rights and entitlements, aided with a torrent of clichés such as "respect", "diversity", "equality" at every sphere, kills the very logic, essence and hope of an opposite assumption without which the eternal thirst for romantic love and truly lasting commitment seems to be an illusion.

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[86] See on that an interesting elaboration by C. Paglia, *The M.I.T Lecture*, in her *Sex, Art and the American Politics*, New York 1992, p. 273–274.

[87] T. Merrill, *Manliness*, "Society", March–April 2007, p. 100.

[88] See on that profound truth K. Minogue, *How Civilizations Fail*, "The New Criterion", April 2001, p. 12.

Non-radical gender feminists could object that Mansfield has chosen as an object of his critique the most extreme form of feminism, and for this very reason this critique does not hold true for other, less comprehensive and radical feminists. This might be true, of course, but Mansfield recognizes that manliness, as well as femininity, poses a perennial practical as well as theoretical problem. For this very reason, as one commentator observed, there will always be, as there has always, in fact, been in different civilizations,

> a natural ground for something like feminism, a counterbalance to manliness. What that other feminism [what sort of gender feminism – AB] might look like is hard to say... His practical proposal – a prudent mixing of gender neutrality in public and recognition and encouragement of sex differences in private – leave quite a bit of room for ongoing controversy about the right place to draw the line. We should not however, allow this reasonable objection to blur Mansfield's deeper point. Radical feminism is usefully illuminating precisely because its utopianism is so extreme.[89]

For this reason Mansfield makes his strongest theoretical statement about human nature, with different natures between men and women as its two inseparable dovetailed parts, on the basis of his reflections on radical feminism.

> The revolution that made the gender-neutral society was not led by liberals but by women of the left, inspired … by a womanly nihilism. Their heroine was Simone de Beauvoir, and behind her, Marx and Nietzsche. The feminists were highly critical of liberals and of liberal principles as well. Although the women's movement followed close upon the civil rights movement, it took a very different path. Civil rights leaders in the 1960s, above all Martin Luther King, called on America to be true to itself, to live by principles it had long proclaimed, and to cease the hypocrisy of talking one way and acting another. The feminists did no such things. Although of course they denounced male hypocrisy, they did not take liberal principles for a measure. Liberal principles were inherently faulty and inevitably hypocritical because they were formal…gave everyone a formal right to equality but deliberately refrained from examining whether formal equality was made actual. Under formal, liberal equality, feminists said, women were at an actual disadvantage… [90]

In so arguing, feminists were echoing a long-standing complaint against liberal formalism, perhaps stated best in Karl Marx's On the Jewish Question (1844), that the unlovely informal practices of liberalism cancel out its published principles. Another way to put the objection is to say that in liberal society, the public, the sphere of the formal, is in fact governed by the private sphere so that the public promise of equality is betrayed. 'The personal is the political' is the feminist formula for that point: women have been confined and oppressed by the liberal distinction between personal or private and political or public, which was intended for concealment of the fraud. Moreover,

> the formula suggests, the way to reform is by the same route as the betrayal – by politicizing the personal, but now in reverse, in favor of the gender-neutral society, for the purpose of ending oppression. Martin Luther King did not resort to this Marxist argument… [In general] feminism

[89] T. Merrill, *Manliness*..., p. 100.

[90] H. C. Mansfield, *Manliness*, p. 161, 163.

wants transcendence over previous definitions of womanhood. This is what it learned from Simone de Beauvoir, who learned transcendence from Nietzsche. But it wants transcendence for the sake of independence, and the trouble is that the two are not consistent. Independence means that you are satisfied with yourself; transcendence means that you are not. In relations between the sexes independence means that you do not need the other sex because you do not want to be dependent on it: transcendence means that you do need it because you want more than your own sex. Feminism is not to be blamed for this inconsistency. Not only feminists, but all human beings want completion and incompletion in this way. Homosexuals would admit that society depends on heterosexuals. It is the utopian fervor of feminism that brings out the difficulty. Which is otherwise concealed by the complacency of conversion… The gender-neutral society does not know whether to ignore the sexual difference (independence) or abolish it (transcendence).[91]

But radical feminists' tinkering with human nature as such, so to obliterate differences between the sexes, depends in fact on the very thing which this feminism is trying to extirpate. This is so because, to begin a massive project of social engineering for the whole reconstruction of human nature or natures, in order to get rid of male aggressiveness, requires precisely deep reserves of human willfulness and aggressiveness as such. One has only to look at the constant wailing and aggressiveness of the programs of many radical feminists, often sponsored by public money, operating with phrases such as "wars on", "campaigns against", "crusades for" etc. But Mansfield, criticizing radical feminism, does it in the same way Socrates used the idealism of Glaucon and Adimantus in Plato's "Republic". In both cases utopia is crazy, it shows the limits of politics to realize human wild wishes of an absolute just society, meaning in fact a wish to liquidate an alienation between painful reality and a possible potential to overcome it. Utopianism, with all its crazy and self-contradictory ideas, can yet be useful as an object of study, since it is precisely utopianism which allows us to see the limits of politics. This study of an incurable, dangerous dream enable us to recognize, finally, the limits of human nature per se.

Mansfield is of course an equity feminist, recognizing the need for equal rights in the public sphere, rights as a choice, or better to say chance for a choice, not a demand to use it as a precondition of equal status. But he recognizes the danger of a situation in which blindness to the differences in natures between sexes excludes the possibility of a truly loving relationship based on trust and commitment, out of a deep understanding of a need for it, so as to lead a meaningful life. Such a relationship can never be defined, let alone formed, by feminist "experts" using state machinery, so as to impose their hidden agenda of power grab on countless lives of men and women making their lives miserable, and making sure that they cannot even dream of escaping such a dire predicament.

[91] *Ibidem*.

Life Worth Living

If one attempts to find an ever present disposition of a character and soul which propels Mansfield's political philosophy, it is his conservatism, understood in its best and only proper meaning. Mansfield is a thinker in the great tradition of the classical and Christian quest for truth. The quest concerned more with the eternal than with the immediate, with this tradition of human intellectual and moral strivings which demands from human beings an effort to look incessantly up, not inside themselves, so to be better than they themselves, as human animals, are. This is a gargantuan civilizational, intellectual and ethical struggle which looks at human life as a cosmic drama of existence not of one's own choosing, but also not of one's own total autocreation, which is the other side of nihilistic despair.

Mansfield inspects a human life and the political life in it as a fascinating heroic endeavor to make one's life meaningful in a modern liberal society of the late welfare administrative state, trying to find out what a constitutional government of free people in it means. This is the state and society in which, increasingly, one can create one's own story as one likes and can do anything with it, and in which, because of exactly that, nothing in fact may matter any more. His endeavor is to seek and to restore gravity in political thinking, and as a consequence gravity of one's life, since, in fact, political philosophy is for him in the last resort a moral adventure. Mansfield analyzes and partially reworks a tremendous amount of traditional sources of classical and modern political philosophy, including his contemporary one of the hegemonic Western liberalism. The latter began with an individual and its autonomy principle, and it has provided us with the most common understanding of liberty, subconsciously taken for granted as the only conceivably frame for human existence.

It has constantly evolved and at this late point in time has increasingly been understood as a faculty of an autonomous "self", decoupled from tradition, culture, and last but not least, from metaphysics. But the end station of such a development might be the utter human loneliness and a pantheistic, quietismic despair. Mansfield refuses to give such a liberalism the last word on the human condition, being convinced that a rescue can also come from human capacity for recovery of what has been lost, through a thoughtful application of reason and heart. If Western liberalism, and with that the Western civilization, at this hour of unprecedented wealth and benevolence, is increasingly losing hope of providing any reason why it should persevere and why it should inspire anybody, it is because it has cut itself off from the throve of the human wisdom accumulated in time, that wisdom which political philosophy can help recover. Recover, not to solve the mystery of human existence which is beyond human mind to comprehend, but so to simply realize that it is possible to join ranks with the giants born before us, who knew that, as the great Aragorn, putting on his armor, stated to a terrified boy before the battle in the Helm's gorge: "There is always Hope!".

In fact, hope is the last and the very key word of Mansfield's opus. Hope is rational because it is metaphysical, and it is metaphysical because it is rational. Hope as a citizen of America, the America which Mansfield loves. He understands that what is at stake in contemporary America, and there is at this hour much at stake, is her proper understanding of herself, a necessary condition of a sense of self-identity and self-confidence, in the case of both an individual and the entire people. This proper self-understanding which America seems to have lost, since it has lost the innocence of this instinctual self-evidence of the words of this quintessentially American document, for a long time considered also universal, the Declaration of Independence of 1776. But if the self-evident assumptions of the Americans cannot sustain the nation any more than there is an urgent need to provide at once reasoned grounds for their essential affirmation that they are, because they are exceptional people, a uniquely free people.[92]

Mansfield has provided such reasoned grounds in all his works. He is concerned with America, as was Tocqueville, since he knows by instinct that America is, somehow, a universal civilization and a loss of direction poses a danger of losing its identity, which as psychiatry defines it, is another name for insanity, when a theological name for such a loss is hell. Both for America and the world itself. In all that Mansfield is, in a particular sense, in love with America. He is part of this Burkean understanding that man is nothing if not of a particular place and time. In other words to be universal one has to be local first, since if universalism has to mean anything it has to mean something more than a cheap sentimentality of "loving" humanity, gestures which cost nothing but sell well in a contemporary politically correct market of "actions" or "wars on". To be universal means first to acquire the habits of responsibility, duty, affection, habits of bonds towards the immediate world, which then translate into the loving and ultimately true charity towards all. One has to learn to love somewhere, so as to be able to practice it, an Aristotelian impulse.

Thus, for Mansfield as a political philosopher and an intellectual in the classical sense of a lover of truth, America is an object of his great concern and a rigorous reasoned argument coupled inseparably with love. He would agree with St. Anselm, that what is really true and worth doing is to apply reason so to seek this, which one loves. And the more one loves, the more one tries to learn about it. This is Mansfield's America. But we need hope as citizens of the liberal world or citizens of the world, and here Mansfield immerses himself in the great tradition of giants before us, knowing the fallacy of thinking that we are the last, and that because of that, we can see through Being as better or much wiser than those who were our predecessors. In fact, what the intellectual and moral search is all about is an eternal return to the Sources, so we can understand that politics is not all to life and can never quench our thirst for fulfillment, however it tries and whatever calamities it may still bring to history.

[92] G. Weigel, *Truths Still Held?*, "First Things", May 2010, p. 47.

But the ultimate meaning is somewhere else, and this gives us hope. Because, although existentially

> the time of tribulation is upon us, and we now must make our way through its darkness, guided only by the waning lights of memory and the flickering flame of hope, not knowing when the night will end, [we are] sustained by the sacred assurance that whoever perseveres to the end shall be saved.[93]

Harvey Mansfield chose a long time ago the path of knowledge so to acquire wisdom. Wisdom brings disillusionment, the mother of Hope. Wisdom is Hope, because it understands that reason without love is sterile as it is useless. But wisdom is reason with heart, and Mansfield knows, that in the end that means silence. Silence and magnitude.

[93] D. B. Hart, *A Perfect Game*, "First Things", August–September 2010, p. 55.

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WHENCE VIRTUE? WHENCE JUSTICE? WHENCE MORALITY? AMERICA AND MODERNITY

"Home, I'll never be"
Jack Kerouac, *On the Road*

The United States is a quintessentially modern nation, in fact the first modern nation in history. In America all the problems of modernity happened first, and all the answers to the problems encountered have been tried accordingly. In the 1830s Alexis de Tocqueville defined the problems America experienced as a universal problem of democracy, but democracy here could as well mean modernity. The experiment which was called America has for this reason always been a challenge for Europe and the rest of the world, with very ambivalent feelings towards it. For some, hatred of America comes easily, spontaneously; for others love and reverence for her is spontantenous. Both passions come from the same understanding: that in America everything which has happened to human beings may happen to the people of modernity sooner or later. For some, it is a reason for trembling with fear. For others the reason for hope. This hope comes from a realization, to paraphrase Winston Churchill, that if in a modern civilization we encounter a situation when everything has been tried and failed, there is still hope that Americans will come with a proper solution to the challenge. In that sense, America is a homeland of all people of modernity, whether we like it or not, and we may say that whoever hates America, hates today, to a certain extent, humankind.

The United States is among contemporary nations the most modern in a cultural sense, although also, paradoxically, a profoundly traditional one. This is an

incredible baroque country, unpredictable, more political at the community's and personal level than administered and shaped at the central level by the elites, a depressing condition of the European Union project today. Extremely complicated, difficult to comprehend by someone who comes from set civilizations, America is a country whose modernity was from the very beginning additionally enhanced by its puritan, protestant fierce individualism, and a burning, haunting fear of failure. Failure to realize a dream, a promise of a new opening of humanity. This is a country which has constantly experienced the alternating periods of tranquillity and rage, self-contentment and a profound self-doubt, a civilization of simultaneous conceit and flagellation, of self-confidence and terror of everything being in a constant change, but at the same time a constant chance for something new, for better but also for worse.

America is thus as a country, at both a national and at personal level, obsessed by this quintessential question of modernity, asked by each individual from dawn to dusk incessantly: Who am I?, Where am I going to?, What is my identity?, Does it exist?, What moral conduct should I pursue in conditions where everything is possible, but at the same time there is a gnawing probability that, in fact, nothing matters? These individual questions translate into national discussions, obsessed with a confrontation of the American Credo with the reality of its fulfilment, the questions Who are we as a nation?, What is our identity? Last but not least, Are there in us any real virtues, not fleeting instances of desire rationalized by a cunning modern reason as virtues, but the real virtues, harnessing our desires and forcing us to be better than we ourselves are? In other words, Is there anything in life really worth fighting and dying for, or are we just a bunch of people driven by moral autocreation, material consumption and fun propelled by will and aided by science, and setting our common rules by utilitarian means, of which the craziness of ever-changing new ideologies of political correctness provide us with a placebo of a communal sense? And finally, Is it possible to devise a political system which would make us moral, heroic people in the conditions of modernity, or does the system only have to justify and tame our low desires rationalized as ideals?

These existential, cultural questions of modernity which Americans faced from the beginning had to be confronted politically in 1776, and since then they have incessantly been dealt with by them. Americans, more or less consciously, had to face such questions first, as a collective entity, not only at the level of self-conscious elites. They had to face them at every level of their communal existence, whether religious, cultural, social, political, or, last but not least, constitutional. In America everything may happen, since this is a modern society *par excellence*, where there exists a common psychological and cultural conviction that there are, in fact, no taboos to experiments with one's life, no challenges which are defined as insurmountable, no defeats which are final.

America as Magic

America, ever since Columbus, has been an object of imagination rather than a fragment of a possessed and cultivated land "in the centre of an immense continent", as Alexis de Tocqueville put it. It has been treated as an object of different, often conflicting emotions, both hateful and loving, but always with a clear recognition that one has been dealing with an absolutely unprecedented phenomenon. Unprecedented not in terms of geography, land, riches, but in terms of a distinctive way of thinking, daring to subvert everything so far created by known civilizations, and daring to recreate reality anew. America was thus from the beginning, long before the thirteen colonies rebelled against Great Britain, a huge canvas onto which Europeans, non-Europeans and in fact Americans themselves would endlessly project their fondest, wildest and sometimes perverted dreams and fiercest nightmares.

For this reason it became the first modern civilization, that is the one which was to be a creation of wishful thinking. The land of efforts, in mind and in practice, which challenged human imagination by unexpected vistas, and unintended consequences breeding resentments. In America an idea of magical transformation, the very idea of modernity, constitutes a parallel and rival "religion" to all hitherto known religions, including its dominant Protestant Christianity, a rival to all set cultures and ways of behaviour and thought, a civilization in which "anything can happen… Anything at all".[1] Out of such logic of thinking comes a commercial civilization, since money, naturally, gives the possibility to transform one's life. But commercial civilization also connotes a modern urban life as a place where this flexible transformation, this possibility of magic done to one's life, is possible by its anonymous setting, disruption and interchangeable transformation of human characters. It assumes solitude which does not require limiting bonds and loyalties, let alone customary ties, on the way to a final fulfilment constantly dreamed about.[2]

This impulse that anything can happen is not of course an impulse for everything. On the contrary, it is just a desire for Eden, a burning longing to regenerate one's life again, to recover the lost, or never possessed, innocence of a soul and body, to feel the intensity which we all know is possible, but never actual. This is a dream of Eden as a yearning for a total transformation, for, in fact, Earthly salvation. It is finally an attempt to deny the reality of man's objective existence in a particular time and place; the existence permeated by this pervasive sense of incessant alienation, an attempt to try again and again, so Eden can finally be grasped.[3] Or Hell, if one fails and magic turns into a wasteland. A stark, and imaginable consequence of failure, but first of all *hybris*, when, in the words of John Winthrop in 1630, this building of the "citte upon a hill… to do Justly, to love mercy, to walke

[1] The words of one of the characters of F. Scott Fitzgerald's, *The Great Gatsby*, New York 1953, p. 69.

[2] P. Berger, *Facing Up to Modernity*, New York 1997, p. 218.

[3] This daring spirit of America as a modern civilization was already well captured by E. Burke in his parliamentary *Speech in Conciliation with America*, ed. J. Villiers Denney, Chicago 1898, p. 410–444.

humbly, with our God [and] make others Condicions our owne rejoice" turns into its opposite when "we shall be made a story and a byword through the world, wee shall open the mouthes of enemies"[4].

Americans were modern, and this omen of unlimited autocreation of one's own life, the very essence of modernity, was already symbolically institutionalized at the inception of republican America. A one dollar bill constituted such a symbolic institutionalization. It is a magic document. What we have on it is the great seal of the American Republic wish an eagle on the front. But the reverse side is peculiar, and in fact sinister. It shows a pyramid with a human eye at its apex, this allegedly masonic symbol being framed by two Latin inscriptions from Virgil. One, "Novus Ordo Seculorum", means "new order of time", "of ages". The other, "Annuit Coeptis", means approximately "begun under divine auspices". Thus time was to begin anew again in America, because it was a uniquely favoured civilization, the point zero of history was within human grasp again. If we apply the cultural code of the seventeenth-century Puritan Covenant, of America being the religious equivalent of the same image printed in 1792 on a one dollar bill, we realize that we have here essentially the same project. America was a Covenant nation, under God's protection, but a peculiar God, one who gave licence to recreate a corrupted world anew, and with it a new human being.

This was essentially a vision of unbound possibilities, directed by will, as a task placed on people collectively, and each individual separately, the very essence of modernity. In this New World the greatness of Eden, the Paradise Garden would be restored again. This way the Puritan code and the one dollar bill were different faces of the same phenomenon, one openly religious and Christian, the other expressed in political terms. Modernity could thus be portrayed as an imaginary place of magic, defining human existence in terms of unbound possibilities. In other words, as a process of a gargantuan, endless autocreation by means of the human mind, possibly within the terms of the imposed from above Covenant, that is Christian morality.[5] This constituted a revolution unknown in human history, since one unspoken sinister danger was looming over the horizon of such an endeavour, the sneering face of the Biblical revolt of man in the Garden of Eden, of projecting one's own will onto the will of God, and declaring that God in fact is me.

This outcome was looming large both in Protestantism per se and modernity as such, and this conjunction of both in America was a phenomenon which gave its version of it a peculiar, millenarian and "chosen" confidence. Modernity seemed to contain within its logic a proclivity to reject step by step subconsciously any

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[4] J. Winthrop, *A Model of Christian Charity*, [in:] *An American Primer*, ed. D. J. Boorstin, New York 1966, p. 40–41.

[5] This millenarian hope of transformation of this corrupted world is analyzed, among others, in: E. Lee Tuveson, *Redeemer Nation: The Idea of America's Millennial Role*, Chicago 1980, p. 52–90; S. Bercovitch, *The Puritan Origins of the American Self*, New Haven 1975, p. 72–108; W. McDougal, *Freedom Just Around the Corner: A New American History, 1585–1828*, New York 2004; A. M. Codevilla, *Transcendental Hustlers*, "The Claremont Review of Books", Fall 2009, p. 51.

outward, universal norms of human conduct, not only those coming from the acquired experience or cultural norms. It, in fact, also chose to discard natural law and religion as sources of God's immutable laws making them servants of the "self", the gradually happening essence of the American religious experience as well. The way of life of the "self" was inexorably commensurate with the way of life the Covenant was meant to be. Me was the will of God, America was its tool.

Modernity as magic, as utopia, containing a desire of endless autocreation, found in a modern urban, commercial life its perfect setting. Commercial civilization creates money and money create possibilities. It gives power to desire of self-transformation to get outside of the set world of limitations of any sort. This release of money as a common equalizer was thus the essence of modernity's means of devising an instrument of achieving an endless autocreation, with the corresponding idea of cleaning out the debris of history, the obstacles to a final fulfilment. There is a devastating potential in such a civilization, a revolutionary danger of making one's desire the essence not only of the individual's life but of social life in general. The consequences of moral and commercial modernity were felt in America practically from the beginning. But soon a gnawing sense of doubt began to be felt.

The idea was put forth that Americans might not worship God and His righteousness and as a consequence might not be rewarded with the fruit of their labour treated as His gift, but that they might use God as a pretext for feeling good about satisfying their extravagant desires. In that sense, religion was an engine of prosperity which in turn reshaped religion and channelled its energy into material betterment. From the beginning this connection between individual work and religious worship, essentially a Calvinist idea, uprooted from the European economic as well as institutional limitations, both created new ways of worship and quickly secularized the focus of American Protestants' devotion. This was an obsession with material betterment, quickly recognized as a spiritual problem by the most prominent preachers.[6]

America was a quintessentially modern society, already liberated from the most debilitating limitations of the "ordered" European civilization.[7] This connection between capitalism and religion was there most intimate, accepted and troubling. A danger of worship being secularized into material obsession, and the slow turning of the Christian God into a projection of one's own image of Him to justify individual wishes, was already there at the beginning, a situation enhanced by America's wild religious pluralism. This pluralism was not disciplined by the seats

[6] Increase and Cotton Mather decried the country's central problem: "Religion brought forth prosperity and the daughter destroyed the mother". Jonathan Edwards preached that every individual's responsibility before an angry God was not to follow this path. Cadwallader Colden, a preacher in the 1740s, thundered "the only rule of life propagated among the young people [in America] is gaining money, and people are assessed only on the basis … of money, which they have". In: P. Higgonet, *Sister Republics – The Origins of French and American Republicanism*, Cambridge Mass. 1988, p. 84.

[7] J. Hector St John de Crevecoeur observed this psychological disposition well: *What is an American?*, [in:] *The Faber Book of America*, ed. C. Ricks, W. L. Vance, London 1992, p. 241–242.

of religious orthodoxy like Rome or London, far away and insignificant. Moreover, at the institutional as well as individual level, pluralism constituted a natural outcome of life in America. Religious freedom coupled with a sense of self-government and abundant possibilities of material betterment gave Americans a unique feeling of having all options in life open to change, whether it was their material status or the shape of worship[8]. Religious pluralism and individualism, this feeling of unlimited choice and radical material advancement within the life span of everybody, created among Americans a sense of omnipotence religiously motivated, beyond the constraints not only of the institutional European limits, but also limits coming from human relations on which an individual was, but had not to be, entirely dependent.[9]

The American Revolution began not only in the name of the abstract principles of the Declaration of Independence, but was also rooted in a Protestant insistence on human equality and the common-law tradition of respect for ancient custom, which made self-government, religious freedom, economic opportunity, and soon territorial growth, as well as export of democracy around the world, inseparable.[10] This modern political project which was being devised in the wake of the American Revolution was thus conscious of both the dangers and the hopes of the new enterprise. For this instance, the incessant political bickering between the proponents and the opponents of the new federal construction was a discussion, more or less consciously, between modern people, operating within the confines of a republican self-government. That posed the most basic problem of what was to sustain this government. Americans feared the devastating potential of commercial modernity and wanted to tame it. The very question of character, that is of virtue, of the moral quality of the people sustaining the American modern regime was at the centre of the Founders' thought. This concern elicited references to modern and ancient inspirations, in conditions of the commercial civilization in which the pursuit of happiness, bordering on a hunt for a fulfilment of desire, was obliterating all the higher sources of obligations, the necessary conditions for creating a viable, moral and self-sustaining community.

Modernity as Endless Autocreation

Whatever the native and original conditions which created the American modern mind, with its fascinating mélange of traditional and modern virtues, this shaping of

[8] This feeling is well captured by a dialogue between a daughter and a mother on the American frontier at the beginning of the nineteenth century: "What are you doing, darling? I am drawing God. Don't be silly. No one knows what God looks like. Well, then, they will learn soon." Quoted in: M. E. Martin, *Religion in a Republic*, Boston 1987, p. 35. On this ability to escape the orthodoxy of the official church in Europe see G. Will, *American Adam*, "The New York Review of Books", March 6, 1997.

[9] This danger of such a modern civilization was defined well by Nathaniel Hawthorne, who observed that an individual was at risk of excluding himself from a "magnetic chain of humanity", a situation condemning one to total solitude. Quoted in: V. Sachs, *Idee przewodnie literatury amerykańskiej*, Warszawa 1992, p. 168.

[10] See on this connection: W. McDougall, *Freedom Just Around the Corner*...

the modern mind in general was part and parcel of a larger story of modernity, the unfolding drama of the Western world. In it's essence modernity is a will to shape reality according to one's own consciousness, that is reason and will, irrespective of the constraints not freely justified by this consciousness in an act of choice. Modernity has thus always been prone to a constant redefinition of reality and human life itself, in terms of the ideology of a particular time and place in history, even if it has often been understood as an escape from the ravages of it. It has been an incessant attempt to defy and deny reality, and with it man's objective existence in time, a temptation to reject life as such, with a corresponding assault on morality. "Liberation" from life and morality, defining human predicament and giving it a meaningful basis, has been its driving logic, a revolt against ontology as such, a consuming fever to save oneself by one's own means, quiteessentially Baron Munchausen's dream. It was this spirit defined by William Wordsworth's great poem *Resolution and Independence*, with its famous line: "By our own spirits are we deified."[11] The question of the universal basis of behaviour, that is morality justified from outside of the human autonomous "self", loomed here paramount.

The problem of morality, thus also virtues shaping character, irrespective of individual choices seeking desires, virtues creating a community of mutual obligations not stemming from a contract or utilitarian means, seemed to be a problem which could not be avoided. *Virtus Nobilitat*, virtue gives nobility and civilizes, was the most fundamental axiom of Western culture, in fact every culture, until modernity began to question it. But a deeper, less obvious side to virtue is the conviction that the world in which we live is worth something, that the world in which we conduct our affairs, the world of our experience had an innate value. That our lives in this world transcend our biological nature and teach us something meaningful enough to prevent us from a slide towards the nihilism of resignation, acedia, or mindless hedonism, in the face of intractable Being. In other words virtue can be understood as a general value, or disposition to derive from the existing reality a sense transcending the senseless existence of a contentious human animal. It is at the same time a prerequisite of human bonding, of human solidarity, since it assumes the common humanity of all striving towards a goal which transcends immediate, individual pleasures.

This is a perspective which claims that there are things worth sacrificing, and things which are worth living for, because of their inner, objective, universal moral value. Modernity constituted a rebellion against virtue both as conceived by the ancients and *Christianitas*, beginning one of the most fascinating quarrels in the history of philosophy, education, politics, or to put it simply, in the history of human dealings with reality, in fact the major front line of human approaches to reality. The ancients and Christianity, in various ways, took a meaningful and rich notion of nature as such as a standard for individual persons and human societies, as far as morals and also institutional arrangements were concerned. The moderns, in

[11] Quoted in: J. Hart, *Smiling through a Cultural Catastrophe: Towards a Revival of Higher Education*, New Haven 2001, p. 225.

equally various ways, came to regard nature, exactly at the moment when modern science was accelerating its knowledge of the universe, as something which was either indifferent or even hostile to human beings. As a consequence, nature ceased to be regarded as being any standard of behaviour for humans. In other words it provided little or no guidance in human affairs. That meant that morality was either to come from *fiat* grounded in religious precepts, or, once they were rejected, grounded in an autonomous reason unguided by anything outside of it.

As a result, also all human endeavours, including political ones, acquired an unlimited potential. This potential was limited only by either incapabilities of reason to overcome its own barriers, or the atrophy of the will to use it and change the world. To wit, since modernity's ascent, everything in reality has been up for grabs, to form it according to precepts born in an autonomous mind. The "self" became sovereign, moral autocreation its servant. The feud between the ancients and Christianity on the one hand, and the moderns on the other, has thus constituted a fundamental disagreement over the very nature of the world and our relationship to it. Plato, Aristotle, or the Stoics, as well as the great medieval thinkers such as St Augustine or St Thomas Aquinas, all belonged with the ancients, as did nearly all later, various schools of natural law. Machiavelli, Bacon, Descartes, Hobbes, Locke, Hume, Kant, as well as the majority of contemporary philosophers of the postmodern school, constitute the school of moderns.[12]

Modernity posed a definite problem for politics and a "regime", in Aristotle's sense of the world. Since modernity's ascent the latter has been looked upon not as a means to a definite moral end or ends, now deemed impossible to achieve, but as a system of institutional arrangements in which individuals pursue their ideas of happiness, that is their subjective notions of a good life. That means in practice an individual interest coming from the moral autonomy of the "self". Deprived of any universal ontological and anthropological anchorage, considered either impossible to be established, or non-existent per se, such an individual interest has a tendency to slide towards a desire of a particular moment, in turn justified by an autonomous, self-sufficient reason. A political order is conceived in such an ontological and anthropological vision merely as a neutral arena of the best environment for the achievement of a political stability, with rights expressing different shades of such individual desires. In the contemporary world the latter are increasingly becoming surreptitiously commensurate with a definition of human dignity. Man has become someone who defines himself by and demands the unequivocal recognition of such a desire as being equal to his human dignity. A state becomes in such a case a great stabilizer and watchman of a political order, and the rising prominence of the constitutional judges reflects this desire of an administrative state to recognize immediately this totality of humanity expressed in rights.[13]

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[12] For a classical exposition of this conflict between the ancients and the moderns see the works of L. Strauss, for instance *Natural Rights and History*, Chicago 1950.

[13] P. Manent, *The City of Man*, Princeton 1998, esp. p. 156–182; L. M. Friedman, *A Republic of Choice*, Cambridge Mass. 1996.

Roughly speaking, the first wave of modern political thinking began with Niccolo Machiavelli and Thomas Hobbes. For them politics and ruling per se was to become a purely practical and all-encompassing activity, everything that was there for humans to contemplate and do something with. The role of the mind was from now on to govern, that is to devise the best techniques to organize reality and the people without the bother of contemplation. For this reason the modern state discourages, in fact punishes, an examination of the deep, "hard" truths of human existence as either dangerous to this order, or superstitious, only tolerated, provided they are kept private, or as a kind of individual spiritual psychotherapy for an individual benefit, having benevolent social and political consequences.[14] The moderns deprived the public sphere of the publicness of the mind exercising judgment, the universal moral judgment, ontologically valid, collectively as well as individually, and thus they deprived human action of any chance of discovering objective morality, that is virtues worth pursuing for the very sake of them, not as a result solely of the utilitarian calculus of practising them so as to upkeep the social and political order.[15]

The moderns thus delegitimized all categories, and in fact all things looked through such categories in reality, whether moral, cultural or political. Whatever had essences, properties, and ends which in turn could govern purposes the humans set for themselves, was defined as dangerous.[16] There was a distorting subjectivism in such an epistemology and a corresponding ontology with its anthropological perspective. It was a melancholic departure from discovering reasons why humans should live at all, and why they should form a community of mutual obligations. Modernity, commensurate with the new hegemonic tradition of the West, loosely termed liberalism, started with an individual and an autonomy principle. Human morality began increasingly to be tantamount to totality of human self-definition, demanding to be recognized per se as "good", not subject to any external standard, and then in turn turned to rights. Rights in modernity began to play the same role as the gods of the decadent ancient Rome, a condition where at a certain point there were so many gods that it was impossible to live without offending at least some of them.

Eventually human dignity became commensurate with the totality of humans' self-definition, which resulted, one might add, with a sight of existential despair and reversion to the immediate sensual and utterly practical things.[17] Such

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[14] It thus rejects the explanation of human reality in terms of Socrates' reasoning in Plato's *The Republic*. Socrates remarks there that he is going to try to explain human beings by looking at political institutions and behaviour, because for him they were a kind of human person writ large. This in turn would enable him to make human behaviour easier to comprehend.

[15] For the systematic differences between the ancient, Christian and modern conceptions of virtue see M. Blitz, *Virtue, Modern and Ancient*, [in:] *Educating the Prince: Essays in Honor of Harvey Mansfield*, ed. M. Blitz, W. Kristol, New York 2000, p. 3–17.

[16] Attempts to overcome this division between the ancients and the moderns, like for instance phenomenology, as well as a good exposition of differences between the schools are explicated in R. Sokołowski, *Phenomenology and the Human Person*, Cambridge 2009.

[17] This autonomy principle was defined in modern liberalism's language as being tantamount to personal dignity, which is essentially an usurpation of a concept. Dignity is equal in such an understanding to a to-

a project was daring but equivocal, because it disregarded the classical and Christian questions about how to explain the conditionality of humanity, and above all its conditionality in history, a question which was a starting point for all transcendence, and in fact a justification of the universal validity based on the precept to follow hierarchy of goods, choosing some and discarding others, in an effort to craft one's character. This philosophical question of how to explain human conditionality in history was yet disregarded in modernity, or it pretended that it was an inconsequential question, even if Immanuel Kant accepted the possibility of the latter's existence to be discerned by reason.[18]

But the practical problem of the common good could not be adequately explained, because no common standards could be sustained. A stress on autonomy with a corresponding ethics derived from history and utility, the basis of desire, has created people who have begun to be utterly incapable of living lives which have any narrative coherence. The character of a moral subject, the content and structure of his desires and dispositions, ceased to stand as a paramount subject of moral philosophy. Moral philosophers from Socrates to even Hume had this issue at the centre of their thinking, which meant that the question of character formation constituted the most important educational postulate, whether at an individual or a communal level. But modernity replaced character formation by the most modern of modern words in all walks of life, choice.[19] Eventually choice was defined as a condition of authenticity of one true "self", in popular parlance self-realization. As such, choice began to replace character formation in public education, the very essence of education since time immemorial. Modernity thus proposed a course of action and its morality, without any definite conception of any end, and the social and political conditions necessary to sustain a life formed by virtues constitutive of that end. It also doubted that there were necessary social conditions sustaining such persons and inculcating them into such ends, even if they existed. With such an approach, it was impossible to provide in modern liberalism any justification of a human good beyond the sheer desire of moral freedom.[20]

Thus the most fundamental question which had to be posed in such a context was who would provide the social cohesion for such a system. How were people to behave to sustain civility in the conditions of modernity's pursuit of individual interest as a legitimate, *sine qua non* condition of a proper regime? Was there going to be a virtue, any virtue which was to animate them, and what was it to be? Were

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tality of human behaviour or desire, justified by that person alone. See: P. Manent, *A World Beyond Politics?: A Defense of the Nation-State*, Princeton 2006, p. 98–128; and idem, *The City of Man*..., p. 156–206.

[18] See: T. L. Pangle, *The Ennobling of Democracy: The Challenge of the Postmodern Age*, Baltimore 1992, p. 13. Of course Kant accepted boundaries of reason, the latter being incapable of explaining the totality of human existence. There were "things"[noumenon] which we do not know, we know only about our relations with them [phenomenon]. For the empiricist these two spheres were the same, for Kant of course separate. Thus his project to create rational morality was limited, but it failed anyway.

[19] S. Hauerwas, *The Virtues of Alasdair McIntyre*, "First Things", October 2007, p. 36–37.

[20] A. McIntyre, *Dziedzictwo cnoty. Studium z teorii moralności*, Warszawa 1996, p. 3–21.

there to be any universal manners and institutions creating them, which would secure a practice of virtue? What would be the source of the new virtue, if possible to imagine at all, and who would inculcate it, if ever? Machiavelli and Hobbes, who began the first wave of modernity, whatever their differences, were unequivocal. The state would. The state would be the source of order and rights, a necessary condition of any civility which in the state of nature did not exist. In other words, there was no universal morality, innate and possible to be known before a civil society and a state were created. As such an individual could not be a source of morality, universal and binding, the ultimate guide to virtue. The individual was an animal full of passion and instincts driven by his immediate interests, of which material ones were the most obvious. If so, there could be no need to try to derive a universal ethics from outside the civil society and the state, and look into other sources of providing conditions to secure it.

A condition of modernity is thus a condition of fear, of a possible war of all against all as Hobbes said, or of uneasiness, as Locke stated in a milder form.[21] Modernity could not yet, of course, dispense with a certain moral framework within which it wanted to create a stable political order, such a framework which could even be called modern virtues. But in modernity virtue could never be so much an outward aim and connected with institutions geared to produce virtuous aims. It was inconceivable that a definite constitutional construction was to have as its aim creation of virtues. But modernity did not nullify the indirect problem of a corrupting or non-corrupting political order. There was in this context a corresponding problem of this debilitating ontological and anthropological basis of modern morality, and as a consequence of traditional virtue. The argument for morality was essentially circular in character. Morality was sliding towards an individual desire rationally justified. This desire was, in turn, a classical idem per idem operation, defined as morality. The challenge was noticed, more or less consciously, by all modern thinkers.

The second wave of modernity, which started symbolically with Rousseau, strengthened such a void of modernity's moral theory. Rousseau gave up pretences that satisfying human needs corresponded somehow to moral 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. Definitely there were no objective moral criteria which could be derived from it, except that the state of nature was innocent.[22] Civilization, Rousseau claimed, had corrupted the moral innocence of nature and had become a prison. Whatever had been, or would be thus done by means of science, education and reason, to "liberate" a human being from the shackles of such a civilization, was to be good by definition. The very idea of progress

[21] See on that uniting element of a state policy as a provider of common morality for instance: L. Strauss, *Natural Right and History*, Chicago 1965, p. 166–201; H. Arkes, *First Principles*, New Jersey 1986, p. 206–232.

[22] Rousseau was already consciously treating nature, culture and civilization as an enemy, and linked humanity with historical development. Kant and Hegel developed this current further, and Nietzsche and Heidegger completed its logic.

in history was inherent in such thinking. This idea of civilization as progress, as a process of constant liberation, was everything we had. Evil was not a moral failing, it was society's fault. Reason was the only possible guide here for us. But moral rules of universal norms and virtues inculcated on such a basis could not be derived from outside, from a moral vantage point. This was because we as humans were now, claimed Rousseau, in charge of creating a better, progressive civilization solely by our image and our will, with morality as a form of autocreation, a shifting sand of human consciousness.[23]

The idea that it is humanity which is responsible for evil absolves men of any moral effort, of any conviction that one's own virtue might be corrupted by one's own responsibility. Finding society guilty meant both that the whole society was responsible for the world's evil and that the innocence of a moral man was a possibility. It automatically unleashed a monistic, centralized impulse to recreate society anew. Institutions of inequality, all institutions, including eventually the structures of thought itself, that is a possible and unavoidable false consciousness in need of liberation to find a true one, were especially responsible for evil. The true self and desire were thus innocent.[24] There was in such a perspective a total perception of society and culture as a false, inauthentic world, an alienation from a true self, which was naturally good, free, and living in a state of unmediated unity, a true reconciliation with oneself and nature. This reconciliation with nature, this final overcoming of alienation and self-hatred required in turn a liquidation of this unbearable state of division within oneself. In such a case, the social contract which Rousseau proposed was a means of remaking the society as an expression of free choice. Such a contract was to overcome alienation, had a redemptive potential and eventually created a new "civil religion", a term Rousseau coined.

If we believe at the same time in the natural innocence of the liberated self, that all social arrangements look to us oppressive, the task for politics is to rectify this intolerable state of the human condition. This constitutes the most potent instance of individual empowerment, an individual will to power. The very idea of evil as an inherent feature of human condition is eliminated. In such a perspective conflict is considered to be inconceivable as a permanent feature of life and politics, it is merely an instance of error, or a delayed execution of the right polity to liberate that area of life from some hidden oppression. A rational plan for human happiness is thus considered not only possible, but necessary. Politics becomes in such a case a tool of social engineering. With that liberty is also gone. Human will

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[23] J. Starobinski, *Jean-Jacques Rousseau: przejrzystość i przeszkoda*, Warszawa 2000, esp. p. 47–82; see also the excellent foreword by J. Bethke Elshtain to P. Manent, *The City of God...*, p. VII–XI.

[24] *Ibidem*, p. 36–38. This is not necessarily an original idea. It was indicated by Niccolo Machiavelli for whom man was almost indefinitely malleable. Machiavelli does not explain the bad conduct of men by their bad nature: men are malleable than either good or bad. What one needs is not so much formation of character and moral appeal, as the right kind of institutions. We can elicit a proper behaviour by the properly organized institutions, the heart of modern social engineering. See: L. Strauss, *What is Political Philosophy? And Other Studies*, Chicago 1959, p. 42–43; also his, *Thoughts on Machiavelli*, Chicago 1958, p. 279.

and liberty as such become dependent variables. Their legitimacy can be judged only in the light of a definite *telos*, that is their utility of achieving greater equality, until the final innocence of the state of nature be reached. Who was then going to decide that crucial question of how such politics should be conducted? The only ones were *les philosophes*, men of letters, intellectuals.[25]

Such a frame of mind was subversive of any hierarchy, and for this reason equality was a driving force for it. Hierarchy and authority and an absence of equality was the ultimate source of social and individual evil. Virtue was equated not with an individual character, but with an expression of political readiness to support these people, who were professing love of humanity, and knew a way of achieving it.[26] The issue of virtue as an individual moral endeavour thus becomes irrelevant. Only the virtues necessary for a speeding up of "liberation" towards innocence were good, the discrimination being done by the "chosen" in charge of the process of "liberation" itself, defining for the entire society the good moral causes of a particular day and time.[27] But once morality rooted in ontology beyond human autocreation, and the virtues stemming from it, or from human experience accumulated in culture, were considered inscrutable at most, or rejected as an illusion of a spectator's self-consciousness, the moral problem became a vexing issue.

Rights and Social Coherence

Once human nature as an objective reality was gone, once God and morality as an ontological basis was gone, humans were left, as was stated earlier, with the psychology of the self and its moral autocreation aided by reason, and, in addition, a scientific mind of discovery of society's laws. Universal psychological motivations, desires and needs were increasingly substituted for an objective moral order, acquired through an inculcation of virtue. There was yet a very tricky question which was to be answered. What self exactly, what kind and shape of psychological wish, motivation, desire or need, were humans supposed to affirm, and what was the end game of this affirmation, if they were in fact playing a game in a mist, in a total vacuum?

If man as man was an independent and arbitrary creator of his laws and morals, while at the same time being increasingly subjected to the iron laws of history, visible in the realm of society, economics or politics, what was to quarantee any coherence, any community among the atomistic, solitary and increasingly solipsist individuals? Modernity came here with one allegedly universal and suffi-

[25] See: L. Greenfeld, *Nationalism: Five Roads to Modernity*, Cambridge Mass. 1992, p. 186–188.

[26] On this tradition of *noblesse oblige* as part of the modern liberal European thinking see A. Bryk, *The United States, the European Union, Eastern Europe: Different Approaches to Modernity*, "Krakowskie Studia Międzynarodowe" 2008, No. 1, p. 109–228.

[27] For a critique of such metaphysical whiggery see: D. B. Hart, *Atheist Delusions: The Christian Revolution and its Fashionable Enemies*, New Haven 2009; also idem, *Origins of the Specious*, "First Things", October 2009, p. 16.

cient solution: that is equal rights. This is a language which began to be used by all political philosophers from at least the seventeenth century. This was a response to a dissolution of a traditional basis of moral mutual obligation and an answer to the question what was to prompt humans to mutually recognize each other as part of a community of a moral, and as a consequence social and political order.

The new, emerging concept of rights had to relate itself to the traditional concept of natural law, from which duties and obligations stemmed. It had to define the basis of obligation anew. Politically, the rights began to be recognized as fundamental, antecedent to any frame of the constitution. But less certain was what was the ultimate justification of such a limitation. In fact, all modern, dominant conceptions of rights had an implicit assumption that rights were decoupled from any moral frame of order imposed from outside human will, despite lip service paid to it by Locke. There was no moral *telos* towards which humans were to strive, except that which was filtered by their individual choice and execution of rights, either to fulfil one's liberty, to seek "liberation" from civilization or, at the most basic level, to secure life by means of property, as a drive to power.

But once humans began to perceive themselves as part of senseless nature without *telos*, and treat themselves as active participants in nature's transformation, with rights allegedly given to them as human beings, the perspective radically changed. Rights became in this case, in fact, a totally arbitrary contention. They became a means of transforming reality, and an application of such rights in the political sphere caused revolutionary consequences. Free will used as a means of realizing one's rights slipped easily to a desire to realize one's wishes defined as rights, making human existence simply a means of self-betterment, in fact autocreation, defined as morality. Such ideas as the common good, justice, and virtue were in this perspective futile crutches. They were impossible to sustain under the pressure of this overwhelming desire of individuals realizing their wishes, and achieving control over nature, through material betterment and the fulfilment of their rights. This became the very essence of a modern civilization.[28]

Once humans abandoned the concept of nature derived from *telos* as an interdependent hierarchical order, they had to cease treating themselves as natural creatures, as part of nature, with social, economic and political positions legitimately distributed. Equality of rights against such an order was a revolutionary idea with a corresponding leading value of inequality as a problem and eventually as a scandal. Humans then had to look and treat nature as an object of action. That transformation was already grasped clearly by Descartes. But if humans wanted nevertheless to define themselves as part of nature, with rights belonging to them and constituting a yardstick of legitimacy of the surrounding world, it was difficult to define themselves as striving for good. Such a moral disposition was exactly against the natural impulses couched in the language of rights. Humans as moral persons, being part of nature, or rather History, were senseless, since not aiming at

[28] P. Manent, *The City of Man*…, p. 124–152.

any *telos*, except a fulfilment of rights. This was this modern world defined by one desire covering despair: to build the City of Man, not shackled by any limitations.[29]

But this escape to History out of despair, and to rights as a means of creating a republic of all humans, turned rights into a sole vehicle of human strivings, of which the pursuit of happiness was to be the most important, whatever its particular shape. This in turn meant that, due to the absence of any authority imposing hierarchy, whether from temporal or from heavenly sources, humans had to turn the rights into a servant of the self of each individual, and this could be done only in History, that is by an immediate comparison with others. Rights thus become a vehicle of achieving equal status in all walks of life by the sheer fact of lack of their ontological status rooted in reality higher than this self-perception of the self. Equality of rights and equality as an object of striving of each individual thus became the essence of modernity as such.[30] This elimination of limits to a human "self" and its autocreation, which reason by itself aids, by rejecting any extrahistorical sources of moral obligations, caused the question of human nature as a moral quality imposing moral rules and moral limitations to stand at the very centre of the political considerations of the 17th and the 18th centuries.

Once theology was gone from nature, the spectre of nihilism was real. With nihilism, the ideas of rights, equality, justice, citizenship became prey to the strongest, mainly the strongest in the market or cultural sphere. Thus, this logic of modernity put forth incessantly the greatest question of all moral and political discussions, namely, what was the ultimate basis of obligation. Whence the Duty?, Whence the Obligation?, Whence the Virtue? The spectre of nihilism was hanging over the modern world as a cloud never to be dispersed. If there were no objective criteria, no universal, immutable good, the highest beauty and virtue, no ultimate *summum bonum*, if there were only the shifting sands of moral autocreation, which ever expanding rights made possible, truth became simply an arbitrary construct, a mere convention.[31] Man lacks in such a case a horizon of striving, a moral compass to do good and to resist evil, to be heroic, proud, noble and virtuous. He has no compelling criteria of differentiation at all. He does not know why he is doing this or that, except by the sheer logic of his own pleasure and power, which reason very easily can justify, defining its activity as an objective fulfilment of one's rights.

Such an annihilation of truth beyond virtue, and ultimately beyond good or evil, means that power is all in life worth striving for, since power is the only means which can bring pleasure and contentment justified in the language of rights. But if that is a consequence of modern morality of rights, this ultimately means that the weak stand no chance against the strong, and no amount of rights would secure the weak against the strong. Common humanity and solidarity can be created only by

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[29] *Ibidem*, p. 201–206.

[30] *Ibidem*, p. 52.

[31] L. Kołakowski, *Odwet sacrum w kulturze świeckiej*, [in:] *Czy diabeł może być zbawiony*, Kraków 2001, p. 245.

an objective moral universe, rooted in the natural order of things. Otherwise desire is all to life, and no catalogue of rights can prevent that. As Locke observed, "desire is moved by evil to fly it".[32] As a consequence rights, natural rights, and the later equivalent human rights have, in fact, lost their normative status. A human right has become tantamount to a fact of life itself and its unlimited diversity recognized as good. This means, in turn, that whatever there is to the life of an individual has to be recognized as good and a potential human right. St. Augustin's "love and do whatever you want" turned into do whatever you want and define it as love and then a right. Psychology took over morality, psychotherapy took the place of guilt.

Since there is no objective moral universe binding us all, and towards which we strive, morality is simply an actuality, a morality of subjective behaviour, that is identity. For this very reason it has to be unconditionally accepted, especially against the other. There is simple no basis for a duty within such a perspective, because the universal horizon of common humanity understood as striving towards objective moral order has been denied. This horizon of common humanity and virtue in such a case means simply rights. The culture of rights of the Enlightenment was thus created at the automatic expense of duties.[33] But if man had no longer ends but rights, no longer virtues but wishes, we were in big trouble – as Kant realized in an instant – trying to save an objective world of moral law.[34]

But to form the ontology of Being out of pure speculation, when every other, possible ontology was left behind, was a problem which could be best captured by baron Munchausen's metaphor. In fact, Kant gave up ontology, trying to ground reason purely in sheer ethics, turning from theoretical to practical reason. Metaphysics, having been defeated in the realm of theory, reemerged at the level of sheer life, where a priority of ethics was grounded in the "call" of the "other". This happened exactly at the time where history became the only stage on which human beings could pursue their own, individual pursuits of happiness. Metaphysics was supplanted by history and ethics revolving about rights.[35]

Once the essence of man was declared to be inscrutable, and his Being decoupled from ontology and reduced to self-explicable anthropology or ethics defined by rights, the definition of man became tautological. The question "what was man?" was answered as such: whatever man was, man was man. This was a Machiavellian political answer applied to an anthropological definition. The very Being of man is his actuality, pure anthropology was thus here the starting point. The essence of man was contained in his actual existence. If he was what he was, he was sovereign in guarding his actuality against any pretensions of others to change him. This trans-

[32] Essay II, sec. 55, 61, 71, chapter 20, sec. 6.

[33] R. Scruton, *Enlightenment, Citizenship, and Loyalty*, [in:] idem, *The West and the Rest*, Wilmington 2002, p. 68; M. A. Glendon, *Rights Talk: The Impoverishment of Political Discourse*, New York 1991.

[34] L. Kołakowski, *Kant i zagrożenie cywilizacji*, [in:] *Czy diabeł może być zbawiony...*

[35] This turning of metaphysics into a primacy of ethics with a corresponding theory of rights was described by D. Walsh, *The Modern Philosophical Revolution: The Luminosity of Existence*, Cambridge 2009.

lated itself into rights as the only language of communications between people, and these rights in turn were defined automatically as human rights. Man thus has the rights of man, which have nothing to do with the fulfilment of his potential, but everything to do with guarding his autonomous world of self definition, of defining his existence through auto-creation, the very essence of the modern definition of human dignity. Such rights turned into entitlements, are gradually defined as human rights, that is as non-negotiable entities, making them allegedly ontologically grounded.[36]

Rights became the modern definition of liberty, the equivalent of Rousseau's "General Will" imposed on the entire society. This was an aggressive concept attacking any pretence that man could get any command from outside, a massive delegitimization of any idea, any teaching, any experience imposing limits on ourselves, except rights given as our sole identity. But that meant also that any autonomous institution, any private association, which wanted to make such an external norm the operating principle of its teaching – and a programme of inculcating it to its members was suspect by definition from the beginning, since a "religion" of rights grounded in autonomous moral choice of the "self" – had no bounds and tolerated no other gods. This is really a tyrannical idea, the practical application of the Rousseanian "General Will", a monistic attitude to human existence. A situation in which the language of human rights becomes an ideological language, the language of a particular truncated ontology and anthropology in one package. Thus inherently political Man has become simply the Being that defines himself by the fact of having rights. A legitimacy of such rights is here clearly tautological, since they amounts simply to a statement, that they are "human rights", thus they are beyond discussion.

American Modernity – Freedom and Virtue in a Republic

Americans were the children of modernity as well as a midwife of its particular version. They had to face its challenge, as particular people of a particular time and place. Because of these unique historical conditions and political experiments eventually stemming from them, American political philosophy and historiography as well as public life have been from the beginning perennially obsessed with a fundamental problem and fear of modernity, captured by the following question: What is and should be this relationship between freedom and virtue? Does a modern republican society have any particular moral end to pursue to survive, or is it simply an area of individual interests being played within the confines of a commercial republic, a sufficient condition of such a survival in the long run? This was one of the major points of debate between the proponents of the Constitution, the Federalists, and their opponents, the Anti-Federalists, the latter obsessed especially with the issue of virtue and its corruption.[37]

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[36] P. Manent, *The City of Man*…, p. 139–140.

[37] See on this for instance: H. J. Storing, *What the Anti-Federalists were For: The Political Thought of the Opponents of the Constitution*, Chicago 1981.

But the Anti-Federalists were no less modern than the Federalists, and just tried to contain modernity's power drive by virtues which they thought could be sustained only in a small republic. The Federalists looked mainly into institutions, but the problem of the character of republican citizens in the conditions of commercial modernity was equally important for them.[38] The problem of the American founding boils down to the following question: was the American political project a purely individualistic, freedom-oriented one, increasingly understood as being rights-oriented, or did it assume ethics of virtue, necessary to sustain an "ordered liberty"? If the latter was the case, an additional question was whether this virtue could be sustained in a robust civil society offering the republic pluralistic virtue-formed individuals, or whether this virtue could only be provided by some form of consciously republican education, inculcating virtues considered important for the maintenance of a republican commercial society.[39]

If, again, the liberal, rights-obsessed project was taken up more or less intentionally, then was this project assuming that politics and constitutional solutions in such a system would accept this dissolution of a virtuous culture in a civil society as a natural price of modernity, the way the European Enlightenment in the wake of the French Revolution did, or just as an unintended consequence in need of mending? If the latter was the case, then the republic had to face the serious problem of how to preserve the autonomy of its culture as a way of both liberty and as a site of virtues, which could somehow civilize modern consciousness. But if a traditional virtuous culture was to dissolve, then was it necessary to provide a new virtue -infused ethic of communal behaviour?

The problem can be defined still differently – namely, whether the American constitutional system was construed to draw simple lessons from such a condition of modernity and its assumptions taken for granted, and acquiesce to a slide towards anomie of virtue in general, or whether it tried, more or less consciously, to

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[38] The most recent exposition of this problem is: C. A. Sheehan, *James Madison and the Spirit of Republican Self-Government*, Cambridge 2009.

[39] Controversies concerning the aforementioned problem were especially visible in the arguments between two recent American historiography schools, roughly named "republican" and "liberal", which related this issue to concrete constitutional solutions taken up in 1776 and 1787. A discussion about these traditions began in earnest in the late 1960s, and a symbolic work which ignited a heated argument was the seminal book by G. Wood, *The Creation of the American Republic 1776–1787*, Chapel Hill 1969. The argument can be summarized as follows: was the American founding a republican endeavour, 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 practised by the Americans until the enactment of the Constitution of 1787, which unfortunately turned America into a purely modern, liberal, rights obsessed project? Or was the latter course consciously implicit in American political and constitutional ideas from the very beginning, with a corollary consequence of accepting a slow dissolution of both traditional virtues generated in a civil society, and revolutionary republican virtues which were just a transient phenomenon? See e.g.: J. G. A. Pocock, *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition*, Princeton 1975, esp. p. 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 Ma. 1967; T. L. Pangle, *The Spirit of Modern Republicanism: The Moral Vision of the American Founders and the Philosophy of John Locke*, Chicago 1988.

modify the inevitability of modernity's assumptions and its commercial civilisation. The first dilemma concerns, roughly speaking, the issue of whether the Founders, especially the Federalists, justified the proposed constitutional system in essentially Lockean terms. This in a situation when they were shy to admit, that there was no chance for objective morality and virtue in such a society to guide it in all its diversity, thus admitting a commercial acquisitive spirit as a given, to be just tamed by the American constitutional system and paying lip service to virtue. But if not, and the second dilemma was on the Founders' mind, then the American experiment in constitutional government, construed within the framework of the unique conditions of its civil society, was intended to provide a fascinating response to the problem of virtue in an essentially modern civilization. This challenge was fascinating, since America was in many respects the first quintessentially modern, mass society in history.

Americans, unlike the French revolutionaries, did not rebel against their culture, society, legal or economic system. They just rebelled politically against Britain. But their society, considered to be good, was, in many respects challenged by conditions of commercial modernity and the pretensions of the Enlightenment pretensions. Thus the problem of a proper constitutional system which would preserve virtues of such a society, and would periodically regenerate them, was not purely a theoretical issue. How are we then to look at the American constitutional system? Was it created on the basis of a definite recognition of the modern state of consciousness, and if so, was it prone to despair over the possible conditions of civilizing individual passions outside the direct influence of the state? Or was it optimistic about that? If the former was the case, and Hobbes's solution was the only way of building a civilization, then freedom would be a dependent value, kind of a licence from a state, not an innate condition, depending on a particular pursuit of individual interest within the confines of a universal recognition of moral limits, of self-discipline as a moral precondition of morality and human solidarity.

Was the American constitutional system created to provide us with a possibility of transcending this modern predicament in which freedom would have to amount eventually to moral autocreation and a pursuit of individual desires, the instincts which the modern state was simply to recognize, and provide with an administrative system of security? This fundamental question – whether America has a moral character or it is merely the locus for the play of freedom understood as self-interest – stood at the centre of the American predicament from the beginning. This question could be rephrased again: does the American constitutional system require citizens who cultivate certain qualities of character or virtues, or is it neutral towards any type of citizenry, even the kind which rely exclusively on their autonomous self as a source of morality, defined and justified by reason as a sheer desire of the moment?

We may risk the contention that America was after all a different, unique case in the history of modernity. Americans started their revolution ostensibly on behalf of all mankind, but unlike the French Revolution it was a moderate, conservative

one. Americans already had a good, acceptable society, which they only wanted to secure against the illegitimate intrusions of British imperial government. The French Revolution had as its aim the total destruction of the old world and a desire to create a new one. Americans built their society organically in time, albeit a different time from the European one. The autonomy of their lives and institutions they created was not a result of having to face an intractable, established society and a state, present from time immemorial in Europe. Their idea of freedom was intimately connected with the idea of autonomy of human beings, responsible for their own lives and with an ability to shape and control it. But this process was not done in a moral void. America was definitely a Christian society, even if the Christianity at hand was slowly being transformed into a kind of an allay of an individual pursuit, not a judge of it.

Americans created the first modern form of Christianity, which was in essence an evangelical one. It was an evangelicalism as a creative religious response to the dislocation of modernity. In America evangelicalism, present in Europe but not on a massive scale, inaugurated new impulses oriented radically towards the Bible and individual conscience, with a ubiquitous independence of living and literacy, conditions strengthening automatically a sense of empowerment towards reality around, and a sense of autonomy with an absence of the European fatalism of the lower classes.[40] The modern cracks in the social and cultural world of Christendom, which Americans experienced by their separations from the seats of established religion of London or Rome on the one hand, and feudalism and absolutism of the political and the social order of Europe on the other, immediately created a modern form of consciousness for the entire people. They had to face this new situation in conditions of new challenges, convictions of their uniqueness, through the lenses of a theology which was millenarian, and at the same time very democratic in comparison to Europe, also in a religious sense.

American evangelicalism was oriented more towards the Bible and individual conscience, rejecting tradition, and for all these reasons more pragmatic than dogmatic, more entrepreneurial and self-motivating than tied to inherited patterns of operations. But first of all, it was a form of Christianity which, thriving without the support of the state and widely pluralistic, had to elicit from the faithful not only greater activism, emphasizing action over sheer speculation, with the absence of a sharp line between the clergy and the sheep led by them, but a greater self-consciousness and personal responsibility for one's own life. With that came flexibility, which this New World, modern and American, demanded, with a plethora of dynamic organizations fitted to the new conditions.[41] Americans after the revolution thus formed their constitutional system with a strong cultural understanding of liberty as morally

[40] For an excellent analysis see: M. Noll, *The Rise of Evangelicalism: The Age of Edwards, Whitefield and the Wesleys*, Downers Grove IL 2010; also: G. Himmelfarb, *The Roads to Modernity: The British, French and American Enlightenments*, New York 2005, p. 121–130, 233–234.

[41] M. Noll, *The New Shape of World: How American Experience Reflects Global Faith*, Downers Grove IL 2009.

"ordered liberty", in fact, religiously "ordered liberty", but ordered outside of a state. The anti-establishment and the religious freedom clauses of the First Amendment were to separate religion from the federal state so as, first of all, to separate this state from religion.

It was a consequence of the rich religious situation itself, the very essence of American life. The principal source of the American concept of separation of church and state was never an enlightened rationalism of a type which reformulated a relationship between church, or churches and the state in the wake of the French Revolution in Europe. It was a clear recognition by various already competing religious groups since the colonial times, that it was better to neutralize the federal state in matters of religion than run the risk of one of their opponents gaining control of government, or government becoming a new religion. Culture and society, civil society at large, was a province of legitimate and robust religious life. For the European Enlightenment elites' rational mind, religion, mainly the dominant culturally and thus anthropologically Christianity, was a pernicious superstition, and thus was to be deprived of legitimate status in the public discourse. Reasoned public discourse was thus defined outside a religious language, anthropology and theology as such, the latter in such a perspective having nothing to add to a civilized, moral discourse.

In America the situation was different. Religion was to be a legitimate voice in the public discourse. Without a monopolist. Diversity of faiths allowed all discourses to be engaged in the public sphere. This discourse had thus to draw on rationality aided by religious resources. The rightly ordered and robust civil society, sustaining rights properly conceived of, seems to be here a precondition of a free society. Religion operating in the civil society, that is in the public square independent of the state and influencing it in turn, calls citizens out of themselves. That is, it calls people as persons to get out of their isolationist selves, which ultimately turn to a consummation of rights conceived against others. It calls them to think of common goods and higher goods at the same time, as necessary conditions of the ultimate security of their freedom as persons. There is here a definite distinction between *sacrum* and *profanum* as a precondition of a legitimate state structure and public life analyzed well by St. Augustine. An underlying notion of such an approach the very source of the Western tradition of freedom was never in doubt in America.[42] The American experiment, defined in the Declaration of Independence, was this Christian achievement's most modern exposition.

Modern liberty, in such a perspective, was thus impossible to be conceived of outside of Christian imaginary, giving the latter a fundamental justification and security within a definite, legitimate conception of the state. The American modern experiment in liberty was thus dependent on prepolitical, cultural, anthropological and thus moral presuppositions, without which such a modern experiment could slide into despotism again, this time of a secular, rationalist state. Freedom of re-

[42] See: St. Augustine, *The City of God*..., especially Book XIX and his view of the Roman Empire.

ligion, meaning the full operation of religion in public life, was not only in accord with modern conditions of life, but was for this reason also necessary to sustain a political order as such, with constitutionalism, the rule of law, civil liberties, the market economy, limited government, personal responsibility, and finally civic order and virtue. Part of the reason for that type of thinking was the fact that the Founders understood by instinct that what they wanted to create in institutional terms did not contain any moral justification per se. In other words, that the new American political system, a liberal one, even in its best shape, was not self-contained. It was not an expression of human nature, as radical liberals once argued.[43]

Liberalism, first tried fully in America, was a fragile construction, erected by means of a massive cultural undertaking to channel the lesser motives of human disposition of nature towards decent ends. Liberalism thus feeds on roots and rests upon foundations which by nature are illiberal, depending on many extrapolitical sources like family, and in general Western cultural traditions, among them the Judeo-Christian moral order.[44] Edmund Burke pointed out this inherent conflict within the liberal tradition between the party of conservation and the party of Jacobinism in his "Letters on a Regicide". The argument between them was whether liberalism was a way of life or a means to rational politics, whether this was an end or a beginning for political thought, whether it was defined by pure principles or by practice, capable of containing pluralism, diversity and not an orderly way of life.[45] Liberalism of the first order wanted to secure a liberal society as an outgrowth of countless generations of gradual social and political evolution and cultural wisdom. Liberalism of the second order, of which the so-called progressive liberalism since the turn of the 20th century has been an heir, rooted itself in a form of Heglism, and has used liberal principles to enact a complete break with the past, so as to achieve politics of rational control.[46] There were thus particular prerequisites of liberalism which could not be totally discarded if freedom was to be retained.

The American liberalism of the Founders was definitely not the liberalism of the "first principles" order. They treated liberal institutions as something more than just scaffolding for the free people. Americans possessed a character, a culture, as well as a particular doctrine, proclaiming in the Declaration of Independence

[43] And even here the situation with the 18th c. liberals and radicals was not unequivocal. For instance it is clear by now that the icon of radical liberalism Thomas Paine relied very much on religious ideas. Religion and God was crucial to the development and expression of his political ideas. See on that: J. Fruchtman Jr., *The Political Philosophy of Thomas Paine*, Baltimore 2009.

[44] One may argue that such liberalism is a modern version of the medieval separation of political and spiritual authority, the authorities which were to be distinct, a modern rendition of Pope Gregory's VII studied rebuff of royal power in ecclesiastical affairs, the very defining characteristic of Western civilisation and its idea of freedom. See on that: H. J. Berman, *Law and Revolution: The Formation of the Western Legal Tradition*, Cambridge Mass. 1983; T. Holland, *The Forging of Christendom: The End of Days and the Epic Rise of the West*, New York 2009.

[45] E. Burke, *Letters on a Regicide Peace*, [in:] *The Portable Edmund Burke*, ed. I. Kramnick, New York 1999, p. 517–532, esp. 520–521, 524–525.

[46] K. Minogue, *Polityka*, Warszawa 1997, p. 120–121; also idem, *The Liberal Mind*, Indianapolis 1963, esp. p. 54–60.

that "all men are created equal", with the United States as a republican example to a mankind. The federal Constitution was construed for a particular people, as the Preamble proclaimed, to "secure the Blessings of Liberty to ourselves and our Posterity". In other words, the Americans, guided by universal principles, moulded a people with an already existing particular history and culture, character and destiny. Thus, the American founding was not constituted ab ovo; it was within a context of a distinctive cultural framework, nowhere better captured than by Edmund Burke's parliamentary speech on the colonies in 1775. The universal principles were not all there was to the American founding; the cultural particulars in the widest possible sense were also a basis of it. American liberalism was a combination of John Locke's social contract mediated by Americans' traditions and culture, including Christianity. Their liberty was definitely about self-government, but self-government was much more than just a limitation of the powers of government. In this sense, America had in 1776, as it has now, a definite past and culture within which the universal principles have played themselves.[47]

Religion – that is biblical religion – seemed in the perspective of the American Founding to be indispensable in forming and sustaining virtues that may be the only ones which can ultimately sustain liberty itself. For this reason, the American experiment, because of its unique conditions, was much more than an enterprise to construct a polity based purely on a contract tradition. The contract tradition was also intimately tied to a covenantal tradition rooted in the biblical grounding of truth about the human condition in liberty, of which America was maybe the first and most interesting, but nevertheless only one of the possible instances. This was the essence of Abraham Lincoln's condemnation of slavery in distinctively covenantal language of America as being an "almost chosen people". This did not mean an idolatrous statement that America was or is a "chosen nation". It only meant that it sustained conditions in which liberties of the morally equal people could best be secured in a particular time and for particular historical reasons.[48]

But America's liberty was at the same time a modern one, with an individual at the very centre of it, and corresponding virtues being legitimized by their individual, not collectively imposed, acceptance, a recognition of the limits which were to come from the consciousness of a profoundly civilizing religious context, as well as political and institutional practices teaching responsibility. The American consti-

[47] E. Burke, *Letters on a Regicide Peace*..., p. 524–527.

[48] It was this civilization which, at the time of Lincoln, was in danger of destruction because of the Civil War. The war which threatened a chance of creating an example to the world of how free people could organize themselves, the very meaning of Lincoln's other words about destroying the "best hope of mankind". For Lincoln, America was not a Hegelian nation being the very embodiment of history's Progress, but it was definitely a covenantal nation trying to create a space of civilized life in the fallen conditions of history, which has no direction stemming out of its iron laws, definitely not a direction imposed by a state. But America was a civilization which provided a chance to make human life bearable, and in tune with the longings of people as free and dignified persons by nature. For Lincoln there was no doubt that the biblical imaginary was in accord with the American imaginary. America was not a Christian nation, but America needed Christianity to make all free and dignified.

tutional system was thus facing a dilemma: how to provide virtues in the conditions of modernity outside of a state as a source of them. This was a question of how to preserve the integrity of an individual with freedom which the state had simply to recognize, and how, at the same time, to organize this freedom in a way which would not be corrupting to the virtues necessary for a civilized life of politically "ordered liberty". In the conditions of modernity, it was impossible to provide a system which would be a perfect substitute for the ancient or traditional Christian virtues and civilizations which sustained them. But it was possible, so the Americans thought, to create a system leaving opportunity for virtue open, trusting the wisdom of the American people.[49] This opportunity excluded Rousseau's idea of forcing virtue on men by a state, and creating the new man. The American Enlightenment also rejected from the very beginning the cultural paradigm of the 18th-century European understanding of modernity, with reason as a sovereign agent of change used against religion. It did not pit religion against reason. Americans refused to accept the idea, so prevalent among the French Enlightenment philosophes, that a social order based on religiously grounded norms would be totally taken over by an order constituted and based on reason. They knew by instinct and practice that reason was not contradicting religion, a.k.a. biblical religion, that practical reason had in fact religiously grounded roots.[50]

This was a real conflict of visions between the two versions of the Enlightenment, with practical consequences. If modernity was to be tantamount to rationality rejecting religious groundings of norms, then a road would be open to an understanding of modernity, as a gradual objectification of universally accepted rationality fighting all other instances of reality, including religion, or culture as such. Modernity would amount in such a case to a colossal project of social engineering against reality itself, including the indelible religious sensibility, and thus against human freedom as such, with a temptation to use the machinery of politics to speed up the advent of perfect modernity and to accomplish the end of history.[51] This would eventually place the movement of human development in the hands of central government and the engineers of the mind, making human freedom just an aspiration, a condition to be constantly strived for, never achieved except at the end of history, the first such an instance of a thought about overcoming human alienation by political means.

Human freedom was not to be recognized as the province of a person endowed with it irrespective of its actual realization; it was a potential to be developed, always in the future, and controlled by the elites. Such a philosophy was fairly easy to be construed in France, since a project of the *philosophes* was consciously accepting a point of revolutionary emptiness, "point zero" of history, a total new

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[49] H. Mansfield Jr., *Political Philosophy*, Wilmington 2001, p. 42.

[50] G. Himmelfarb, *The Roads to Modernity*..., p. 189–226.

[51] This was an implication of Edmund Burke's critique of liberalism of the "first principles" and the Jacobin politics inherent in it. See idem, *Reflections on the Revolution in France* and *Letters on a Regicide Peace*.

beginning, in which society, was liberated from the past by a Grand Idea. It was this Grand Idea which subverted any institution of a feudal society, and it was thus again this Grand Idea which was to rebuild it. In other words, it was ideology which destroyed the old world and ideology which was to rebuild it.[52]

The very essence of such a discourse was to focus on political power and its aims. A society destroyed by the Grand Idea and an ideological discourse could not rely on anything else but the Grand Idea, and could also be rebuilt only by the Grand Idea. But if everything was subject to change, thus if everything became instantly ideological and political, politics immediately became a war of all against all. It was impossible to contain such an understanding of politics to the elites. This massive grab for power had to affect an individual, who through his consciousness began to think how reality should be organized and has not been. Immediately, politics and the question of power began essentially to revolve around the question "who whom?", since there was no universal point of reference, no truth as such to which this power grab could be related. One could argue that the elites knew where history was going, and they were in a position to impose this point of view on a society at large, a perennial temptation of the modern intellectuals to construe a perfect, totalitarian order. But such an ambition could not be sustained. Sooner or later, everything becomes for everybody a fight for the best position to reshape the world according to one's own image of it. Whoever is the strongest wins.

The normative questions become irrelevant, used solely for the purpose of ex post facto justifying the actions of the cynical, or those who think that they possess the truth where history is going. This was the very essence of ideological thinking. Ideology provided purely rhetorical tools, utilitarian devices, the language of a particular point in time, for the sheer purpose of destroying an enemy and taking power. In other words everything was up for grabs for political negotiations and a power contest. But this was an idea which meant a declaration of war on reality of human freedom as such. Americans instinctively rejected such an ideological frame of mind, because they considered their autonomy and rights to be not a grant from a state, let alone the federal state, but a province lying outside of that state. They did not expect the state to be the mover of their individual existence and social structure which was to give it a concrete institutional shape.[53] For them there was no "point zero" of history.

The American project was thus not ideological, in the sense that it was resistant to making all reality subject to the Grand Idea which was to rebuild society destroyed by another Grand Idea. It understood the role of religion, tradition and existing institutions as sites of guidance for the creation of the constitutional order. Culture was not an enemy, and not an endless subject of experimentation, as in the

[52] This ideologization of French revolutionary rationality was well captured by F. Furet, *Interpreting the French Revolution*, Cambridge 1981.

[53] Thus the American Constitution of 1787 had eight articles, whereas the various French revolutionary constitutions of 1791, 1793 or 1795 had from close to three to four hundred articles.

French revolutionary project. American did not break with the continuity of their institutions. The Constitution was limited in its aims, was an act of establishing a political community on the basis of a sovereign reason, but this reason did not start with the hubris of defining the past as an enemy of the future. Political modernization was geared to the specifics of culture at hand; it did not consider the destruction of this culture the essence of a successful political modernization, an approach to reality which has characterized European secular, liberal elites since the French Revolution. Reason was not a totalitarian tyrant, obliterating the heritage of the past. Americans sensed, on a practical plane, following here more Burke than Paine, that Reason not coupled with cultural wisdom was a servant of the sheer power of the strongest, the servant of their moral autocreation as a justification of their desire for domination.

Thus Americans, in total contradistinction to the French, created a political community with a different aim in mind as to why such a community should exist. The aim of the French community was to be created by an abstract Reason, operated in fact by the few, intellectuals and experts, who imposed the new version of the Grand Idea, and were then to lead the masses. The aim of the American community was to be created by Reason in the aid of tradition of the existing society. Tradition can of course hamper the process of modernization. This development was visible in Europe, even if very much provoked by a rational, ideological rebellion from the top down against it in the European continental Enlightenment, the essence of the postfeudal order in the 19th c. But in America such a dilemma was not present at the beginning, and has not imposed itself on its society till today, despite the strong pockets of ideological thinking in the academy or the media. Tradition in America, including Christianity, mainly Protestant Christianity, evangelical, individualistic and thus modern, was part of a pattern of modernity, not its enemy, at least until the beginning of the 20th century.[54]

The American constitutional system created in 1787 was a result of both conscious, creative statesmanship, an interplay of different currents of thought, as well as political and economic exigencies. Classical republicanism or civic humanist tradition, British liberalism, Protestant Christianity, the Scottish moral and historical tradition, including a general, continental Enlightenment, let alone the English jurisprudential tradition were the most visible ingredients, even if meshed sometimes into a confused web, often used only rhetorically.[55] But the American constitutional system was as well a result of conflicting interests during the Constitutional Convention of 1787. They could often only temporarily, and with political acumen, be brought into peaceful conciliation as for intance the slavery issue.[56]

[54] The first challenge to the Protestant frame of mind came with psychoanalysis as well as with the humanistic, progressive education of Dewey and Mead.

[55] On these different traditions on which the American constitutional system was built see in more detail J. P. Greene, *The Intellectual Heritage of the Constitutional Era: The Delegates Library*, Philadelphia 1986.

[56] It was yet accepted with the name of the institution, out of shame, hidden under the curious phrase of a "peculiar institution", and a fatalistic conviction that due to some institutional changes and economic inefficiency slavery would eventually be phased out in the South.

Nevertheless, the Founders of all stripes had a sense of the uniqueness of their enterprise, in terms not only of political and institutional innovations but also of the moral enterprise which this new constitutional system was to secure and perpetuate. Not only the first words of the Declaration of Independence testified to that, justifying the American revolution in the universal language of humanity coming out of age, and connecting this task with the universal morality of God's natural law applied in history. The authors of the constitution had a sense of the moral gravity of their enterprise, which was to be *novus ordo seculorum* and which could survive only if a particular type of citizens were to carry it on. For these reasons, both the proponents and the opponents of the federal Constitution, which was to "close" the constitutional fluidity of the American Revolution for good, did not disregard the problem of virtue, the moral quality of the character of the Americans in this new commercial civilization. It stood right at the centre of their concerns. They were, as students of the ancients and the republics of the more recent times, fascinated by the problem of virtue and corruption of the regimes. They had an acute sense not only of the uniqueness of their federal republic but also of this republic constituting a fulfilment of political time in the evolution of the regimes. The American federal republic was in their hidden hopes the best system ever to be commensurate with an idea of liberty as a fulfilment of man's capacity to be a moral agent. The system, which was finally to secure for humanity an ability to live according to God's natural law promise, of giving each a recognition of a moral "person" equal to each other, within a concrete political regime. That was the essence of the Declaration of Independence's phrase, that "we hold these truths to be self-evident, that all men are created equal".

The very idea of character, that is of virtue commensurate with the upkeeping of such a system, thus stood right at the centre of Americans' constitutional discussions, with the understanding that this new form of government could enhance or corrupt the habits of the citizenry. For both the Federalists and the Anti-Federalists the constitutional system, if wrongly devised, had to face a question of decay and corruption of character. For the Anti-Federalists the system was dangerous, since it was subverting such a prescribed aim, as too extended. The aim of the new republic was to secure such freedom, where participation in politics was a dependent value, of which the highest aim was to secure the autonomy of civil society, best capable, in its plurality, to form moral citizens, who would then offer this virtuous formation for the common good. The new government, in their judgment, was incapable of sustaining the autonomy of such a civil society.

The Federalists also argued that the educated, virtuous citizenry was necessary for preservation of this new republican government, but that education towards virtue was quite possible in an "extended republic", preserving exactly a wide enough area to thwart and dilute dominating interests, and for this reason to secure the plurality of civil society institutions. But the formation of a genuine community of republican citizens was, for Madison, the condition *sine qua non* of preservation

of virtues, which ultimately were to be grounded in natural rights, not being just the outcome of clashing interests making a compromise.[57] Thus the Founders of all persuasions either took virtues of their society for granted, or relied, more or less unreflexively, on a traditional regeneration of virtues in the civil society, as well as on the proper construction of government which would promote it. In the latter situation it could either be a direct governmental encouragement of virtue, or such a construction of government which would promote "self-interest well understood".

Virtues were indispensable to the survival of a free government. It was obvious also for the Founders that the connection between the republic and virtue stemming from biblical religion was done in conditions when a political application of prudence was paramount, when an aim of politics was not the perfect good, but the greatest good possible. Religion and morality seemed to be necessary for the American type of liberty, not in a sense of the republic supporting directly any type of a morality, let alone the established church, but in another sense of grounding that liberty and the rights stemming from it, in an entity higher than a sheer decision of a democratic moment, even if rationally justified. The liberty which the Americans were thus to cherish depended in such a perspective on an affirmation of a certain ontology and anthropology, which was to be recognized by instinct by all citizens, both religious and non-religious. Only then were the rights and liberties, commensurate with the essential human rights written into the Declaration of Independence of 1776, which the American republic of liberty was to guarantee for all, to be secure.[58]

This perspective had profound consequences on religious liberty, and especially religious liberty concerning biblical religion. The very idea of excluding such a perspective from the public sphere and education in the new republic would amount to a lack of protection of the liberties and rights also of non-religious Americans, not only the religious ones. The Constitution protected the right to keep one's faith – or lack of it – private. But it did not require the privatization of Americans' faith. This would amount to treating religious faith as a province not of serious belief giving some fundamental insight into the human condition, not inimical but complementary to Reason, but a superstition. Religion was part and parcel of the public discourse because it was treated as part and parcel of the human existence of free people, explaining to them the very essence of their participation in the world at large, including an engagement in political affairs. To treat religion as a private affair would mean defining religion in totally new, postmodern terms, with very definite ontological, anthropological and finally social and political assumptions about who a human being is, and grave consequences to the believers in the cultural, social, political, as well as constitutional sphere.[59] It would impose on them

[57] See on that Sheehan, *James Madison and the Spirit of Republican Self-Government*...

[58] D. Novak, *In Defense of Religious Liberty*, Wilmington 2009, p. 86.

[59] This is exactly what is visible in the Supreme Court judgments regarding the interpretation of the religious clauses of the First Amendment. By giving a particular interpretation to them, the Supreme Court is also

a definite ideology, forcing them to treat their faith as an inconsequential pastime of their life, a symbolic, ideological coercion masquerading as reasoned argument. In other words, it would define the lives of the believers as lives incapable of participating in a real world, including a political one.

Such a proposition would require from Americans a disintegration of their lives before engaging in a democratic republican participation in the public square. The federal government had no right to impose religious obligations on its citizens. But it had no right either to instruct them, especially the believers, as to a limited scope of religious concerns. The sharp divide between the Church and the world, the spiritual and the temporal, or religion and politics was inconceivable in eighteenth-century America, not only because the cultural paradigm there was obvious, but also because the Western idea of liberty was stemming from within this paradigm, even if the French Enlightenment in Europe was subverting it directly. It was the abuse of this connection of religious liberty with liberty as such in the absolutist state, not the very essence of the division between *sacrum* and *profanum*, preventing a state from imposing on believers its conception of the existential predicament, which caused the crisis between the Church and the state in Europe. But in America this connection was not subverted; it was exactly reoriented from the beginning in the modern conditions in such a way that it could give birth to the religious clauses of the First Amendment.

The cultural paradigm ensured that, for the reasons of exactly biblical morality being the guarantee of the rights and liberties of the American people, the internal spiritual life of believers and institutions was to be encouraged, in order also to protect the rights of unbelievers. To deprive a religious community of the right to make moral claims was not only antireligious in such a perspective; it was against the very idea of freedom the American system was supposed to guarantee. This was the essence of the eighteenth century's meaning of religious liberty and liberty in particular. Virtues were to be born spontaneously in culture in freedom, they could not be imposed. But for such virtues to be commensurate with freedom, religious liberty, meaning religiously robust moral argument, should be retained and encouraged, since only such an argument could, in the last resort, guarantee that liberty which was the republic's aim. The privatization of religion was for this

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at the same time, even if silently, imposing a particular ontological and anthropological understanding of what religion is and should be, thus how the people, religious people are allowed to shape their existence, thus how they should exercise their existential freedom. The interpretations of the First Amendment concerning religious clauses are thus judgments about human freedom as such, its limits, its prohibitions, a grant from the state. This is a sheer exercise of ideological power by the state, defining the boundaries of a legitimate activity of religious free citizens in a secular state, the meaning of religion, and by the way the very definite meaning of Reason as such, excluding the religious language as inimical to it, not as a complementary one. This constitutes in other words the most blatant case of totalitarianism in white gloves, where the state, through the Supreme Court's judgments, imposes on its citizens a definite conception, and the only one, of good life, excluding the other ones freely chosen, the life which encompasses not only the social and political conditions of its functioning, but in fact deciding about a legitimate existential interpretation of it. See D. Novak, *In Defense of Religious Liberty...*; R. Royal, *The God That did not Fail*, New York 2006; also: R. P. Kraynak, *Christian Faith and Modern Democracy: God and Politics in the Fallen World*, Indiana 2001.

reason a subversion of the ability of a civil society in public to secure cultural, meta-political conditions, including the ontological and anthropological language, to retain liberty as such, in the most fundamental sense.

Biblical faith was never private in America, but was commensurate with the American tradition of liberty, and Western tradition of liberty, the only liberty securing the inviolability of an individual person's existence and rights *vis à vis* a state, and everybody else. Rooted in the Gospel's injunction to render to Caesar what is his due and to God what is His, developed by St. Augustine by his separation of the *sacrum* and *profanum* doctrine of *The City of God*, as well as Pope Gelasius's theory of "two swords", it got its full political and constitutional implementation in the wake of the papal revolution of Gregory VII in the eleventh century.[60] The potential for abuse of this religious dimension of freedom, giving rise to the Reformation and subsequently to the French Revolution in Europe for historical reasons, was not structural in America, thus not as rigid. It was in fact an immediate one, political and institutional, more or less easy to correct by evolutionary means. But the American dimension of freedom was at the same time decidedly modern, and considering religion definitely a *sine qua non* condition of freedom as such, since without it, that is mainly biblical Christianity and what it conceptually contained as far as relations between a state and a personal right to autonomy from that state, freedom would perish.

In fact, religious faith was the essence of the American understanding of liberty in a larger sense. Faith was from the beginning increasingly individualistic, introspective, pluralistic, never defined by the European intellectual or institutional orthodoxy, but at the same time it was evangelical, not private, if understood as purely personal. Unlike in the European, French Enlightenment tradition, it was in America never considered to be a leap from reason to unreason, from the rational to super-rational, at least until the cultural breakthrough connected with the advent of psychoanalysis and liberal progressivism at the beginning of the twentieth century. But, first of all, faith and religious life was a communal narrative of people seeking freedom in the New World, liberation from slavery of institutions, persecutions, hardships of life, and seeking at the same time a fulfilment of a Covenant, the best ultimate guarantee of liberation in the Promised Land.[61] This communal narrative, of which faith was a crucial ingredient, as for instance Catholicism has been such a narrative in Ireland or in Poland since the 18th c., meant that a citizen accepted such a narrative as one's own, that he included himself within such a narrative as a protecting and explaining cultural code.

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[60] H. J. Berman, *Law and the Revolution*...; A. Bryk, *The Origins of Constitutional Government*..., p. 64–65.

[61] If one can venture a comparison, the plurality of religious communities and practical freedom of their operation in America constituted an equivalent of the plurality of communities in medieval Europe within which one could seek freedom, always escaping from one jurisdiction to another, with the state not asserting its power over the whole society. For a fascinating account of this see: H. J. Berman, *Law and the Revolution*...

A citizen could be a non-believer, but he was part of that narrative as a narrative of freedom, and he was gaining this freedom by a particular type of ontology and anthropology which underwrote its social and political expression. Therefore, even non-believers in biblical faith were protected as part of that narrative.[62] An exclusion of this biblical faith and its personal, moral claims on human character, that is claims eliciting virtue from a conversation about the common good, liberty and virtue in the eighteenth century, would amount to a total misunderstanding of the meaning of the American experiment in "ordered liberty" of the seventeenth and the eighteenth centuries.[63] That is why the republican virtues were the outcome of a sustenance of the very cultural code of such a morality. The crucial question for the Americans was whether, in the conditions of a commercial modernity, this type of connection could also be sustained, or whether such a connection between virtue stemming from the biblical morality and modernity were on divergent courses, with the latter eventually being triumphant.

Whence Virtue?

It was taken for granted by nearly all at the revolutionary period that virtue as such was not and could not be directly inculcated. Thus, for instance, Madison's "extended republic" was devised to blunt a possible elevation of a particular interest, but therefore of a particular virtue, into the preeminent place in American public policy by means of institutional engineering. The notion that virtue was not, and could not be, directly inculcated, stemmed directly from the modern conception of a republican virtue at a political level. How could such an operation be done, when there seemed to be an inherent tension between virtue and liberty, 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 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 [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, a free people first of all. Whatever virtue

[62] For this very reason the American narrative of freedom as inseparable from biblical faith did not create any alternative narrative until the turn of the 20th century, when the new psychological and psychotherapeutic movement was putting forth a secular version of the American narrative. This corresponded to a slow change and disintegration within mainline Protestant Christianity, its acceptance of liberal biblical interpretations coming from Europe, and a slide towards a Social Gospel interpretation. From another angle one can discern this attitude of freedom as rights being dependent on the biblical anthropology and ontology in a statement of Jürgen Habermas, the major liberal-left thinker of contemporary Europe, who said in 2002 that all that chatter about human rights without the Christian heritage and underwriting of the distinctive concept of a person was nonsense.

[63] This connection of liberty and biblical morality was especially visible in Williams, *Sermon on the City upon a Hill*, the Declaration of Independence, in nearly all the sermons of the American clergy during the revolutionary period, and was constantly visible in the political, especially presidential, American pronouncements of which Washington's and Lincoln's speeches were the most formative. See: Forrest Church, *The American Creed: A Spiritual and Patriotic Primer*, New York 2002.

they have, and how much of it, is a counterpoint to the theme of liberty. But how do they manage to make virtue and liberty harmonious?[64]

Whatever the means of securing virtue, direct and indirect, the fundamental question of American modernity and the constitutional system, i.e. this tension between freedom and virtue, was the most challenging intellectual problem for American republicans of all stripes.

Freedom understood in a modern sense was essentially unrestrained, a psychological disposition, taking this concept from the realm of politics increasingly into that of the individual choice of the autonomous self, the ultimate logic of a radical democratization of everything in a polity as a precondition of its legitimacy. For Americans such logic was a problem. Whatever the immediate political aims of the American revolution, the Americans were children of modernity against themselves. Their battle cry of liberty during that era was as nebulous as it was real and confused, imbuing them with the potential of limitless opportunities of directing their own lives against any political or conceptual obstacles.[65] It was an impulse, however limited by cultural or moral constraints, subconsciously held, which had within itself also the logic of moral freedom, an obsession with an autonomous will, the very idea of rejecting any subjugation, including a definite shape of biblical morality, from the beginning pushed towards individual interpretation of justifying individual choices. Such logic recognized only a consciously accepted restraint, nevertheless always commensurate with an individual pursuit of happiness. As a consequence, there was a potential that that autonomous will would eventually become the only acceptable way of understanding the meaning of a phrase "the immutable laws of Nature and Nature's God".

There was an inescapable conflict here, with the very idea of virtue at its centre. Virtue was classically, whether in Aristotle, Plato or St. Thomas, and whatever its object, a force of guided restraint. How could we then guide ourselves towards virtue, Americans could ask, when such an effort was in conflict with the preeminent impulse of modernity and its idea of freedom and democratization? That is, such a condition when a sheer will of an autonomous self, and its moral autocreation could make such virtues just lip service paid to a desire justified conveniently by utilitarian reason. What kind of virtues was possible in such conditions? Where in such a situation could we derive virtues from? What should the cultural, political, constitutional conditions be which could enable a creation, inculcation and preservation of virtues, or in fact morality as such? Could it be possible, it was more or less consciously asked during the American founding, to create a constitutional system in which rudimentary virtues could be preserved and the new created among its citizens?

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[64] H. Mansfield Jr., *Liberty and Virtue at the American Founding...*, p. 1.

[65] See on that: 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, p. 11–12, 18, 144–145, 178, 329–334.

It looked as if the Founders were dramatically searching for such a constitutional system which would, by itself, be a source of virtues, in the sense that it would preserve and sustain a society capable of them. A constitutional system in which citizens might be lured into turning around their lives from the debilitating pursuit of their interests and a pursuit of happiness understood as licence, to pursue a rationally justified desire of the autonomous self, onto a path of searching for truth and meaningful life, to wit, virtuous life. But if this was to be done, it could only be done voluntarily, by the people within a constitutional system of the federal republic. The challenge was to construe a system in such a way as to induce people to search for virtues, with the full understanding that a choice, although fully free, may bring happy rewards, or may bring poisoned fruit.

For the American Founders it was a robust, republican, pluralistic and active civil society, creating a fierce sense of independent life from government, as well as from the imposed precepts of behaviour and morality imposed by the "experts", which was to guarantee such an outcome.[66] It was to be a day-to-day education of citizenry in the civil society institutions, independent from government regulations, with the realization that they were engaged in a task of bringing their respective virtues to the *agora*, so the constitutional system, in turn, could perpetuate conditions of sustaining such a moral environment. The *agora* would get from such a civil, robust society citizens trained in virtues which were not utilitarian, which in turn would tame the commercial civilization. Virtues which would be inculcated by a day-to-day operation of churches, families, associations.

In this context, the most dramatic question which divided a discussion between the Federalists and the Anti-Federalists was not whether this modern division between the political and the private, between the federal state and the society should be maintained or not. The dramatic issue was whether the institutional, constitutional means which the Federalists proposed would be able to sustain and constantly regenerate such features of character, the citizens' virtues, which were necessary to perpetuate a free, democratic, republican government. The Federalists answered this question decisively in the positive. The Anti-Federalists battled them, arguing that the means employed were faulty, the proposed constitutional system was defective, containing within itself seeds of despotism, towards which the whole system may degenerate, incapable of sustaining and regenerating virtues necessary for its own maintenance. The feud between the Federalists and the Anti-Federalists was thus the first argument over the proper meaning of the American revolution. It was also an argument about different constitutional responses to dangers of modernity, in which both sides were profoundly immersed.

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[66] The first fear of such "experts" it seems to me, of the federal state imposing a certain morality on American citizens was dramatically analyzed and predicted by "Brutus", in his criticism of the possible abuse of powers of the Supreme Court within a larger framework of a constitutional system. See H. J. Storing, *The Complete Anti-Federalists*..., Vol. 2, chapter 2.9.

The American constitutional system was thus devised by the Founders as the first exercise in creating an environment to make modern, commercial people ready for an effort to sacrifice, which is the very essence of virtue, any virtue. It was a conscious effort to secure a civilization that would retain a noble impulse, a modicum of heroism, an ability to gaze upward. The capacity of the federal constitutional system to elicit virtue depended both on the overall societal structure and also on some specific institutions, so as to preserve the operation of a robust and free civil society. For instance, James Madison's general "extended republic" concept and the representation principle went here hand in hand. They were examples of how to combine general principles with particular, direct institutional means devised to elicit virtue from the diversity of interests and factions of the commercial republic. Whatever virtues could be created in the robust civil society, and then put forth in service of the republic, there were also constitutional mechanisms and institutions which were to elicit additional virtues from the citizenry of another sort, preventing the system from sliding into a debilitating commercialism and utilitarian ethics. Madison wrote that

> as there is a degree of depravity in mankind which requires a certain degree of circumspection and distrust, so there are other qualities in human nature which justify a certain portion of esteem and confidence. Republican government presupposes the existence of these qualities in a higher degree than any other form. Were the pictures which have been drawn by the political jealousy of some among us faithful likenesses of the human character, the inference would be that there is not sufficient virtue among men for self-government; and thus nothing less than the chains of despotism can restrain them from destroying and devouring one another.[67]

To wit, republican government without virtues could not exist, so it must be presumed that such a form of government called virtues forth, especially among citizens occupying public office, citizens

> whose wisdom may best discern the true interest of their country, and whose patriotism and love of justice will be least likely to sacrifice it to temporary or partial considerations. Under such a regulation it may well happen that the public voice, pronounced by the representatives of the people, will be more consonant to the public good.[68]

Therefore Madison was convicted that the very construction of republican government could also elicit particular virtues. The "enlarged sphere" of the new republic, a menace to most of the Anti-Federalists, was a blessed experiment for the Federalists, since it employed an institution of representation having a double function.

Representatives would carry virtues and wisdom embodied in the civil society in a condensed form, argued Madison, since the former were chosen by the wise and virtuous. Thus

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[67] *The Federalist Papers*, ed. C. Rossiter, Federalist No. 55, New York 1961, p. 346.

[68] *Ibidem.*

as each representative will be chosen by a greater number of citizens in the large than in a small republic, it will be more difficult for the unworthy candidates to practise with success the vicious arts by which elections are too often carried; and the suffrages of the people being more free, will be more likely to centre on men who possess the most attractive merit and the most diffusive and established characters. I go on this great republican principle that the people will have the virtue and intelligence to select men of virtue and wisdom. Is there no virtue among us? If there be not we are in a wretched situation. No theoretical checks, no form of government, can render us secure. To suppose that any form of government will secure liberty or happiness without any virtue and intelligence in the community, it will be exercised in the selection of these men; so that we do not depend on their virtue, or put confidence in our rulers, but in those who are to choose them.[69]

Thus, the representative principle made a republic in a large area not only possible. It also enhanced virtues of the system at large, by elevating more virtuous leaders. Thus "an extended sphere" was good to a republican government for two reasons. For one, it accommodated and blunted diverse, sometimes extreme interests, making them civilized. Second, in the process of doing so, it was more prone to elicit virtues from representatives. A large territory, with extended economy, religious diversity, different interests, stemming in addition from geography or political cultures of different regions, carried a danger of multiplying interests endlessly. But the political process, because of representation, had to work through coalitions. Politicians representing particular interest groups at the local level, in a district or a state, finding themselves in a large representative body, in the federal republican Congress, would be incapable, argued Madison, of imposing a particular will of any interest group on others, in any other way but by compromise. What Madison was in effect saying was that no ambitious leader could arouse interests and passions in such a way, as to elevate himself into a position of transforming any factional interests into an overbearing, fundamental, dramatically conflicting issue-destroying society.[70] It would have to engage in a process of deliberate public dialogue about the common good, and in fact justice, and thus virtuous society, the very essence of the federal republic clearly stated in the Preamble to the Constitution.

Eventually, American constitutionalism as construed by its main author James Madison had several objectives. It was a government of laws, but it went well beyond that aim. It was definitely a limited government and provided specific instruments of limitations. But the major aim of it was to answer the question of what the ultimate aim of such a government was. In other words, for what purpose ought government to exist, what were its proper ends? There was no doubt to the American founding generation that it was liberty, as specified in the Declaration of Independence, and justice, as mentioned in the Preamble of the Constitution. The Declaration was essentially a document in the spirit of John Locke, radically separating a state and society. The state was to provide just the necessary conditions to secure "life, liberty and estate", that is property the way a human being freely

[69] *Ibidem*, Federalist No. 10, p. 82–83; *The Debates in the Several State Conventions, on the Adoption of the Federal Constitution*, ed. J. Elliot, Philadelphia 1907, Vol. 3, p. 536–537.

[70] *Ibidem*.

chooses according to his image of a pursuit of happiness. "Pursuit of happiness" was essentially a fairly wide concept. Individuals were to pursue their objectives not through politics, but through their private lives. But immediately the question arose of how to prevent this line from being crossed, how to prevent the security of civil society and the rights enjoyed there, from government's encroachments. And, in addition, how to ensure that this civil society's life would not degenerate in such a way that citizens would abuse their rights, oblivious to what kind of government they wanted to be ruled by.

There was no one in the America of the eighteenth century who did not want to create an environment in which, after all, virtue could be preserved. But there were diverse understandings of what constituted virtue and different approaches as to how this could be done. Such understandings were derived from traditional, taken for granted, and practised sources, profusely applied rhetorically. For the Founders, the question of how to relate these old concepts of virtue to the new situation and what kind of virtue to allow stood at the centre of American political thought. The classical element prevailed among the Anti-Federalists, commonwealthmen and the original Whigs. Their plans for institutional arrangements were more directly geared to an inculcation of virtue, both in a civil society and through a construction of republican government. A more modern element was predominant with the Federalists, with Madison's idea of the "extended republic" and a corresponding creation of virtue. All discussions were conducted with one fundamental question in mind: "whence morality?, whence virtue?". One preeminent element of liberal society was dynamism born of free market economic arrangements, as well as individual desire to better one's life and to pursue happiness. From this came the dilemma how to preserve virtue and the social order reproducing it in conditions which allow for change.

Virtue, understood in different ways, stood at the centre of nearly all public discussions in the America of the seventeenth and eighteenth centuries. Roughly speaking, the concept was derived from two different sources. Americans saw no incompatibility between them. The first sense was derived from Christian sources and meant simply following God's law as prescribed in the Bible. This kind of virtue was present in America from the beginning, and was connected with the particular worldly mission of the colonists to fulfil the precepts of God's Covenant. The moral biblical conduct in this new environment, the Earthly Paradise not contaminated by Europe's corruption, was to guarantee that God's promise to create a new society, if the faithful are obedient to His laws, would be kept to.[71] The second sense of virtue was more popular later, when discussion revolved around the qualities of people who could secure the survival of a republican government. Here, a reference to the ancient sources was a logical step. This concept of virtue was taken from the classic, Greek notion of *arête*. It meant those abilities and attitudes of

[71] E. L. Tuvenson, *Redeemer Nation: The Idea of America's Millennial Role*, Chicago–London 1968; S. Bercovitz, *The Puritan Origins of the American Self*, New Haven 1975.

character, not only necessary to do a certain job well, but to do it according to certain moral values defined as good. Such a virtue was the very basis of a true polity, and a guarantee that *hybris* would not creep into its ethos.

This second sense of virtue was connected with the idea that men aim, or should aim, at the good life, which was happiness understood in a classical way when virtue was practised.[72] One practised virtue only in one's relations with those whom one ruled and was ruled in turn, thus

> the Supreme Good was the end of political science, but the principal care of this science is to produce a certain character in the citizens, namely to make them virtuous, and capable of performing noble actions.[73]

Rome added its notion of *virtu*, treating it as a value preeminently geared to the preservation of its republic. Everything citizens did, including religious cults, was to be practised with this view of strengthening the republic, then the empire. But both in Greece and in Rome, political life merged with private life. The two were indistinguishable, since only participation in politics was considered to be the essence of good life.

The Christian idea of virtue, as visible for instance in St. Augustine or St. Thomas, had some general similarities with this classic understanding of virtue. The latter was also to be inculcated to form a proper character of a human person, although the good which was sought by practising virtues was different. There was a clear recognition that this life of virtue should be proper for man, because it was pleasing to God.[74] Moreover, politics in Christianity was never the preeminent activity, let alone the end of life. Participation in it was justified only on condition that it created a frame for a properly formed conscience on a way to personal salvation. If the Roman or the Greek notion of virtue had an inherent totalitarian notion of the only possible political system which was to be supported, inculcating virtue for the sake of politics, this Christian idea of virtue meant the liberation of an individual from politics, and the final subordination of the political to a much higher good, through which the legitimacy of a state could be assessed from the vantage point of the ultimate meaning.[75] There was no definite political regime which could be termed virtuous per se.

The classical, ancient idea of virtue was given a rebirth, though in a different language, in the republican theory of the Renaissance in the thought of such diverse thinkers as Niccolo Machiavelli and James Harrington.[76] It was yet a different virtue, a "civic virtue", a provision of public service in pursuit of honours in a republican

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[72] Aristotle, *The Nicomachean Ethics*, Cambridge–Harvard 1933, bk5, 33.

[73] *Ibidem*, bk 1.47; 10, 631.

[74] This was the major idea of both St. Augustine and St. Thomas Aquinas.

[75] See: E. Gilson, *Christian Philosophy of Saint Thomas Aquinas*, London 1957, p. 3.

[76] Pocock termed this republican thought "civic humanism".

political community.[77] Such a republican virtue was also dangerous. True, it could be interpreted in a benign way as a mode of acquiring other, lesser ends.[78] But the goal of such a republic was definitely that of "allocating priorities", that is of determining at what times, and what particular goods should be enjoyed, pursued, and to what extent they should be pursued. All that was to be done in the conditions of a liberal society inherently in conflict between particular groups, and thus in conflict as to the ultimate meaning of the universal good. Such a conception of a republic did not yet recognize the interests of particular groups and their qualities as givens, to be accommodated. It looked at a society as inherently divided between the majority of the people incapable of defining virtues in a republic, thus unfit to rule, and the few destined to be the rulers. This did not really mean that the rulers in such a republic would be an oligarchy.[79] Citizens were in charge of politics. But they have to be guarded from the dangers of the unruly mob, so that the polity should have as its overwhelming aim civic virtue, and legislation should be provided to secure it.[80] Liberty was to provide for virtue and guard against corruption. But such a republican liberty, like ancient democracy, was in danger of promoting a definite conception of public good and virtue in its service, in fact of social control. It was inherently in danger of obliterating the modern liberal concept of liberty, pluralistic and anti-absolutist. It was also inimical to the Christian concept of virtue and liberty, which rejected idolatry of any secular entity, and recognized privacy as the realm of shaping the individual's conscience, outside of the state.

Modern republican liberty was definitely democratic in a sense in which a democratic polis or republican Rome were not. Democracy in Athens was ethnic, the Roman republic was aristocratic and oligarchic, but it did not leave the individual and autonomous institutions free to pursue their virtues, with an understanding of putting them forth in the service of the good society. This danger of excessive social control was always lurking at the back of such a republican liberty. The paramount justification of a republic, its vital element, was not so much a civic virtue, but more precisely, like in Athens, public virtue.[81]

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[77] J. G. A. Pocock, *The Machiavellian Moment*..., p. 67. If we substitute ancient democracy for a republic of modern times then it will be clear that the political community of Athens was itself a good of high order and the public, political life of its citizens was all that was there to pursue. Political life was the essence of life.

[78] Pocock did just that. *Ibidem*, p. 66–67.

[79] The idea inherent, by the way, in Madison's representation concept of the "extended sphere".

[80] In the Virginia ratifying convention Madison stated: "I go on to this great republican principle, that the people will have virtue and intelligence to select men of virtue and wisdom. Is there no virtue among us? If there be not, we are in a wretched situation. No theoretical checks, no form of government can render us secure. To suppose that any form of government will secure liberty or happiness without any virtue in the people is a chimerical idea. If there be sufficient virtue and intelligence in the community, it will be exercised in the selection of these men; so that we do not depend on their virtue, or put confidence in our rulers, but in the people who are to choose them", quoted in: *The Federalist Papers*…, p. XXIII.

[81] F. McDonald, *Novus Ordo Seculorum: The Intellectual Origins of the Constitution*, Lawrence 1985, p. 70–71; J. G. A. Pocock, *The Machiavellian Moment*...; the concept of cyclical decay is of course from Polybius; see also: P. A. Rahe, *The Primacy of Politics in Classical Greece*, "American Historical Review" 1984, No. 89, p. 265–293.

A discussion about virtues was present in America from the beginning and was conducted in the colonial period mainly within the framework of a Christian imaginary.[82] It erupted with gusto during the revolutionary period. This discussion relied very much on the language and concepts of the hitherto available classical, Christian and Renaissance republican variety of sources, but in the essentially new conditions of commercial modernity. In this formative period of the American statehood, it can be heuristically ordered by two different approaches, represented by two schools of contemporary historiography, called "republican" and "liberal". The republican school roughly claimed that the classical ancient as well as civic humanism form of republican thought derived from sixteenth-century Italy. Allegedly, a lot from this classical thought was to prevail among the original English commonwealthmen and the original Whigs, and was to be represented by the Anti-Federalists. The latter's plans were to be more directly geared to an inculcation of virtue, both in a civil society as such as well as through republican institutions.

A more modern, liberal element was allegedly predominant among the Federalists, with James Madison's idea of an extended republic and the corresponding creation of virtue despite the centrifugal tendencies of commercial modernity. According to this republican school there was in America during the revolutionary period a definite classical republicanism present, characterized by such virtues as dedication to the public good, willingness to sacrifice one's private interests to the common interest, and the belief that to participate in public affairs was the most worthy of activities.[83]

The liberal school repeated the traditional, Lockean interpretation of the American founding, deemed canonical, with its stress on individualism, individual rights, self-interest, procedural justice and privacy, and a radical separation of matters public and private as a precondition of liberty.[84]

It is doubtful that the modern, American version of classical republicanism existed in the 18th c. in the first place, whether in its classical ancient form or in its Florentine Machiavellian civic humanism form, if only for the simple reason that such republicanism had an inherent totalitarian potential. Americans were too obsessed with liberty and rights to think about the public good in such radical terms as the above schools envisioned it.[85] Their culture was modern, and the categories

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[82] J. Winthrop in *A Model of Christian Charity* expressed his purpose to unite his people behind a single purpose, the creation of a due form of government, which was to be ecclesiastical as well as civil, so that their community would be a virtuous one fulfilling a Covenant, and at the same time would be a model for the Christian world to emulate. This community was to be a virtuous and universal *City upon a Hill: An American Primer*..., p. 19–25.

[83] Here the works of G. Wood and J. G. A. Pocock cited above are crucial as well as Joyce Appleby, especially *Liberalism and Republicanism in the Historical Imagination*, Cambridge Mass. 1992 and *Capitalism and a New Social Order: The Republican Vision of the 1790's*, New York 1984; also: S. Filipowicz, *Pochwała rozumu i cnoty republikańskie credo Ameryki*, Kraków 1997.

[84] A seminal work here was L. Hartz, *The Liberal Tradition in America*, New York 1955.

[85] The most thorough study of differences between the ancient and modern notions of republicanism is P. Rahe, *Republics Ancient and Modern*, Chapel Hill 1992.

of thought which were taken for granted by, for instance, the Athenians or the Florentinians, were totally alien to them.[86]

The Declaration of Independence was in one sense a modern document. If there was any definite conception of virtue or of any ultimate good in it, it was Christian liberty. It was the liberty of pursuing the good life according to the moral precepts of natural law, not the ancient conception of virtue as a total engagement in a life of the republic and its public good. Virtues were to be a goal to be achieved both in personal life and in public life, but such virtues were not necessarily subsidiary to the public good, as the Roman gods were used for this purpose. The concept of virtue in the Declaration of Independence was a yardstick to judge the justness and goodness of a public order, in accordance with the external precepts immutable to political intervention. It thus had a distinction between *sacrum* and *profanum* built into it. It was derived from the New Testament, elaborated by St. Augustin and finally visible clearly in natural law concepts, not necessarily inimical to a modern concept of liberty.[87] There was no blending of the public and the private. Politics was definitely not everything which was valuable to life. This Christian conception of virtue was to be offered for the public good, but there was essentially nothing in it which could submerge personal life and its conception of virtue derived from the Christian *Logos* to a state, whatever its name.

In that sense, the Christian moral and cultural code of America dovetailed nicely with the liberal concept of an autonomous individual, his conscience as a site of morality, rights against the state, and the private life of individuals and associations, as families and churches, being immutable to claims of the republican common good, if it contradicted such precepts. The subsequent, modern development of liberalism finally equated such individualism with moral individual autocreation, and with the corresponding responsibility of a welfare state to organize it in such a way, so suffering would be nearly eliminated from the human condition. Individual moral and material autocreation according to a pursuit of happiness wanted to liquidate alienation, that is suffering. The welfare state is here burdened with the same task, even if its goals and definitions of what suffering means are more and more defined by the elites and "experts", as well as the commercial market. But such liberalism would be a clear anathema to the Founders. This modern idea of liberalism not only contradicts the Christian concept of virtue; it is dangerous to it.

This is the case not only for moral and religious reasons. It contradicts the Christian concept of virtue for political reasons as well, since it demands from any private and autonomous institution a disposition to be in unison with this liberalism's anthropological conception of individual moral freedom. This puts a demand on these autonomous institutions, and makes it the duty of a liberal state to ensure the "liberation" of an individual's disposition to moral freedom from the shackles

[86] See on that: T. Pangle, *The Spirit of Modern Republicanism: The Moral Vision of the American Founders and the Philosophy of Locke*, Chicago 1988, p. 7–40.

[87] C. Wolfe, *Natural Law Liberalism*, Cambridge 2009.

of such institutions, for instance families, churches, associations. This is clearly a totalitarian idea.[88] But the seed of this development stemmed unavoidably from this logic of modernity, as described above, and its evolution of understanding of a concept of the "pursuit of happiness" from the Declaration of Independence, from natural law to moral autocreation. In such a case references to natural law and "nature's God" could be treated as just an effort to soothe the terrifying implications of modernity, which John Locke put into a coherent intellectual system, transforming the God of the Bible into the God of reason and nature, which became autonomous and self-justifying entities.[89]

Liberalism in its ontological and anthropological implications was born as a concept definitely with the potential to transform reality and define it in a new, monistic way. During the American revolution no one yet conceived of virtue as a quality concocted out of an autonomous self. Virtue was then firmly placed within Christian ontology and anthropology. It was a quality of mind and character which had to be inculcated, so it could be put forth in the service of a republic in conditions of liberty, defined mainly not as a positive force, except in rebellion against Britain, but as a negative one, defined by rights against any powers that be. If there was any other idea of morality, not religious in character, it was rather derived from different, not contradictory sources, in principle aiding this Christian conception of virtue born in a properly shaped conscience.[90]

The classical concept of virtue was evoked repeatedly during the American founding period, and political thinkers or preachers were well read in the works of the ancients, but this concept was more a rhetorical device. It was also filtered subconsciously through the lenses of the Christian concept of virtue. But in fact, American revolutionary thought referred less here to classical or civil humanism, despite the vocabulary used. It stemmed mainly from that strand of the Whiggish thought which was transferred to America, that is the Commonwealthmen, or the real Whigs like Edmund Burke, and the Lockean Whigs who believed in natural rights.[91] Yet the Americans of the revolutionary era spoke languages which meant different things to different people, and derived their ideas from whatever school they could think of, very often for rhetorical reasons.[92] One of these languages was obviously classical or civic republicanism. The new American republican thought, like the classical republican one, after all had a strong anti-tyrannical bent. But the

[88] Its full exposition was incorporated into the Supreme Court decision of "Casey v. Planned Parenthood" of 1992.

[89] T. Pangle, *The Spirit of Modern Republicanism*..., p. 129–275. Or, which amounts to the same, to Kant's autonomous reason, which in principle seeking universal precepts of morality in concord with "nature and nature's God" finds only itself, essentially the situation of much of Protestant mainline Christianity today.

[90] They were, for instance, a concept of a "moral sense" inherent in every individual, or a rational concept of morality firmly rooted in an idea of its objective ontological status. The moral sense idea was taken from the Scottish Enlightenment.

[91] See: E. Burke, *Speech to the Electors of Bristol, 3 November 1774*, [in:] idem, *Works*, Boston 1901, Vol. 2, p. 89–98.

[92] See: J. T. Kloppeberg, *The Virtues of Liberalism*, New York 1998, chap. 2.

old words took on modern meanings in the American context, being applied to political day-to-day causes, as a revolutionary battle cry.[93]

The novelty of the American political enterprise was clearly recognized.[94] American republicanism was entirely modern, looking to the future, not nostalgic, cyclical, or harking back to classical republicanism or civic humanism. If the founders used the language of classical republicanism and civic humanism with such key words as "civic virtue", this was a modern, different notion which such rhetorically used words signified. At the heart of the American republicanism of the Founders was a new vision of civic virtue. Government was not in charge of making citizens doers of noble deeds, since in conditions of freedom and an individual "pursuit of happiness" that was inconceivable. It did not exclude the fundamental question whence virtue?, public and private, necessary to sustain such a commercial modern republic, and did not avoid the question of how it could do justice to the higher dimensions of human freedom, recognizing this debilitating force of the commercial instinct. The ultimate aim was a cultivation of freedom, but it was freedom which was both not tantamount to licence and also excluded an organic society, supervised by the guardians of any orthodoxy. Such freedom required self-knowledge, moral training, and a sustained public argument over different interpretations of the common good in the conditions of democracy.

Such self-knowledge could be aided by a public argument, but moral reasoning could be acquired only in the civil, pluralistic, free society and its robust culture. America had faith in its civil society, including religious or family life. Virtues which could be attained in modernity were definitely aided by Locke's argument and his method of converting the God of the Bible as a direct commander of a state and the human conduct within it into a God whose precepts were applied into concrete situations through reasoned argument. God, in other words, ceased to be the Godfather. He became a God who gave humans freedom to seek the good in the conditions of dramatically complicated situations of modernity. This was to be a God who communicated with humans on the basis of a reasoned argument over natural law, which was discernable both to believers and non-believers alike.[95]

This type of a regime required a definite type of a robust civil society, and a trust in the moral sense of the common people to discern common good and engage hopefully in an argument over the nature of this good. It did not exclude religion, mainly Christianity, since it could not. Religious, theological language, grounding

[93] For instance, even the most vocal agrarian republicans of Jefferson's revolution against the "capitalistic" Hamiltonian order had little to do with classical republicanism Y. Appleby, *Liberalism and Republicanism*..., p. 317–318.

[94] See: T. Paine, *Common Sense*, New York 1986, p. 120. T. Jefferson, *Letter to Dr. Joseph Priestley, March 21, 1801*, [in:] *The Writings of Thomas Jefferson*, ed. M. Peterson, New York 1984, p. 1086. J. Taylor, *An Inquiry into the Principles and Policy of the Government of the United States*, Indianapolis 1969, p. 12, 346.

[95] See on that type of modern republicanism: T. Pangle, *The Spirit of Modern Republicanism*...; on the reasoned argument over natural law not having biblical sources see: R. P. George, *In Defense of Natural Law*, Oxford 1999, H. Arkes, *Natural Rights and the Right to Choose*, Cambridge 2002, also the classical J. Finnis, *Natural Law and Natural Rights*, Oxford 1980.

people's inalienable rights in reality higher and untouchable to any human power, was valid per se. It was the language which could contribute – in fact it was necessary – to an understanding of self-governing people collectively and individually, as telling them something important about their predicament and existential status. In that sense American modernity was devoid of the radical anti-theological stance of European modernity. There was no political-philosophical rejection in America of the Christian theological stance towards the pagan nature, and the latter's Gnostic element of dividing reality as in need of constant redemption by an insight accessible to the chosen elite on a basis of reason, against recalcitrant masses.[96] This impulse turned into a distinctive recognition of the life of ordinary people as in danger and in need of constant improvement by "experts", the cognoscenti, the new Gnostic elite. As a consequence the Enlightenment idea of progress coupled with the Gnostic impulse of "liberation" from the corrupted existence has led to the total destruction of traditional Christian anthropology in Europe.[97]

This anti-Christian, lay attitude was profoundly alien to America. America never had this Gnostic impulse of separating the elites knowing "better" from the masses, since the American experience was the experience of profound self-government. For the Americans it was thus obvious that the leaders had to follow the nation, when in Europe it was the other way round. Democracy in America put stress on creating just the procedures, guarding a life which was chosen by the people and which was inaccessible to politics organized by the elites on the basis of abstract reason. The European elites have had an inherent tendency to educate the masses on the basis of the enlightened reason. In America a theological, Christian language was part and parcel of public discourse, as a necessary ingredient of defining the very meaning of the life of the self-governing people. In other words, theological conceptions of nature ensured that that account could be engaged dialectically as part of legitimate public language.

This perspective took it for granted that theological language was part of a reasoned argument. It accepted as a given that if there was a possibility that nature pointed towards the divine, then theology could remain part of a rational, public discourse. If nature, on the other hand, did not point at all, in other words it was senseless from a moral point of view, if not from the evolutionary point of view, or such points were multiple aiming at incompatible directions, then they necessarily referred us back to the whims of our desires, rationally justified. In such a case a theological account of nature would amount to inconsequential nonsense. The Christian conception of nature assumed that the aim of human life was to achieve a certain moral equilibrium, aiming at a certain definite moral goal through con-

[96] See on that G. Himmelfarb, *The Roads to Modernity*...; A. Bryk, *The United States, the European Union, Eastern Europe – Different Approaches to Modernity*, "Krakowskie Studia Międzynarodowe" 2008, No. 1.

[97] See: C. Delsol, *Icarus Fallen*, Wilmington 2005; C. Godin, *Koniec ludzkości*, Kraków 2004, p. 102–107.

formity to an encompassing order. That was definitely an idea of American culture in the 18th century, and the moral universe from which the Declaration of Independence stemmed.

Having said that, one must add immediately that the American regime did not accord the religious argument, mainly the Christian one, or any other argument, the ideological place of a government-sponsored virtue. When we talk about American republicanism, we have to place it strongly within the confines of modernity, even if some of America's political thinkers in the eighteenth century wanted to conceive of government as having a more direct role in inculcating virtue. But the liberty of the modern man had to start with a negation of any higher law directly inculcated. Nevertheless, even with this assumption there were some nuances as to what it meant in practice. In general, the virtues sought were to be left to the civil society. Thus, for the Federalists, especially Madison, republicanism tended towards not so much a realization of definite virtues, but the proper organization of institutions in which individual rights would enable Americans in civil society to develop virtues, and offer them in turn in the public market for the common good.

The Federalists understood that there was a certain "unloveliness" about the commercial, modern republic. It encouraged, in fact relied upon, a vigorous pursuit of wealth, which was in itself a rather depressing activity, if not harnessed. The market could not of itself produce virtues.[98] But the American republic would also escape the predicament of conflict between the rich and the poor, since citizenry interested in the acquisition of property or wealth would have little time for ideological disputation or patience with it. A modern commercial nation, organized around the acquisition of property, would be characterized by an extensive division of labour and fragmented into such a diversity, as Madison stated, that is "multiplicity of interests", that this fatal struggle between the rich and the poor would be averted. A fatal republican division would not arise then in a large commercial republic necessary to contain the energy of modern individual pursuit of wealth, administered by an energetic national government.[99]

For the Anti-Federalists the Federalists were too optimistic. The Anti-Federalists were, in general, not afraid of virtues being put at the centre of the republican government which was in a position to entertain the possibility of promoting them, or creating conditions of their reproduction. This inculcation of virtues could be possible directly or indirectly. With the rights of individual citizens secured at the same time, there was no danger of the General Will being imposed on a minority, whether a minority of one or the many. But the concept of scale was crucial here. The big republic as entertained by the Federalists would create factions and interests which would prevent the civil society from producing virtues and retaining

[98] *The Federalist Papers*…, Federalist No. 12, p. 91–92.

[99] *The Federalist Papers*..., Federalist No. 10, p. 83; M. Diamond, *The Founding of the Democratic Republic*, Florence KY 1981, p. 70–79; W. A. Schambra, *The Roots of the American Public Philosophy*, [in:] *American Federalism: A New Partnership for the Republic*, ed. R. B. Hawkins, San Francisco 1982, p. 20–22.

rights, despite Madison's hopes. The small republic would enable both to be within a certain fruitful tension.

The Anti-Federalists, after Montesquieu, feared that a republic was only possible in a small territory, because only then could republican virtues, necessary to sustain its continuous, uncorrupted existence, be produced. Public-spirited or virtuous citizens were possible only if they were imbued with the "love of the laws of our country". The exhibition of a "constant preference of public to private interest" was necessary, since only an alert, public-spirited citizenry would give the amount of attention to public affairs that self-government or republicanism required. Then the virtues created in the institutions of civil society could be, so to say, "used" properly in the public sphere of the republic. For this reason any virtue could arise and be sustained only in a genuine community, where there was a close proximity of the citizens, where they sensed their oneness with others. For this reason the Anti-Federalists argued for a homogenous citizenry. Thus in a republic "the manners, sentiments, and interests of the people should be similar. If this could not be the case, there will be a constant clashing of opinions."[100]

But both the Federalists and the Anti-Federalists understood by instinct that politics preceded economy, and that culture and religion preceded both economy and politics. It was ultimately culture and religion which were to decide about freedom being retained. Religion is indispensable for culture, since it answers the most fundamental questions about who human beings are and why there should be human freedom in the first place. Such a culture in which religion was a crucial component and which was a guarantee of freedom and prosperity was in turn formulated by all institutions which deal with the indestructible questions of human spirit and try to inculcate them to the young. These were the institutions of civil society, such as family, churches or associations. In principle, such institutions in a free society which renounced any idea of freedom organized from above, where the state takes on a role of inculcating definite values, were pluralistic. But such moral values created in the civil society were internally accepted as important and as a guide in life to be put forth in the service of a free republic. Their plurality forced a dialogue and compromise based on serious considerations of free people about how they want to govern themselves.

Freedom and plurality of an autonomous civil society ensured the seriousness of the commercial civilization itself, they guarded it against the *hybris* of unrestrained license of equating a pursuit of happiness with commercialism, or a conviction that rights were in service of an unrestrained desire. The Constitution, the federal republic, rights, self-government, "extended republic" mechanism, separation of powers, independent judicial power – all of them were to provide a necessary public, political space of securing freedom of all and each individually within the horizon of a morally responsible society. It is true that the American regime was

[100] *The Federal Farmer*, [in:] H. J. Storing, *The Complete Anti-Federalist*…, p. 208–214.

not constructed of virtue and piety. It [did] not guarantee those things. It is also true, however, that [American constitutionalism] [did] not prohibit virtue or piety or their influence upon public policy. In aiming at moderation, at limited government, at republican cures for republican diseases, it protects against zeal and against sectarian rigor. It was never intended to protect moral idiosyncrasy against the common sense and the common decency of the majority of the people being schooled in the civil society institutions.[101]

The Federalists thought that the federal republic would be good enough to secure such a society. The Anti-Federalists were afraid that it would not. But both had a clear understanding that they were dealing with a modern, commercial civilization with potential for self-destruction as well as grandeur, and they tried to cope with this challenge. For both of the camps freedom was the overwhelming value, not in a sense of licence, but in a sense of creating one's own life in the most fulfilling way, the meaning of the pursuit of happiness.[102] The Constitutional Convention was a compromise, making this tension of ideas between the Federalists and the Anti-Federalists a constant legacy of American society.

Here, federalism was crucial for this independence of civil society institutions. For once, federalism was the basic constitutional principle, with important governing powers left to the states. The constitutional commitment to federalism

insures that state and local governments survive, and that they continue to supply some of the goods valued by the Anti-Federalists largely as a result of Anti-Federalist efforts, [Americans] have federalism that preserves and nourishes local community attachments, civic virtue, and public-spiritedness, as well as a large, commercial republic that secures prosperity and liberty.[103]

Tocqueville understood this complex coexistence of the Federalist large republicanism and the Anti-Federalist small republicanism, observing that the Americans had "forcibly reconciled" those "two theoretically irreconcilable systems". Tocqueville was aware of the large, commercial republic which had given

free scope to the unguided strength and common sense of individuals [which caused the danger of an individual pursuit of wealth since it is] always an effort [for commercial people] to tear themselves away from their private affairs and pay attention to those of the community; the natural inclination is to leave the only visible and permanent representative of collective interests, that is to say, the state, to look after them, which were the perfect conditions for tyranny. Commerce, in addition, had a tendency to dehumanize, with a corresponding "love of comfort" which makes the individual prone to pursue only "petty aims, but the soul clings to them; it dwells on them every day. In the end they shut out the rest of the world and sometimes come between the soul and God". Americans thought that they had found a solution to this danger with its self-government and private associations, the two sides to federalism giving each part of the land its own political life so that there would be an infinite number of occasions for the citizens to act together and so that every day they should feel they depended on one another.[104]

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[101] R. G. Stevens, *The Constitutional Completion of the Liberal Philosophy of Hobbes and Locke*, "The Political Science Reviewer" 1987, Vol. XVII, Fall, p. 284.

[102] This was the very essence of one of the Anti-Federalists' major thinkers, one Brutus, against the possible usurpation of powers by the Supreme Court. See: H. J. Storing, *The Complete Anti-Federalists*..., p. 130–196.

[103] W. A. Schambra, *The Roots of the American Public Philosophy*..., p. 26.

[104] A. de Tocqueville, *Democracy in America*, Chicago 2000.

The private associations, another name for civil society, served the most important purpose of drawing men upward from mere self-interest into public life, combating the dehumanizing effects of individualism. Citizens acting together and depending on one another come to form a genuine community; a certain public-spiritedness or civic virtue is generated by local self-government, and men come to love their "little republics". Such public-spirited citizens, Tocqueville noted, will not be likely to surrender control of public life to the state.[105] For Tocqueville, then, the "forceable reconciliation" of "two theoretically irreconcilable systems" was absolutely central to the survival of American liberty and civic virtue at the same time. A democratic republic was maintained, according to him, by the federal system which "allows the Union to enjoy the power of a great republic and the security of a small one".[106] The two systems would always be in tension, since, as Tocqueville thought, each was threatening to the other, trying to consume it. At the time of Tocqueville, the states threatened the union; later it was the national government which threatened the states. This healthy tension could be threatened also by this consumption of the civil society by the exigencies of the industrial market, the challenge which was met by the new synthesis which was attempted by modern liberalism.[107] Whatever the merits and demerits of a tension within the American federal system its republicanism contained a particular tension inherent in modernity, which, apart from republicanism's institutional setting, was visible also in challenges posed by this modern, autonomous conception of liberty. In practice the American republicanism of the eighteenth century contained in itself a particular notion of liberty which combined the natural law concept of it as a pursuit of a particular good by the community, and a very strong stress on individual rights executed against external power.

Modern Liberty and Virtue

A concept of liberty inherent in such republican thought took on different shapes in particular rhetorical and conceptual expressions, in political writings as well as in public deliberations. Liberty in a classical republican paradigm, or a different Christian liberty, on the one hand, and liberty within a modern, or liberal paradigm on the other hand, were distinct, and in certain aspects contradictory concepts. The classical liberty concept entailed a notion of freemen participating in political decisions in the public arena with a stress on disinterestedness of civic virtue, where political life was the very essence of the real existence. The Christian concept of

[105] W. A. Schambra, *The Roots of the American Public Philosophy*..., p. 26–27.

[106] A. de Tocqueville, *Democracy in America*...

[107] It began with Theodore Roosevelt's "new nationalism" and Franklin Delano Roosevelt's "New Deal" and eventually the "Great Society" liberalism of the 1960s. W. A. Schambra, *The Roots of the American Public Philosophy*..., p. 30; R. Hudelson, *The New Liberalism and the Foundations of the Welfare State*, [in:] idem, *Modern Political Philosophy*, ed. M. E. Sharpe, New York 1999, p. 59–70.

liberty was defined already as liberty against a state, at least the omnipotent state preventing the creation of a properly shaped moral conscience. Stress was put on a pursuit of the common good, provided the truth in moral as well as communal life went hand in hand. In contradistinction to the classical tradition, political life and public participation to achieve the glory of a republic were dependent values, necessary and useful as long as they aided the basic goal of moral development, which was to lead individuals towards salvation.

The modern, liberal notion of liberty as expressed by Americans during the revolutionary period had many inherent contradictions, since it was a motley of diverse traditions welded together in different ways. Such an idea of liberty definitely did not contradict its understanding visible in the common law constitutionalism, although again, which side of this common law constitutionalism it alluded to was not entirely clear. It could be a notion of liberty connected with the ancient constitution which extolled experience and tradition, the way Edmund Burke did.[108] It could also allude to another strand of common law constitutionalism, which took it for granted that what the common law created through time expressed at the same time immutable notions of natural law tradition, the way Edward Coke or William Blackstone espoused it.[109] Such a notion of liberty did not contradict per se some aspects of the Christian idea of the separate realms between private and political, *sacrum* and *profanum*, although such a notion of liberty lacked a definite aim for an individual to achieve, the latter being in fact commensurate with the fact of life itself.

The notion of liberty was mainly, in public expressions, connected with security of rights against governmental intrusion, a difference between diverse traditions of rights expressing themselves mainly in different areas of an individual's life, which one was to protect with rights. Definitely this liberal idea of rights very strongly stressed security of possessions in the private sphere as a bulwark of resistance. There were also other particular liberties secured by law in a form of rights which limited the scope of public authority. There was thus a clear difference between the classical and Christian notions of liberty, which were in themselves lofty ideals, and the modern one, where "the liberty of legal rights pertains to the mundane and everyday aspect of living".[110] The classical and especially the Christian concept of liberty did not necessarily define precisely a type of regime in which such a concept of positive liberty could be defined.

The liberal American concept of liberty pointed towards a particular type of a regime. The traditional – that is the classical and the Christian – as well as the modern concepts were also very visible in the American revolutionary and constitutional distinctions. Thinkers and politicians sometimes used a language of both traditions, trying to reconcile them, usually in vain, by allegedly combining the best

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[108] See observations of J. G. A. Pocock on Burke in his *Politics, Language and Time*, Chicago 1989.

[109] A. Bryk, *The Origins of Constitutional Government*..., p. 171–188, 232–235.

[110] J. Appleby, *Republicanism in Old and the New Context*, "William and Mary Quarterly" 1986, Vol. 43, p. 18.

elements of both, a trait especially visible in the Anti-Federalist school. Modern liberty, the liberal one, was visible strongly in common law constitutionalism, so it was useful in arguments with the British, since it challenged them in a language common to both antagonists. It seems that for this very reason it was predominant in the American revolution, as it contrasted with republican classical tradition, called "civic humanism", which was employed more as a communal expression of ideology against tyranny as such, in the name of some lofty ideal of the people with a definite conception of the common good inherent in their distinctive tradition. But the key words in this vocabulary of America's concept of liberty were mainly legal in character, like "property", "law", "custom", "ancestors, "inheritance", "rights" which were commensurate with the common law tradition, of which the major ingredients were *meum et tuum* or "property and the rule of law".[111]

But at the same time such a concept of liberty and rights was never understood to be devoid of virtue, of the capacity to behave in a moral, proper way. This was so because such a concept operated within a context of a definite culture, which had the capacity of creating "good", civilized and in fact – so the Americans thought – the most advanced culture. It was historically developed within the Anglo-Saxon world, as the Whigs thought, or as some common lawyers thought, culture being commensurate with natural law developed in history through the institutions of the common law.[112]

For this reason, liberty was definitely not licence; it was firmly rooted in civil society's institutional, traditional cultural framework and natural law, and subsequently natural rights tradition, depending on a context, an idea visible in the Declaration of Independence. This modern need to ground liberty, and the public order on which it was based, in virtue stemming from natural rights, was especially developed during the founding era by James Wilson and James Madison. All of the above understandings of liberty culminated in a colonial revolutionary movement. It initially took the form of challenging the British parliament in the name of the balanced Constitution, then eventually in the name of universal natural rights, being understood as commensurate, not contradictory to the common law rights.[113]

This bridge between English liberties and natural rights, one tradition of common law constitutionalism, was thus easily built into the language of the Declaration of Independence. The latter was in fact structured by Jefferson as a bill of equity, so within the general rules of the common law constitutionalism, visible, for instance, in William Blackstone.[114] Jefferson only repeated it in the Declaration of Independence in much more philosophical language via John Locke. There was a conviction that British liberties were in fact expressing not only an experien-

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[111] J. H. Hexter, *Review Essay*, "History and Theory" 1977, Vol. 16, p. 334.

[112] B. Bailyn, *The Ideological Origins of the American Revolution*..., p. 77; J. P. Reid, *The Concept of Liberty in the Age of the American Revolution*, Chicago 1988, p. 6–7.

[113] *Ibidem*, p. 8.

[114] P. Ch. Hoffer, *The Law's Conscience*, Chapel Hill 1990, p. 71–76.

ce in liberty of particular people, but the very essence of the natural order of the universe, the rights of mankind. The English concept of liberty was thus not only true because it was ancient, it was true because being ancient it reflected through experience the universal rights of men.[115] In the eighteenth century such reasoning did not contradict the so-called Whig conception of history, nominally rooted in a tradition of liberty of particular people, because it meshed nicely with Coke's and Blackstone's tradition of common law constitutionalism, which considered Britain a carrier of universal rights of liberty in common law as the rights of all humanity, since expressing natural law.[116] Jefferson's universal language of the Declaration of Independence shifted only the place of the historical carrier, responsible for its implementation in the world, from England to America.

But the concept of liberty was also often used in an abstract form, not related to concrete events and institutions. It was more a rhetorical battle cry, a justification of one's sense of grievance and importance, as well as unbound autonomy of one's own being. This was liberty as autonomy, and was inherent in the moral autonomy of a person under the protection of God, entering into a personal relation of moral covenant with each human being, an idea both of Jewish as well as of Christian theology. This personal relationship could not be morally subverted under any circumstances by any power. For this reason, this liberty as autonomy reflected deeply a biblical concept, and was taken for granted by political thinkers long after the advent of modernity, with definite political, legal and social consequences. Liberty as an inherent moral right of autonomy within the perimeters set by the biblical God was well captured by Blackstone, who repeats essentially the Christian postulate of natural liberty rooted in a free will as unlimited in its operation, provided it does not overstep the boundaries of natural law rooted in God's law.[117] The same idea was visible, for instance, in Samuel von Pufendorf in the seventeenth century, and in the America of James Wilson or James Madison.

This liberty as autonomy was also conceptually possible and well received in America, because of a sense of control over one's own life and an ability to shape it unbound by any social and economic limitations. This feeling of control corresponded to one's sense of self-importance and dignity inherent in such a situation.[118] The Americans knew that the word "slavery" they used, which could be properly applied only to the conditions of the black population or European serfdom, was to a great degree a rhetorical figure. But in their usage it meant an

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[115] W. Blackstone, *Commentaries on the Laws of England*, Vol. 1 **(**Facsimile of the First Edition of 1765–1769), Chicago 1979, p. 120–121, 125.

[116] No one made this Whig idea of liberty being coeval with England more appealing than the poet James Thomson's "The Seasons", "Britannia" (1729), "Rule Britannia" (1740) and especially "Liberty", the latter a huge autobiography of the goddess of liberty which "details the long history of her ancient greatness and her ultimate revival in Hanoverian England." B. Baylin, *The Origins of American Politics*, New York 1968, p. 17–18.

[117] W. Blackstone, *Commentaries...*, Vol. 1, p. 121.

[118] J. Hector St John de Crevecoeur, *What is an American?,* [in:] *The Faber Book of America*, ed. C. Ricks, W. L. Vance, London 1992, p. 241–243.

attempt to reduce their political and cultural freedom to shape their own life as they pleased. This uncompromising idea was elevated into the universal rights language of the Declaration of Independence, where legitimate government was combined with liberty. Liberty meant here, of course, political liberty, but at the same time liberty as an environment for realizing one's own conception of good life, according to one's morally recognized own limits set by natural law and ultimately God, that is if one led an essentially virtuous life. Happiness was connected with moral truth, a path of virtue.[119] Freedom meant conditions for this pursuit of happiness, and happiness meant the path of virtue prescribed by natural law. For this reason this "pursuit of happiness" put into the Declaration of Independence did not mean that human beings had a right to pursue happiness by all means. Such an assumption was absurd, since no society could be built on such an idea.

To pursue happiness meant to pursue it within legal means, that is all possible means which the law of nature has prescribed from time immemorial and which human laws should just sanction. This might appear to be a tautology: people have a right to pursue happiness to everything to which they have a right. But in the conditions of the eighteenth century, this was not an arid tautology. It corroborated the moral disposition that all legal means applied to the pursuit of happiness, which were legal for some, were to be extended to all, so each individual human being, not a member of a particular class, caste or religion, was subject to it. At the time this was a revolutionary idea. It also had another implication, stemming both from this equality principle and from the practical conditions of the British abuses combined. No government could be legitimate, that is free, if it prevented such a pursuit of happiness, that is if it, as a consequence, corrupted virtue. Only such a government was free and legitimate, which created the conditions for an individual's pursuit of happiness within the parameters of virtue.

It was an awesome task for Americans to create such a legitimate government, in the conditions of an essentially modern, commercial civilization. They could also accept Thomas Hobbes's diagnosis, that morality was just a function of utility and security created by a state among individuals, ferociously fighting each other. But Americans as a society rejected Hobbes's solution for the same reason Pufendorf, Blackstone, Wilson and Madison rejected it. They subconsciously treated it as a projection of faulty logic and an error of moral judgment. True, the end of *Christianitas*, civil wars and the breakdown of order that followed, as well as a commercial acquisitive impulse modernity unleashed, seemed to force a new definition of human ontology and anthropology.

But Americans refused to accept such logic, since their conditions were different, and their sense of existence within perimeters of their civil society, and already within a commercial civilization, excluded such a radical reorientation of human existence. Nevertheless, the question was as follows: how to avoid the

[119] See on that: W. A. M e l l, "James Wilson, Alexander Hamilton, William Blackstone, Organic Principles of Constitutional Government", PhD Dissertation, Department of History, University of Oregon 1976, p. 12–16.

temptation of politically motivated practices imposing virtues from above, which would endanger liberty and autonomy and easily turn into a corrupting tyranny, but at the same time how to create an institutional framework which would create conditions for a private pursuit of happiness congruent with virtue, out of a conscious decision? Such virtue which would be congruent with a sense of happiness, without turning the latter into a desire for moral autocreation justifying mundane interests. This combination of constitutional government with virtue could be a direct one, endangering liberty, or an indirect one, giving a chance for virtuous life, yet risking at the same time a slide towards licence.[120]

Modernity was based on one fundamental natural truth, out of which the individual pursuit of happiness was derived. All men were created equal. For this reason consent to government was a requirement of justice. This idea of equal rights was connected with this fundamental precept. Natural rights were to guarantee justice, the fundamental right of each individual to pursue happiness as a road towards fulfilling the moral potential inherent in humans. Such was the reasoning of natural law philosophers like Pufendorf or Blackstone, and the American constitutional reasoning, as exemplified, for instance, by Wilson or Madison, was heir to it. Yet there was a dilemma. Although natural rights were in principle self-limiting, the trick was to turn this principle into practice.

For this very reason a creation of a political order which would maintain natural justice explicit in natural-rights theory required political understanding, which would go deeper than modern political mechanics, that is deeper than a mere institutional framework. Something more was required, morally conscious citizenry, which had to be continuously cultivated, and a relationship between the political sphere and civil society was to be properly established. This idea was constantly on the minds of the American constitutional leaders. Madison, Jefferson, Wilson or the Anti-Federalists understood well the self-perpetuating role, that is not directed by any imposing authority, of the public opinion and civil society institutions. They gave vital support to them, both through traditional institutions like churches, communities or families and new, democratic ones, such as new transportation routes, free circulation of newspapers, and a constant flow of ideas between citizens and representatives. This new, democratic, modern age demanded a construction of

[120] This combination of good government with happiness was visible in John Adams in 1753 when he was just twenty-three and decided to study law, when he resolved to "aim at an exact knowledge of nature, end, and means of government; compare the different forms of it with each other, and each of them with their effects on public and private happiness". Jefferson's "Declaration of Independence" leaned on George Mason's draft of the Declaration of Rights for Virginia, eventually to be incorporated into the colony's new constitution to be drafted at the time. The first eighteen rights delineated in this draft read: "That all men are born equally free and independent and have certain inherent natural rights, of which they can not, by any compact, deprive or divest their posterity; among which are enjoyment of life and liberty, with the means of acquiring and possessing property, and preserving and obtaining happiness and safety". This was a fairly general aim of liberty, in fact a statement of an autonomous life, although Jefferson and Adams "understood the word as the achievement of virtue and moral perfection", not as a licence to shape one's own life as one pleases, which meant that freedom for the eighteenth century had carried with it obligations to society that restricted that right". D. Freeman Hawke, *A Transaction and Course of the Declaration of Independence*, New York 1964, p. 85, also 53, 147–148, 224.

a constitutional system in which there would be a chance, just a chance, for the proper functioning of public opinion.[121]

A constitutional system had thus to be created in such a way that civic virtue be created from bottom up in a process of free deliberations of people, who would deliver their judgments and conceptions of moral good, created in their respective civil society institutions, for the benefit of the republic. There was a conviction that people in general, that is individuals and as in civil society institutions, were best suited to answer the most fundamental political question of humanity, already defined by Aristotle, namely: how ought we to order our life together to live a meaningful life? In such a perspective, people not only have to organize themselves, they need to govern themselves. A state as institution was just a shell. It did not instruct the people; the people instructed the state, and a democratic republic seemed to be best suited for such a purpose. All the aforementioned premises, as universal, were expressed by Jefferson in the Declaration of Independence. In that sense a political question was at the same time a fundamentally moral question, and the mediating structures of civil society were crucial to that purpose.

Americans thus engaged in an experiment in which the people's exploration of their capacity to govern themselves in freedom, and by virtues in civil society cultivating them, was a precondition of creating a just and moral order secured by political arrangement, in this, far from perfect, world.[122] In such a system there was just a possibility of creating civic virtue, not a guarantee of it. But one point was beyond doubt. A republic was the environment best suited for free people to pursue their lives according to their ideas of happiness connected with natural justice. But it was not a value per se to create a new type of people. The republic was a framework, not a value in itself. It was just an agent of creation of virtuous, free people, best suited to pursue their happiness as a way of nearing towards a natural sense of moral order. It was the most approximate realization of the Augustinian idea of a just polity enabling people to shape their proper consciences, although not guaranteeing that.

The modern republic thus did not abandon this universal desire for creating a political order which would be suitable for creating a moral environment elevating people, not debasing them. The American leaders never succumbed to the debasing idea of human beings as animals in need of a paternalistic state teacher, let alone a policeman teaching them a new morality. They never abandoned the idea that autonomous human beings had an innate capacity for moral discernment and self-government in a constitutional order, which would enhance individuals to overcome their limitations, urging them to become better than they themselves were. This was in principle a profoundly Christian view, reformulated in the condi-

[121] B. C. S. Watson, *Madison and Public Reason*, "National Review" 2009, September 7, p. 46.

[122] See: P. L. Berger, R. J. Neuhaus, *To Empower People: From State to Civil Society*, Washington DC 1996, p. 152–153. In this essay, originally published in 1977, Berger and Neuhaus showed how the original American constitutional system was subsequently dangerously shaped by new liberalism and the welfare state, in the direction of losing both freedom and self-government on the one hand, and losing virtues and causing moral anomie on the other.

tions of modernity. This principle required new political and institutional devices to face and thwart potential disintegration inherent in it, as well as taming an impulse of escape from freedom into an individual desire of a moment.

In such a new constitutional scheme for modernity, the people were to be constantly in a process of constructing and reconstructing themselves as free moral agents in the communities at hand, but at the same time within an intellectual, moral and psychological framework larger than themselves, in which majority opinion was to be a constantly shifting ground of a moral and intellectual battlefield. This put a great responsibility on the people to be constantly vigilant. The role of pluralistic civil education was crucial here. It had to be bottom-up, civic education without a central educator. For this reason the people, in order to be and remain republican, had to be autodidacts in the larger framework of a republic, but they definitely had to be moral first, a task which a civil society could not be absolved of. The stronger the civil society and the institutions building the pluralistic civic responsibility out of a moral responsibility inculcated in churches, families or associations, the stronger the republic. The latter has only to have institutions channelling this capital into a non-threatening polity.

Patriotism meant in such a case a universal quest for a civilized polity of free, moral people capable of governing themselves.[123] A republican government was thus best suited to protect liberty which was then pursued with the precepts of objective morality, preventing freedom from sliding into moral autocreation of a moment. That meant in fact morality of natural law, the sine qua condition of moral life, the tradition of Pufendorf, Blackstone as well as the American Founders, the idea clearly put forth in the Declaration of Independence. Republicanism was thus more than just an instrument; it was a way to a new moral order, enabling people truly to achieve happiness commensurate with objective morality. True, the views of the Founders were diverse. For Jefferson, it could appear that the ultimate basis of morality was in fact, at the end of his life, utility, whatever lip service he paid to nature and "nature's God" in his Declaration of Independence.[124] But there were many other instances where his point of reference was Christian morality, even if in a Unitarian form.

For James Wilson or Madison this issue was different. For Wilson, for instance, in contrast to the "utilitarian" Jefferson, the "moral sense" was "totally di-

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[123] This idea of a civic education without educator was an ideal of America until the turn of the 20th c., when the new idea of a central educator emerged, in the political context of progressive politicians like Herbert Croly or Woodrow Wilson, in an educational context with the ideas of John Dewey or Margaret Mead, and in a cultural context with the ideas of the new psychological movement wanting to make religious America problematic and redundant, and substituting psychotherapy for it, as a new religion in the conditions of the modern industrial civilization. H. T. Edmondson III, *John Dewey and the Decline of American Education: How the Patron Saint of Schools has Corrupted Teaching and Learning*", Wilmington 2006, esp. p. 19–36. As far as this absolutely essential character of moral, pluralistic civil education within the context of a civil society as a precondition of a free republic is concerned see R. Nisbet, *The Quest for Community*, Oxford 1953; P. L. Berger, R. J. Neuhaus, *To Empower People...*

[124] Letter on Oct. 31, 1819, [in:] *Thomas Jefferson: Writings*, ed. M. D. Peterson, New York 1987, p. 1433.

stinct from the ideas of utility and agreeableness [and nonetheless] intended to regulate and control all our other powers". This moral sense, in fact conscience, makes us "feel the beauty and excellence of virtue"; it reveals to us that "virtue and vice are ends, and are hateful or desirable on their own account". We carry, each of us, an intuition of good and evil, even if it can, as everything else, be pathologically diminished. Thus we know by intuition that good and evil are the real qualities of the human world, are thus fundamentally democratic and do not depend on a reasoned argument to grasp it, to feel it or to exercise it. Thus this moral sense or conscience is one or two "divine monitors within us" – the other being reason. Conscience and reason gave us an insight into the fundamental moral rules which Wilson termed "the Natural Law".[125] But Wilson's natural law was more in the tradition of the Scottish Enlightenment than in the Thomistic or even Stoic traditions, or the later tradition of "the judicious Hooker", or Francis Bacon, for whom "there are in nature certain foundations of justice, whence all civil laws are derived", which also presuppose rational, rigorous thinking.[126] For the latter, reason was inseparable from finding the right moral sense.

Moral sense was a friend of reason, not its enemy. But for Wilson, although reason "contributes to discover and correct the mistakes of the moral sense", those mistakes were in fact caused by reason itself, the faulty reasoning distorting the moral sense. Because reason very often deludes itself, presenting itself in fact as such:

> those obliquities, extravagancies, and inconsistencies of conduct men always approve upon an opinion – true or false, but still an opinion it is our reason, which presents false appearances to our moral sense. It were well for us, on many occasions, if we laid our reasoning systems aside, and were more attentive in observing the genuine impulses of nature. [Reason] judges either of relations or of matters of fact.[127]

The ultimate ends or first principles of morality and human action could be included in neither, but they were "self-evident", derived from "sentiment", "feeling", not reason – the idea, by the way, so visible in the language of the Declaration of Independence. Therefore, if

> the rules of virtue were left to be discovered by reasoning unhappy would be the condition of the far greater part of men, who have not the means of cultivating the power of reasoning to any high degree. [Moreover] reason, even with experience, is too often overpowered by passion.[128]

What Wilson was saying, and in fact what Jefferson was saying in the Declaration of Independence, had profound political consequences. In a democratic re-

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[125] *Selected Political Essays of James Wilson*, ed. R. Adams, New York 1930, p. 224, 255–256, 270–275, 278, 285–291.

[126] *Ibidem*, p. 222, 239, 254, 290. Bacon's quotation from *Of the Proficience and Advancement of Learning, Divine and Human*, book II, 1605.

[127] *Selected Political Essays of James Wilson*..., p. 270–277.

[128] *Ibidem*, p. 276–279.

publican society, with sovereign people being the judges of a political order and its creators, the majority was incapable of clear reasoning. If then morality, that is moral sense, was to be derived just from speculative reasoning, society at large was in danger of sliding towards immorality and tyranny, the moral sense being possessed allegedly only by those who know how to reason. There had to be a system, then, in which the Platonic caste of men who could reason would be tempted to impose by political means their judgment of what moral sense was, on others. In other words there was a danger that a proper centralization of morality and educational means to impose would be a natural proclivity of the "wise" and politicians, who would employ their services so as to make their power more efficient.[129] The political system would then be neither democratic nor republican. But the majority of the people are capable of knowing morality, and they know it exactly by their inner moral sense and also passion for goodness, because morality is also rooted in passion or "the immediate testimony of nature prior to or deeper than reason [and only then] can morality be said to be truly natural to man".[130] Wilson thus thinks that

> public government and public law were not made for themselves: they were made for something better; and of that something better, you form the better part I, mean society – I mean particularly domestic society. In the just order of things government is the scaffolding of society: and if society could be built and kept entire without government, the scaffolding might be thrown down, without the least inconvenience or cause or regret. Government, indeed, is highly necessary; but it is highly necessary to a fallen state. Had man continued innocent, society, without the aids of government, would have shed its benign influence over the bowers of Paradise.[131]

The implications of such statements were obvious. The people were moral, but at the same time fallen. But if there was a properly formed republican government in which people truly could act in their capacity to discover moral sense, then the sum total of such a society would be moral, and in turn the political order would be moral. In other words, a republican government was the most conducive to elicit from the people the moral sense necessary to form civilized government. This was the case, thought Wilson, because this moral sense belonged to all people equally, and for this reason everyone had a right to put forth his moral sense in service to

[129] The secularized idea of such a moral educational effort towards a "recalcitrant" society has become a staple of contemporary liberalism, with the state as central educator. This state captures on the one hand more and more fields and institutions of a civil society so far inaccessible to it, and on the other tries to "educate" people through them in the precepts of one, "true morality" defined as appropriate, by contemporary intellectuals and "experts", the only possessors of a true "reason", and thus "morality" to be imposed on a society at large. A corollary of this "centralization of correct ideas" is a gradual liquidation of the plurality of political opinions, political correctness and an attempt to "punish" all, in principle autonomous institutions of a civil society for not professing allegiance to such ideas. This, in essence, is also a tendency of the constitutional tribunals to seize on human rights, constantly being redefined and enlarged, to impose their notion of a "just" society by judicial fiat, beyond democratic process. See on that in the European context P. Manent, *A World Beyond Politics*..., p. 98–109, 121––129, 171–185; L. A. Power Jr., *The Supreme Court and the American Elite 1789–2008*, Cambridge Mass. 2009; R. Hirschl, *Towards Juristocracy: The Origins and Consequences of the New Constitutionalism*, Cambridge–London 2004, esp. p. 149–210.

[130] *Selected Political Essays of James Wilson*..., p. 281–285.

[131] *Ibidem*, p. 209–210, 234.

a society, each had an equal standing towards the other, the idea unequivocally expressed in the Declaration of Independence proclaiming moral equality of all people. That was liberty as autonomy of shaping a human world with others.

For this reason the new federal United States Constitution would establish, so Wilson thought, the first government in human history to be grounded on the true principles of natural right. That was why "in this government liberty shall reign triumphant".[132] What Wilson meant by liberty was

> civil liberty [defined as] natural liberty itself, divested only of that part, which, placed in the government, produces more good and happiness to the community than if it had remained in the individual.[133]

He was in effect saying that liberty resided in civil society as such, and government was only there to limit the excesses of it, or enhancing its potential. In other words, the richness of civil society as a milieu of creation of this moral sense was the essence of liberty. A republican government was best suited to sustain it, perpetuate it, and guarantee that people would be interested in participating in it. Similar ideas were the hope of James Madison.

The Virtuous Voice of the People as the Voice of God

Popular republican government was based on a political idea that community and its government, and with it virtue in a society at large, originated ultimately in the consent of the people, the essence of popular sovereignty. The idea of popular sovereignty had yet deeper assumptions crucial to understanding the American idea of a virtuous republic. The first assumption rested on the belief that the American people, with time, could distinguish between what was good, that is what was congruent with their values, long-term interests, common rights, but also what was congruent with moral sense, in fact universal natural law as such, and what was not. This assumption indicated that the people could not only discern their own interests, but also proper moral conduct, universally valid.[134] It was thus clear that the sovereignty of the people as a basis of decision of the common good commensurate with the objective, universal moral order, was superior to any other. This was so for the simple reason that it stemmed from the consent of all, who had an equal right to participate on the basis of their moral sense over the good of the community. This moral sense was defined here traditionally as a "well informed conscience",

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[132] *Ibidem*, p. 174–175.

[133] *Ibidem*, p. 272–285; J. Wilson, *The Works of James Wilson*, Cambridge 1967, ed. R. G. McCloskey, Cambridge 1967, p. 238–239, 241–242, 284, 587, 598, 608.

[134] This was the gist of a famous quip by the father of the modern American conservative movement William Buckley, who said that he would prefer to be governed by the first hundred names from a Boston telephone directory than the faculty of Harvard University.

or "right reason", determining the duties commensurate with natural law, that is the objective moral order demanded by God.[135]

The good of the community can thus be properly ascertained, if all participate in an argument on the basis of each one having equal access to moral sense, to the capacity to be able to discern virtuous behaviour. The mechanism of that consent was exactly the task for the Americans to execute, but the axiom of all having an equal right to decide over their common good was unquestionable. It was taken for granted that it stemmed ultimately not from political theory, but from natural law grounded in God's precepts, that is, in the conditions of the eighteenth-century America, Biblical God. The social contract was just, not only because it was best suited to limit tyranny. It was just because it reflected the best way of creating a just society, the best way to discern the virtue which was to govern society through the consent of all, equally endowed with "well informed conscience", moral sense, which in the process of deliberation can best be discerned.

Such was the modern democratic and republican meaning of the idea that "the voice of the people was the voice of God". This was so, because it was the voice of the people endowed with a moral sense, the best way of creating a just, virtuous society accessible to humans.[136] Direct democracy was impossible as yet, so representative democracy was required. As a consequence representative republican government was a constitutional device to execute this voice of the people. All the people have the right reason to have a well informed conscience, but "well informed" assumed differentiation of knowledge, character, information. At a civil-society level this task of forming such a differentiated conscience, a natural process of life, personal predilections, character and choice, belonged to associations like families or churches, and they were crucial. But at the political level representation had one advantage. It was to select people who have better information, time, capacity for virtues, private as well as public, and simply interest in serving the republic. Representation was sovereignty of the people by proxy, by people chosen in trust for the time being, to discern the common good in a much more objective way and assist the people in their deliberations.[137]

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[135] One may argue that this idea is not as novel as it seems – it could be detected in Harrington's Oceana, see: *ibidem*, p. 56–58.

[136] There is thus a subtle difference between the American and the European understanding of democracy. When Europeans and Americans talk about democracy today, they do not necessarily talk about it in the same way. In Europe democracy equals, first of all, the legal rules and procedures. In the United States this idea has a more spiritual, metaphysical, so to say, meaning, well captured between the lines in Tocqueville's, *Democracy in America*. Democracy is a kind of "religion" and a constant process of selection, or of putting the best people into positions of power. There is a strong populist streak in this understanding of democracy, an accusation that Europeans often throw at Americans, but for Americans this is yet further proof that the European democracy is elitist and aristocratic. See on that for instance G. Sorman, *Made in the USA*, Warszawa 2005, p. 148–166, also D. L. Bark, *Americans and Europeans: Dancing in the Dark*, Stanford 2007, p. 14–15; A. Bryk, *Federaliści u władzy*, [in:] *Historia Stanów Zjednoczonych*, ed. A. Bartnicki, D. T. Critchlow, Warszawa 1995.

[137] P. Ch. Hoffer, *The Law's Conscience*...

The Americans knew that they stood under a source of moral authority beyond themselves, and for this very reason the public reason had to be grounded in reason aided by religiously informed conscience, thus making religiously informed public philosophy not only legitimate, but necessary to secure "ordered liberty". They were aware, more or less consciously, that morality may not require religion, as a matter of sheer logic, but logic was not the basis of operation of a modern republic, an "ordered liberty" regime. It could not be, since reason could never provide logic which could be accepted by heart, that is as part of indelible feature of character, save by a prolonged and ubiquitous system of mass indoctrination by a state and an elite which would define such logic. Reason unaided by its transcendental sources of justification would eventually justify desire of the moment, not sacrifice which was needed for a moral conduct, without which a modern republic, an "ordered liberty" regime can function. That fundamental morality for an "ordered liberty" had to be grounded in religion as a matter of mass psychology, as an unreflexive urge to gaze higher than oneself, to sacrifice than to seek an immediate gratification, and last but not least, to love not just to reason.

Love can never be taught by reason; love can only be inculcated and promulgated by those whom we trust and love by instinct, by the immediate circles of intimate connections, family, churches, associations. Love can thus be taught only then, in the absolutely free civil society, by unreflexive gestures of affection which, accepted, are then passed further with the same intention, so to pay the once accepted moral debt. And ultimately, love being offered for a republic as an unreflexive gift, meetings with others. The Founders understood that modernity, having a tendency to turn to moral autocreation, the adulation of individual desire, the idolatry of the narcissistic self, was a beast in itself. It created social, economic and political problems, issues which were not matters of rational concern and utilitarian solutions, but ultimately questions of the nature of the human person. There was no morality in commercial modernity per se, which made a "pursuit of happiness", equated with moral autocreation and the superior value of autonomy of the self, a danger to an "ordered liberty". The corrosive effects on ethical standards of American society, considered to be "good", were a possibility. It was this commercial modern impulse which was to be harnessed, by reasoned argument, but with a concept of a human person larger than a motley of the accelerated desires of the present, kept in check simply by an administrative, distributive state. The regime was to harness greed, idolatry of the self, to an impulse of limitations lying beyond rational calculation or institutional arrangements.

This harnessing was a task, rational to be sure, but propelled by love of liberty, properly understood. This task was to be done by the extra-economic factors in the civil society, and secured by a carefully designed institutional system. It required a robust culture, self-replicating impulses, which would transcend debilitating effects of commercial modernity. Culture cultivating character, that is virtue which would make a man better than he would like himself to be. This culture was threatened by

atomization. There was a danger that in such a case someone would have to impose a new model of cultural orthodoxy. This someone would be the new administrative state operated by the elite of a particular time and place, convinced that they finally possessed the truth as to how "ordered liberty" should be imposed. Culture would ultimately begin to be treated not as a field of dialogue of free individuals, but as a province of politically correct categories imposed on the public discourse from the top down. Knowledge about ourselves, who we really are as free persons, would be dictated ultimately by the *cognoscenti* and their morals of a particular time, without any weapons to defend one's real autonomy and freedom. Culture and morality would become a motley of distracting campaigns to form useful, mobilizing moral causes, so to provide atomised individuals with the directives from the top, to assuage their fear of freedom and a loss of direction.

Reality would have to be tamed, as it always has been, but tamed by the professionals knowing how to do this. Intimacy with reality would be provided not with consciences properly formed by human persons, but by "experts" dispensing manipulative, atomized, sequestered and isolated knowledge satisfying peoples desires, both to help them understand reality by imposition of a "proper" understanding of it, and to provide them, from top down, a sense of ontological security. Security in such a case might only be spurious and momentary; it would have to be constantly redefined and packaged for a mass consumption, a new idolatrous "religion" and the sin of modernity. The painful experience of the tortuous knowledge who we really are, through the formation of moral character mediated by real love and personal responsibility, will be lost. With that, responsibility and sacrifice will be lost and with that caritas as well, the ultimate prerequisite of a decent, free regime, the only knowledge which does not leave people as isolated, helpless creatures, desperately seeking guidance and external authority, not aware of their slavery and moral wilderness.

The American project faced such a challenge, and this was a challenge the Founders were ready to meet. Theirs was not the radical revolutionary project which characterized the rational endeavour of the European Enlightenment. The unbridled, passionate, rational approach to change, with point zero in history and its apocalyptic reliance on violence and political assassination, was not their way. The French wanted to combine wisdom understood as reason with power. The result was the conviction that wisdom did not require modesty, and power rationally applied contained no risk. The American founding moment was infused with prudence, a key word for the Framers, or, to put it better, reason in the service of prudence, not of ideological passion.[138] Prudence is an essentially conservative virtue,

[138] See for instance: *The Federalist Papers*..., p. 258, 280, 283, 352, 376, 400, as a guide to decisions p. 203, 254, 378, 380, 448, 491, 527, as a political virtue: 162, 177, 197, 200. Prudence is the thread of all the Anti-Federalists' thinking in relation to the Federalist project. Prudence was a theme which was to guide all reforms since the assumption was that the civilization which was American was essentially good, and when tinkering with it, one was to be very careful. See for instance: *American Political Writings during the Founding Era*, ed. L. Hynem, D. Lutz, Vol. 1, Indianapolis 1983, p. 593–594. A very interesting analysis of the pruden-

relating to many things or goods, but its underlying characteristic is an acceptance and a defence of that which is given or that which already exists. Prudence thus had a deeper assumption yet, an innate conviction that the real world as it exists and in which we conduct our affairs has an intrinsic, objective, universal worth.

In such a world in which we conduct our affairs, the world of our experience has a sense of moral gravity which we may not necessarily understand fully, but which we have to approach with reverence, in humiliation towards ourselves and experience accumulated by generations before us. In other words, that our lives in this world transcend our sheer biological nature, our desires of the moment, our adulation of the self, and that this world teaches us something meaningful enough. This intrinsic meaning of the world prevents us from considering it as a material of a constant, incessant manipulation according to the dictates of reason and desires justified by it, to wit our *hybris* of thinking that history, time, morality, wisdom begins with us, and we are the final, properly thought out point zero of history, and at the same time "end of history". But this intrinsic meaning of the world also prevents us from the unintended consequences, and the other side of this hubris of "point zero", the shifting sands of our mind, unguided by anything save our self-consciousness. This mind has a tendency then to slide, in a frantic attempt to grasp anything concrete, solid and ontologically secure, towards the nihilism of resignation, acedia, or mindless hedonism, in the face of intractable being.

Prudence is a conservative virtue, because this is essentially the tenor of conservative virtue where the objects of virtuous action are accustomed goods. Action is virtuous because it supports the pre-existing moral order rather than attempting to create a new and supposedly a better order.[139] Therefore the man who wishes to be free from demands of his community cannot act virtuously, for he tries to divorce himself from the attachments that are the basis, and the very embodiment of virtues, among them virtues of love and gratefulness. Nonetheless, a virtuous man cannot be the mere creature of the surrounding circumstances, let alone the blind custom, but he must judge for himself, in an independent way, to serve his community. There is thus a blending of reason coupled with features of character different from it, which together, on the basis of prudence, are the real source of knowledge about ourselves, our true existential situation, the very essence of the good life.

Americans were less concerned with a transformation of the entire system with an apocalyptic reliance on violence and reason as bearers of historical and existential sense. Their revolution was, in comparison with the European one, definitely more "compassionate", with its use of persuasion and legal mechanisms to achieve radical ends of preserving an autonomous world in which they lived, its at-

tial character of the American regime, with a special stress put on the Founding and on Abraham Lincoln's *Gettysburg Address* is G. Anastaplo (*American Constitutionalism and the Virtue of Prudence: Philadelphia, Paris, Washington, Gettysburg*, [in:] *Abraham Lincoln, The Gettysburg Address, and American Constitutionalism,* ed. L. P. S. de Alvarez, Texas 1976, p. 77–170).

[139] B. Frohnen, *Virtue and the Promise of Conservatism: The Legacy of Burke and Tocqueville*, Lawrence KA 1993, p. 39–40.

tachments, its solidarity, its basic goodness.[140] The feud between the Federalists and the Anti-Federalists was in such a case a purely internal affair of an argument over the means, not the ends, of the regime recognized as essentially good. This world in which they lived was defined and experienced by them as virtuous life of a community. This community was "dedicated to a proposition", in conditions of "ordered liberty", but which was in a precarious state, always in need of vigilance. Last but not least, this community was always in need of heightened attachment to the real world they truly loved, which was their *patria* and the *patria* of all the people at the same time, the "last best hope of mankind". The latter two statements have many a time elicited derisive shrugs from the haters of America as its cover for imperialistic urges, but this is a misunderstanding of what such statements mean.

In America everything began at once. What modernity hid dramatically in stock for humanity was experienced there in a condensed form from the beginning, and it was America which met this challenge with the most brilliant, politically pragmatic minds modernity at that time could muster. They created a civilization which was to guarantee "ordered liberty" in conditions difficult yet to comprehend, but conditions which accelerated tendencies of the looming and menacing potential the whole world was soon to experience. Americans, with all their shortcomings, some of them tragically self-inflicted and selfishly perpetuated, created overall a decent society of free people. They devised a system which, after all the vicissitudes of modern history, and the ravishes of modernity to the human soul, is still propelled by a burning love of liberty and heroism to defend it, a love of meaning which is worth fighting and dying for, the highest virtue of all. The haters of America in fact hate themselves, since – as the Irish writer Brendan Brehan remarked – they in fact hate the human race at this torturous time of modernity into which it was God's wish to put us all.

[140] H. Arendt, *O rewolucji*, Warszawa 2003.

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THE SOUL OF A NATION: AMERICAN CIVIL RELIGION AFTER 9/11

In the immediate wake of the terrorist attacks of September 11, 2001, Americans suddenly found themselves faced with an unexpected choice between radically different perspectives on the proper place of religion in modern Western society. The alternative perspectives were not new. But the urgency with which they were felt, and the intensity with which they were articulated, marked a dramatic departure. Coming at a moment when Americans had been gradually rethinking many settled precedents regarding religion and public life, it seemed to give a sharper edge to the questions being asked.

For many observers, there was only one logical conclusion to be drawn from these horrifyingly destructive acts, perpetrated by fanatically committed adherents to a militant and demanding form of Islam: that all religions, and particularly the great monotheisms, constitute an ever-present menace to the peace, order, and liberty of Western civil life. Far from embracing the growing sentiment that the United States government should be willing to grant religion a greater role in public life, such observers took 9/11 as clear evidence of just how serious a mistake this would be. The events of 9/11 seemed to confirm their contention that religion is incorrigibly toxic, and that it breeds irrationality, demonization of others, irreconcilable division, and implacable conflict. If we learned nothing else from 9/11, in this view, we should at least have relearned the hard lessons that the West learned in its own bloody religious wars at the dawn of the modern age. The essential character of the modern West, and its greatest achievement, is its tolerant secularism. To settle

for anything less is to court disaster. If there still has to be a vestigial presence of religion here and there in the world, let it be kept private and kept on a short leash. Is not Islamist terror the ultimate example of a "faith-based initiative"? How many more examples do we need?

To be sure, most of those who put forward this position were predisposed to do so. They found in 9/11 a pretext for restating settled views, rather than a catalyst for forming fresh ones. More importantly, though, theirs was far from being the only response to 9/11, and nowhere near being the dominant one. Many other Americans had a completely opposite response, feeling that such a heinous and frighteningly nihilistic act, so far beyond the usual psychological categories, could only be explained by resort to an older, pre-secular vocabulary, one that included the numinous concept of "evil." There were earnest post-9/11 efforts, such as the philosopher Susan Neiman's thoughtful book *Evil in Modern Thought* (2002), to appropriate the concept for secular use, independent of its religious roots. But such efforts have been largely unconvincing. If 9/11 was taken by some as an indictment of the religious mind's fanatical tendencies, it was taken with equal justification by others as an illustration of the secular mind's explanatory poverty. If there was incorrigible fault to be found, it was less in the structure of the world's great monotheisms than in the labyrinth of the human heart – a fault about which those religions, particularly Christianity, have always had a great deal to say.

Even among those willing to invoke the concept of evil in its proper religious habitat, however, there was disagreement. A handful of prominent evangelical Christian leaders, notably Jerry Falwell and Pat Robertson, were unable to resist comparing the falling towers of lower Manhattan to the Biblical towers of Babel, and saw in the 9/11 attacks God's judgment upon the moral and social evils of contemporary America, and the withdrawal of His favor and protection. In that sense, they were the mirror opposites of their foes, seizing on 9/11 as a pretext for re-proclaiming the toxicity of American secularism. But their view was not typical, and, in fact, was so widely regarded as reckless and ill-considered that they seem to have permanently damaged their credibility.

The more common public reaction was something much simpler and more primal. Millions of Americans went to church, searching there for reassurance, for comfort, for solace, for strength, and for some semblance of redemptive meaning in the act of sharing their grief and confusion in the presence of the transcendent. Both inside and outside the churches, in windows and on labels, American flags were suddenly everywhere in evidence, and the strains of "God Bless America" seemed everywhere to be wafting through the air, along with other patriotic songs that praised America while soliciting the blessings of the Deity. The pure secularists and the pure religionists were the exceptions in this phenomenon. For most Americans, it was unthinkable that the comforts of their religious heritage and the well-being of their nation could be in any fundamental way at odds with one another. Hence it can be said that 9/11 has produced a great revitalization, for a time, of the American

civil religion, that strain of American piety that bestows many of the elements of religious sentiment and faith upon the fundamental political and social institutions of the United States.

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Such a tendency to conflate the realms of the religious and the political has hardly been unique to American life and history. Indeed, the achievement of a stable relationship between the two constitutes one of the perennial tasks of social existence. But in the West, the immense historical influence of Christianity has had a lot to say about the particular way the two have interacted over the centuries. From its inception, the Christian faith insisted upon separating the claims of Caesar and the claims of God – recognizing the legitimacy of both, though placing loyalty to God above loyalty to the state. The Christian was to be *in* the world but not *of* the world, living as a responsible and law-abiding citizen in the City of Man while reserving his ultimate loyalty for the City of God. Such a separation and hierarchy of loyalties, which sundered the unity that was characteristic of the classical world, had the effect of marking out a distinctively secular realm, although at the same time confining its claims.

For Americans, this dualism has often manifested itself as an even more decisive commitment to something called "the separation of Church and State," a slogan that is taken by many to be the cardinal principle governing American politics and religion. Yet the persistence of an energetic American civil religion, and of other instances in which the boundaries between the two becomes blurred, suggests that the matter is not nearly so simple as that. There is, and always has been, considerable room in the American experiment for the *conjunction* of religion and state. This is a proposition that committed religious believers and committed secularists alike find deeply worrisome – and understandably so, since it carries with it the risk that each of the respective realms can be contaminated by the presence of its opposite number. But it is futile to imagine that the proper boundaries between religion and politics can be fixed once and for all, in all times and cultures, separated by an abstract fiat. Instead, their relationship evolves out of a process of constant negotiation and renegotiation, responsive to the changing needs of the culture and the moment.

We seem to be going through just such a process at present, as the renegotiation of boundaries continues fast and furious. Consider, for example, the case now before the Supreme Courtinvolving whether the words "under God" in the Pledge of Allegiance violate the establishment clause of the First Amendment. Or the many similar cases, most notoriously that of Judge Roy Moore in Alabama, involving the display of the Ten Commandments in courthouses and other public buildings. Or the work of the President's faith-based initiative, which extends an

effort begun in the Clinton Administration to end discrimination against religious organizations that contract to provide public services. Or the contested status of the institution of marriage, which has always been both a religious and a civil institution, a process that could lead not only to same-sex marriages but to the legalization of polygamous and other nontraditional marital unions. A multitude of issues are at play, and it is hard to predict what the results will look like when the dust settles, if it ever does.

Experience suggests, however, that we would be well advised to steer between two equally dangerous extremes, which can serve as negative landmarks in our deliberations about the proper relationship between American religion and the American nation-state. First, we should avoid total identification of the two, which would in practice likely mean the complete domination of one by the other – a theocratic or ideological totalitarianism in which religious believers completely subordinated themselves to the apparatus of the state, or vice versa. But second, and equally important, we should not aspire to a total segregation of the two, which would in practice bring about unhealthy estrangement between and among Americans, leading in turn to extreme forms of sectarianism, otherworldliness, cultural separatism, and gnosticism, a state of affairs in which religious believers will regard the state with pure antagonism, or vice versa. Religion and the nation are inevitably entwined, and some degree of entwining is a good thing. After all, the self-regulative pluralism of American culture cannot work without the ballast of certain elements of deep commonality. But just how much, and when and why, are hard questions to answer categorically.

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Perhaps we can shed further light on the matter by taking a closer look at the concept of "civil religion." This is admittedly very much a scholar's term, rather than a term arising out of general parlance, and its use seems to be restricted mainly to anthropologists, sociologists, political scientists, and historians and the like, even though it describes a phenomenon that has existed ever since the first organized human communities. It is also a somewhat imprecise term, which can mean several things at once. Civil religion is a means of investing a particular set of political/social arrangements with an aura of the sacred, thereby elevating their stature and enhancing their stability. It can serve as a point of reference for the shared faith of the entire state or nation, focusing on the most generalized and widely held beliefs about the history and destiny of that state or nation. As such, it provides much of the social glue that binds together a society through well-established symbols, rituals, celebrations, places, and values, supplying the society with an overarching sense of spiritual unity – a sacred canopy, in Peter Berger's words – and a focal point for shared memories of struggle and survival. Although it borrows extensively from

the society's dominant religious tradition, it is not itself a highly particularized religion, but instead a somewhat more blandly inclusive one, into whose highly general stories and propositions those of various faiths can read and project what they wish. It is, so to speak, a highest common denominator.

The phenomenon of civil religion extends back at least to classical antiquity, to the local gods of the Greek city-state, the civil theology of Plato, and to the Romans' state cult, which made the emperor into an object of worship himself. But the term itself appears in recognizably modern form in Jean-Jacques Rousseau's *Social Contract* (1762), Book 4, Chapter 8, where it was put forward as a means of cementing the people's allegiances to their polity. Rousseau recognized the historic role of religious sentiment in underwriting the legitimacy of regimes and strengthening the citizen's bonds to the state and their willingness to sacrifice for the general good. He deplored the influence of Christianity in this regard, however, precisely because of the way that it divided citizens' loyalties, causing them to neglect worldly concerns in favor of spiritual ones. Christians made poor soldiers, because they were more willing to die than to fight. Rousseau's solution was the self-conscious replacement of Christianity with

> a purely civil profession of faith, of which the Sovereign should fix the articles, not exactly as religious dogma, but as social sentiments without which a man cannot be a good citizen and faithful subject.

Since it was impossible to have a cohesive civil government without some kind of religion, and since Christianity is inherently counterproductive or subversive to sound civil government, he thought the state should impose its own custom-tailored religion, which provides a frankly utilitarian function. That civil religion should be kept as simple as possible, with only a few, mainly positive beliefs: the existence and power of God, the afterlife, the reality of reward or punishment, etc., and only one negative dogma, the proscribing of intolerance. Citizens would still be permitted to have their own peculiar beliefs regarding metaphysical things, so long as such opinions were of no worldly consequence. But "whosoever dares to say, 'Outside the Church no salvation,'" Rousseau sternly declared, "ought to be driven from the State."

Needless to say, such a nakedly manipulative approach to the problem of socially binding beliefs, and such dismissiveness toward the commanding truths of Christianity and other older faiths,has not attracted universal approval, in Rousseau's day or since. Nor has the general conception of civil religion. It is not hard to see why. One of the most powerful and enduring critiques came some two centuries later, from the pen of the American scholar Will Herberg, whose classic study *Protestant Catholic Jew* (1955) concluded with a searing indictment of what he called the "civic" religion of "Americanism." Such religion had lost every smidgen of its prophetic edge; instead, it had become "the sanctification of the society and

culture of which it is the reflection." The Jewish and Christian traditions had "always regarded such religion as incurable idolatrous," because it "validates culture and society, without in any sense bringing them under judgment." Such religion no longer comes to prod the indolent, afflict the comfortable, and hold the mirror up to our sinful and corrupt ways. Instead, it "comes to serve as a spiritual reinforcement of national self-righteousness." It was the handmaiden of national arrogance and moral complacency.

But civil religion also had its defenders. One of them, the sociologist Robert N. Bellah, put the term on the intellectual map, arguing in an influential 1967 article called *Civil Religion in America* that the complaint of Herberg and others about this generalized and self-celebratory religion of The American Way of Life was not the whole story. The American civil religion was, he asserted, something far deeper and more worthy of respectful study, a body of symbols and beliefs that was not merely a watered down Christianity, but possessed a "seriousness and integrity" of its own. Beginning with an examination of references to God in John F. Kennedy's Inaugural Address, Bellah detected in the American civil-religious tradition a durable and morally challenging theme: "the obligation, both collective and individual, to carry out God's will on earth." Hence Bellah took a much more positive view of that tradition, though not denying its potential pitfalls. Against the critics, he argued that

> the civil religion at its best is a genuine apprehension of universal and transcendent religious reality as seen in or ... revealed through the experience of the American people.

It provides a higher standard against which the nation could be held accountable.

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For Bellah and others, the deepest source of the American civil religion is the Puritan-derived notion of America as a New Israel, a covenanted people with a divine mandate to restore the purity of early apostolic church, and thus serve as a godly model for the restoration of the world. John Winthrop's famous 1630 sermon to his fellow settlers of Massachusetts Bay, in which he envisioned their "plantation" as "city upon a hill," is the *locus classicus* for this idea of American chosenness. It was only natural that inhabitants with such a strong sense of historical destiny would eventually come to see themselves, and their nation, as collective bearers of a world-historical mission. What is more surprising, however, was how persistent that self-understanding of America as the Redeemer Nation would prove to be, and how easily it incorporated the secular ideas of the Declaration of Independence and the language of liberty into its portfolio. The same mix of convictions can be found

animating the rhetoric of the American Revolution, the vision of Manifest Destiny, the crusading sentiments of antebellum abolitionists, the benevolent imperialism of fin-de-siècle apostles of Christian civilization, and the fervent idealism of President Woodrow Wilson at the time of the First World War. No one expressed the idea more directly, however, than Senator Albert J. Beveridge of Indiana, who told the United States Senate, in the wake of the Spanish-American War, that "God has marked us as His chosen people, henceforth to lead in the regeneration of the world."

The American civil religion also has its sacred scriptures, such as the Mayflower Compact, the Declaration, the Constitution, the Bill of Rights, the Gettysburg Address, and the Pledge of Allegiance. It has its great narratives of struggle, from the suffering of George Washington's troops at Valley Forge to the gritty valor of Jeremiah Denton in Hanoi. It has its special ceremonial and memorial occasions, such as the Fourth of July, Veterans Day, Memorial Day, Thanksgiving Day, and Martin Luther King Day. It has its temples and shrines and holy sites, such as the Lincoln Memorial and other monuments, the National Mall, the Capitol, the White House, Arlington National Cemetery, the great Civil War battlefields, and great natural landmarks such as the Grand Canyon. It has its sacred objects, notably the national flag. It has its organizations, such as the Veterans of Foreign Wars, the American Legion, the Daughters of the American Revolution, and the Boy Scouts. And it has its dramatis personae, chief among them being its military heroes and the long succession of Presidents. Its telltale marks can be found in the frequent resort to the imagery of the Bible and reference to God and Providence in speeches and public documents, and in the inclusion of God's name in the national motto ("In God We Trust") on all currency, in the patriotic songs found in most church hymnals.

The references to God have always been nonspecific, however. From the very beginnings of the nation's history, the nation's civil-religious discourse was carefully calibrated to provide a meeting ground for both the Christian and Enlightenment elements in the thought of the Revolutionary generation. One can see this nonspecificity, for example, in the many references to the Deity in the presidential oratory of George Washington, which are still cited approvingly today as civil-religious texts. But there is no denying that civil-religious references to God have evolved and broadened even further since the Founding, from generic Protestant to Protestant-Catholic to Judeo-Christian to, in much of President George W. Bush's rhetoric, Abrahamic and even monotheistic in general. But what has not changed is the fact that such references still always convey a strong sense of God's providence, His blessing on the land, and of the Nation's consequent responsibility to serve as a light unto the nations.

Every President feels obliged to embrace these sentiments and expresses them in oratory. Some are more enthusiastic than others. As political scientist Hugh Heclo has recently demonstrated, Ronald Reagan's oratory was especially rich in such references. But President Bush surpassed even that standard, and put forward the civil-religious vision of America with the greatest energy of any President since

Woodrow Wilson. He echoed those sentiments in 2003 when he declared, speaking to the National Endowment for Democracy, that the advance of freedom is the calling of our time; it is the calling of our country. From the Fourteen Points to the Four Freedoms, to the Speech at Westminster, America has put our power at the service of principle. We believe that liberty is the design of nature; we believe that liberty is the direction of history. We believe that human fulfillment and excellence come in the responsible exercise of liberty. And we believe that freedom – the freedom we prize – is not for us alone, it is the right and the capacity of all mankind… And as we meet the terror and violence of the world, we can be certain the Author of freedom is not indifferent to the fate of freedom. In another speech, to the Coast Guard Academy, he declared that "the advance of freedom" is "a calling we follow," precisely because "the self-evident truths of the American founding" are "true for all." Anyone who thinks this aspect of the American civil religion has died out has simply not been paying attention.

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Precisely because President Bush was, arguably, the most evangelical President in American history, his use of such oratory both inspired and discomfited many – sometimes even the same people. For Herberg's general critique of civil religion still has considerable potency. It is clear, given the force-field of tensions within which civil religion exists, that it has an inherently problematic relationship to the Christian faith, or to any other serious religious tradition. At its best, it provides a secular grounding for that faith, one that makes political institutions more responsive to calls for self-examination and repentance, as well as exertion and sacrifice for the common good. At its worst, it can provide divine warrant to unscrupulous acts, cheapen religious language, turn clergy into robed flunkies of the state and the culture, and bring the simulacrum of religious awe into places where it doesn't belong.

Indeed, if one were writing this account before 9/11, one might emphasize the extent to which there has been a growing disenchantment with American civil religion, particularly in the wake of the Vietnam conflict. Robert Bellah himself has largely withdrawn from association with the idea, and even seems to be slightly embarrassed by the fact that his considerable scholarly reputation is so tied up in this slight disreputable concept. For many serious and committed Christians, there has been a growing sense that the American civil religion has become a pernicious idol, antithetical to the practice of their faith. This has been true not only of, say, liberal Christians who have opposed American foreign policy in Asia and Latin America and changes in American welfare policy, but also of highly conservative Christians who have grown startlingly disaffected over their inability to change settled policies on social issues such as abortion. On the religious right as well as the

religious left, the question has been posed, with growing frequency, of the compatibility of Christianity with America.

Such multipolar disaffection found expression, for example, in the remarkably wide influence of an 1989 book called *Resident Aliens: Life in the Christian Colony*, by theologians Stanley Hauerwas and Wiliam Willimon. As sophisticated liberal Methodists writing in a broadly Anabaptist tradition, the authors articulated a starkly separationist position that was strikingly consonant with the current mood of many in the Christian community at the end of the 1980s. The title came from Philippians 3:20: "We are a commonwealth [or colony] of heaven," and the authors urged that churches think of themselves as "colonies in the midst of an alien culture," whose members should think of themselves as "resident aliens" in that culture – in it, but not of it. The culture-war aspects of the Clinton impeachment only accentuated this sense among conservative Christians that the civil government had nothing to do with their faith, and the President of the United States, the high priest of the civil religion, was just another unredeemed guy, indeed rather worse than the norm. The combination of Clinton's moral lapses with his conspicuous Bible-carrying and church-going seemed proof positive that the American civil religion was not only false but genuinely pernicious. With the controversial election of 2000 leaving the nation so bitterly divided, with the eventual victor seemingly tainted forever, the prospects for the civil religion could hardly have looked bleaker. Just before the 9/11 attacks occurred, *Time* magazine anointed Stanley Hauerwas as America's leading theologian, a potent sign of the state of things, *ante bellum*.

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The attacks of 9/11 changed all of that decisively, though how permanently is quite another question. The initial reactions of some religious conservatives to the attacks, seeing them as a divine retribution for national sins, were reflexive and unguarded expressions of the "resident alien" sentiment. But they were out of phase with the resurgence of civil religion, and their comments viewed, fairly or unfairly, as a kind of national desecration.

Indeed, it is remarkable how quickly the ailing civil religion sprang back to new life, expressed especially through a multitude of impromptu church services held all over the country, an instinctive melding of the religious and the civil. Perhaps the most important of these was the service held at the National Cathedral on September 14, 2001, observing a National Day of Prayer and Remembrance, where President Bush spoke to virtually the entire assembled community of Washington officialdom – Congressmen, judges, generals, cabinet officials, and the like – and delivered a speech that touched, with remarkable grace and poise, all the classic civil-religious bases. America had a "responsibility to history" to answer these attacks. God is present in these events, even though His "signs are not always the

ones we look for" and his purposes not always our own." But our prayers are nevertheless heard, and He watches over us, and will strengthen us for the mission the lies ahead. And, directly invoking Paul's Epistle to the Romans, he concluded:

> As we have been assured, neither death nor life, nor angels nor principalities nor powers, nor things present nor things to come, nor height nor depth, can separate us from God's love. May He bless the souls of the departed. May He comfort our own. And may He always guide our country. God bless America.

It is interesting to note that Robert Bellah himself found the speech highly objectionable. It was, he told a reporter from the *Washington Post*, "stunningly inappropriate," little more than a "war talk" designed to whip up bellicose sentiments. "What," he complained, "was it doing there?" With all due respect to Professor Bellah, though, one wonders if he was watching the same speech and reading the same text as the rest of us. The speech was much more concerned with the nation's collective grief, with the need to remember the dead and celebrate the heroism of those workers who sacrificed their own lives to save others, to acknowledge and mourn the nation's wounds. And as for his expressions of national resolve, this was entirely appropriate, and would in fact have been an enormous omission, had it been left out. As the historian Mark Silk observed, defending Bush's speech, "if civil religion is about anything, it's about war and those who die in it." Would Bellah have been equally critical of Abraham Lincoln's resolve, in the Gettysburg Address, that "these dead shall not have died in vain" and that Americans should remain "dedicated to the great task remaining before us." Then again, perhaps he would have been more charitable to the speech had it been given by a Democratic president. But his visceral reaction gave clear indication that the civil religion of America was still on probation in some quarters, and that binding up the nation's wounds would be a far easier task than binding up the civil faith.

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Even today, years after the attacks, a substantial flow of visitors continues to make pilgrimages to the former World Trade Center site in lower Manhattan, now known forever as Ground Zero. It remains an intensely moving experience, even with all the wreckage cleared away and countless pieces of residual evidence removed or cleaned up. One still encounters open and intense expressions of grief and rage and incomprehension, in the other visitors and perhaps in oneself. It has become a shrine, a holy place, and has thereby become assimilated into the American civil religion. Yet the single most moving sight, the most powerful and immediately understandable symbol, is the famous cross-shaped girders that were pulled out of the wreckage, and have been raised as a cross. What, one wonders, does it mean to the people viewing it, many of whom, one presumes, are not Christians and not

even Americans? Was it a piece of nationalist kitsch, or a sentimental relic? Or was it a powerful witness to the redemptive value of suffering – and, thereby, a signpost pointing toward the core of the Christian story? Or did it subordinate the Christian story to the American one, and thus traduce its Christian meaning?

Much of what is good about civil religion, and much of what is dangerous about it, even at its best, is summed up by the ambiguity of this image. Yet 9/11 reminded us of something that the best social scientists already knew – that the impulse to create and live inside of a civil religion is an irrepressible human impulse, and that this is just as true in the age of the nation-state. There can be better or worse ways of approaching it, but the need for it is not to be denied. As the younger Robert Bellah seems to have understood, the state itself is something more than just a secular institution. Because it must sometimes call upon its citizens for acts of sacrifice and self-overcoming, and not only in acts of war, it must be able to draw on spiritual resources, deep attachments, reverent memories of the past, and visions of the direction of history to do its appropriate work. Ernest Renan put it well in his justly celebrated essay, *What is a Nation?*:

> The nation, like the individual, is the culmination of a long past of endeavours, sacrifice, and devotion ... To have common glories in the past and to have a common will in the present, to have performed great deeds together, to which to perform still more – these are the essential conditions for being a people ... A nation is therefore a large-scale solidarity, constituted by the feeling of the sacrifices that one has made in the past and of those that one is prepared to make in the future.

Without such feelings, no nation can long endure, let alone wage a long and difficult struggle. Nothing in this formulation precludes the need for the civil religion to contain an element of transcendental accountability, which should serve as a check on nationalistic excesses, rather than an enabler of them. Also, it should be stressed that civil religion can be a source of peaceable cohesion among different groups of different faiths, allowing them to bring some of their moral sensibility into public life and contribute to the making of a better society without causing conflict.

At the same time, one should be able to understand the disgust felt by many serious Christians and other believers toward civil religion. Even at best, the proponent of civil religion seems to be arguing for a system of beliefs based on its consequences rather than its truth. Yet by the same token, responsible critics of civil religion have to be willing to offer a serious and persuasive vision of what things could be like in this country, or any country, without it. I doubt that they can. The only real alternatives are the extremes of fusion or alienation, extreme theocracy or extreme sectarianism. Such experiences would, at the very least, be without any precedent in American history.

Indeed, there may be more to be feared from the remaining weakness of the civil religion than from its resurgent strength. Despite much public worrying about President Bush's easy resort to God-talk, his oratory lies well within the

well-established historical pattern of American civil-religious discourse. Instead, it is the unremittently negative reaction against it in some quarters that seems to have far less precedent. In addition, it is far too early to say that a settled alienation of religious believers from the American nation-state is no longer a possibility. There is a genuine danger that changes such as that envisioned in the Pledge of Allegiance controversy, or radical changes in the definition of marriage, or an unraveling of all traditional bioethical restraints, may produce a situation in which large numbers of conservative Christians will conclude that their Christian beliefs no longer permit them to be loyal and obedient American citizens. A civil religion that proposed to incorporate such changes would no longer be able to command their loyalty. Instead of being an instrument of national unity, it would become an instrument of national division.

In other words, the danger facing us in the years to come may be less from the triumphalism of civil religion, though that is always a danger, than from the very real possibility that traditional religious believers will not see their values reflected adequately in the national creeds and institutions and such, and will withdraw their affect as a result, with highly damaging consequences. It is a danger to which the current American president, Barack Obama, who has made effective use of civil-religious images and tropes, seems well attuned. And it's a danger that even a committed secularist such as John Dewey could see clearly, which made him plead with his fellow intellectuals not to mock church-going evangelicals, and made him look for a "common faith" that would embrace the emotive component of religion without its divisive assertions.

Dewey's solution was inadequate, but his formulation of the problem was not far off base. In a pluralistic society, religious believers and nonbelievers alike need ways to live together, and to do so, they need a second language of piety, one that extends their other commitments without undermining them. Yet it seems needlessly revolutionary, not to mention futile, to invent a common faith when one is already readily at hand, already fully invested with the very elements that Renan saw as requisite. To be sure, there is always something secondary and unsatisfying, and even inherently dangerous, about a civil religion. But the alternative is perilous too. It is surely a first rule of politics, as of life, that one must learn to work with the materials one has at hand.

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Chantal Delsol

TOCQUEVILLE AND PANTHEISM

The very short chapter on pantheism in *De la Démocratie en Amérique* [On democracy in America] is probably also one of the most profound, in the sense that it suggests one of the very mysterious aspects of the soul of democracies. Or maybe, in this prophetic manner which is the author's own secret, one aspect of the future democracies' soul. As we know it, Tocqueville does not content himself with a magnificent description of the spirit of democracy as he sees it with his own eyes, but he is suggesting its developments and avatars, including those, which were not yet visible in his time. In many cases, almost two centuries later, we do see that he has predicted, like a Pythia, situations that were rather unlikely in his contemporary times. We could quote two cases of such predictions, which still amaze us today: the extraordinary description of the ostracism striking those, who we refer today as to "politically incorrect" and chapter VI of the *Première Partie*,[1] entitled: "Ce qui fait pencher l'esprit des peuples démocratiques vers le panthéisme" ["What makes the spirit of democratic peoples incline towards pantheism"]. Naturally, the first symptoms of what he is announcing can already bee felt in the very core of societies living before his eyes.

But these are still almost inaudible at the time, while he describes, with confidence close to bravery, situations a contemporary sociologist could relate report after simply looking around. This probably demonstrates a certain rationality of the social phenomena and credibility of the prospective, assuming it comes from

[1] A. de Tocqueville, *De la Démocratie en Amérique* [On democracy in America] I, chapter VII of the *Deuxième Partie*: "Du pouvoir qu'exerce la majorité en Amérique sur la pensée" [On power exerted by majority in America on the thought].

a sharp and refined connoisseur of surrounding reality and an expert in humanity. In the times of Tocqueville, the term pantheism does not have a pleasant sound to it, at least coming from under a pen like his. Germany first, then France have experienced, since the Revolution, the famous dispute said to be focused on pantheism, in which philosophers were asking themselves whether rationalism of the Lumières can manage to erase transcendence, in other words can the Lumičres only deploy at the cost of eradicating occidental religion. Jacobi, for the first time talks about nihilism. Often connected to Spinoza, pantheism does not have a good press. It is in such an atmosphere that *De la Démocratie en Amérique* was written. The chapter devoted to democratic societies inclined towards pantheism clearly suggests the concept of a disastrous slope... Effectively, as we are going to see it, this inclination is rather characteristic for a decadent democracy, even if Tocqueville is not using such words.

Tocqueville and Religion

The personal relationship Tocqueville maintains with religion provides understanding of the ties he is waving between a society and it religion/religions.

As we know, Tocqueville claims himself to be a non-believer. Confronted almost overnight, at the age of sixteen with the philosophers of the Lumičres, he reports having then lost all religious faith, which has inhabited his childhood. For all that, his agnosticism does not make him an atheist, to the contrary. He deplores this lost faith and shall never recover from that loss. In August of 1850, a few years before passing away, he writes to Francisque de Corcelle: "If you know a recipe to believe, for God sake! give it to me. But what can the will do against the free processes of the spirit? If it was only about the will to believe, I would be a devoted believer long time ago, or rather I would always have been one, because doubt has always appeared to me as the most unbearable of pains in this world."[2] A mute God, we have to hope that he exists, because without him man is nothing. But a God out of our reach, one we cannot even seek.

Deprived of real faith (we could ask ourselves, but this is a completely different question, whether this hope is not faith in itself), Tocqueville claims he belongs to Catholicism, the religion of his family and childhood. Tied to it, in a cultural and sociological way, he is however not stopping himself from mocking the cult and dogmas of this religion, to the point some of his friends describe him as a protestant.

What is important from our perspective is that Tocqueville sees religion with a utilitarian eye. As a sociologist, he is treating religion as a social phenomenon. Not only man without God is existentially unhappy, but also societies without God are exposed to great risks. It is likely that only the agnosticism of the writer allowed him to keep such a distance. This manner of considering the religious fact would

[2] *Lettres choisies, Souvenirs* [Selected letters, memories], Quarto Gallimard, 2003, p. 687.

undoubtedly be more difficult for a believer. If one deeply adheres to the truth of a sacred story, it becomes indecent to describe its utility. Wright or wrong, we are inhabited by a sentiment that truth and utility do not match well, or if one prefers it otherwise - that truth only remains pure if protected from any temptation to make it "serve," because this would mean considering it as a mean, while it is by definition a goal. This way, such a permanent incertitude in relation to the truths of faith and, at the same time, the concern to belong to a religious tradition of one's ancestors and one's country, represent the premiss and necessary condition for Tocqueville's theories on religion in democracy.

Tocqueville, Sociology, Politics, and Political Theology

The religious fact is therefore an integral part of the social fact. Society, politics and religion are all exposed to the "tie." Religion, and this is in fact the meaning of the word, contributes to building relationship between men, who constitute a society. But in the first place, religion brings in an ethical lifestyle, supported by confidence and belief. This is incredibly valuable. It is because every society must set restrictions to human behaviours: but it is preferable that those restrictions are integrated by comprehension and persuasion, shared by communities of common belonging, rather than imposed by some sovereign force from above. Finally, religious interrogation is part of human destiny: this is the price of having a society composed of balanced individuals. People feel the need to get hand, even a trembling one, on the primary causes and final goals of life (today, we would express this need with the phrase: give a meaning to their lives). Even those, who are not theologisers or believers gain from living in a religious atmosphere, which guarantees a vision of order and image of happiness.

Religion therefore contains some hygienic element, if we see it from perspective of social hygiene. In any case, it is an integral part of a respectable human and social life. In this respect, whether religion is true or false does not change a thing.

The function of human culture is to try to provide answers to various questions related to human existence. This way, it always shelters a religion, wisdom, morale or politic. Every cultural community forms a world: a consistent universe, where those various questions do cohabitate in harmony. The governors govern there from position of a god or gods. The morale and religion are interlaced. Art reflects its cosmogony and myths. Every culture is particular, but inhabited by particularities in mutual relationships. This way, a political and social organization comes along on top of the religion that legitimizes it or it grants preference to the religion that agrees with its mentalities and its presuppositions: "side to every religion there is a political opinion, which is tied to it by affinity. Let the human spirit follow its tendency and it will regulate, in a consistent way, the political society

and city of God; it will seek, if I dare say it, to *harmonize* earth with heaven"[3]. The argument described here states that what is generally happening in human societies, is that politics get in tune with religion, which, even if stuttering, precedes them. But Tocqueville exposes in his work a new political organization and, breaking with all the things that have preceded it: modern democracy. Also in this case, a society, even if it has produced a political system corresponding to its religion, will have to follow an in-depth transformation, changing its shape, and get attached to new forms of religion, corresponding to its new mentalities: pantheism will come, it will be seen as a consequence of advanced democracy (it is like if earth had escaped heaven and would ten try to design a new "heaven" to its convenience), while democracy, at its origins is an image of Christianity. It is not always possible to establish the sequence of precedence of religion and politics, one generating the other depending on the case and generally, both mutually engendering each other like the egg and the hen.

Tocqueville's sociology is also a sociology of religion, to the extent religion is integral part of any cultural and social organization, more precisely also of the one studied by the author. Since it is about democracy, the point is to describe, which religion is the most convenient for democracy.

According to Tocqueville, modern democracy needs, more than any other organization, patronage or close presence of a religion. This is because of it is developing individualism, materialism and passion for the immediate. Individualist, it generates de-coupling and religion unites. Materialist, democracy incites people to give priority to material things and money: religion lifts their sight to some vertical spheres, they cannot live without. Installing people in the present, it reduces their interest for the past and the future: religion is giving them, once again a "taste of the future" with, at the same time, a feeling of transcendence, both being coupled together.

Democracy Responds to Christianity

To start with, Christianity is exactly the religion fitting democratic times. It is not at all by pure chance that modern democracy has implanted itself in such an atmosphere. The ideal of universalism, the spirit of equality and the Christian charity have been adopted by the Lumières, which sets them in the immanent and gives them a clear expression in democracy. Belief in individual dignity is realized by the autonomy of the individual, whose individualism is nothing but a consequence. In his *Intervention dans la discussion de loi sur le regime des esclaves dans les colonies* ["Intervention in the discussion on slavery regime in the colonies"], dated 30 May 1845, Tocqueville reminds that with regards to slavery, the Lumières season not only confirms the principles of Christianity, but it finally realizes them,

[3] I, Deuxième Partie, IX.

before they came to being. In *De la Démocratie en Amérique*, he makes distinction between protestant and catholic religion and notes their respective contacts with democracy. Protestantism is more favourable to democracy, since it is at the same time egalitarian and liberal. On the other hand, catholic religion is rather egalitarian but not liberal. So how can some of the Americans, and more particularly those of Irish descent reconcile their Catholicism with democracy? This is because they remain a minority as compared to the Protestants and by the way, they often are the poorest and happily adopt the democratic principles of equality.

The model (or faithful mirror) of this political organization is Christianity – carrier of highly requiring moral laws, is at the same time providing democracy with the corrective it needs. A liberal society is exposed to serious risks if the religious spirit does not compensate it: "while the law allows the American people to do anything, religion precludes conception of it all and daring anything"[4].

Religion partially avoids the constraints of the State, which would become necessary if no other things than positive laws were there to stop passions. This comes to saying that democracy is not possible without religion, in fact because of the liberty it is promoting "if he has no faith, he must sere, if he is free, he must believe"[5] .

This is valid under two key conditions, which we will just enumerate here due to the marginality of the issue, in relation to our core topic: The essential separation between the State and the Churches and tolerance of the Churches face to the freedom of democratic citizens, who are more concerned by faith and ethics than by dogmas and rituals. In that respect, says the author (rightly, in our opinion), it is so fortunate that catholic religion is a minority in America, the religion which cannot feel powerful without immediately becoming dominant... but this is just another story.

Pantheism

Why are the two little pages about pantheism so important? Tocqueville does not say that citizens of democracy are pantheist, but he claims that they tend to become pantheist. This means that germs of pantheism do exist in democracy, which is by the way so clearly carried by Christianity.

The author has very accurately observed and analyzed the differences between revolutions in France and America. Revolution in America did happen under the cover of religion and with religion, while in France it was against the religion: due to the fact that in France, State and religion were too imbricated, for the breaking with one of them not to cause, at the same time, breaking with the other. Also the French think that the Lumičres cannot install themselves in an other way than

[4] I, Deuxième Partie, IX.

[5] II, Première Partie, VI.

replacing and forcing out religion. By the way, France is a centralized country (reality well presented in *L'Ancien Régime et la Révolution*), to the image of the catholic religion, which has constructed the country. A troubling link arises, as we have seen it, between autocracy and atheism, since without the religious and moral strengths anchored in the society, it needs a merciless positive law fighting against individual passions. In all respects, France is ready to fall under the ferule of democratic despotism: anti-religious and traditionally autocratic.

In an atmosphere of destruction of the intermediary bodies (dissolved by the Le Chapellier law from 1791), the solitude of individuals follows and amplifies the power of the Sate, already established by the traditional French monarchy. In an atmosphere of death of God (as mentioned by Tocqueville, for example in his letters to Gobineau, from 1843), the utilitarianism natural to democracy, race for material goods and individual success do naturally lead to materialism. This way, the organization of society reinforces transformation of mentality, supporting the arising of spiritless despotism, while for Tocqueville, democracy is a freedom seated on the spiritual.

The Link Between Mass and Monism of Thought

The reign of the mass leads to a sort of monism of thought. In democracy, there are no heroes. Original or specific ideas are also not very popular. Anything beyond ordinary appears pretentious and vain. While in aristocratic societies, people are interested in singularities, in the democratic centuries they are essentially interested in "general ideas." One could believe that Tocqueville means here the theories, for instance when he says that the French like general ideas more than the Americans, because for such a long time they have, so to say, governed in thought, while the Americans, who are "borne equal instead of becoming equal,"[6] have always governed. Here, it is a good example of the French passion for political theories, a passion arising from a people, used for such a long time to be far away from political reality. But the "general ideas" he refers to, are rather translating "common rules" or "general causes," allowing (more or less rightly, but this is another story) to understand the world fast and with one glance. This tropism comes from, without any doubt, the belief in equality of the common cause. Every citizen is provided with the same reason, making him see the same things. Moreover, he forcedly thinks that the same rules shall apply to everyone, since all people are similar. The hierarchies have been erased, everyone relies on own reason and experience only. Equality of conditions creates independence of spirit. Since reason is objective, universal and all-powerful, there is no reason to listen to any elite, or simply to ideas brought by others. Why accept a plurality of systems or a diversity of great men? Since they all have the same capacities and normally end up on the same path, the individual

[6] II, Deuxième Partie, III.

no longer trusts anything but the common opinion, becoming his god. In America, religious belief remains a common thing however. But the erasing of religious beliefs will arise from two sources: in Europe, it represents a condition for the rise of the Lumières; even in America, it is at risk, since democracy lives on the remains of religion, without being able to develop it, and consumes, in other words, a capital it cannot exist without. There are chances, therefore, that interests being the foundation of democracy, will replace beliefs. Everything becomes imminent. Passion for material well-being, this "middle class passion" makes the democratic individual believe that "everything is matter." He ends up forgetting or ceases to believe that he will die. This is pantheism.

This democratic individual therefore has a unitary and monocausal spirit. For this first reason, he is seeking a world which is the least diversified and the simplest possible. And this also extends to religion, since all domains correspond within the same culture. Belief in the unity of mankind and in equal dignity of all men fits the monotheist philosophy: one and only God loves all his children equally. But everything happens as if distinction between the creator and its creation was still too much: better to confuse them. This is pantheism.

People in democratic times want the spirit of the religion but not its forms – one can understand them as rites, formulas and manifestations. Their religion is disembodied and even the clerks adapt to that. But this disembodying tends towards abstraction. This is pantheism.

Democracy on a Slope Towards Lack of Differentiation

Democracy deploys liberty and equality at the same time, but deep inside, people prefer equality to liberty: the evil sides of liberty arise immediately, while it takes a long time to understand the disaster of equality. People of the democracy do like equality to the extent they are ready scarify their liberty for it. Their fear of seeing an arising superiority is against the spirit of liberty, which reigns in democracy. This is because liberty means the possibility to distinguish yourself. Because people in democracy are similar or consider themselves similar, they tend to loose interest in singularity of some individuals, which they perceive as a manifestation of bravado or inanity.

This way, what keeps their attention is the kind as a whole. They think of themselves in masses. This is pantheism. There is no longer a self or singularity of a person, it is nothing but an illusion, a sort of superstructure, invented by aristocracy. They are full of compassion for each other, since everyone can feel the dismay of the others. They manifest no will to quarrel, since they all share the same thoughts, as well as same interests and taste. They do not like the governors but they like the central authority to be immense and anonymous. They all share universal sympathy within a nameless whole. In pantheism, there is no named authority.

This way, Tocqueville's chapter on pantheism provides a clairvoyant expression of the contemporary situation in relation to the difference between democracies in France and in America. The French, he says, believe that the false note of the American democracy consists of this religious spirit, which is still so active, and which should end up being subverted by the Lumičres. In their opinion "the only missing thing in the freedom and happiness of mankind on the other side of the ocean is the belief, following Spinoza, in the eternity of the world and support, along with Cabanis for the statement that it is the brain that secretes the thought."[7] In other words, since you are democrats, be coherent, be pantheists like Spinoza ad materialists with Cabanis (we would say nowadays with Changeux, and this whole story of the brain secreting thought has not moved an inch in its arguments). The French are wrong, says Tocqueville: by becoming pantheist and materialist, which is the perverse consequence of democracy, they will produce democratic despotism, in other words, they will ruin democracy without noticing it… From such perspective, pantheism looks like the religion of degenerated democracy, and the pathetic future of democracy. For Tocqueville, materialism represents a significant threat, to the point that in his notes about oriental religions, he affirms that only the horrible cast religion system in India would be worse. It is better, finally, to follow any religion rather than no religion. For example, the rather ridiculous belief in metempsychosis is better than no belief: citizens "risk less the deadening of their minds by thinking their soul will pass into the body of a pig, than by believing that the soul is nothing".[8] Once again, we shall remember that the point here is not to seek truth but to sit the society and grow the man: this does not necessarily mean the materialist is wrong, but he "deadens his mind." Democracy needs a strong society (because its State is weak), it promotes the greatness of man. This is why it should push away materialism, like a plague. However, it produces it. If it starts to reject the compensating effects of Christianity, democracy will fall into pantheism. Two centuries later, we are noticing that the American democracy has managed to maintain and feed Christianity, being its very foundation. Whereas France, without prejudice for other European countries, seems irresistibly attracted by well recognizable forms of pantheism.

[7] I, Deuxième Partie, IX.

[8] II, Deuxième Partie, XV.

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Robert P. Kraynak

THE RELATION OF CHRISTIANITY AND LIBERAL DEMOCRACY IN AMERICA

The relation of Christianity and liberal democracy is generally assumed to be harmonious in the United States, especially when compared to many European nations where the relation seems hostile or indifferent. Indeed, most Americans think that an essential harmony between religion and democracy is a long-standing tradition that can be traced back to the American founding fathers in the eighteenth century. European observers, such as Alexis de Tocqueville, also noticed that Christianity and liberal democracy were mutually supportive in America, in contrast to France, where the two had settled into a relation of mutual hostility.

The idea of essential harmony was developed theologically in the twentieth century by influential Christian leaders such as John Courtney Murray, Reinhold Niebuhr, Martin Luther King, and Jacques Maritain. They led the way in persuading Christian believers that their faith is naturally allied to liberal democracy rather than to the old regimes of monarchy and theocracy or to the modern totalitarian regimes of communism and fascism.

These theologians were "Christian democrats," one might say, who worked out a logic of harmony between Christianity and modern liberal democracy consisting of three propositions: (1) Christian ethics teaches universal love; (2) universal love implies recognizing the inherent dignity of every person; and (3) the dignity of all persons entails respect for their inviolable natural or human rights in a democratic society.

Most Christians today believe in this "logic of harmony" and even in a kind of moral equivalence between Christianity and liberal democracy, which they see as two sides of the same coin – the sacred and secular sides of human dignity.

While accepting the "logic of harmony" as a matter of principle and even as a matter of hope and prayer, many of the same Christians have nagging doubts about the long-term prospects for harmony or compatibility. They are alarmed by signs of growing hostility in the surrounding culture to important principles of Christian life – for example, in the legalization of abortion rights, in the growing pressure for gay marriage, in a culture of individualism emphasizing unfettered self-expression, in a culture of materialism that creates an obsessive consumer-entertainment society where twenty percent of Americans are left chronically poor and underinsured, in court decisions shrinking the role of religion in public life, and in subtle but significant cultural shifts such as replacing the greeting "Merry Christmas" with "Happy Holidays" in public schools and shopping malls.

Further doubts are caused by looking at trends in other Western democracies. Although the United States is still a religious country, nations that were once vitally Christian – Canada, the United Kingdom, France, Germany, and the Scandinavian countries – are now virtually de-Christianized or "post-Christian." France has even taken the step of passing a law banning displays in public schools of crosses, yamulkes, and Muslim girls' headscarves in order to guarantee its "laicized" state. Will America follow Canada and Western Europe in becoming a totally secular society? Are those countries an image of the American future?

While many people think that America is different, and will resist the secularizing trends of Canada and Western Europe, others are not so sure anymore. At a minimum, Christian believers are confronted with a puzzling and disturbing dilemma. On the one hand, Christianity looks like it has a natural affinity with liberal democracy because the two ideals seem to share the common values of respect for the inherent rights and dignity of individuals, equality of all peoples, freedom of conscience, and welfare for the poor. On the other hand, democracy based on natural rights or human rights – which is what we mean by liberal democracy – combined with a culture of materialism and social welfare, are producing societies that are evermore secular and even anti-Christian. Such trends imply hostility rather than harmony between Christian faith and modern liberal democracy. So which is the correct view: harmony or hostility?

One might answer that a stark either/or choice between essential harmony and inevitable hostility are not the only options. Most practicing Christians probably place themselves somewhere in the middle of the debate, and the theologians and church leaders who are most vocal reject exclusive choices. They acknowledge the serious problems of modern societies, but they think that those problems are mainly a result of *false* theories of democracy and *false* theories of rights derived from the modern Enlightenment and from secular Liberalism – false theories which equate human dignity with personal autonomy and which justify democracy by ap-

peals to skepticism or moral relativism (the claim that nothing is objectively true, therefore democracy is best because it allows people to live as they please and to define reality as they wish). By contrast, theologians and church leaders argue that Christianity has its own version of democracy and rights – one that is not based on personal autonomy and moral relativism but on the dignity of the human person made in the image of God. This doctrine is called "Christian personalism" because it emphasizes the Christian idea of the dignity of the human person, which provides a religious alternative to secular Liberalism and the modern Enlightenment. Once Christian personalism is clearly and effectively taught, these theologians argue, the moral and spiritual problems of democracy can be overcome. We will then have a "democracy of the person", or a genuine Christian democracy where rights are used properly and morally rather than destructively and immorally.

In my view, this alternative is a plausible reply to the critics. It is also one that I find admirable, not least because it is reflected in the social teaching of many churches, including my own, the Roman Catholic Church. In the final analysis, however, I believe that Christian personalism's teaching about democracy and human rights is based on wishful thinking because the problems go much deeper than false theories or misunderstandings. To explain why this is so, I will explore two major issues in order to show that there is something inherently subversive in the concept of "rights" (regardless of the foundation) that causes them to undermine Christian life, and that there is something inherently corrosive in the "mass culture" of democracy that explains why religion is always fighting losing battles against the social forces of today. I will conclude with an appeal to St. Augustine's doctrine of the Two Cities in order to suggest a possible solution – a way of living as a citizen of two worlds that recognizes the inherent tensions between Christianity and democratic citizenship while preserving a fundamental loyalty to the American way of life.[1]

Problems with Rights

The first step is to examine theories of "rights" and to ask if they are compatible or incompatible with Christianity. As a preliminary observation, I would note that most of the Christian theologians of the past did not develop theories of rights. The greatest of them – St. Augustine, St. Thomas Aquinas, Martin Luther, John Calvin, Richard Hooker, and the American Puritans – had powerful notions of justice derived from natural law and divine law which enabled them to oppose tyranny, oppression, and exploitation. But their notions of justice and higher law were not the same things as theories of rights. Nor am I convinced by the impressive scholarly

[1] The argument that follows was first presented as The Witherspoon Fellowship Lecture and published by the Family Research Council as "Natural Rights and the American Experiment: Some Problems for Christian Theology" 2004, No. 32, March 12.

work of Brian Tierney, which purports to show that twelfth-century cannon law doctrines of "subjective right" were forerunners of modern natural rights because they referred to powers or faculties in the soul of the "subject."[2] Despite the reference to subjective powers, these and other traditional Christian doctrines were different from the natural or human rights of today. Why?

The answer, I believe, is that rights are not merely powers in the soul, but claims against external authority, either as protections for personal freedom from the arbitrary power of the state or as entitlements from the state for social welfare benefits. Neither of these basic senses of rights – as protections or as entitlements – is easily squared with Christian doctrine. Let me offer five reasons why theories of rights were not part of traditional Christian theology and why rights are problematic for Christians to embrace today.

In the first place, Christianity's foundation on divine revelation implies a duty to accept transcendent truth from a higher authority that is independent of any claims of rights. The Catholic, Eastern Orthodox, and Anglican churches, in particular, require acceptance of authoritative pronouncements about revealed truth by the church hierarchy in its capacity as successor to the Apostles. The teaching authority of the hierarchical church – based on the claim that bishops and patriarchs are successors of the Apostles – is crucial for the Catholic, Orthodox, and Anglican churches in defining the doctrines of the true faith. Even those Protestants who reject the Apostolic Succession and allow individuals to interpret Scripture in congregational churches guided by the Holy Spirit have developed means for protecting the true faith. All Christians, in other words, claim divine authority for institutional churches to promote orthodoxy and to suppress heresy.

Hence, it is not easy for any devout Christian to accept a blanket right of individual conscience, especially if it leads to a society indifferent to God or to a society in which bizarre New Age cults proliferate and the true faith is marginalized under the pretext of personal interpretation. While defending orthodoxy does not automatically require a confessional Christian state or theocracy, it is not easy to square with an unqualified right of conscience either. In fact, many of the strongest religious arguments for rights of conscience developed by modern Christian theologians are based on duties to seek the truth freely, in an un-coerced fashion. But these arguments for freely chosen faith mean that claims of orthodoxy and claims of personal conscience are left in an unresolved standoff that gives error the same rights as truth. What should Christians do if the Christian faith becomes an endangered species in a modern society?

Christian believers may find protection in the rights of conscience against a hostile secular culture that treats their words as 'hate speech,' but those very same rights often contribute to the secularization of culture over the long term. The implication is that authoritative claims about the true faith are not automatically in

[2] See: B. Tierney, *The Idea of Natural Rights: Studies in Natural Rights, Natural Law, and Church Law, 1150–1625*, Atlanta 1997.

harmony with the rights of individual conscience and may often be in tension with them.

A second problem with rights (following the same logic) is that Christianity puts duties to God and duties to neighbor before any claims of rights; and Christian believers cannot easily accept the proposition that a natural right to pursue happiness as one sees fit should take precedence over the exalted duties to God and man. After all, the Bible uses the language of divine law rather than the language of rights to express morality and justice; and the divine law includes the old law or Mosaic code in the Old Testament, which Christians generally reduce to the Ten Commandments along with the two great commands of love in the New Testament: loving God with all one's mind, heart, and soul and loving one's neighbor as one's self.

It is not surprising, then, that the Bible gives us a list of commands rather than a list of rights – the Ten Commandments rather than the Bill of Ten Rights. A more subtle point is that the biblical commands of the Mosaic code which forbid murder and stealing are prohibitions on the perpetrators of misdeed rather than protections for the victims of misdeeds; the perpetrators are liable to the death penalty in many cases and are highly restricted in their use of property (forbidden, for example, to lend money at interest to the poor) – which indicates there is not a natural right to self-preservation or a natural right to own and freely use one's property. Even the command of Jesus to love one's neighbor as one's self is not necessarily the same as respecting the rights of others – if, for example, loving one's neighbors means imposing on them for their own good in order to save their souls or to steer them away from sin (as we would wish for ourselves). In other words, divine law commands duties to others and reciprocal obligations among human beings rather than rights claims. The commands do not necessarily rule out civil laws protecting people's rights, but they do not require them either; and they may even require subordinating rights to duties in civil law and in social practice for the sake of higher goods.[3]

In the third place, the Christian notion of original sin implies distrust of weak and fallible human beings to use their rights properly. Belief in original sin instills in Christians a keen sense of how freedom can go awry, and implies that any notion of political freedom must be a conditional good rather than an absolute good. Original sin means weak and corruptible human beings need curbs on freedom by social and political institutions, including the legislation of morality by the state in certain areas of life. Of course, many Christian theologians maintain that the corruption of man by original sin does not obliterate his rational nature and free-will; but this implies even greater responsibilities for the state – not only to suppress vice and sin, but also to perfect the rational souls of citizens by inculcating moral and intellectual virtues. Such political responsibilities are hard to reconcile with protections for individual rights because they imply the need for institutions of civic and moral education that mold the characters of citizens. Curbing vice and promoting

[3] See: E. L. Fortin, *Is Liberal Democracy Really Christian?*, "Free Inquiry" 1984, Vol. 4, Spring, p. 34.

virtue by regulating alcohol, drugs, prostitution, gambling, and public indecency are often at odds with personal rights and liberties.

Those responsibilities also indicate why traditional Christianity places more emphasis on "inner freedom" – the freedom of the soul from sinful desires – than on "external freedom" – the freedom from external political controls, including the controls of a repressive state or the institution of slavery. Thus, when St. Paul spoke of Christian freedom, he meant inner freedom, not the external freedom from the state protected by natural rights. To the surprise of modern readers of the New Testament, Paul could say (without contradicting himself): "for freedom Christ has set us free ... do not submit to the yoke of slavery" (Gal. 5:1) and "slaves, obey ... your earthly masters" (Col. 3:22). Paul is not advocating or endorsing slavery in his admonitions to obey earthly masters; but he is saying something that is hard for modern Christians to understand. He is acknowledging that inner freedom from sin is more important than external freedom from oppression, making spiritual freedom a higher priority than claiming one's rights.

Fourth, Christianity, and especially the Catholic tradition, elevates the common good above the rights of individuals and even above the rights of groups. Catholic teaching about the family and man's social nature also conflict with the individualism and privacy of rights. Traditionally, Catholicism did not define the common good as simply the condition for individual development (as it does today somewhat naively in *The Catechism of the Catholic Church;* see paragraphs 1906-09). Rather, it viewed the common good in corporate fashion, embodied in structured social groups and upholding "unity in peace" that promotes the harmony of social classes and inculcates moral virtues that perfect the rational soul and promote civic friendship ("solidarity," in today's terms). The Catholic conception of the common good is best captured by the concept of corporate hierarchy rather than by conditions for the exercise of individual rights. This conception explains why so many Christian theologians of the past could oppose tyranny and oppression in the name of justice – which they conceived as the corporate good of all classes of people in their proper place in the social order – without embracing human rights as such.

The Christian notion of the common good also explain why today's battles over the family, and especially over abortion and gay marriage, so often pit Christian defenders of traditional family values against political activists waving the banner of equal rights. Traditional Christians understand the family as a corporate body of reciprocal obligations sanctioned by natural law and divine law for its special common good – the union in sacramental love of a male and a female for the procreation and rearing of children. By contrast, 'progressives' see the 'family' as a social construct of autonomous individuals claiming equal rights, including a woman's right to choose an abortion. Yet, the Christian view of the family as a natural and divinely ordained union is incomprehensible in terms of rights; and once Christians embrace the logic of rights, they can hardly stop the culture of

rights from undermining the traditional family and redefining it according to the rights of personal desire (including the desire for gay unions, polygamy, group marriage, or whatever else people may feel). These contemporary debates about the family highlight the tensions between Christianity and human rights more clearly than any other social issue.

A fifth problem with rights concerns the Christian teaching about charity. The essence of Christian charity (agape) is sacrificial love, and the ideal of sacrificial love makes the whole notion of rights seem selfish. Many have observed that the culture of rights, when deeply entrenched, creates societies in the modern Western world where people feel that they are owed something when they can declare, "I have my rights" (meaning, my entitlements) and that they are victims if their entitlements are not granted. As Alexander Solzhenitsyn has said critically of the Western concept of rights: "'Human rights' are a fine thing, but how can we be sure that our rights do not expand at the expense of others? … Human freedom, in contrast, includes voluntary self-limitation for the sake of others."[4]

Stated more precisely, human rights are a two-edged sword: They are noble and glorious when used against real tyranny and real oppression (against the Hitlers, Stalins, and Saddam Husseins of the world). But rights are base, selfish, and destructive when they are used against the legitimate authority of parents, teachers, clergymen, and public officials or when used against traditional morality, as they often are in modern society. Although rights have horizontal limits ("my rights end where your rights begin"), they have no guidelines in themselves to distinguish between the legitimate and illegitimate use of rights – for example, between the rights of Christian marriage and the rights of gay marriage, between the right to choose an abortion and the right to life, between true and false rights. These distinctions cannot be found in rights themselves and must be sought in an objective hierarchy of goods that explains how rights must be properly used in order to be legitimate. Hence, from a Christian perspective, rights are conditional goods: their value depends on the ends for which they are used, which means that rights are not rights, strictly speaking, but rather conditional goods subservient to higher goods.

Furthermore, Christians (especially Catholics) cannot accept the premise of the natural freedom of the autonomous self that underlies philosophical doctrines of rights. The most influential doctrines of rights emerged from the great liberal philosophers of the Enlightenment – Thomas Hobbes, John Locke, Jean-Jacques Rousseau, Immanuel Kant, John Stuart Mill, John Dewey, Isaiah Berlin, and John Rawls. In one fashion or another, they argue that human beings are "born free"; and they posit the existence of a state of nature or an "original position" which proclaims human autonomy at the expense of human dependence on God and personal autonomy before obligations to the common good of society and to fellow human beings. Such doctrines also deny natural sociality as well as natural or divinely ordained hierarchies. Natural freedom is antithetical to the divinely ordained hierar-

[4] A. Solzhenitsyn, *Rebuilding Russia: Reflections and Tentative Proposals*, New York 1989, p. 54–55.

chy of the Church and to a natural hierarchy in the family; it also undermines claims of those who are wise and virtuous to have a legitimate title to rule over those who are less wise and less virtuous. Since these notions are inherent in Christian teachings about social obligation and authority, a Christian doctrine of natural or human rights cannot begin from the assumption of an autonomous self in a state of nature or an original position. Christian theories of rights, insofar as they are plausible, must be derived from duties, hierarchies, and prior human goods – derivations that raise the question if they are still rights at all, rather than conditional grants from a higher authority to use freedom for the specific ends of man as a creature of God living in the fallen world.

These five objections to Christian theories of human rights are weighty objections; and they leave one wondering what Christians should think about theories of rights today, especially when those theories have been incorporated uncritically into much of mainstream theology. The lesson that I would draw from this is that Christianity strongly opposes tyranny and supports ideals of justice that include a notion of freedom; but the Christian view of freedom cannot be properly understood as a matter of rights. Instead, Christian freedom must be understood as the "freedom-to-do-good" or "freedom-for-the good" – it means that freedom requires cultural conditions that guide and direct choices to the true ends of man, to "the whole truth about God and man," in the words of Pope John Paul II. This conception of Christian freedom is closer to the idea of "ordered liberty" in the tradition of Edmund Burke than to the idea of natural rights in the tradition of Thomas Jefferson. As Burke said, the only kind of freedom or liberty worthy of a civilized society is "a liberty connected with order and virtue … [and that] cannot exist at all without them."[5]

If this is so, then the challenge for responsible Christians is to find a way of limiting the power of the state to avoid tyranny and to promote freedom as ordered liberty, without creating a neutral zone of private rights that allows people to do whatever they want within the boundaries of the law (where "anything goes" that is not illegal) and where the boundaries of the law are continuously pushed back to allow for ever greater permissive freedom. In short, what we need are constitutional limits on state power that provide safeguards against tyranny, without promoting a culture and legal system of rights that continuously subverts the true ends of man as a spiritual and rational being. How this goal might be attained in practice is a whole other subject; but let me suggest here that it could be achieved by a Christian theory of constitutional government, such as the one that I outline in my book, *Christian Faith and Modern Democracy.* The gist of the argument is that constitutional government can be established on the Christian distinction between God's realm and Caesar's realm, because this distinction implies that Caesar's realm – the realm of the coercive state – is secondary to God's realm yet distinguished

[5] E. Burke, *An Appeal from the New to the Old Whigs*, [in:] *The Portable Edmund Burke*, ed. I. Kramnick, New York 1999, p. 480.

from God's realm, making the state an inherently limited and imperfect authority that provides for the temporal common good. This understanding of "constitutional government under God" is based on an objective hierarchy of ends which limits the coercive state and permits an orderly notion of liberty without opening up a neutral zone of private rights that so often undermines traditional morality in modern societies. A Christian theory of constitutional government under God is better than the liberal theory because it avoids the pitfalls of rights and offers the benefits of "constitutionalism without liberalism."[6]

Problems with Democracy

If these are some of the reasons why rights are difficult to reconcile with Christianity, then what are some of the problems inherent in democracy? We need to be honest and ask this question as well: Is democracy really compatible with Christianity? Merely by raising the question today, one might be accused of subverting American ideals and of disturbing the complacency of Christians who accept the compatibility of democracy and Christianity as a matter of principle. They genuinely believe the famous statement of Henri Bergson – often fondly quoted by Jacques Maritain – that "democracy is evangelical." The statement implies that modern democracy is not a pagan idea derived from the Greeks or a secular idea derived from the French Revolution, but a Christian idea inspired by the Gospel – by the evangelical message of universal love and the equal dignity of all God's children.[7] The political implication is that democracy is the only form of government consistent with the dignity of man in his full moral maturity and the only legitimate political authority that a Christian can support – a development of the gospel of Christ into "the gospel of democracy."

In reflecting on these contemporary views, we should be reminded that this was not the view of the great Christian theologians of the past, nor even of Christ in the Gospels. The strangeness of Christ's view of politics was that he preached universal love and charity, especially for the poor and humble, but he seemed to express no preference for one form of government over another when he said, "render to Caesar the things that are Caesar's and to God the things that are God's." The simplest meaning of Christ's statement is to obey the powers that be, regardless of the form of government, as long as the established rulers do not exceed their proper limits as temporal powers by trying to usurp God's authority or by claiming to be divinities themselves. For centuries, most Christian theologians and church leaders interpreted this to mean that a variety of political regimes could be legitimate as long as the state was viewed as a secondary power compared to the church and as

[6] R. P. Kraynak, *Christian Faith and Modern Democracy: God and Politics in the Fallen World*, Notre Dame 2001, see chapt. 4 & 5, p. 183–191, 203–224.

[7] J. Maritain, *Christianity and Democracy*, New York 1944, p. 42–43.

long as it satisfied certain requirements of the temporal common good, which usually led them to prefer monarchy or mixed constitutions to democracy or republicanism on prudential grounds. Is there an inherent problem with democracy that prevented traditional theologians from regarding it as the best choice for Christianity?

The answer is, yes, there is an inherent problem which is usually forgotten today by enthusiasts for "the gospel of democracy." The problem is that democracy is driven by the demand for equality, which can be healthy and just in certain respects but which also has an inevitable tendency toward "leveling" – toward abolishing all hierarchies or all distinctions between high and low in society and in the souls of democratic citizens. Democracies tend to view all lifestyles as equally valid and to treat all hierarchies as illegitimate, whether they are arbitrary or just. Yet, hierarchies of a certain kind are absolutely necessary for spiritual life because hierarchies elevate the soul above mundane concerns and provide institutional support for transcendent goods and high culture.

This crucial point can be understood by reading the classical Greek philosophers Plato and Aristotle, who taught that the "regime in the city shapes the regime in the soul," and that both regimes needed hierarchies to promote virtue – meaning the rule of the higher parts of the soul over the lower parts of the soul. This point can also be learned by reading St. Augustine, St. Thomas Aquinas, Richard Hooker, and many of the American Puritans – all of whom had a healthy respect for hierarchies in the city and in the soul. It can also be rediscovered by reading the great social critics of the modern democratic age whom I often refer to as the theorists of "mass society." At the top of the list of these powerful social critics are Alexis de Tocqueville, John Stuart Mill, Friedrich Nietzsche, Ortega y Gasset, as well as the Christian theologian Soren Kierkegaard, whose neglected essay *The Present Age* (1846) is a powerful warning about the leveling tendencies of mass democracy and the degrading effects of mass culture on the individual – especially on the individual's spiritual life.[8]

These critics of democratic life remind us that, whatever virtues democracy may have as form of government that protects people from dictatorship or tyranny, it has within it the potential for its own kind of "social tyranny." For democracy inevitably carries with it the forces of mass culture, which lower the tone of society by glorifying the mundane tastes of the common man and by replacing the aspirations of "high culture" with the pleasures of "popular culture" – lowering the aims of life from classical beauty, heroic virtues, and otherworldly transcendence to the pursuits of work, material consumption, and entertainment. In the process, artistic and religious culture are lowered from standards set by Bach, Mozart, Gregorian chant, and the Latin liturgy to the standards of Hollywood, the Beatles, and hippie-guitar masses without telling people that their souls are being transformed and degraded in the process. The tearing down of high culture in the name of popu-

[8] See: S. Kierkegaard, *The Present Age: The Individual and the Public*, [in:] *A Kierkegaard Anthology*, ed. R. Bretall, Princeton 1946, p. 258–269.

lar culture also has a strange and perverse effect on the souls of the educated and cultural elites, who lose confidence in themselves and who then become even more energetic "subverters" and "deconstructors" of high culture than the general public – giving us a modern elite culture of the "avant-garde" that is often more degraded and leveling than the tastes of the common people.

These problems are extremely hard to alert people to because mass culture or popular culture seems harmless at first glance. But its total effect is a serious kind of evil (the "evil of banality," if I may reverse Hannah Arendt's famous phrase) that works by trivializing high things that ought to be treated as sacred or noble and by lowering them to cuteness and sentimentality and finally by banishing them forever from human consciousness. This ultimately reduces life to a one-dimensional materialism and animal existence that undermines human dignity and eventually leads to "the abolition of man," in the words of C.S. Lewis. We see this in Western Europe today, where culture is formed by the entitlements of the social welfare state and the mass tastes of consumer-entertainment societies without any higher conception of man or higher conception of man's spiritual nature being present anymore. The cultural revolution has reduced many Europeans to a condition of degradation where material security is the highest or only priority – where they no longer want to work or to marry or to have children or to go to church or to produce high art or even to fight for their survival against deadly enemies. Is such a life worthy of man? Is it a life worth living?

From this travesty of life, we can see that it is not harmless when high culture is changed by the pressures of secular democracy to abolish sacred rituals – when, for example, the Catholic Mass is transformed from a high mode of solemn celebration of sacred mysteries to the low mode of a children's mass or a folk-guitar mass that feels like a school play or a protest rally, removing, in effect, the sense of the real presence of the divine from worship. Nor is it harmless when Christian charity is reduced to being a nice person who never opposes alternative lifestyles in the name of Truth or who is afraid to impose on others in order to save them from sin and error. And it is certainly not harmless when the hierarchies of the Church are treated as merely symbolic rather than as authoritative structures. In fact, one can trace the devastating scandals of sex abuse in the Catholic Church to this cause – to the influence of American popular culture on the Catholic Church which let the 1960's sexual revolution into the seminaries and then treated the effects as harmless pleasures because the bishops of the Church suffered from a crisis of confidence which prevented them acting in their authoritative roles as moral disciplinarians and defenders of orthodoxy. Many bishops are still afraid of appearing too authoritarian to uphold unpopular Church teachings in a popular culture.

All of these examples illustrate why Christians are so frustrated in the contemporary world: Instead of shaping the surrounding culture, they are being shaped by it because they have come to believe they share the same democratic values as the culture and that democracy can do no harm simply because it is sometimes an

ally against (genuine) tyranny and injustice. Yet, the simple truth is that the true Church is not a democracy governed by public opinion polls, and Christianity is more of a hierarchical religion – guided by a hierarchy of being in this world and the next – than a democratic religion as many believe today.

Before turning to possible solutions, let me summarize the problems that we have raised for Christian doctrine and social teachings. First, natural rights or human rights are a problem because they carry subversive premises that may be used nobly and justly as weapons against tyranny, but they are just as frequently used ignobly and unjustly to undermine legitimate authority in the family, Church, and society. In other words, rights are nearly impossible to control and to subordinate to the higher goods that they must serve in order to be legitimate. Second, democracy is driven by the demand for equality which gives all people the opportunity to participate; but it also levels the surrounding culture to the lowest common denominator of mass taste, and it causes the educated elites, who ought to resist mass culture, to treat all aspirations to high culture with irony or contempt. There even occurs the strange reversal of roles where the educated elites become the great "deconstructors" of high culture while the less-educated masses preserve a sense of reverence for the monuments of high culture. Thus, the common man still feels awe when seeing Michelangelo's *David* or *Pietà*, whereas the educated art critic only talks about Michelangelo's transgendered sexual identity or seeks to replace these beautiful and inspiring examples of high art, which actually appeal to all classes of people, with ironic art or gimmickry.

Some Sobering Conclusions

If these are problems inherent in rights and in democracy, and if they are as serious as I claim that they are, then what can we do in America today? We are in a difficult position, because rejecting or opposing these principles would seem to make us traitors to our country or, at least, to make Christian life hard to live without withdrawing from mainstream culture and living like Orthodox Jews or the Amish and Mennonites, who live like strangers in a strange land. All that I can offer here are a few suggestions that might help people cope with the difficulties of the current predicament.

In the first place, we must be aware of the problems and give up the illusion of automatic harmony between Christianity and the American way of life. Interestingly, the American founding fathers were aware of many of the problems – they were certainly aware of the subversive nature of individual rights as well as the leveling effects of democracy on culture. But, in my judgment, the American founders, in all their wisdom, did not make adequate provisions to stop the negative tendencies for future generations. They seemed to assume that proclaiming God-given natural rights in the Declaration of Independence – including the blanket right to

pursue happiness without specifying clearly the perverted possibilities of pursuing happiness – would be adequately channeled toward ordered and virtuous liberty by two countervailing forces: (1) the US Constitution, and its limitations on the power of the federal government, and (2) the cultural inheritance of Western civilization, including its classical and Christian notions of virtue and piety and its remnants of an aristocratic or high culture. They thought that these legal and cultural traditions would put sufficient restraints on natural rights and democracy, channeling them to higher goods and encouraging ordered liberty rather than disordered license.

In hindsight, the hope of the American founders appears to be naïve – a criticism that I learned from reading Robert Bork's *Slouching Towards Gomorrah: Modern Liberalism and American Decline*. Bork criticizes the founders for writing "blank checks" to Americans in the natural rights proclamations of the Declaration of Independence, and describes in detail the corrosive effects of rights-claims since the founding period 200 years ago. He makes a powerful case that the relentless chipping away of traditional constraints by the ever expanding demands of natural rights and democratic equality has led us to the radical egalitarianism and permissive freedom of today.[9]

Thus, the finely-tuned balance of many of the American founders has been upset by the dominance of rights-claims. For example, John Witherspoon was a Calvinist preacher, Scottish gentleman, president of Princeton University, and signer of the Declaration of Independence. The greatness of men like Witherspoon was their ability to hold together a synthesis of diverse elements, including the Calvinist-Christian doctrine of original sin, the Scottish Enlightenment doctrine of moral sense, John Locke's natural rights and social contract theory, and his own personal example of being a Christian gentleman. Today, we can see the synthesis unraveling over a two-hundred-year period under the subversive effect of rights and the leveling effects of democracy. The harmony of the founding generation was only temporary, and it unraveled more or less inevitably under the pressures of the American regime (though one could argue that historical contingencies also influenced the outcome, like the influx of German idealistic philosophy in the nineteenth century and the reinterpretation of the Declaration's natural rights as a progressive ideal begun by Abraham Lincoln and radicalized by later generations). However one might explain the unraveling of the American founders' grand synthesis, we need to be aware of the inherent tensions and conflicts of Christianity and liberal democracy rather than assume an automatic harmony.

In the second place, we need to seek a perspective outside of modern thinking to understand the nature of those conflicts, and this perspective is best provided by St. Augustine's doctrine of the Two Cities. According to St. Augustine, God has ordained two realms for man to live in: the city of God and the city of man (or the heavenly city and the earthly city). The Two Cities are distinct but not entirely sepa-

[9] R. H. Bork, *Slouching Towards Gomorrah: Modern Liberalism and American Decline*, New York 1996.

rate from each other – with the city of God roughly corresponding to the spiritual realm of charity, holiness, and grace (including the institutional church on earth as well as the communion of saints in heaven) and the city of man roughly corresponding to the temporal realm of the state, economic and social arrangements, the military, and the practical affairs of nations and civilizations. While the Two Cities overlap in some areas, they are distinct enough for us to recognize their different ends and destinies. They remind us that the two realms will always be in tension because they are based on two different kinds of love, the love of God versus the love of the world, which will never be in harmony until the fallen world is transformed by the Second Coming at the end of time.

When applied to contemporary America, St. Augustine's doctrine of the Two Cities teaches us that, instead of expecting harmony, we must live with the enduring tensions of Christian faith and American citizenship without demanding an inner affinity or moral equivalence between the two. Nevertheless, we can develop a prudent alliance between Christianity and liberal democracy by viewing democracy and human rights as conditional goods subservient to higher goods and continuously striving to dominate the surrounding culture so that the pursuit of happiness is properly understood as the pursuit of rational and spiritual perfection rather than any lifestyle that people happen to find pleasing to themselves. This perspective leads to a posture of resistance to trends which radicalize rights and democratic leveling and of promoting trends which favor high culture.

Following this logic, the answer to the question posed at the beginning – Is Christianity essentially harmonious with modern liberal democracy? – will have to be qualified: it is a "no" and a "yes." As a matter of principle, the answer is no: there is no natural alliance between Christianity and liberal democracy based on shared conceptions of rights, dignity, universal love, or progress toward the coming of the kingdom of God because the two cities understand these terms differently. However, as a matter of prudence or practical judgment, the answer can be yes: Christians can be loyal to liberal democracy as long as rights are carefully controlled by a dominant culture that directs them to the true hierarchy of ends and as long as we remember that we are not closer to the kingdom of God today than in the early Roman Empire just because we have democracy, human rights, and the United Nations. Such loyalty is akin to the real and passionate patriotism that Christians have traditionally felt for America and its blessings of ordered liberty under God, but it is and must remain a conditional patriotism that never confuses the Gospel of Christ with the gospel of democracy.

As Charles Taylor remarks in his recent book, *A Catholic Modernity?*, the present age is difficult to judge because it is infused with certain Christian values in the widespread recognition of our common humanity and respect for the dignity of individuals in various international agencies.

At the same time, the present age is post-Christian because it has performed a "spiritual lobotomy" on modern man by cutting out the highest part of the human

soul, the part that longs for eternity and for spiritual transcendence of the here and now.[10]

Instead of surrendering to these trends, we must resist them by living with the enduring and irreducible tensions of the Two Cities – acting in the earthly city while glimpsing the heavenly city, and acknowledging that modern democratic culture makes glimpsing the heavenly city harder than in past ages due to exaggerated claims about the "the gospel of democracy." This means we must live with dual citizenship, as Christians and as Americans, without expecting a convergence between the two realms until the end of time. Though sobering, this is ultimately a hopeful thought.

[10] Ch. Taylor, *A Catholic Modernity? The Marianist Award Lecture*, ed. J. L. Heft, S. M., New York 1999, p. 19–26.

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THE AUDACITY OF FAITH

Amidst great expectations President Barack Obama delivered the Commencement Address at Notre Dame on May 17, 2009. The excitement owed partly to protests against the Catholic university's choice to honor someone so famously supportive of legal abortion.[1] Mostly it was eager anticipation of the same provenance: what would Obama say at America's flagship religious institution about the relationship of religious faith to abortion – and to the other pressing moral issues of our time?

The President did not disappoint. At Notre Dame Obama articulated a novel *rapprochement* between religion and contemporary liberalism. Religion had long been the excluded *other* of liberal thought, which characteristically stood for a secularized public square and privatized religious faith. But Obama sang fulsome praises of faith and even – it seemed – welcomed its contributions to public life. The welcome was conditional: Obama reconfigured religion's place in liberal thought by boldly – some would say, audaciously – re-defining faith itself.

I propose in this paper to describe Obama's new liberalism against the background of America's post-World War II church-state regime. That way, the continuity and the novelty of Obama's initiative can be made clear.

[1] Obama would receive an honorary doctorate, as well as deliver the featured speech.

I

The keystone in the arch of America's constitutional law of church and state – and still a guiding norm of our political discourse – was constructed by the Supreme Court in *Everson v. Board of Education*.[2] Handed down on February 10, 1947, *Everson* declared that neither the national government nor the states could aid or promote religion, even if government assistance did not discriminate among religions, and even if no one was coerced.[3] Public authority must remain scrupulously neutral, the Court said, between all forms of religious belief and unbelief. Thus did the First Amendment (said the Court) erect a "wall of separation between church and state".[4] This "wall" protected a secular realm of law and politics. Religion was to be kept private.

Where did this *Everson* master-principle come from? The Justices' opinions were replete with history lessons from the founding of the American republic. The master-principle was, they said, the command of that greatest generation, speaking (as the Court recounted it) largely through James Madison and Thomas Jefferson. *Everson's* history has been subject to such withering scholarly criticism,[5] however, that one may without risk of civic impiety ask: what background ideas about church and state made the Justice so receptive to an improbably secular reading of the founding?

There is considerable evidence that the justices worried about American Catholics' emerging political and cultural power. *Everson* was, after all, a case about public aid to students attending Catholic schools. In conference and in memoranda some members of the Court expressed their desire to stymie the Catholics' raid upon the public treasury.[6] But one may then reasonably ask: why the sudden irruption of Catholic-worry? Was there a critical variable which stirred then slumbering anxiety about Catholic power?

The answer to this question lies, I think, at the bottom of Pearl Harbor and on Normandy's beaches. The war against fascist Germany, Italy, and Japan called forth among American elites a critical examination of the cultural conditions in which such menacing systems germinated. We fought for the "democratic way of life". But what did "democracy" imply or entail for political culture? How did the conditions of a successful democratic experiment differ from those in which Nazism took root, and flourished?

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[2] 330 U.S. 1 (1947).

[3] 330 U.S. at 15–16.

[4] *Ibidem*.

[5] Including some of my own hand. See: G. Bradley, *Church-State Relationships in America*, Greenwood 1987. In truth, the founders meant by the First Amendment to establish an equality among religions, and not to put "unreligion" on a par with religious belief.

[6] See, for example, the evidence recounted in J. McGreevey's, *Thinking on One's Own: Catholicism in the American Intellectual Imagination, 1928–1960*, "Journal of American History" 1997, Vol. 84, No. 97.

Ambient theory about the cultural conditions of democracy was then a house divided.[7] One group of thinkers held beliefs much like those most visibly articulated in recent years by Pope John Paul II: democracy depends on a citizenry possessed of moral truth.[8] The opposing camp saw moral truth as a phantom, a superstition which, when possessed of citizens' minds, led straightaway to authoritarianism, if not to outright fascism. These folks prized the experimental spirit of science, and were wed to a deep relativism in morals. It is easy to see the Catholic problem arising from these commitments: the Church's perennial devotion to natural law and its own hierarchical governing structure – along with its cultural influence in Italy and Germany (and Franco's Spain) – made it a suspect carrier of authoritarian cultural values.

The pragmatists won. They prevailed on the Supreme Court and among those elites which the Court reflected, and those which the Court shaped. During and shortly after World War II the Court linked our "democratic way of life" to secularism, particularly in public education, in order to sustain a "democratic" culture. A corollary of this linkage was distrust of Catholic schools and opposition to any state support of them. For this reason, public aid to Catholic schools become a staple feature of Supreme Court dockets and of legislative controversy, from 1947 all the way up to the present moment.

The linkage was most vividly on display in the oral argument of *McCollum v. Board of Education*.[9] In *McCollom* the school board of Champaign, Illinois had agreed to permit local religious leaders to enter the schools once a week, then and there to provide religious instruction to those pupils whose parents had agreed to it. A local woman who was raising her sons as atheists (one of them later became Mayor of Champaign) sued the school district. Her lawyers argued for a straightforward application of *Everson*'s no-help-to-religion stricture. Though Catholic schools were not at issue, state authorities were obviously lending a helping hand to religious training, and that breached the just-built "wall of separation".

The Court heard oral argument on December 8, 1947, just ten months after handing down *Everson*. The school board's attorney understood well where Mrs. McCollom's lawyers were taking the case. So he took dead aim at *Everson* itself. John Franklin argued cogently (in his brief as well as at argument) that the founders left public authority free, under the Constitution, to promote religion so long as there was no discrimination in favor or against particular faiths. According to Franklin, this was what almost everyone understood the First Amendment's ban on "establishment" of religion to mean, until the day before *Everson*. Justice Felix Frankfurter pressed the key linkage upon Franklin:

> I put my question again: we have a school system of the United States on the one hand, and the relation it has to the democratic way of life. *On the other hand we have the religious beliefs of*

[7] Here I follow the general outline of Paul Gottfried's fine analysis in *After Liberalism: Mass Democracy in the Managerial State*, Princeton 1999.

[8] See, for example, his 1995 encyclical letter, *Evangelium Vitae*.

[9] 333 U.S. 203 (1948).

our people. The question is whether any kind of scheme which introduced religious teaching into the public school system is the kind of thing we should have in our democratic institutions. [emphasis added].[10]

McCollom was decided just as the complaining parties prayed it would be – against the school board on the strength of the *Everson* precedent. But the impact of Frankfurter's point to Franklin could not be confined to the schools. Frankfurter relied (in making that limited point) upon a wider theory of the relationship between faith and democratic institutions and practices. The anchor postulate of that theory was that faith must be privatized to protect (what might be called) an "open" society characterized by free expression and social engineering from the deadweights of dogma and tradition. "Our democracy" presupposed, or entailed, that government would act as if there is no God and, to the extent possible, as if there were no religions, either.

The postulate was a novelty. So was the analytical method. American political elites had long held that our political institutions presupposed a virtuous citizenry possessed of a religious character. But they did not therefore produce an autonomous set of religious symbols or nostrums, conceived for the purpose of hallowing the state and managed by them accordingly. They did not, in other words, construct a *civil religion.* American religion was too strong and too independent from the state for politicians to define – or, even, to significantly shape – what Americans believed about God. Indigenous religious institutions would have to freely imagine and declare America's role in God's providential plan for humankind. Indeed, up until around World War II it would have been more readily said that America's political institutions – "our democracy" – flowed *from* religion (in the event, Protestantism), than the other way around.

The novelty of the immediate post-war settlement wrought in *Everson* and *McCollom* was therefore threefold. First, the political form was clearly ascendant; "democracy" supplied the major premises from which the role of religion was derived. Second, that role was a bit part: religion was to stay out of a desacralized politics. Last and in light of that role, political elites would have to direct and manage the new "civil religion" of secularism, which was conceived precisely to contain the political aspirations of the indigenous faiths.

II

Another war with a different authoritarian foe soon brought forth a new civil religion. This was actually a *religious* civil religion. It too answered the question about what distinguished the United States' political system from that of our foreign adversaries. The question this time: what was the Cold War about?[11]

[10] The entire oral argument can be found in volume 5, issue 1 of *Engage*, the magazine of the Federalist Society.

[11] It was also the accidental civil religion, for it emerged as the handiwork of political leaders by default. As William Inboden tells the story in his masterful and important *Religion and American Foreign Policy 1945–1960*, Cambridge 2008, Presidents Truman and Eisenhower discovered that the nation's leading religious

God, at least in large part. Historian William Inboden records that President Harry Truman "saw the conflict as nothing less than a religious war".[12] In a 1951 address to a Washington, D.C. Presbyterian Church, Truman explained that "the danger that threatens us in the world today is utterly and totally opposed to [spiritual values]. The international Communist movement ... denies the existence of God, and wherever it can it stamps out the worship of God". Both Truman and Eisenhower "constantly reminded Americans of the centrality of religious faith in their national heritage, of the connection between faith in God and human rights and freedoms, of the special responsibility to which God had called America, and of communism's atheism and hostility to religion".[13]

Two laws enacted by Congress in 1954 indicate wide support for the Presidents' interpretation of the superpowers' animosity. One law put the National Motto – "In God We Trust" – on all American currency. The other added to the Pledge of Allegiance the words "under God". Proponents of the Pledge Amendment said that it "reflects the traditional concept that our Nation was founded on a fundamental belief in God". They itemized evidence foe their claim, listing (among other documents) the Declaration of Independence and the writings of William Penn.[14] The House Report in favor of amending the Pledge asserted that:

> At this moment in our history the principles underlying our American government and the American way of life are under attack by a system whose philosophy is at direct odds with our own ... [Inclusion of "under God"] would serve to deny the atheistic and materialistic concepts of communism with its attendant subservience of the individual.[15]

"In God We Trust" expressed the same convictions. One speaker at the House hearings explained that "the one fundamental issue which is the unbridgeable gap between America and Communist Russia is belief in Almighty God." President Eisenhower signed the bill, saying that "from this day forward, the millions of our school children will daily proclaim in every city and town, every village and rural school-house, the dedication of our Nation and our people to the Almighty".[16]

Even the Supreme Court caught the new faith fever. Congressional sponsors of both bills about God quoted the then recent Supreme Court declaration that

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bodies would not partner with each other to popularize the religious meaning of the Cold War. The difficulty on the religious side was not really ideological; almost all believers were united in understanding Stalin as a monstrous enemy of religion. But the Protestant denomination's fractiousness and, more, their unwillingness to work closely with the Catholic hierarchy left the Protestant mainline on the sideline. Part of this latter resistance owed to earlier *Catholic* refusals to cooperate with Protestants on matters of common concern.

[12] P. 1.

[13] *Ibidem*. The only caveat I would offer to Inboden's analysis is that this civil religion consisted mostly of propositions – the existence of an Almighty and Provident God Who so created humankind that freedom was essential to persons' flourishing – that could be vindicated by reason as true. This civil religion did not consist, that is, in patriotic myth.

[14] H. R. Rep. No. 1693 (1954), *as reprinted* in 1954 U.S.C. Ann. 2339, 2340.

[15] *Ibidem.*

[16] 100 Cong. Rec. 8618 (1954).

"[w]e are a religious people whose institutions presuppose a Supreme Being."[17] The case was *Zorach v. Clausen*.[18] Decided in 1952, *Zorach* was in tone and substance a new turn of the *Everson/McCollum* "wall of separation". *Zorach* involved a distinct twist of the *McCollom* facts, a "released-time" program in which public school children were "released" (if the parents were willing) before the end of the school day to go and receive religious instruction at nearby parochial (mostly Catholic) schools. Although no religious teaching occurred on public premises, state authorities were heavily involved in promoting the students' faith development. Nonetheless, the Court sustained the program, in an opinion which replaced "separation" with "accommodation" as the touchstone of church-state relationships in America. This era of good feelings lasted into the early 1960's.

III

Perhaps the most celebrated twentieth-century speech by an American politician about religion and public life was delivered by another young Democratic Senator, one who (like Obama) later became President. The focal point of this talk was also Catholic. It was not (as in Obama's case) the Catholicity of the audience. It was instead the candidate's own Catholic faith, and the relationship of that faith to his service as the nation's Chief Executive.

When John F. Kennedy rose to address Protestant ministers assembled in Houston's Rice Hotel on September 12, 1960, he was fighting for his political life. The old Protestant suspicion of Catholics' alleged dual loyalties threatened to doom his race with Richard Nixon for President. Just weeks before the Houston speech, 150 Protestant ministers, led by the redoubtable Norman Vincent Peale, publicly worried that a Catholic president would bow to the hierarchy's unenlightened (in their view) teachings on birth control, public aid to Catholic schools, and on establishing diplomatic relations with the Vatican.

Kennedy went to Houston to allay these fears. The politics of the speech were complicated, however, by Kennedy's need to placate Protestants *without* alienating Catholics voters or the episcopal hierarchy. He had learned this lesson the hard way. Kennedy (and his speech-writers, Ted Sorenson, ghost-writer of *Profiles in Courage* and John Cogley, a liberal Catholic journalist) knew that, in a 1959 *Look* magazine interview, Kennedy had taken a wrong turn on the road to appeasement. They had their work cut out.

"What would Kennedy say in an attempt to quell fears that Catholicism and the Presidency don't mix?", journalist Fletcher Knebel asked in *Look*. "In a capsule, his theme is that religion is personal, politics are public, and the twain need never meet and conflict". Even though Kennedy was quoted as saying, "Whatever

[17] See: p. 2340; Hearings at p. 5.

[18] 343 U.S. 306 (1952).

one's religion in his private life may be, for the officeholder, nothing takes precedence over his oath to uphold the Constitution...", the damage could not be undone: he had been heard to say that religion was so private that it did not intersect with public matters.

The *Look* piece attracted a great deal of attention – "most of it", according to historian John Quinn's astute analysis, "negative".[19] The Catholic press was especially hostile. One prominent organ stated bluntly that Kennedy had gone "overboard to placate the bigots". Even some Protestant writers, notably including the Lutheran historian Martin Marty, were alarmed that Kennedy seemed to be (in Marty's words) "spiritually rootless and almost disturbingly secular". Kennedy (and Sorenson and Cogley) learned that secularism was, politically, a dead end. So, too, was any candidate's apparent religious indifference. They needed a new synthesis of liberalism and religious faith.

Between March 1959 and September 1960 the stakes had been raised, and their task still further complicated, by Kennedy's stance on foreign aid. President Dwight Eisenhower commissioned a study group to look at America's military assistance programs abroad. This committee, headed by William Draper, concluded that economic development would help inoculate poor foreign countries against the lure of Communism and thus contribute to America's security.[20] Because "overpopulation" was one source of poverty, the Draper committee recommend that "the United States should make promotion of birth control techniques an explicit item of the technical assistance programs".

The Catholic bishops denounced the recommendation in a public statement on November 29, 1959. Eisenhower soon backed away.[21] The already all-but-officially-declared Presidential candidate John F. Kennedy backed the bishops, in a statement reported on the front page of the *New York Times*. But Kennedy was now in the politically embarrassing position of being an obedient lamb to the Church's shepherds.

Kennedy's escape was brilliant. He concurred with the bishops' judgment, but for reasons which did not implicate their teaching authority. He said that the proposed policy was a "mistake" on jurisdictional grounds: each country should make its own population policies for itself.[22] Asked specifically whether his position was "in any way" influenced by the bishops' statement, he ducked: "My judgment on this has been held for many years, and it continues". Pressed on his first argument by a hypothetical possibility that, if India decided to promote birth control at home, "would this in any way trouble you if you were President, in giv-

[19] Manuscript copy in author's possession.

[20] See: D. Critchlow, *Intended Consequences: Birth Control, Abortion, and the Federal Government in Modern America*, Oxford 1999, p. 42–45.

[21] Id at 44.

[22] NYT article by Reston on p. 1, 11/28/59. Kennedy also said, tellingly, that the United States had not advocated birth control policies in Western Europe, and that "it would be the greatest psychological mistake for us to appear to advocate the limitation of the black or brown or yellow peoples..."

ing aid to a country that followed such a policy?" Kennedy replied that it would not be "wise" for America to cut off aid in that case. He added that if Congress passed a law making aid contingent on a country's population control policies his decision whether to approve it would be based on "my personal judgment as President as to what would be in the interest of the United States".

In his Houston speech, Kennedy said that he had long believed in "an America where the separation of church and state is absolute". He reviewed his record to date on religion-tinged issues, highlighting his abandonment (in 1956) of prior support for a Vatican ambassador, and his present stance against all "unconstitutional" aid to parochial schools. Then he said:

> Whatever issue may come before me as President – on birth control, divorce, censorship, gambling or any other subject – I will make my decision in accordance with [...] what my conscience tells me to be the national interest, and without regard to outside religious pressures or dictates.

To forestall criticism that he was a trimmer for political benefit he said: "I do not intend to apologize for these views [...] nor do I intend to disavow either my views or my church in order to win an election". The crucial passage was this, and it played too well to all believers:

> [I]f the time should ever come – and I do not concede any conflict to be even remotely possible – when my office would require me to either violate my conscience or the national interest, then I would resign the office, and I hope any conscientious public servant would do the same.

Quinn reports that the speech did the job. It was generally well-received and, most important, "this time there was no criticism from Catholic quarters".[23] Kennedy managed to straddle the "wall of separation" by promising to decide matters according to the "national interest", and not according to "outside" religious "pressure" or commands. But Kennedy's promissory note did not endorse the secularization of American public life, nor did he promise to privatize his own Catholic faith. In fact, his remarks implied the superiority of religious obligation to public duty, and invited admiration of the candidate's overriding devotion to his faith. Kennedy solved the problems presented by his renewed profession of fealty to Catholic teaching by promising not to impose his Catholicism on the body politic. He did so at little cost to himself by prophesying that he would not have to face that painful choice.

[23] P. 23 of ms.

IV

John F. Kennedy was inaugurated President in January 1961. Before his assassination 34 months later the Supreme Court adopted an unflinchingly secularist reading of the First Amendment's Establishment Clause. The definitive case was *Engel v. Vitale*.[24] In that litigation, some parents of public school students challenged New York's practice of opening the day with the prayer: "Almighty God we acknowledge our dependence on thee, and we ask your blessing on us, our parents, and our country".

The parents' attorney declared to the Court in oral argument that his purpose was to preserve religious liberty. The only way to do that, William Butler argued, was to "keep religion out of our public life." Butler soon made explicit the implication that "liberty" equals "private". Later in the argument Butler was asked: "is it your position that our public schools, by virtue of our Constitution, are frankly secular institutions?" He answered: "Absolutely yes." That was his "ultimate position", Butler added emphatically.

Those defending the prayer made the contrast with Butler as clear as it could be made. Bertram Daiker, who represented local school officials, said:

> [H]ere is where my friend [Butler] and I depart in our thinking. Since the earliest days of this country, going back to the Mayflower Compact, the men who put our country together have publicly and repeatedly recognized the existence of a Supreme Being, a God.

Later on, Porter Chandler, standing up for intervening parents who favored the prayer, said that petitioners "are now seeking to [...] eliminate all reference to God from the whole fabric of our public life and of our public educational system."

The Court, save for Justice Stewart, seemed to be on Butler's side. Stewart pressed Butler hard to distinguish the Regents' prayer – "Almighty God we acknowledge our dependence on Thee" – from: "I pledge allegiance to [...] one nation under God." Butler faltered, as he did, too, when pressed to distinguish other divine adornments of public life – "in God We Trust," "God Save this Honorable Court," and the like.

The Court's opinion in *Engel* asserted that the purpose of the Establishment Clause was to forestall "union" of government and religion, to leave "religious functions to the people themselves and to those the people choose to look to for religious guidance." The Establishment Clause expressed the "principle" that religion is "too personal, too sacred, too holy, to permit its 'unhallowed perversion' by a civil magistrate". This was a candid declaration that religion was private, for the Court made clear that *whenever* the civil magistrate gets religion it *is* an "unhallowed perversion". It was not as if there were two kinds of contact between church and state – those which amounted to "unhallowed perversions", and those which did not. *Engel* established a lasting removal of God and religion from public

[24] 370 U.S. 421 (1962).

space, what the late Richard John Neuhaus famously described as the "naked public square". One measure of its effect can be seen in Supreme Court decisions about vestigial observances, such as perfunctory blessings at public school ceremonies[25] and seasonal religious figurines on public property – nativity scenes and the like.[26] By the 1980's *all* such commemorations presented serious constitutional issues, and some were declared unconstitutional by the Supreme Court.

Another measure of how far American politics by the 1980's had been mortgaged to secularism was the 1988 Presidential campaign. In one campaign appearance Republican candidate George H.W. Bush was invited to recall his feelings about being shot down by Japanese fire:

> Was I scared floating around in a little yellow raft off the coast of an enemy-held island, setting a world record for paddling? Of course I was. What sustains you in times like that? Well, you back to fundamental values. I thought about Mother and Dad and the strength I got from them – and God and faith and the separation of Church and State.[27]

Bush's thoughts that day in World War II near the Aleutians were, one presumes, tweaked by his expectation in 1988 that the American voter wanted the faintest whiff of a public man's religiosity accompanied by assurances that, of course, God and Caesar remained securely at home in their strictly separate domains.

Wall-fetishism was not solely a Republican preoccupation. In the same campaign some Greek Orthodox Church officers provided the Democratic counterpoint to Bush's war story. They were asked about Michael Dukakis' standing in their church. They wouldn't say, and scolded their interlocutors. The Archdiocese said that,

> with regret, we have observed recent attempts being made to inject religion into the political life of this nation, in direct contradiction to the First Amendment, and we will not become party to this effort.[28]

Engel established a secularist paradigm for America's public spaces and institutions. By itself, however, *Engel* did not settle the constitutionality of government aid to parochial schools. *Engel* did not say or imply that, though religion was the province of home and church, its practice within such "private" settings could never be assisted by pubic authority. And, for several reasons, the 1960's were a propitious time for exploiting this possibility.

One reason was evolving attitudes towards helping parochial schools. One 1961 Gallup poll showed that 57 per cent of Americans wanted no federal funds to go to parochial schools. By 1963 49 per cent *favored* inclusion, with only 44 per

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[25] See for example: *Lee v. Weisman*, 505 U.S. 577 (1992) (middle-school graduation invocation).

[26] See for example: *Lynch v. Donnelly*, 465 U.S. 668 (1983).

[27] Quoted in: G. Bradley, *Church Autonomy in the Constitutional Order*, "Louisiana Law Review" 1989, Vol. 49, No. 1057.

[28] *Ibidem*.

cent opposed.[29] Part of this change may owe to the martyred Catholic President's popularity. Part must also be due to receding fears of the Church's political and cultural power; the Sixties may have been a tick of the clock from the Fifties, but they were a whole different time in both American society and within the Catholic Church. In addition, a characteristic feature of the Johnson Administration's "Great Society" programs was to promote many theretofore "private" goods while respecting the recipients' freedom of choice – as the federal government did with the arts, early childhood education, domestic relations (including public provision of "family planning" services"), and special education. Because the Great Society pioneered creative integrations of personal freedom and public assistance, the shibboleth that government could scarcely touch religion without perverting it was already passé.

In fact, the landmark federal aid to education act of 1965 extended a hand to all special needs children, whether they attended public or Catholic school. The Supreme Court took a similarly forgiving view of state aid to Catholic schools in 1968, when it revisited the question for the time since *Everson.* In *Board of Education v. Allen,* the Justices approved New York's program of textbook subsidies for children in parochial (again, mainly Catholic) schools.[30] And in 1970 the Court sustained the constitutionality of exempting religious institutions from property and other sorts of taxes.[31]

Then, an abrupt about-face. For reasons which have yet to be adequately explored by scholars, the Supreme Court struck down a parochial school aid law for the first time in 1971 (in *Lemon v. Kurtzman*). The most stringent of these decisions – the last of which occurred in 1985–was *Committee for Public Education v. Nyquist*,[32] in 1973.

The high-water mark of this campaign occurred in 1985, when the Court in related decisions struck down two states' administration of the 1965 "Title I" federal aid programs. In one case[33] the Grand Rapids, Michigan School District implemented this congressional directive to meet the special needs of all students through a "Community Education and Shared Time" program. Salaried *public* school personnel taught courses in parochial schools during regular school hours to parochial school students. In addition, adult education courses, taught by parochial school teachers working "part-time" for the district, were offered after school in the parochial school buildings.

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[29] C. Degler, *Aid for Parochial Schools – A Question of Education, Not Religion*, "New York Times", January 31, 1965. Degler was a very prominent Stanford University historian.

[30] 392 U.S. 236 (1968).

[31] Walz v. Tax Commission.

[32] 1 (2002). 403 U.S. 602 (1971). For a fuller description of the turn-about, see: G. Bradley, *An Unconstitutional Stereotype: Catholic Schools as 'Pervasively Sectarian'*, "Texas Review Law & Politics Scholars" Vol. 7, see my TX article.

[33] Grand Rapids School Dist. V. Ball, 105 S. Ct. 3216 (1985).

The Shared Time courses were "remedial" or "enrichment" courses generally unavailable in the private schools. The adult courses duplicated ones available in local public schools.

The Supreme Court determined that the program "impermissibly advanced religion" in three ways; First, the teachers participating in the programs might – the Court opined – become involved in internationally or inadvertently inculcating particular religious tenets or beliefs. Second, the programs might provide a crucial "symbolic" link between government and religion, thereby enlisting – at least in the eyes of impressionable youngsters – the powers of government to the support of the religious denomination operating the school. Third, the programs may have the effect of directly promoting religion by impermissibly providing a subsidy to the primary religious mission of the institutions affected.[34]

New York City encountered a Catch-22 in its implementation of Title I.[35] Only public school teachers, monitored by public school supervisors, were involved in the remedial and guidance services offered in the largely Catholic private schools. This effectively insured against improper religious advancement, but just as effectively insured an impermissible church-state entanglement.

V

The tide of privatization began rolling out in 1990, and it has slowly, but steadily, receded since. Many scholars have noted this undeniable shift. One says that "the image of separation" is "fading out".[36] Another claims that the "Court has abandoned much of its earlier separationism".[37] A third maintains that the Court has "been driving notions of separation of church and state to the constitutional periphery".[38] And still another holds that the Court has embarked on a "wholesale" revision of doctrine which "would abandon any pretense of church/state separation".[39]

One significant doctrinal change assures that the public square is now open to religious expression. Cases beginning in 1993 (*Lamb's Chapel*[40] and, later, *Rosenberger*[41]) nearly eradicated discrimination against religious speech, institu-

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[34] See: 105 S. Ct. At 3223-24.

[35] Aguilar v. Felton, 105 S. Ct. 3232 (1985).

[36] I. Lupu, *The Lingering Death of Separationism*, "George Washington Law Review" 1994, Vol. 62, p. 230, 279.

[37] J. Witte, *God's Joust, God's Justice: Law and Religion in the Western Tradition*, Michigan 2006, p. 211.

[38] T. Colby, *A Constitutional Hierarchy of Religions? Justice Scalia, the Ten Commandments, and the Future of the Establishment Clause*, "Northwestern Law Review" 2007, Vol. 100, No. 1096, p. 1115.

[39] S. Gey, *Life After the Establishment Clause*, 110 "Virginia Law Review" 2007, Vol. 110, No. 1–2. Steven Smith has collected these observations in his excellent new book, *The Disenchantment of Secular Discourse*, Harvard 2009.

[40] *Lamb's Chapel v. Center Moriches Union Free School Dist*., 508 U.S. 384 (1993).

[41] *Rosenberger v. Rector and Visitors of University of Virginia*, 515 U.S. 819 (1995).

tions, and individuals *as,* or *on the precise grounds of being*, religious. Where the religious activity (or speech or writing) can be assimilated to a class of actions which can be described without reference to religion, constitutional norms of viewpoint equality open wide the gates to the public forum. And so, if a local public library sets up a lecture series on "family issues," it may not exclude a speaker such as Dr. James Dobson, because he brings a religious perspective to the subject. Beginning in 1992 the Court also relaxed its strictures against parochial school aid,[42] culminating in the decision upholding the Cleveland voucher program in *Zelman v. Simmons-Harris*.[43] Political rhetoric has kept abreast of these changes, so much so that the most recent successful Presidential candidates – George W. Bush and Barack Obama – conspicuously and often identified themselves with vibrant traditions of Protestant Christianity.

VI

It is a commonplace to observe that Barack Obama is a "post-" President: post-partisan, post-racial, post-baby boomer. He is also the first Democrat and the first liberal President to break free of the "privatization" (or, in constitutional parlance, "strict separationist") paradigm for religion and public life which has characterized liberalism, and the Democratic party, since the 1960's.

His Notre Dame speech was suffused with religious references and musings about religious faith. Its wording and tone – its mood, if you will – were decidedly faith-friendly.

Obama advised the graduates to "hold firm" to their faith, for example, because it would prove to be an invaluable anchor and guide through life's journey. The President referred, gently, to his own faith journey. He said that he "was not raised in a particularly religious household", but that he now stood "in the Christian tradition".

This tradition supplied to Obama a supervenient vocabulary and a deeper meaning to what anyone can accept as common sense. He described the earth as "God's creation". He took account of the manifold "imperfections of man" – including "all the cruelties large and small that "those of us in the Christian tradition understand to be rooted in original sin". President Obama also spoke religious *esperanto*, of a "law that binds people of all faiths and no faith together". This norm exists, he asserted, in "Christianity and Judaism; in Islam and Hinduism; in Buddhism and humanism. It is, of course, the "Golden Rule" of "love".

Obama stood gratefully before his Catholic hosts. He congratulated Notre Dame for its "open hearts", "open minds", and "fair-minded words". The late Car-

[42] See, e.g.: *Zobrest v. Catalina Foothills School District*, 509 U.S. 1 (1993); *Agostini v. Felton*, 521 U.S. 203 (1997); *Mitchell v. Helms*, 530 U.S. 793 (2000).

[43] 36 U.S. 639 (2002).

dinal Archbishop of Chicago Joseph Bernadin, and legendary Notre Dame President Father Theodore Hesburgh, were, he said, especially admirable exemplars of the salutary effects which religion could have on civic life.

President Obama stood before the Class of 2009 "as President and as an African-American". And so he praised the profound Christian witness of the Rev. Martin Luther King, Jr., martyr in the righteous battle for African-Americans' civil rights.

So far considered, though, there is little in Obama's Notre Dame speech which would rankle an ardent religious privatizer. Everyone agrees that faith can be a source of *personal* courage and comfort. No one objects to a political leader's faith insofar as it shadows, semantically, what reason and experience disclose, nor when faith confirms common knowledge or illumines it in a further way. But in no such instance is religion the peculiar source or indispensable justification for a norm by which public affairs are governed.

Those committed to a strict separation of church and state do not object to public endorsements of religion insofar as it cultivates tolerance and justice and "openness". Indeed, secularism arises (in part) precisely from the fear that religion inculcates contrary attitudes. Insofar as particular religious traditions – those of Father Hesburgh or Dr. King, for example – stand for mutual forbearance and respect, endorsing them is fine too.

On the main question before the house – abortion – Obama offered nothing new, either.

> I do not suggest that the debate surrounding abortion can or should go away. Because no matter how much we may want to fudge it – indeed, while we know that the views of most Americans on the subject are complex and even contradictory – the fact is that at some level, the views of the two camps are irreconcilable. Each side will continue to make its case to the public with passion and conviction. But surely we can do so without reducing those with differing views to caricature.

But then President Obama said something novel and quite extraordinary, He appeared to welcome – or, at least, to accept – the contributions of believers to public debate, but only *after* devaluing their distinctive contributions:

> Remember [...] that the ultimate irony of faith is that it necessarily admits doubt. It's the belief in things not seen. It's beyond our capacity as human beings to know with certainty what God has planned for us or what He asks of us. And those of us who believe must trust that His wisdom is greater than our own.
>
> And this doubt should not push us away from our faith. But it should humble us. It should temper our passions, cause us to be wary of too much self-righteousness. It should compel us to remain open and curious. This doubt should remind us even as we cling to our faith to persuade through reason, through an appeal whenever we can to universal rather than parochial principles, and most of all through an abiding example of good works and charity and kindness and service that moves hearts and minds.

Here President Obama speaks not only – and not even mainly – about the personal satisfactions of believing. He does not say or imply that the satisfactions

of faith are properly limited to the private realm of church, family, individual. The President instead considers the terms of public argument over moral issues integral to the common good. But what he says *about* is pertinent to faith as such (private and public); it is offered in a cautionary tale for the believer at large. Obama opines about the lifetime companion of faith: doubt – and virtues which that inevitable and inescapable doubt imply should be cultivated among the faithful. And note especially well: this epistemological modesty is an implication or corollary not of democracy or of liberalism, but of religious faith itself.

This modesty is not derived from the political form (as the *Everson* project was from "democracy" and the Fifties civil/natural religion was from our "form of government".) Nor is Obama's recovery indebted to modernism in religion, which looks upon its effects on believers with great ambivalence (due to servility, credulity, carrier of a cramped morality), and its claims to true knowledge as uncomprehendingly naive about the ineffable, if not irrational nature of religion. Obama's position is not indebted to post-modernism, in the specific way that some writers who doubt the foundations of all claims to possess knowledge argue that religious claims are just as well-, or just as ill-, founded as are "secular" claims. But there are very grave problems with Obama's analysis of faith. He confuses the divine realities – which are indeed beyond human comprehension – with what human beings can know about them. Indeed, he appears to use the incomprehensibility (to human beings) of God as the basis for claiming that what we think we do know about God is inherently "doubt[ful]", and thus tentative, revisable. But this logic is unsound, and the conclusion is false. We may readily acknowledge that the cosmos remains beyond our grasp, even as we are confidently in possession of some genuine knowledge of its properties and operations.

Obama also seems to dismiss without argument the possibility that unaided reason can know certain truths about divine realities, such as those to which the founders dedicated this country: the existence of a creator God Who providentially cares for humankind and whose moral law for the guidance of human affairs can be discerned in Nature. Obama also ignores the likelihood (which reasons also suggests) that such a God would engage humankind in further divine-human communication which such an omnipotent being could surely make *effective.* So, Christians' belief that all persons are equal in dignity because each is a brother and sister in the one Lord would be, it appears, "doubt[ful]".

Conclusion

The President's political sway ensures that his Notre Dame departure will shape American political culture, perhaps powerfully as our society continues its drift away from the crude separationism ascendent since World War II. Obama's speech amounts to a developed exit strategy from the "naked public square".

Its success depends upon whether American believers recognize themselves in the President's portrait of them.

The profile of faith on offer from the President will also have practical repercussions throughout the world, especially as he seeks to engage Muslims in terms of mutual respect and understanding. The question abroad is, too, whether Obama has projected a true likeness of those who believe in Islam.

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RELIGION AND AMERICA'S POLITICS OF PEOPLEHOOD

During my first year of graduate school in 1975, Professor Harvey C. Mansfield led a discussion section for graduate students in a survey course on the history of political thought. There he argued that there was a "hole in the center of liberalism," by which he meant that a political philosophy whose central tenet was to permit people maximum freedom to pursue self-defined ends did not contain and probably could not contain standards to guide the best uses of that freedom.[1] As a liberal, I found Mansfield's argument powerful and disturbing. My dissertation and first book arose in large part out of a desire to show that liberal commitments to reason and freedom did provide norms and aspirations that could and should guide worthwhile human lives.[2] But I soon ruefully concluded that, though the liberal rationalist values I defended were (and remain) compelling to me, I could not hope to demonstrate them definitively enough to claim that different judgments about authoritative human norms were illegitimate. I also could not expect to persuade many of my fellow Americans that these sorts of secular, rationalistic values were the proper way to fill the "hole" in liberalism – because arguments for such values have been around since at least the late colonial period, and most Americans have always preferred to take their guidance from different sources. The reason that most Americans historically were not so troubled by the normative "hole" Professor Mansfield diagnosed in modern liberalism was that they have long filled that hole, and arguably grounded and constrained their liberalism, through their predominantly Christian religious beliefs. Three decades of subsequent research largely devoted to the Unit-

[1] Similar characterizations and concerns are visible in the collection of essays Professor Mansfield published soon thereafter, *The Spirit of Liberalism*, Cambridge MA 1978.

[2] R. M. Smith, *Liberalism and American Constitutional Law*, Cambridge MA 1985, rev. ed. 1990.

ed States has only persuaded me all the more that these religious convictions must be ranked among the "foundational concepts" of American political culture, to use James Ceaser's apt term.[3] The question I wish to explore in this essay is why that should be: why have religious beliefs so often been fundamental in the lives of political communities past and present, and why have they been particularly central to American political culture? Building on my 2003 book *Stories of Peoplehood*, I argue that religious appeals and religious organizations have distinctive characteristics that often lead them to play particularly important but also particularly problematic roles in the politics through which forms of political peoplehood are created. I will suggest why, in America's historical context and in light of the limitations of liberalism to which Professor Mansfield long ago called attention, religion has been distinctively foundational in the United States, and therefore distinctive problematic in certain ways. And, using some American cautionary examples, I will offer some prescriptions for how those who favor a democratic politics that promotes human rights and human flourishing should respond to such problems.

The Political Potency of Religious Stories of Peoplehood

Even if they take some distinctive forms in the U.S., the political problems posed by religious commitments are, of course, far from new. They played a central and, in the eyes of some, *the* central role in the initial development of what many scholars now call "the modern liberal tradition."[4] The thorny relationship of religion to politics was undeniably fundamental to the thought of perhaps the greatest forebear of modern liberalism, the English philosopher John Locke. He wrote in his first Letter Concerning Toleration that, in regard to religion,

> It is not the diversity of opinions (which cannot be avoided), but the refusal of toleration to those that are of different opinions (which might have been granted), that has produced all the bustles and wars that have been in the Christian world upon account of religion.[5]

Particularly in the United States, where the Letter was probably Locke's most widely read work in the founding era, this view has been read as an argument for keeping religion out of politics, for separation of church and state. But despite its difficulties, the importance of religion for politics, and for the politics of peoplehood in particular, has recently been recognized by a modern English political philosopher, Margaret Canovan, who wrote that in meeting the tasks of

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[3] See e.g.: idem, *What if God were One of Us? The Challenges of Studying Foundational Political Concepts*, [in:] J. W. Ceaser, *Nature and History in American Political Development: A Debate*, Cambridge MA 2006, p. 141–168.

[4] For critical discussion of such accounts, see: J. G. Gunnell, "The Archaeology of American Liberalism" 2001, Vol. 6, p. 125–145.

[5] J. Locke, *A Letter Concerning Toleration*, Indianapolis 1955, p. 57.

forging political communities, historically "Much the most common solution has been rule by one man at the head of an army, buttressed by as much support from religion as can be mustered."[6] So, in explaining politics and prescribing for politics, we must acknowledge that religion has often been invaluable in creating political peoples – even in northern Europe, which has become perhaps the most secularized region in world history – although religion has also often been an enormous source of political repression and violence of the sort that concerned Locke, that led to official separation of church and state in America, and that has partly contributed to the relative secularization of much of modern Europe. And as the mere mention of the phrase "Islamic terrorist" indicates, religion remains politically important and problematic in both the U.S. and Europe today. Here, as in *Stories of Peoplehood*, I use the terms "political peoples" and "political peoplehood" broadly to include any group of human beings, whether defined in religious, ideological, linguistic, cultural, racial, ethnic, ancestral, territorial, or other terms, whose proponents assert that obligations to their group and its defining features legitimately trump many of the demands made on its members in the name of other human groups or associations.

I presume that no political peoples are natural or primordial. All are creations of human beings in history, including those that present themselves in other terms. Political peoples are created via asymmetrical political processes in which leaders lead – but only under the great constraint that they must attract and keep followers. Leaders do so both through coercive force that intimidates potential members into obedience, and through persuasive stories that prompt voluntary embrace of the worth of the communal life leaders offer as well as trust in the success of their group endeavors. My work focuses on the stories.[7] I maintain that all forms of political peoplehood are subjects of continual, sometimes low-level and sometimes intense contestation, both internal and external, and so aspirants to leadership are always crafting and re-crafting stories to inspire and maintain allegiance to their visions of peoplehood, as well as to their own leadership. Those stories always build to some degree on pre-existing senses of identity, interests, and values, but they also always re-shape those pre-existing conceptions to some degree in light of new circumstances. All stories of peoplehood also contain three types of elements, though with differing emphases: promises of economic well-being; promises of political power sufficient to insure personal security and a measure of political influence; and what I have termed "ethically constitutive" themes, accounts depicting membership in a people as having intrinsic normative worth.[8] Religious stories are probably the oldest, most enduring, and often the most potent of these ethically constitutive themes, though they are not unique in the roles they play. Stories contending for the normative value of a particular set of ancestors, or a broader ethnic

[6] M. Canovan, *Nationhood and Political Theory*, Brookfield 1996, p. 22.

[7] R. M. Smith, *Stories of Peoplehood: the Politics and Morals of Political Membership*, New York 2003, p. 19–71.

[8] *Ibidem*.

or racial identity, or for the desirability of a distinctive culture or language or historical identity, or even the glories of particular homeland territories, can all serve as ethical accounts that prompt persons to embrace a common sense of peoplehood. In the U.S. and at times in many other societies shaped by modern Western political philosophy, political leaders have often advanced popularized versions of "social contract" or "social compact" theories in order to confer ethical legitimacy on their forms of political community and their policies and leadership, sometimes merging these with religious "covenant" traditions, sometimes presenting them in more secular form. Locke, of course, was also an influential advocate of social contract theory and its attendant conception of peoplehood, in both his Letter Concerning Toleration and his Two Treatises of Government. But the social contract tradition, especially its modern secular variants, demonstrates that though religious stories are in some ways the prototype for ethically constitutive narratives, they do not exhaust the category.[9]

Both leaders and followers may be primarily motivated by any of these three basic types of stories – economic stories, political power stories, ethically constitutive stories. But no form of peoplehood is likely to endure if a critical mass of members do not believe that through it they are receiving adequate shares of economic and power benefits and doing so in ways that seem normatively legitimate, if not indeed commendable. That is why all three themes are generally linked in all politically potent stories of peoplehood, past and present, even if sometimes one theme is far more overt than the others. Yet even if all three themes are needed, ethically constitutive stories and the normative legitimation they provide have distinctive importance. Even though many people are driven by concerns for economic well-being, physical security, and political power much of the time, it is nonetheless not possible to explain the politics of peoplehood strictly in economic terms or in terms of power aspirations alone. Though all engaged in such politics do seek power – some as an end in itself, many as an end to other means – and though most also seek to advance economic interests, no form of political peoplehood can long endure if it is defined and defended in purely economic or power terms. This is so because there are at least three things which ethically constitutive stories provide to leaders and members that economic and political power stories cannot so easily do. First, they can perform the useful trick of justifying loyalty to particular communities in universal terms.

The diversity of interests, identities and values that have existed in the world since time immemorial mean that it has generally been difficult to build stable forms of political peoplehood that can contribute to the well-being of at least some persons over several generations, so achieving a stabilizing loyalty to particular communities has often seemed desirable. But on their own logic, economic and political power stories of membership can inspire loyalty only so long and so far as members cannot achieve greater economic welfare or more power and security

[9] *Ibidem*, p. 72–92; J. Locke, *Two Treatises of Government*, ed. P. Laslett, New York 1965.

within any other community. Rather than remaining loyal to a particular community or people, individual and familial emigration, quests for new forms of federation, or some form of regional or group separation may often seem to make sense. But if one belongs to a particular community or people because God has deemed one should do so, or because it represents membership in the world's master race or the world's greatest civilization, then by this universalistic standard, that particular membership is likely to seem desirable on an enduring basis. Second, as I have already suggested, ethically constitutive stories are better equipped than purely economic or political power accounts to make memberships seem normatively worthwhile. To be sure, being wealthy and powerful are often seen as desirable; but in many of the normative traditions in which people have been socialized, wealth and power are also seen as spurs to selfish, destructive, immoral behavior, and for good reason – there is an abundance of empirical evidence that this is in fact the case.

Consequently, if persons are to feel their form of political peoplehood is providing them with benefits in ways that are legitimate, even noble, economic and power themes must be undergirded and justified by ethically constitutive accounts. Finally, in comparison with economic and political power stories, ethically constitutive ones are harder to prove but also harder to disprove. We can generally tell if we are rich or poor, politically strong or weak; but it is harder to tell if we are part of God's chosen people, the world's greatest culture, a speaker of the most beautiful language, and so forth. That means ethically constitutive political stories can be a tough sell in comparison to concrete promises of economic or power benefits. But conversely, once people are sold on such stories, it is hard to convince them that the stories are untrue and that the political obligations they define can be ignored. This is all the more true because people have been socialized via ethically constitutive stories since before recorded history – I believe, because they have always been politically indispensable – and as a result, most people find that certain ethically constitutive stories speak powerfully to their deepest senses of who they are and what they feel they should be.[10] And though ethically constitutive stories come in a fascinating variety of forms, the most potent ones for most people in most places through most of time have been religious ones. It is harder to imagine a stronger basis for making a membership seem both unquestionably intrinsic to people's identities and normatively worthwhile than to have it assigned by God or the gods. No purely biological, ancestral, cultural, linguistic, or historical account can logically provide quite the same degree of sanctification that divine authorship bestows.

For most people historically, nothing has done more to imbue both their personal and political lives with an inspiring sense of moral meaning, and nothing has offered such reassurance of the most powerful support possible when they face the vicissitudes of human existence. The attractions of such accounts for leaders who want devoted members, and for members who want their communal lives to

[10] R. M. Smith, *Stories...*, p. 93–102.

be something on which they can rely and in which they can take pride, will be clear. These political advantages explain, I believe, why no political society in recorded history failed to establish an official common religion until the founding of the United States, which had too many fervent Protestant denominations, with different ones established in different states, to privilege any one at the national level. These political advantages also help explain why even many societies that have become considerable more secular today, like Great Britain, Norway, Denmark, and Poland, still have not abandoned special statuses for the churches which were once far more central to their forms of peoplehood.

As I have already suggested, the fact that religious stories of peoplehood have nonetheless become less central than they once were in modern Europe, and to a lesser degree even in America, actually provides further testimony to their political potency. Because they are so capable of inspiring senses of loyal devotion, because they are so effective in conferring moral status on some and in advancing moral condemnations of others, religious stories have long and often served to justify and probably often to motivate appalling atrocities, including systems of crushing servitude, individual and group persecution and interstate violence, even genocide. They have often had tremendous power both in providing normative buttresses for harsh governmental policies and institutions and in stirring extremist, even fanatical dissident movements, capable of persuading believers to undertake crusades and jihads, mass suicides and suicidal attacks.

Religious conflicts were particularly central to the civil wars that made Locke's 17th century the "century of revolution" in England and to many of the feudal and monarchical wars that racked Europe for so much of its history, prompting many to flee to the Americas. Still, it is important to recognize that religious stories are not alone in their capacities to provide apparent ethical legitimation for violent conflicts and repression: Communist ideology and "scientific" racist theories, along with historical narratives of past injustices demanding vengeance, have all done the same. Even as he worried about religious strife, Locke also observed:

> Suppose this business of religion were let alone, and that there were some other distinction made between men and men upon account of their different complexions, shapes, and features, so that those who have black hair (for example) or grey eyes should not enjoy the same privileges as other citizens; that they should not be permitted either to buy or sell, or live by their callings; that parents should not have the government and education of their own children; that all should either be excluded from the benefit of the laws, or meet with partial judges; can it be doubted but these persons, thus distinguished from others by the colour of their hair and eyes, and united together by one common persecution, would be as dangerous to the magistrate as any others that had associated themselves merely upon the account of religion? …there is only one thing which gathers people into seditious commotions, and that is oppression.[11]

[11] J. Locke, *Letter...*, p. 54.

In this I think Locke was right, so we should not assume that religious stories are uniquely politically potent, uniquely politically significant, and uniquely politically problematic in promoting oppression and violence. But they are, I think, especially potent, unique, significant, and problematic.

Religion and Peoplehood in the United States

This framework suggests some reasons for the particular potency of religious beliefs in American political culture. Although the different American colonies were founded for a variety of reasons – some fundamentally as business enterprises, some as gifts to proprietors that British monarchs wished to reward or cultivate – there can be no denying that many of the first colonists came out of desire for greater opportunities to practice their preferred forms of Christianity. It is understandable that their colonial political leaders, who were also often their religious leaders, used religious accounts of their communities to inspire senses of faith and hope in the members of what were initially small, weak, poor communities struggling with harsh circumstances. It is also understandable that later American leaders from the revolution on would not hesitate to invoke and elaborate these religious conceptions of peoplehood, rather than their ancestors' pecuniary motives, to provide uplifting, loyalty-stirring content to their stories of national identity.

Famously, the notion that the community that American colonists built might prove to have a sacred place among the nations of the earth was central to the sermon, "A Model of Christian Charity," that Massachusetts Bay Company Governor John Winthrop gave to his fellow Puritan colonists in 1630 as their ship, the Arbella, first approached the shores of the New World. Referencing the Gospel of Matthew, Chapter 5, verse 14, which states, "you are the light of the world. A city that is set on a hill cannot be hidden," Winthrop told his company members that, while they still had all the duties that they had had in England, they now had "to do more service to the Lord" and keep themselves "better preserved from the common corruptions of this evil world." If they did so, he promised:

> The Lord will be our God, and delight to dwell among us, as His own people … He shall make us a praise and glory that men shall say of succeeding plantations, 'may the Lord make it all like that of New England.' For we must consider that we shall be as a city upon a hill. The eyes of all people are upon us. So that if we shall deal falsely with our God in this work we have undertaken … we shall be made a story and a by-word through the world.[12]

It may seem absurd to think that the eyes of the world were on the passengers of the tiny Arbella; and for those who do not share Winthrop's theology, it also seems unlikely that God intended to make the New Englanders His special people

[12] Governor J. Winthrop, *A Model of Christian Charity*, 1630, at: www.religiousfreedom.lib.virginia.edu/sacred/charity.html, accessed May 6, 2009.

and dwell among them if they were faithful. But this was plainly a religious "ethically constitutive" story of peoplehood that served to inspire a sense of the enormous normative worth of the new form of community the Puritans were seeking to establish, as well a sense of trust that, despite the huge difficulties they faced, they would succeed. Since Winthrop did not rely on coercion, and he could not offer his fellows much in the way of economic benefits – and he also proved unwilling to share much political power – this promise of being part of either a glorious story if the colonists embraced his vision, or a degraded one if they did not, was crucial to the Puritan settler project. And with varying degrees of sincerity, Americans from Thomas Paine to George W. Bush and beyond have since continued to claim that America has a special providential world mission. In his great 1776 revolutionary pamphlet, "Common Sense," Paine did not hesitate to suggest to Protestant America that its discovery had preceded the Reformation "as if the Almighty graciously meant to open a sanctuary to the persecuted in future years."[13] Paine would later go on to acknowledge that he was a deist who doubted that God actually intervened in human history. But when seeking to fire up belief in the moral legitimacy and potential success of the radical endeavor of colonial revolution against the world's greatest imperial power, he felt compelled not simply to appeal to the prevalent forms of religiosity but to build them into his presentation of the very core of American peoplehood.

Similarly, when George Washington wrote in the 1780s to Irish and Dutch admirers that America should and would be "open to receive not only the Opulent and respectable Stranger, but the oppressed and persecuted of all Nations And Religions," making it "an Asylum" for "the needy of the Earth," he was chiefly seeking to attract European immigrants to an infant country seeking to grow; and he did not endorse Winthrop's specific vision of that nation's religious mission. Nonetheless, Washington, too, legitimated, indeed valorized, the newly United States as the ideal locale for believers to pursue the religious lives they preferred.[14] With the Anglican Church established in South Carolina and only recently disestablished in Virginia, and the Congregationalists established in New Hampshire and Connecticut (and still established for practical purposes in Massachusetts), while Rhode Island and Pennsylvania professed commitments to religious freedom, the ensuing Constitutional Convention gave little consideration to establishing any "Church of the United States." Instead it banned religious tests for public office. But though its example contributed to the eventual ending of all governmental establishment of churches at the state and local levels throughout the United States during the 19th century, the notion that the United States was in some sense providentially favored remained widespread and politically potent. After visiting the United States in the Jacksonian era, admittedly a time of religious revivalism, Alexis de Tocqueville laid special emphasis on Americans' pervasive religiosity and the dis-

[13] *Tracts of the American Revolution 1763–1776*, ed. M. Jensen, Indianapolis 1967, p. 424.

[14] *Immigration and the American Tradition*, ed. M. Rischin, Indianapolis 1967, p. 43–44.

tinctive alliance they had forged between religion and civil and political freedom, an alliance he saw as only strengthened by their decisions to separate church and state. Tocqueville suggested that colonial New England had done more than any other part of the country to give shape and identity to "the whole American world," precisely because of the way it blended its Calvinist Christianity with community self-governance and, increasingly over time, with commitments to civil freedom. Tocqueville then generalized that in America, "Religion regards civil liberties as a noble exercise of men's faculties," while "Freedom sees religion as the companion of its struggles and triumphs, the cradle of its infancy, and the divine source of its rights."[15] Though we might today challenge that sweeping generalization, recalling for example that antebellum American religious leaders, many trained in New England, provided the most prominent defenses of slavery, Tocqueville's characterizations still testify to how profoundly American peoplehood had come to be identified with religious freedom and religious flourishing, and, for many if not most Americans, with a providential sense of the nation's distinctive identity. And with this long, deeply constitutive tradition of seeing American peoplehood as closely allied with religion or even as holding a special place in the plans of Divine Providence, it is not surprising that American leaders have often turned to religious themes in times of trouble, when they were unable to provide the sorts of economic and political benefits their constituents hoped to receive, or when they were seeking to provide such benefits through means that many regarded as morally dubious.

Many commentators have noted that, as the staggering costs in resources and human lives of the Civil War mounted and as the outcome remained deeply uncertain, Northern leaders in general and President Abraham Lincoln increasingly sought to inspirit those called on to make so many sacrifices by imbuing the struggle with profound religious significance, as in the Battle Hymn of the Republic: "As He died to make men holy, let us die to make men free." And though Lincoln professed it to be beyond human capacities to know divine will, and hence whether God was on the side of the Union, he still did not hesitate in his great Second Inaugural to insist that, much as everyone wished for the war to end,

> If God wills that it continue until all the wealth piled up by the bondsman's two hundred and fifty years of unrequited toil shall be sunk, and until every drop of blood drawn with the lash shall be paid with another drawn with the sword…still it must be said, 'The judgments of the Lord are true and righteous altogether.'[16]

While Lincoln and other leaders of the ultimately victorious Union thus expressed and reinforced religious conceptions of American peoplehood to stir men to sacrifices in the cause of human emancipation, fin-de-siècle American leaders,

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[15] A. de Tocqueville, *Democracy in America*, ed. J. P. Mayer and M. Lerner, trans. G. Lawrence, New York 1966, p. 29, 30, 40.

[16] A. Lincoln, *The Writings of Abraham Lincoln*, Vol. 7, ed. A. B. Lapsley, New York 1905–1906, p. 330–331; cf. e.g. H. V. Jaffa, *Crisis of the House Divided*, Chicago 1982 [orig. 1959]), p. 229–232, 316.

like others before and since, deployed those conceptions to legitimate far more morally dubious enterprises, including the Spanish-American War that brought the United States its first overseas empire. In the wake of the nation's military triumphs in that war, Senator Albert Beveridge of Indiana won national fame by brushing off all constitutional, legal, and moral objections to this newly expansive American imperialism by insisting

> God has not been preparing the English-speaking and Teutonic peoples for a thousand years for nothing but vain and idle self-contemplation and self-admiration. No! He has made us the master organizers of the world to establish system where chaos reigns … And of all our race He has marked the American people as his chosen nation to finally lead in the regeneration of the world.[17]

The success of Beveridge's speech and many like it in legitimating for the American people controversial uses of their military power has through the course of U.S. history further embedded in American political culture the identification of American nationalism with religious beliefs and purposes. Even so, perhaps because the United States found its 1898 overseas imperialist venture more burdensome than beneficial and thereafter refrained from such overt, morally questionable conquests, perhaps because the U.S. was, with the exception of the Great Depression, largely successful thereafter in providing its citizens with both economic and political benefits, Beveridge's strident brand of providentialist religious rhetoric became less common during most of the 20th century. This trend toward somewhat more secular public discourses arguably reached its peak in the 1960s, when challenges to various American traditions raised by the various liberation movements of the era went so far that Harvard theologian Harvey Cox anticipated the end of the use of the term "God" in American politics.[18] Of course, events proved Cox to be very wrong. Contemporary liberal philosopher William Galston has suggested that, in important respects, the reverse occurred. He believes that, even though many of the challenges to traditional forms of racial, gender, economic and religious ordering of American society in the 1960s were themselves cast in religious terms, they still "contributed to the breakdown of consensus," undermined social senses of shared standards – they widened the "hole" at the center of modern liberalism – and thereby set the stage for the resurgence of both conservatism and religion in American life.[19]

Presidential rhetoric provides evidence that such a resurgence did indeed occur. Though it is sometimes asserted that all American presidents speak extensively in religious terms and have always done so, in fact such rhetoric became less preva-

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[17] A. Beveridge, "On the New Colonies", Congressional Record, 56th Cong., 1900, 1st Sess., Vol. 33, pt. 1, 711.

[18] H. Cox, *The Secular City: Secularization and Urbanization in Theological Perspective*, rev. ed., New York 1966, p. 234.

[19] W. A, Galston, *Liberal Purposes: Goods, Virtues, and Diversity in the Liberal State*, New York 1991, p. 268–269.

lent during the 20th century, until it was revived by Ronald Reagan and then carried further by George W. Bush. The leading quantitative study of the topic is by two communication scholars, Kevin Coe and David Domke.[20] They did content analysis of all Inaugural and State of the Union Addresses from Franklin D. Roosevelt through the speeches of the second President Bush. These speeches seemed appropriate because all presidents give them and because, in terms of categories first offered by Aristotle, Inaugural Addresses tend to be "epideictic," more ceremonial and vision-defining, while State of the Union Addresses tend to be more "deliberative," concerned with providing concrete policy proposals and arguments. Coe and Domke also coded presidential religious expression as displaying "petitionary" or "prophetic" postures, with "petitionary" statements requesting or offering thanks for divine assistance, and "prophetic" implying "a knowledge of God's wishes, desires or intentions."[21]

Their results, achieved with a high coefficient of intercoder reliability (.94), show that Ronald Reagan initiated a new era in which "God" references per presidential address more than doubled compared to presidents from FDR through Jimmy Carter. George W. Bush ranks highest in references per address and references per 1,000 words, exceeding even Reagan. In contrast, though Bill Clinton and George H.W. Bush invoked God more often per address than pre-Reagan presidents, their rate per 1,000 words was roughly that of those predecessors.[22] The second Bush and Reagan also adopted the prophetic posture in 47% of their addresses, compared to 0% for pre-Reagan Democrats, 5% for pre-Reagan Republicans, and 15% for the first Bush and Clinton, all statistically significant differences.[23] Both presidents, but especially Bush, made prophetic statements most often in relation to the role of the U.S. in promoting freedom in the world. As Coe and Domke note, this rhetorical posture "treads closely to claims regarding a divine vision for U.S.

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[20] K. Coe, D. Domke, *Petitioners or Prophets? Presidential Discourse, God, and the Ascendancy of Religious Conservatives*, "Journal of Communication" 2006, Vol. 56, p. 309–330.

[21] *Ibidem*, p. 316.

[22] *Ibidem*, p. 316–319. Prior to encountering the Coe and Domke study, I asked two student researchers to count and code religious references in all presidential Inaugurals, State of the Union addresses, and nomination acceptance speeches from George Washington through George W. Bush using an online archive that has since been displaced (www.theamericanpresidency.us/archive.htm). The speeches are now available at www.presidency.ucsb.edu, and I have re-checked them using that site. The researchers categorized the religious remarks as "providential" and "non-providential," a less useful dichotomy than Coe and Domke's; and the research had a slightly lower level of inter-coder reliability, so I rely on the published Coe and Domke results here. Nonetheless, it is worth noting that, even including nominating speeches, the patterns identified in these researchers' counts of presidential religious references track those found by Coe and Domke very closely. In both studies, all presidents examined had the same relative rankings in terms of numbers of references, with virtually the same counts for references per speech (even adding nominating speeches). Our research confirms that George W. Bush, followed by Reagan, made more religious and more specifically providentialist references per major speech than any 20th-century president, and they were rivaled historically only by James Buchanan, John Quincy Adams, and the single Inaugural Address of William Henry Harrison (Research memorandum and tables by Stefan Heumann, on file with Rogers M. Smith).

[23] K. Coe, D. Domke, *Petitioners or Prophets?...*, p. 320.

foreign policy."[24] Scholars relying on more "qualitative" interpretive methods have reached similar conclusions. The theologian Caryn Riswold has analyzed George W. Bush's Sept. 20, 2001 speech advocating military action against Al Qaeda and Afghanistan's Taliban regime. Bush argued that America was "called to defend freedom" and he concluded, "The course of this conflict is not known, yet its outcome is certain. Freedom and fear, justice and cruelty, have always been at war, and we know that God is not neutral between them."[25] Riswold argues that this language suggested that not only was Bush's call to arms "justified by God;" it offered Americans

> certainty of the outcome" of his policies. She concludes that his rhetoric "stakes a claim that America is the favored nation under God, and presents subtle justification for violence ... It communicates a religious worldview that justified its veiled call for holy war, equating patriotism with faith in a God who is not neutral. The presidential address was a religious response, presenting a retribution theology as national policy.[26]

Communications scholar Denise M. Bostdorff has also closely analyzed many of Bush's post-September 11th speeches, and reaches similar conclusions. She sees Bush as repeatedly invoking Protestant traditions holding that "the U.S. has a sacred, civil covenant," harkening back to "the covenant between God and New England" that "periodically needs to be renewed by current citizens."[27] He also relied heavily on the "theme of predestination" because, she believes, "citizens were more likely to support the war…if they believed the effort would ultimately succeed." Of course leaders always seek to "speak confidently," but "Bush's rhetoric often went beyond simple confidence to outright certitude."[28] These characterizations support Coe and Domke's coding of Bush's rhetorical posture as frequently and distinctively "prophetic." In deploying such religious themes, the younger Bush followed Reagan's model, more than that of his own father. No theme was dearer to Reagan than the notion that America was destined by "Divine Providence" to be John Winthrop's shining "city on a hill." He invoked that image when he announced his candidacy for the presidency in 1979, in his 1984 nomination acceptance speech, and in his final State of the Union address, as well as in many other statements.[29] In his Inaugural addresses, Reagan repeatedly made clear that

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[24] *Ibidem*, p. 324.

[25] G. W. Bush, "Address to a Joint Session of Congress and the American People," September 20, 2001, at: www.whitehouse.gov/news/releases/2001/09/20010920-8.html (accessed May 21, 2007).

[26] C. D. Riswold, *A Religious Response Veiled in a Presidential Address: A Theological Study of Bush's Speech on 20 September 2001*, "Political Theology" 2004, Vol. 5, p. 44–46.

[27] D. M. Bostdorff, *George W. Bush's Post-September 11 Rhetoric of Covenant Renewal: Upholding the Faith of the Greatest Generation*, "Quarterly Journal of Speech" 2003, Vol. 89, p. 294, 306.

[28] *Ibidem*, p. 307.

[29] R. Reagan, "Announcement of Candidacy," November 13, 1979, at: www.presidency.ucsb.edu (accessed May 21, 2007); idem, "Nomination Acceptance Speech," July 17, 1980, at: www.presidency.ucsb.edu/nomination.php (accessed May 21, 2007); idem, "7th State of the Union Address," January 25, 1988, at: www.presidency.ucsb.edu (accessed May 21, 2007).

he understood this to mean that America should be an "exemplar of freedom and a beacon of hope" to all the world, and that God "intended" and "called" the American people to play this role, so that God was the true "author" of America's "dream of freedom."[30] One of Reagan's most celebrated expressions of this view came in a speech at the 1986 Statue of Liberty commemoration, where the president praised the nation's history of welcoming immigrants by saying,

> I have always believed there was some divine providence that placed this great land here between the two great oceans, to be found by a special kind of people from every corner of the world, who had a special love for freedom.[31]

Yet while this was a classic "epideictic" ceremonial speech, it interpreted the past, rather than prophesying the future; and Reagan generally trod carefully in his prophetic providentialist statements, knowing they could be controversial. In his 1984 State of the Union Address, Reagan observed, in a defense of school prayer, that "we must be cautious in claiming that God's on our side, but I think it's all right to keep asking if we're on His side."[32] In addition to religious support, Reagan also often emphasized what he saw as the lessons of history and history's "calls" to Americans.[33] Even so, this was clearly divinely guided history, and over time Reagan asserted more and more strongly that God had "entrusted in a special way to this nation" a responsibility for the "defense" of freedom at home and around the world.[34] But though he moved closer to suggesting that particular policies that he advocated accorded with divine intentions, his religious rhetoric remained primarily an inspirational view of American identity in general, not a justification for specific positions.

George W. Bush went further, especially in foreign policy contexts after September 11, 2001. In his first State of the Union address in 2002, Bush stated that "History has called America" to "fight" and "lead" the campaign for liberty and justice, and he assured his fellow citizens that "God is near" to us amidst these

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[30] Idem, "First Inaugural Address," January 20, 1981, at: www.presidency.ucsb.edu (accessed May 21, 2007); idem, "Second Inaugural Address," January 21, 1985, at: www.presidency.ucsb.edu (accessed May 21, 2007).

[31] Idem, "Remarks at the Opening Ceremony of the Statute of Liberty Centennial Celebration," July 3, 1986, at: www.reagan.utexas.edu/archives/speeches/1986/70386d.htm (accessed May 21, 2007); idem, "3rd State of the Union Address," January 25, 1984, at: www.presidency.ucsb.edu (accessed May 21, 2007).

[32] E.g.: R. Reagan, "4th State of the Union Address," February 6, 1985, at: www.theamericanpresidency.us/1985.htm (accessed December 19, 2004).

[33] *Ibidem*; R. Reagan, "6th State of the Union Address," January 27, 1987, at: www.presidency.ucsb.edu (accessed May 21, 2007); idem, "7th State of the Union Address," January 25, 1988, at: www.presidency.ucsb.edu (accessed May 21, 2007). Reagan also increasingly emphasized that "the unborn child is a living human being entitled to life, liberty and the pursuit of happiness" granted by "our Creator" ("5th State of the Union Address," February 4, 1986, at: www.presidency.ucsb.edu (accessed May 21, 2007); "7th State of the Union Address...").

[34] G. W. Bush, "1st State of the Union Address," January 29, 2002, at: www.presidency.ucsb.edu (accessed May 21, 2007).

difficult events.[35] On September 11, 2002, he reaffirmed that Americans had heard "history's call," and he made even clearer that history was for him, as for Reagan, a providentialist history. Bush stated

> we do know that God has placed us together in this moment … to serve each other and our country. And the duty we have been given – defending America and our freedom – is also a privilege we share … This ideal of America is the hope of all mankind … That hope still lights our way.

Using Biblical language (John 1:5) in a popular Protestant translation, the president concluded, "And the light shines in the darkness. And the darkness will not overcome it."[36] In his 2003 State of the Union Address, Bush went on to assert that "this call of history has come to the right country," and, in case there remained any doubt that the voice of this history was the voice of God, he added that though "we do not claim to know all the ways of Providence," we knew enough of them to "trust in them, placing our confidence in the loving God behind all of life and all of history" as we pursued the course the president had set.

Later that year, in his widely praised speech to the National Endowment for Democracy, Bush argued still more explicitly that "Liberty is both the plan of Heaven for humanity, and the best hope for progress here on Earth," and that as part of this plan, America had a "mission to promote liberty around the world." He concluded "we can be certain that the author of freedom is not indifferent to the fate of freedom."[37] In his 2004 State of the Union speech, Bush argued, again like Reagan, that "God has planted in every human heart the desire to live in freedom," and he assured Americans that they would fulfill their "mission" to "lead the cause of freedom" because of "that greater power who guides the unfolding of the years."[38] Then, in his speech accepting his second presidential nomination, Bush returned to his motif of the "story of America," a "story of expanding liberty" in which "America is called to lead the cause of freedom" because freedom "is the Almighty God's gift to every man and woman in the world." He closed by assuring Americans that they "have a calling from beyond the stars to stand for freedom."[39]

Bush's Second Inaugural Address, which his speechwriter termed the speech that best expressed the president's "worldview," took as its central theme the argument that America must now make "the success of liberty in other lands" the centerpiece of national policy, for this task represented not only "the urgent re-

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[35] Idem, "Remarks on September 11, 2002 at Ellis Island," at: www.cgi.cnn.com/2002/US/09/11/ar911.bush.speech.transcript (accessed May 21, 2007).

[36] Idem, "2nd State of the Union Address," January 23, 2003, at: www.presidency.ucsb.edu (accessed May 21, 2007).

[37] Idem, "Remarks at the 20th Anniversary of the National Endowment for Democracy," November 6, 2003, at: www.whitehouse.gov/news/releases/2003/11/20031106-2.html (accessed May 21, 2007).

[38] Idem, "3rd State of the Union Address," January 20, 2004, at: www.presidency.ucsb.edu (accessed May 21, 2007).

[39] Idem, "2nd Nomination Acceptance Speech," September 2, 2004, at: www.presidency.ucsb.edu (accessed May 21, 2007).

quirement of our nation's security," but also "the calling of our time."[40] The president was careful to acknowledge that liberty might take different forms around the world, that "when the soul of a nation finally speaks, the institutions that arise may reflect customs and traditions very different from our own."

The speech also contained passages that seemed mindful of criticisms of Bush's earlier providentialist rhetoric, as well as the example of Lincoln's great Second Inaugural, which recognized the divine justice of American suffering but refused to claim divine sanction for the Union cause, saying only that "The Almighty has His own purposes."[41] Somewhat similarly, Bush stated that Americans had "complete confidence in the eventual triumph of freedom," but not because "history runs on the wheels of inevitability; it is human choices that move events." Nor did Americans "consider ourselves a chosen nation; God moves and chooses as He wills." Still, Bush insisted, "History has an ebb and flow of justice, but history also has a visible direction, set by liberty and the Author of Liberty." In his 2005 State of the Union address, devoted largely to domestic matters, Bush reiterated that Americans would "add to that story" of the "history of liberty," and that "The road of Providence is uneven and unpredictable – yet we know where it leads: It leads to freedom." In his two subsequent State of the Union speeches, his providentialist discourse did give way to pragmatic policy arguments, perhaps because his administration's failure to realize his previous prophecies of foreign policy success made a shift to different rhetorical terrains seem advisable.[42]

But the evidence permits no doubt that, building on traditions going back to the colonial era, George W. Bush made religion central to the vision of America peoplehood that he offered to his nation, and that he invoked it especially in contexts where it might confer normative legitimacy on his most controversial policies. And so his example is, at a minimum, consistent with my central argument here, that religion remains distinctively important in American politics, for reasons that are understandable in terms of the political roles of religious stories of peoplehood in America's historical and contemporary contexts.

The success of both Reagan and the second Bush have been, moreover, parts of the rise of the Religious Right in American politics, some of whose members wish to win recognition of the United States as a "Christian nation," and most of whom want to privilege religious perspectives over secular ones in public institutions and policies. These Religious Right perspectives are commonly and, I think, correctly thought to have reinforced Bush's often providentially justified foreign policies. And though I have argued that to win court cases, many Religious Right advocacy groups in America have in fact endorsed egalitarian and pluralistic views

[40] Idem, "2nd Inaugural Address," January 20, 2005, at: www.presidency.ucsb.edu (accessed May 21, 2007); "Foreign Policy" 2006.

[41] A. Lincoln, "2nd Inaugural Address," March 4, 1865, at: www.presidency.ucsb.edu (accessed May 21, 2007).

[42] G. W. Bush, "4th State of the Union Address," February 2, 2005, at: www.presidency.ucsb.edu (accessed May 21, 2007).

under which they have no more prominence than any other groups, it remains true that President Bush went further than any predecessor in using religious justifications for controversial, often otherwise indefensible policies.[43]

As a result, I think it fair to say that even though the United States has generally managed problems of religion relatively well through extensive though not total separation of church and state, recent history has confirmed that there remains a danger of the political use of religious stories to justify harsh coercive policies, at least toward outsiders. The 2008 presidential campaign showed, moreover, that Americans also continue to be anxious that religious stories may be used in radically dissident fashion in ways that may divide and endanger the American republic. Although Barack Obama's pastor, the Reverend Jeremiah Wright, deployed rhetoric denouncing American racism and imperialism that are in fact fairly conventional in many African-American churches, and though this rhetoric rarely supports political radicalism in African-American communities nor was it part of any radical activism by the former Marine Reverend Wright, even so candidate Obama felt compelled to repudiate the anti-American sentiments in Wright's sermons. The examples of Bush's policies and the Wright controversy are sufficient, I think, to indicate that dangerous uses of religious stories by political authorities and controversies over religious stories used to justify dissidence remain important features of American political life.

Normative Responses

I hope that what I have said so far makes it plausible to hold that religious tales of peoplehood both have enormous political appeal and pose enormous political dangers, if not uniquely so, more so than many other sorts of stories of political peoplehood. This combination of political power and peril means that those committed to regimes that seek to realize values of democracy and human rights face continuing challenges of managing the place of religious groups and religious ideologies in their political societies. I believe the United States, like most nations in modern Europe, has on the whole done well in meeting these challenges via mixtures of recognition and accommodation of religious bodies and substantial separation of religion and government, with the particular combinations necessarily and appropriately varying in different times and places. But these combinations still face threats that they will come unstuck, either through controversies over whether government may become repressively identified with particular religions, as in the worries over the Religious Right in the United States and the recognition

[43] R. M. Smith, *Religious Rhetoric and the Ethics of Public Discourse: The Case of George W. Bush*, "Political Theory" 2008, Vol. 36, p. 272–300; idem, *An 'Almost Christian' Nation? Constitutional Consequences of the Rise of the Religious Right*, [in:] *Evangelicals and Democracy in America*, ed. S. Brint, J. Reith Schroedel, Vol. 1: *Religion and Society*, New York 2009, p. 329–355.

of Christianity in E.U. documents in Europe, or through controversies over whether radically dissident religious views should be permitted, as in the controversies over Rev. Wright in the U.S. and over the hijab and other Islamic practices in Europe. So in the remainder of this essay I suggest some guidelines for confronting these continuing challenges that build on the analysis of religious stories of peoplehood I have advanced. These prescriptions fall under two headings: first, the issue of how far religious groups and beliefs should be separated from politics, and second, how far governments should seek to be neutral among different religious groups.

On the first issue, writing as a secularist, I have argued for some years against those who seek to foster a purely secular public realm, in which political officials and institutions do not articulate religious beliefs or acknowledge the religious origins of their own values. I regard such admonitions, sometimes espoused by advocates of John Rawls's public reason or Jürgen Habermas's discourse ethics, as politically unrealistic, given the potency of religious arguments for both leaders and followers.[44] And I also regard them as ethically illegitimate, because though I still regard purely secular outlooks as more intellectually persuasive, I also still feel compelled to acknowledge that secular perspectives are not so definitively established as to make it unreasonable for people to see the world in religious terms. U.S. experience suggests that efforts to drive religious discourse out of politics only provokes the very sorts of religious assertiveness and public conflict that advocates of full separation of religion and politics seek to avoid, and it does so on terms that permits religious groups to portray themselves as persecuted martyrs.

I therefore think it appropriate for religious arguments to be advanced publicly in democratic politics as fully and as openly as possible, so long as they are not in any way exempt from the criticisms to which all public advocacy should be subject. I have also argued that, because no society can long endure without the support of various ethically constitutive stories that overlap in giving support to the sense of peoplehood and the basic values and institutions that constitute the society, supporters of democracy and human rights must decide what sorts of ethically constitutive stories they should embrace. I would like to see more and more communities embrace historical stories of their own identities, seeing themselves accurately as human creations in history with specific traditions, achievements, challenges and opportunities that their members may understandably see as fundamental to who they are, as normatively compelling, and that they wish to continue and, one hopes, improve. But again, I do not think it feasible or appropriate to say that all members of a people must understand their peoplehood in secular historical terms – who am I to say that providentialist accounts of American national identity, for example, are plainly wrong? And though I think it is misleading to think about actual, real-world memberships in terms of a divine covenant, or for that matter a hypothetical secular social contract or ideal speech situation, I certainly would not wish to forego the support for democracy and human rights that have been

[44] R. M. Smith, *Stories of Peoplehood...*, p. 140–158.

built in the U.S. and in many other societies through arguments for conceiving of peoplehood in those terms.

Moreover, even in telling a historical narrative of peoplehood, it is in many circumstances only accurate to acknowledge the constitutive role that religious traditions have played in the development of that people. Although we should not accept characterizations of the United States as a "Christian nation," we should emphatically agree that American political culture and history cannot be understood with grasping the role of different forms of Christianity and, over time, other religions in generating much that has been central to American experiences.

What is objectionable, I believe, is for the leaders and institutions of regimes purporting to embody values of democracy and human rights to treat any particular religion or all religions as essential to the values to which members of such societies must subscribe to be citizens. It is one thing to say that American political culture has been heavily shaped by Christian values; it is quite another to say that one must be Christian or have recognizably Christian values to be an American. Doctrines that define political membership in terms of religious identity are too easily adaptable to politically motivated repression, if they do not indeed overtly define invidious domestic hierarchies of political status, to be permissible in political communities that profess to respect the human dignity and rights of all. Even Israel, which bestows a "right of return" and a guarantee of Israeli citizenship to virtually all those around the world whom its rules deem to be Jews, does not insist that Israeli citizenship is confined to Jews, much less to believing Jews – though it has far to go before it truly provides equal citizenship to, especially, its substantial number of Arab citizens. So while I believe that proponents of literally all religious stories of peoplehood should be entitled to express their views openly and that many merit certain limited kinds of recognition, even accommodation, advocates of democracy and human rights must firmly oppose the rise to power and the institutionalization of stories of religious peoplehood that present faith and religious membership as inescapable qualifications for political membership.

What types of religions deserve governmental recognition and accommodation? That is the subject of my second normative argument. I believe that, while concerns to avoid religious conflict mean that governments should try to treat religious groups and religious beliefs in as even-handed way as possible and to be as inclusive as possible, it is not literally possible for government to be neutral toward all religions. In any particular community context, some religious groups will have beliefs and practices that are far more compatible with the dominant laws and customs of that society than those of other religious groups. Religions that proclaim the propriety of theocracy and ones that practice child marriage and arranged polygamous marriages cannot be accommodated as fully as others by societies that that are committed to democracy and that seek to protect children and women from exploitation. It is also not possible, for example, to make every denomination's holy days also secular holidays for the whole community, even though it may be

possible to accommodate many favored by the more sizable religious groups. And since full neutrality is not possible, I think it is permissible even for secular societies to offer accommodations to large denominations that have historically helped build support for values of democracy and human rights, accommodations that are not extended to all other religious groups.

But such special privileges always run the risk of wedding government and powerful religions too closely, in ways that present the dangers of intolerance and invidious discrimination that have been so pervasive in explicitly religious forms of peoplehood in the past. And they can also overlook the contributions that more radical religious perspectives, like those of Black Muslims in the U.S., can make in providing important critiques of widely accepted but still unjust governmental policies and social practices that adherents of more conventional religions take for granted.

So though I do not think that governments can credibly pretend to be wholly neutral toward religions, and I do think that political peoples with ethically constitutive commitments to democracy and human rights can in some ways favor those religious groups within it that support such values, I think the politics of peoplehood is conducted best, and conducted most legitimately, when efforts are made to provide real opportunities for as many voices as possible to be heard and for as many groups as possible to thrive, sometimes while maintaining their critical distance, within the forms of peoplehood that result.

However deep the challenges that religious groups and religious beliefs pose to the processes of constructing and maintaining defensible political societies, or, to put it differently, desirable forms of political peoplehood, I believe that precisely because those processes are not divinely ordained, precisely because they are the terribly important activities of fallible and often misguided and ill-motivated human beings, we need to conduct the politics of peoplehood in ways that both engage and challenge religious perspectives constructively, seeking as much as possible neither to enthrone any or to expel any irrevocably. More legitimate forms of peoplehood can be built historically only through processes of political construction that are as inclusive and as democratic as possible, and that means keeping all religious views part of the process, without entitling any to dictate or terminate those processes.

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Richard Gamble

RELIGION AND POLITICS IN THE SHINING CITY: HOW THE "WINTHROP MESSAGE" BECAME THE "REAGAN MESSAGE"

Oxford historian Godfrey Hodgson began his 2009 debunking of American exceptionalism with a famous quotation from John Winthrop's 1630 discourse, *A Model of Christian Charity*. Governor Winthrop, attempting to explain his vision for the Puritan colony of Massachusetts Bay, blended Old Testament passages with Jesus' Sermon on the Mount and John Calvin's commentary on Matthew 5:14:

> Wee shall finde that the God of Israell is among us, when ten of us shall be able to resist a thousand of our enemies, when hee shall make us a prayse and glory, that men shall say of succeeding plantacions: the lord make it like that of New England: for we must Consider that wee shall be as a Citty upon a Hill, the eies of all people are uppon us.[1]

Hodgson ended the quotation here. Winthrop, however, added an important qualification. He warned his fellow colonists not to break what he believed to be God's covenantal bargain with them in the New World. Immediately after the words "the eies of all people are uppon us," Winthrop continued:

> soe that if wee shall deale falsely with our god in this worke wee have undertaken and soe cause him to withdrawe his present help from us, wee shall be made a story and a by-word through the world, wee shall open the mouthes of enemies to speake evill of the wayes of god and all profes-

[1] G. Hodgson, *The Myth of American Exceptionalism*, New Haven 2009, p. 1. Hodgson cites the 1838 edition of Winthrop's discourse published by the Massachusetts Historical Society, but the spelling, capitalization, and punctuation differ significantly from that publication.

sours for Gods sake; wee shall shame the faces of many of gods worthy seruants, and cause theire prayers to be turned into Cursses upon us till wee be consumed out of the good land whither we are goeing.[2]

Anyone familiar with the closing chapters of the Biblical book of Deuteronomy will immediately recognize that Winthrop had Moses on his mind as he addressed his fellow Puritans. The parallel was irresistible. He drew a straight line from Moses' experience to his own, from Moses' concern for the Hebrews about to enter the Promised Land after forty years of wandering to his own concern for God's new chosen people. The blessings and cursings Winthrop listed come right from the last chapters Deuteronomy and include Moses' summary injunction to "choose life."

None of this additional context detracts from Hodgson's point in quoting Winthrop in the first place. The British historian's real target was Ronald Reagan and the Republican president's repeated use of Winthrop to capture a certain brand of American exceptionalism. Hodgson rightly noted the "anachronism" of making the Puritan governor a proto-American and a prophet of the future glory of the United States, and he concluded that "the sermon that Winthrop preached and the sermon that Ronald Reagan used to inspire a conservative shift in American politics some 350 years later have virtually nothing in common."[3] Historian John Patrick Diggins raised a similar concern. After careful study, he recognized that Reagan's theology had little in common with seventeenth-century Calvinist views of God's sovereignty, man's depravity, and Christianity's call to a life of repentance and self-denial. Indeed, Reagan's optimism aligned him more closely with Ralph Waldo Emerson and the Transcendentalists' Over Soul than with anything resembling Puritanism.[4]

The distance across the centuries separating Reagan from Winthrop does indeed raise important reminders about the difference between the past as experienced and the past as remembered and reused for purposes previous generations could not have anticipated and in a world they could not have dreamed possible or even desirable. The space that opens up in our mental picture of American history once we put Winthrop back in his own time allows us to know something important about Winthrop, but it also allows us to see and hear things in Reagan's rhetoric we might otherwise miss. While historical distance makes Winthrop less familiar to us, it simultaneously makes Reagan less familiar as well. That unfamiliarity can bring fresh insights. Tracking Reagan's use of Winthrop, especially his now famous Bib-

[2] J. Winthrop, *A Model of Christian Charity*, [in:] *Winthrop Papers*, Vol. 2, Boston 1931, p. 295. I have modernized some of the spelling.

[3] G. Hodgson, *Myth of American Exceptionalism*..., p. 2–3. Hodgson implicitly criticizes Reagan for calling Winthrop's ship the *Arabella* instead of the *Arbella* (without the extra "a"), but the former spelling was common for centuries and used by other public figures, including John F. Kennedy.

[4] J. P. Diggins, *Ronald Reagan: Fate, Freedom, and the Making of History*, New York 2007, p. 28, 30, 46, 165 and *passim*.

lical and Puritan metaphor of the "city on a hill," reveals how the chief executive functioned in the 1980s in his role as the "high priest" of America's civil religion.[5] Doing so also shows one instance of how Christianity lost ownership of one of its key metaphors. Ironically, evangelicals' favorite president did more than any other to take from them a piece of their Christian identity.

Historian John Lukacs has more than once urged those who study the past to bear in mind that what men do to ideas can be more significant than what ideas do to men.[6] The influence runs both ways, and ideas do indeed have consequences, as the title of Richard Weaver's classic from the 1940s claimed. But Lukacs's insight is borne out by Reagan's handling of America's identity as the city on a hill. That metaphor, picked up somewhere along the way in the 1960s by the former Democrat turned Goldwater conservative, served Reagan well for twenty years. As early as 1952, Reagan had claimed that America was "less of a place than an idea."[7] And that idea became a storyline that brought clarity to his version of American history. In the judgment of one keen observer, Reagan as president became a "narrator, a teller of many stories that all served to expound and defend what he regarded as the one American story."[8] The city on a hill seemed readymade to fit into that larger narrative. The picture of America as a chosen, duty-bound, light-bearing city clearly inspired Reagan as did few other ideas. But it is also true that in countless speeches between 1969 and 1989 Reagan remade the metaphor by a process of addition and subtraction. He tacked the adjective "shining" onto the city at some point. But more significantly, he also removed the last traces of the city's ancient Christian and later English Puritan nuances. Indeed, the phrase "city on hill," originating in the Gospel of Matthew and understood for hundreds of years as a metaphor of the Church and its teaching ministry, sounds the way it does to twenty-first century Americans, and gets debated within the framework it does, because of Reagan. So successful was he in putting his trademark upon it that his fellow citizens, including most historians and journalists, soon forgot that president-elect John F. Kennedy had introduced Winthrop's image into American presidential rhetoric back in January 1961 in an address known for a time as the "City on a Hill" speech.[9] The four

[5] See: R. V. Pierard, R. D. Linder, *Civil Religion and the Presidency*, Grand Rapids 1988, p. 282.

[6] J. Lukacs, *Historical Consciousness, or The Remembered Past*, New York 1985, p. 126. Lukacs contrasts the novels of Dostoevsky and Flaubert to emphasize this point: "While Dostoevsky describes what ideas do to men, Flaubert describes what men do with ideas: and perhaps the latter may be more significant – certainly for the historian" (126).

[7] Quoted in: P. Kengor, *God and Ronald Reagan: A Spiritual Life*, New York 2004, p. 94. The occasion for Reagan's comment was a commencement address on June 2, 1952, at William Woods College in Fulton, Missouri, site of Winston Churchill's famed "iron curtain" speech in 1946.

[8] H. Heclo, *Ronald Reagan and the American Public Philosophy*, eds. W. Elliot Brownlee, H. D. Graham, *The Reagan Presidency: Pragmatic Conservatism and Its Legacy*, Lawrence 2003, p. 18.

[9] J. Winthrop, the *Arbella*, and the phrase "city on a hill" appeared in Kennedy's January 9, 1961, farewell address to a joint session of the Massachusetts legislature. This speech may well have launched Winthrop's career as a Founding Father and marked his 1630 discourse's canonization into the American Scripture. See the memoirs of Kennedy's speechwriter: T. C. Sorensen, *Counselor: A Life at the Edge of History*, New York 2008, p. 219. The text of this speech can be found in J. F. Kennedy, *"Let the Word Go Forth": The Speeches,*

simple words "city upon a hill" made their way over the course of the centuries from the Sermon on the Mount to Puritan New England to modern Americanism. And most of the credit and blame for the most recent reconfiguration belongs to Reagan. More than any other modern figure, Reagan transformed Jesus' metaphor into a secular political slogan inseparable from the 1980s "Reagan Revolution" and from that movement's legacy in the Republican Party. Republican candidates use it endlessly now to attach themselves to Reagan's image in the conservative mind. Its political use has been powerful enough to all but eclipse its Biblical meaning, even among many American Christians who might reasonably be expected to resent seeing their metaphor dressed up like Uncle Sam.

In his autobiography, published the year after he left the Oval Office, Reagan made one passing reference to John Winthrop. Recalling the last year of his first term as president in 1984, he wrote of his conviction at the time that America "had begun the process of spiritual revival that was so badly needed." By a "spiritual revival" Reagan did not seem to have in mind anything to do with the repentance, conversion, or awakening as understood by Christian theology. Instead, he wrote of recapturing a "special vision" – Winthrop's reminder to his fellow colonists "that they had the opportunity to create a new civilization based on freedom unlike any other before it, a unique and special 'shining city on a hill.'"[10] Reagan's emphasis on freedom and a new civilization had less in common with Winthrop's original purpose for his colony than with Thomas Paine's revolutionary rhetoric. Paine was Reagan's favorite among the Founders, and he quoted the patriot's belief that America in 1776 had the capacity to "begin the world over again" about as often as he quoted Winthrop. Nevertheless, this sole reference to Winthrop in the former president's memoirs little indicates the city on a hill's hold on Reagan's imagination.

His first known use of it came in October 1969 during the first of his two terms as governor of California. At some point in his career as a public speaker, Reagan began jotting down on note cards quotable phrases from historical figures ranging from Emma Lazarus to Lenin.[11] On one of these cards, Reagan may well have written his much-used quotation from Winthrop's "Model of Christian Charity." The discourse had been widely available in anthologies since the 1930s, and the actor-turned-politician could easily have encountered it in any number of places. Kennedy had already quoted from it in 1961 and Lyndon Johnson had invoked the same passages in a speech in Boston in 1964. The occasion for Reagan's 1969 speech, and Winthrop's likely debut in his political rhetoric, was a fund-raising event in Washington, D.C., for the fledgling Eisenhower College, a liberal arts institution in Seneca Falls, New York, founded four years earlier. With Vietnam War

Statements, and Writings of John F. Kennedy, 1947–1963, selected with an introduction by T. C. Sorensen, New York 1988, p. 56–58.

[10] R. Reagan, *An American Life*, New York 1990, p. 299.

[11] R. Reagan, *Reagan, In His Own Hand: The Writings of Ronald Reagan that Reveal His Revolutionary Vision for America*, edited with an introduction and commentary by K. K. Skinner, A. Anderson, M. Anderson, with a foreword by G. P. Schultz, New York 2001, p. 13–14.

protestors very much on his mind (he faced them at UC Berkeley as California's governor), Reagan appealed in his speech for a renewal of individual character to save American civilization. Since this event marks Reagan's first known use of Winthrop to convey his vision of America, it is worth quoting once again. Reagan varied the text only slightly from published versions available in 1969, adding the definite article "the" in front of "people" and "all" in front of "the world":

> We shall be as a city upon a hill. The eyes of all the people are upon us, so that if we shall deal falsely with our God in this work we have undertaken and so cause Him to withdraw His present help from us, we shall be made a story and a byword through all the world.[12]

In light of how Reagan would handle this quotation over the next two decades, a few things stand out in hindsight that could not have made any impression on his audience at the time. Reagan had not yet added the word "shining" to his city and the quotation included the warning of divine judgment that would mostly disappear later as Reagan pared down these lines. We can catch a glimpse of how Reagan would rework Winthrop's message in the future by reading on to the next sentence of the California governor's appeal to potential donors: "To you who are considering what you can do to support Eisenhower College, I tell you that without such schools, this shining dream of John Winthrop's may well become the taste of ashes in our mouths."[13] Despite the mixed metaphor, the audience could not have missed his point. And though the college did not survive beyond the early 1980s, Winthrop's city had begun its path to national stardom.

Just over four years later, near the end of his second term as governor of California, Reagan addressed the first Conservative Political Action Conference (CPAC) in Washington, D.C. This annual event became a boot camp for young conservatives eager to be at the movement's epicenter. Reagan's 1974 speech, the first of a dozen he gave at CPAC between 1974 and 1988, included details about the setting for Winthrop's words that became stock elements in his narrative, among them the image of the "tiny deck" of the *Arbella* and the common assumption that Winthrop delivered his sermon while aboard that ship and near America's shores. Not one of these points can be corroborated by surviving evidence. The historical record is surprisingly thin. Nevertheless, the story of the courageous band of intrepid voyagers possessed a mythic quality that for Reagan transcended the literal events of 1630. These are the kinds of things repeated about the Puritans over the centuries in countless patriotic orations and that have become a durable part of the story of America's founding. If they sound to cynics like the stuff of fable, it is important to remember that many popular college textbooks continue to repeat these same "facts."[14]

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[12] R. Reagan, *Speaking My Mind: Selected Speeches*, New York 1989, p. 44.

[13] *Ibidem*.

[14] All twelve of these speeches have been published in R. Reagan, *A City Upon a Hill: Speeches by Ronald Reagan Before the Conservative Political Action Conference, 1974–1988*, ed. J. C. Roberts, Washing-

Here in Washington in 1974, again in his 1975 CPAC appearance, and in most of his subsequent uses of Winthrop, Reagan positioned the shining city near the end of his speech as a sort of summary call to covenantal obedience. Significantly, for the time being he retained Moses' and Winthrop's stern warning about the judgment that will fall upon the covenantal people who betray their God. In fact, in his 1975 CPAC speech he dropped the "city on a hill" entirely for the moment and kept only the admonition not to "deal falsely with our God" lest we become "a story and a byword throughout the world." Despite these sober words, Reagan never judged America guilty of this sin, not in the 1970s in the immediate wake of Watergate and Nixon's resignation and not at any time in the future. "We have *not* dealt falsely with our God," he reassured the assembled conservative activists in 1974, adding humorously, "even if He *is* temporarily suspended from the classroom" – a reference to the Supreme Court's rulings a decade earlier against government-sponsored prayer and Bible-reading in the nation's public schools. America remained faithful as the chosen nation. It had kept its side of the covenantal bargain and could therefore be assured of God's blessing. It had been a nation destined for "world leadership" from nearly the beginning. And in the disillusionment of the mid-1970s, Reagan believed, "Americans are hungry to feel once again a sense of mission and greatness."[15]

In 1976, the increasingly popular Reagan ran for the Republican nomination against President Gerald Ford. He failed to unseat the incumbent, but over the next four years he solidified and widened his base of supporters. Increasing frustration among voters with the economy and foreign policy under Jimmy Carter handed Reagan the perfect opportunity. Leading up to the 1976 and 1980 races, Reagan refined his message week by week in his nationally syndicated radio spots. Called "Viewpoint," the program aired from January 1975 to October 1979 with a break for several months while he campaigned in 1975 and 1976. Reagan wrote these short talks himself in longhand. They provide historians with instances of Reagan's thoughts and words unaltered by speechwriters and handlers. In one address, taped on August 7, 1978, his account of the "ideological struggle" then underway between communist totalitarianism and American freedom led him naturally, and seemingly inevitably by this point in his political career, to the Puritan settlers who for him defined America's mission. His handwritten script reads: "John Winthrop on the deck of the tiny Arbella in 1630 off the coast of Mass. said to the little band of pilgrims; 'We shall be as a city upon a hill. The eyes of all people are upon us, so that if we shall deal falsely with our God in this work we have undertaken & so cause him to withdraw his present help from us, we shall be made a story & a byword throughout the world.'" "This work," understood three centuries earlier by Winthrop as the task

ton 1989. Winthrop and/or the "city upon a hill" appear in at least the first four of these speeches (January 25, 1974; March 1, 1975; February 6, 1977; and March 17, 1978). In the 1978 speech, he added the word "shining" to the city.

[15] *Ibidem*, p. 10, 20.

of security liberty for Christians to worship God according to the dictates of Scripture and conscience, became in Reagan's hands an expression of modern political, economic, and religious freedom and a tool of American anticommunism. "The oath of the Communist Party U.S.A. written in 1930," he added tellingly, "says nothing of a city upon a hill."[16]

Reagan as presidential candidate, in the run-up to the 1976 and 1980 races, refined his vision of America's national destiny. By the late 1970s he had stocked his rhetorical arsenal with quotations and metaphors he assembled and reassembled in almost any order to capture America's providential calling and, more generally, to articulate America's civil religion. To Winthrop's city and Tom Paine's itch to "begin the world over again," the Republican candidate added Franklin Roosevelt's "rendezvous with destiny" and Pope Pius XII's belief that "into the hands of America God has placed the destiny of an afflicted mankind."[17] But Winthrop and his city remained the most consistent and predictable image in Reagan's narrative. When he announced his candidacy on November 13, 1979, he talked of Americans' faith in the future and indirectly criticized President Jimmy Carter's hand-wringing back in July about the nation's "crisis of confidence." Reagan rejected fatalism and any suggestion of limits to prosperity, resources, and national greatness. He blamed the overgrown, centralized federal government itself for the economic crisis of the 1970s. In this context, Reagan drew Winthrop's city into his battle to replace malaise with optimism. Tom Paine contributed his revolutionary rhetoric again and, sandwiched between two citations of FDR's "rendezvous with destiny," Winthrop appeared once more "on the deck of the tiny Arbella" to tell his "little band of pilgrims" the now-familiar story of who they were. According to Reagan, the world watched in 1979 to see if America would reach its destiny and "become that shining city on a hill."[18]

In an undated letter from some time after his November 13 announcement, Reagan took the time to explain to a correspondent who had quibbled with his capitalization of "Pilgrim" why he called the Massachusetts Bay colonists "pilgrims" at all. They were, of course, Puritans who remained within the Church of England and not the Separatists who settled Plymouth Colony and were later known to history as the Pilgrims. It had been common in the nineteenth century for historians and Yankee politicians to use Puritan and Pilgrim almost interchangeably, but this distinction was not on Reagan's mind. He had his own purposes. "I had simply used pilgrims with a small 'p,'" he wrote, "meaning any such group of people who are embarked on a journey such as those who first came to this country. I just hadn't

[16] R. Reagan, *Reagan, In His Own Hand...*, p. xiv-xv, 13-14.

[17] For examples of each of these quotations, see: R. Reagan, *A Time for Choosing: The Speeches of Ronald Reagan, 1961–1982*, ed. A. Balitzer, Chicago1983, p. 179, 201, 232, and 233.

[18] R. Reagan, "Official Announcement of Candidacy for President," November 13, 1979, www.reagan2020.us/speeches/candidacy_announcement.asp (accessed June 9, 2009). This online version capitalizes "Pilgrim," but Reagan did not, as his letter to John McClaughry makes clear. See: R. Reagan, *Reagan: A Life in Letters...*, p. 289–290.

given thought to the fact that it might be translated to the particular group that were called Pilgrims among our Founding Fathers." He thanked his correspondent, and promised that he would "simply refer to them as a little band of travelers or whatever from now on."[19] Without pushing this evidence too far, or pretending that a single letter can reveal much about a man's thinking, it would seem to be the case that for Reagan Winthrop and the Puritans mattered for what they symbolized in his picture of America and not for their exact identity in recorded history. Even his wish to have them be "a little band of travelers" simplifies the more complicated reality about these colonists. Far from having been a scrappy handful who braved the icy waters of the North Atlantic, the first contingent of Puritans alone numbered 400 and filled four ships, with another 600 hundred settlers close behind.[20]

Reagan the campaigner never missed an opportunity to talk about the city on a hill. In his televised national debate with independent candidate John Anderson during the 1980 race, the Republican hopeful ended his closing remarks by fusing Tom Paine and John Winthrop once again. "I believe," he concluded,

> the people of this country can, and together, we can begin the world over again. We can meet our destiny – and that destiny [is] to build a land here that will be, for all mankind, a shining city on a hill. I think we ought to get at it.[21]

Reagan, of course, went on to defeat both Anderson and Carter in November, and he carried Winthrop with him into the White House. More than twenty of his presidential speeches over the next eight years, from foreign policy addresses in 1981 to his last weekly radio address broadcast in 1989, mention the city on a hill in some way. The shining city became a fundamental part of his message of spiritual renewal, national pride, expanding opportunity, global democratic revolution, and America's providential calling. Compressing two terms in the Oval Office and two dozen speeches into a few paragraphs of analysis can distort the pattern of Reagan's thought and words into an amusing caricature. The president's repeated use of Winthrop's words with little variation in content or emphasis, when viewed in a matter of minutes rather than stretched over the course of nearly a decade, can make Reagan seem scripted and predictable beyond what the fuller context warrants. Any public speaker, author, or teacher, having his rhetoric subjected to the same telescoped analysis, would come off looking one-dimensional and unimaginative. Nevertheless, the patterns do appear in his speeches, perhaps to a degree Reagan himself was not aware of, making it possible to generalize about how and why President Reagan used Winthrop's metaphor.

First, the shining city meant economic freedom and progress. Reagan made this point clear in a long luncheon speech to the World Affairs Council of Philadel-

[19] *Ibidem*.

[20] E. S. Morgan, *The Puritan Dilemma: The Story of John Winthrop*, Boston 1958, p. 55.

[21] The website of the Commission on Presidential Debates has a complete transcript of this debate. See: www.debates.org/pages/trans80a_p.html (accessed June 10, 2009).

phia in October 1981. He was about to travel to Mexico for a summit on economic development among poorer nations. Over the shouts of protestors in the back, Reagan used Winthrop to define America as a land of freedom where individual initiative, hard work, and perseverance find their certain reward. Free markets – stabilized by voluntary cooperation and the institutions of home, church, and school and helped by a government that breaks down barriers – energize the economy and benefit everyone. A year later, speaking to the National League of Cities, the president tied Winthrop to domestic economic renewal and envisioned multiple vibrant cities dotting the land: "America must once again be filled of leaders [like Winthrop] dedicated to building shining cities on hills, until our nation's future is bright again with their collective glow."[22]

Second, Reagan envisioned the shining city as the point from which America's creed emanated to the world. On October 3, 1983, Reagan addressed a banquet in Washington, D.C., celebrating the tenth anniversary of the Heritage Foundation, the conservative think tank that had done so much to promote the Reagan Revolution through its policy initiatives. He spoke of the nation's economic recovery and his buildup of national defense, but then zeroed in on the "democratic revolution underway" around the globe. In dealing with the Soviet Union, he disavowed a negative policy of containment and called instead on the "free world" to "go on the offensive with a forward strategy for freedom." America's mission was clear:

> we must present to the world not just an America that's militarily strong, but an America that is morally powerful, an America that has a creed, a cause, a vision of a future time when all peoples have the right to self-government and personal freedom.

This vision, he argued, resonated with America's oldest founding principles, a connection that led him once again to, yes, John Winthrop. To the familiar story of tiny boats and huddled bands, Reagan added what had once been commonplace in his citations of Winthrop but had since become rare and was about to vanish entirely: the warning of divine judgment against those who deal falsely with God. But, true to his upbeat message, the president declared America not guilty. "America has not been a story or a byword. That small community of Pilgrims prospered and, driven by the dreams and, yes, by the ideas of the Founding Fathers, went on to become a beacon to all the oppressed and poor of the world." Reagan asked his audience members to pledge that they would labor hard so that future generations would say that they "did keep faith with our God."[23]

As paradoxical as it may seem, Reagan believed that global democratic revolution defined conservatism in the late twentieth century. That revolution would bring prosperity, freedom, peace, and security to the world. And this raises a third

[22] R. Reagan, *Public Papers of the Presidents of the United States: Ronald Reagan, 1981: January 20 to December 31, 1981*, Washington 1982, p. 938. Hereafter cited as *Public Papers* followed by year, book, and page number.

[23] *Public Papers*, 1983, Book 2, p. 1406–1408.

meaning for the shining city embedded in the other two: America's divine calling summoned it to a universal and perpetual task. Winthrop's warning to the Puritans to live obediently to the covenant before the eyes of a watching world in order not to bring shame on the cause of the Gospel was refracted through Reagan's prism into an expansive mission to all the world. Man was born to be free. America had the divine mandate to make that freedom a reality. In a July 4th speech in Decatur, Alabama, in 1984, Reagan compressed two of Winthrop's sentences into a global mission statement: "We shall be as a shining city for all the world upon the hill."[24] In 1986, after his summit in Iceland with Soviet President Mikhail Gorbachev, he called the American dream "the oldest dream of humanity: the dream of peace and freedom, a dream that someday must belong to every man, woman, and child on Earth."[25]

These examples could be multiplied many times over. But one speech in particular, given near the end of his presidency, reinforced and summarized all of the meanings Reagan had worked out for the shining city during his presidency, and did so nearly in the exact chronological order in which he had developed them. The event was the opening rally for the August 1988 Republican national convention in New Orleans. Reagan's challenge at the convention was to persuade his supporters that his vice president, George H. W. Bush, was the safe and genuine successor to the Reagan Revolution. Near the end of his speech on August 14, Reagan urged the party to remind voters of the party's "vision." In the few sentences that followed, Reagan gave perhaps his clearest explication of the city on a hill to date. He provided almost an outline of how he had defined the city in previous presidential speeches. The Republicans, he said, ought to spread their message of "a future of economic growth and opportunity and democratic revolution and peace among nations." He then emphasized America's "destiny" and "great calling" and appealed to the "shining city," "a city aglow with the light of human freedom, a light that someday will cast its glow on every dark corner of the world and on every age and generation to come."[26] Here, then, were the three themes embodied in the city: economic growth and opportunity; democratic revolution and world peace; and America's global and eternal mission.

These meanings did not go uncontested in the 1980s. Liberal critics in the media and political opponents in the Democratic Party attacked Reagan's appropriation of Winthrop. Writing in *The Nation* immediately after the Republican triumph in November 1980, Richard Lingerman moodily pondered why Reagan had won. The ignorant American voters had disappointed this columnist by how easily they had fallen for the "aw-shucks" and "folksy" Reagan. A fear-mongering huckster, he had played to their self-pity, promised to "make America feel good about itself again," and parlayed that seductive message into victory. "Reagan is the man from

[24] *Public Papers*, 1984, Book 2, p. 1001.

[25] *Public Papers*, 1986, Book 2, p. 1515.

[26] *Public Papers*, 1988–1989, Book 2, p. 1078.

the land of the happy ending," the journalist complained, dismissing Reagan's version of the American dream as superficial. What did that dream amount to? Only that "America will be the shining 'city upon a hill,' Reagan's crib from a sermon by John Winthrop in 1630 on board the ship Arbella bound for the New World." Paraphrasing from F. Scott Fitzgerald, Lingerman concluded that in voting for Reagan "America has found its past again." But that nostalgic version of the past would prove inadequate, he predicted, and "the sadness will come."[27]

Democratic leaders also mobilized against Reagan's message and city in a way that would be too risky in the twenty-first century. During the 1984 campaign, New York Governor Mario Cuomo served as the point man to launch a bristling attack on Reagan's shining city. He had to take on a popular president and rally support for the Democratic candidate, former Vice President Walter Mondale. Invited to give the keynote address at the Democratic national convention in San Francisco in July, the governor called his friend Larry King, popular host of the long-running cable television talk show, Larry King Live, and asked his advice. King later recalled Cuomo reading the entire speech to him over the phone and then asking him what he thought of the strategy of going after the Winthrop metaphor. "You like this 'city on the hill' idea?" Cuomo asked, adding that he intended to attack the image and not the president. The convention expected him to be tough on their opponent, he said, "But I always call him President Reagan in this speech. I never slam him personally." King traveled to San Francisco and heard Cuomo deliver his speech in person. He remembered that as he stood there he "knew that magic was happing that night." "Anybody standing in that audience knew it," he continued. "They knew that a new figure had emerged on the American scene. The speech was delivered like a summation to the jury by a great trial lawyer..."[28]

Cuomo's "trial lawyer" prosecution of Reagan thrilled the convention audience that night. *New York Times* columnist William Safire called the speech "a stunner." Cuomo's opening salvo challenged the president's stewardship of the city. In his thick New York accent, he acknowledged that "in many ways we are a shining city on a hill." "But the hard truth," he added,

> is that not everyone is sharing in this city's splendor and glory. A shining city is perhaps all the President sees from the portico of the White House and the veranda of his ranch, where everyone seems to be doing well.

"But there's another city; there's another part to the shining city," he continued, listing off the economic hardships still faced by many Americans in the prosperous 1980s. In fact, he said, the American story was better described as a "Tale of Two Cities" than as a "Shining City on a Hill." He accused Reagan of subscribing

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[27] R. Lingeman, *Reagan Wins: The Hollow Man*, "The Nation" 1980, November 15, www.thenation.com/doc/19801115/lingeman (accessed May 11, 2009).

[28] L. King, *Tell It to the King*, New York 1988, p. 99. See also: W. Safire, *Rack Up That City On a Hill*, "New York Times" 1988, April 24.

to a social Darwinist philosophy of "survival of the fittest" that kept the city shining for the few and the powerful. Cuomo's partisan strategy may have been predictable, but his astute use of Reagan's favorite image for America points to just how potent it was or was becoming. Tellingly, Cuomo worked hard not to discredit the metaphor or to return it to the hands of his own Catholic Church, but rather to reassure the electorate that the Democratic Party and it policies and not the Republicans and their policies would build "one city, invisible, shining for all its people."[29]

None of this criticism in 1980 or 1984 deterred Reagan from using the metaphor year after year until he left office. Indeed, the single use cited most often by historians, journalists, and bloggers was one of his last. His farewell address to the nation on January 11, 1989 offered his longest and most detailed justification for why he had invoked the shining city so often during his career. In this nationally televised address from the Oval Office, Reagan saved his discussion of Winthrop till the end, as had been his custom for decades. He claimed bluntly that John Winthrop had used the metaphor of the city "to describe the America he imagined." Winthrop was a "freedom man," Reagan said. Then, in simple but poignant words, Reagan offered a parting vision of his city:

> I've spoken of the shining city all my political life, but I don't know if I ever quite communicated what I saw when I said it. But in my mind it was a tall proud city built on rocks stronger than oceans, wind-swept, God-blessed, and teeming with people of all kinds living in harmony and peace, a city with free ports that hummed with commerce and creativity, and if there had to be walls, the walls had doors and the doors were open to anyone with the will and the heart to get here. That's how I saw it, and see it still.[30]

Though Reagan called his city "God-blessed," it seems fair to say that it was utterly secular, no more than a bustling, tolerant, commercial enterprise. This picture, of course, bears little resemblance to what John Winthrop likely imagined for the future of his plantation in New England. His venture had been in part a commercial enterprise, but only in part. For good or ill, the Puritans' religious mission had vanished in Reagan's narrative. On the literal surface, the words of the metaphor had survived, but the underlying meaning had been lost. The metaphor had become an empty vessel into which Reagan poured his own content. The metaphor may have been enriched in some ways, but it was impoverished in others. It lost whatever Biblical and Puritan meaning it had had. Reagan's last weekly radio address, broadcast a few days after his televised farewell, reinforces just how far away from Jesus and Winthrop he had carried the city. With any theological or historical content absent, *any* content became possible. The Puritan settlers, he claimed, had hoped to "found a new world, a city upon a hill, a light to the nations."

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[29] M. Cuomo, "Democratic National Convention Keynote Address" 1984, July 16. A fairly accurate transcription of Cuomo's speech is available at www.americanrhetoric.com/speeches/mariocuomo1984dnc.htm. See also: W. Safire, *Ringing Rhetoric*" "New York Times" 1984, August 19.

[30] *Public Papers*, 1988–1989, Book 2, p. 1722.

And the metaphor obligated America to act. "Those words and that destiny beckon to us still. Whether we seek it or not, whether we like it or not, we Americans are keepers of the miracles."[31]

Reagan and his wife Nancy retired to their ranch in California in 1989. Republican and Democratic presidents, candidates, and pundits continued to talk about America as the city on a hill, but more often than not in reference to Reagan himself. Democrats spoke respectfully of the metaphor, not daring now to criticize a catchphrase so closely identified with the memory of a former president who soon seemed to belong to the American people as a whole and not to any particular party or agenda. Republicans and Democrats continued to fight over the creedal content of the city, but no one doubted that America was called to be the city on a hill. Thanks largely to Reagan, the metaphor had become as inseparable from the American identity as the Stars and Stripes and the Battle Hymn of the Republic. As Reagan faded into the darkness of Alzheimer's, his metaphor became a holy relic of the American civil religion.

No event so far in the twenty-first century has made Reagan's identification with Winthrop's city clearer than his funeral service at Washington's National Cathedral in the summer of 2004. Reagan died on June 5 of that year at the age of 93. President George W. Bush, visiting Paris when he received the news, spoke just after midnight the following day. In a simultaneously odd and fitting remark, he said that Reagan's "work is done, and now a shining city awaits him." The city had become heaven itself. Years before, Reagan and Nancy had worked out every detail of his ecumenical funeral service. Protestant, Catholic, Orthodox, and Muslim clerics participated. Included among the three hundred pages of carefully detailed plans was a role for Supreme Court Justice Sandra Day O'Connor, a Reagan appointee to the high court and the first women so honored. Rabbi Harold Kushner, 1980s bestselling author of *When Bad Things Happen to Good People*, read from the prophet Isaiah, and then O'Connor came to the front. Unsurprisingly, the Reagans had asked her to read a few excerpts from none other than John Winthrop's "Model of Christian Charity" – namely, his quotation from the Old Testament prophet Micah ("What does the Lord require of you but to do justly, love mercy and to walk humbly with your God") and his reference to the city on a hill, including the warning of divine judgment.[32]

Former Republican Senator John Danforth, an ordained Episcopal priest, officiated at Reagan's funeral. Between renditions of "The Battle Hymn of the Republic" sung by the Armed Forces Choir and "Amazing Grace" sung by Irish tenor Ronan Tynan, he delivered his brief homily. His words of comfort invoked neo-orthodox theologian Reinhold Niebuhr's "children of light" and numbered Reagan among the light-bearers. Oddly, he never once mentioned Christ. Nevertheless,

[31] *Ibidem*, p. 1736.

[32] A. C. McFeatters, *Sandra Day O'Connor: Justice in the Balance*, Albuquerque 2005, p. 193. This study of Justice O'Connor does not provide footnotes.

Senator Danforth noted that the choice of texts (Matthew 5: 14–16) for his sermon was "obvious." After all, Reagan often quoted Jesus' words from the Sermon on the Mount, albeit indirectly by way of Winthrop's discourse: "You are the light of the world. A city set on a hill cannot be hid." In Reagan's reading of history, Danforth perceived, Winthrop's city stood for America itself. And the former Senator accepted Reagan's projection of the modern American nation retrospectively back into Winthrop's discourse. "Winthrop believed that the eyes of the world would be on America because God had given us a special commission, so it was our duty to shine forth." Simply put, "The Winthrop message became the Reagan message."

Only gradually between 1969 and 1989 had the "Winthrop message" become the "Reagan message." That message – putting aside the question of whether its twentieth-century progressive optimism and materialism had any vestige of Winthrop left in it – could easily have become the "Kennedy message" or perhaps even an emblem of the Great Society. But neither Kennedy, nor Johnson, nor Nixon, all of whom quoted from Winthrop's discourse, attempted to affix the metaphor of the city on a hill onto America with Reagan's tenacity and success. Reagan was not the first to use it. He was certainly not the last. But he made it his own.

Analyzing the Reagan message is not easy. For one thing, his story was not always ideologically consistent or coherent. It was libertarian and New Deal; conservative and revolutionary; globalist and nationalist; populist and elitist. It waged the Cold War and at the same time crusaded for nuclear disarmament. It invoked John Winthrop, Tom Paine, and Ralph Waldo Emerson – sometimes in the same paragraph. Reagan, consciously or not, tried to synthesize every element of the American identity. In part because of this eclecticism, the former president became as mysterious and controversial as any chief executive in American history.

In interpreting the American identity to his generation, or at least in doing so to his political constituency, Reagan effectively deployed the "city on a hill." He found it useful in any number of settings, domestic and foreign. The metaphor seemed to speak to the heart of his civil religion. The phrase "civil religion" can be thrown around casually by historians and political theorists, but used precisely it serves as an adequate label for two distinct but interrelated patterns in any modern nation's self-understanding, and these patterns both appeared in Reagan. On the one hand, it means a doctrinally vague theism of the sort found on U.S. currency and in the Pledge of Allegiance. The Supreme Court once referred to this national affirmation of faith as "ceremonial deism." This god of our civic ceremonies remains largely anonymous. He is not the God of the Apostles Creed or of the Trinitarian formulation of the Nicene Creed. Anyone but an atheist can picture his own god during a presidential inauguration or a July 4th celebration. On the other hand, "civil religion" can also mean a set of aspirations that define a nation as distinct among its peers, beliefs about who we are that we raise to the level of doctrine within a national creed, including those documents that embody our beliefs and that we raise to the level of national scripture. In the case of the United States, these

might include, and not without controversy, belief in democracy, religious tolerance, free-market economics, and the separation of church and state, and a canonical set of documents that might include, again not without controversy, the Mayflower Compact, the Declaration of Independence, the Constitution, and the Gettysburg Address. These are the ideals and texts Americans subscribe to in order to identify themselves and to unite themselves into one people. For those who understand America primarily as a nation dedicated to a proposition, as Lincoln described the United States in the midst of the Civil War, getting these dogmas of the national faith right – and getting right with these dogmas – becomes critically important.

Every president in American history has participated in some degree in the nation's civil religion. It is a question of degree. And here is where Reagan stands out, and this is the context in which his favorite quotation from Winthrop makes the most sense. Though he quoted the Bible less often than other presidents – a surprising tendency given his vision of God's providential relationship with the United States – Reagan endowed America's civil religion with more doctrinal content that any other chief executive. Moreover, he served as the most successful high priest of that national liturgy.

A few scholars have done the foundational work necessary to begin to understand Reagan's civic theology. In 1988 Richard V. Pierard and Robert D. Linder compared various presidents' handling of civil religion.[33] They began their study of Reagan, who was just ending his second term at the time, by looking at a passage from his eulogy for the American sailors killed aboard the USS *Stark* in the Persian Gulf in 1987. In what can properly be called a civil religion sermon, the president reassured grief-stricken families and the nation that these men had achieved immortality by sacrificing themselves for "something immortal." He offered more than comfort to those who mourned, however. He promised that God had welcomed them into heaven because of their service to the nation. His meaning was unmistakable:

> In giving themselves for others, they made themselves special, not just to us but to their God... We know they live again, not just in our hearts but in His arms. And we know they've gone before to prepare a way for us.[34]

These statements led Pierard and Linder to conclude that at this moment Reagan served "as the high priest of American civil religion" and did so "more unabashedly, forcefully, compellingly, and with greater national acceptance than any previous president." Indeed, he refined the American civil religion to such a degree, they charge, that he brought it into "direct competition with genuine religion."[35]

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[33] R. V. Pierard, R. D. Linder, *Civil Religion and the Presidency*...

[34] *Ibidem*, p. 257.

[35] *Ibidem*, p. 258.

If true, this possibility alone is enough to weigh Reagan's interpretation of the American identity and mission carefully.

Working from a large body of Reagan's claims about America from his childhood through his presidency, Pierard and Linder were able to discern at least four distinct yet interrelated beliefs that comprised his civil religion. First, he believed in American exceptionalism, especially the nation's identity as God's chosen people for a special task. Second, he saw America and Americans as inherently good and spiritual, typically speaking of American renewal in terms of a religious awakening. Third, Reagan affirmed that national wellbeing required what these authors called "religion-in-general," an indistinct, ecumenical "faith" that would promote public virtue. And fourth, the president believed that this religious vitality, wedded to military strength, would defeat evil in the world, most notably communist totalitarianism.[36] Using the "city upon a hill" as a shorthand to sum up Reagan's civil religion, the authors concluded that while, along with millions of Americans, "the president possessed a personal faith that was genuine and meaningful to him, both he and they subsumed it under the higher public faith." In the 1980s, "civil religion reached a new pinnacle in the American experience as it was exalted by a powerful, priestly president."[37]

More recently, Hugh Heclo described Reagan's view of America as something a bit different from, or larger than, exceptionalism. That view, Heclo argued, can best be called "a sacramental vision." St. Augustine succinctly defined a sacrament as an outward sign of an inward work of grace. Reagan's metahistory found an inner reality to the American story. For Reagan, "the sacramental quality consisted in understanding the American experience to be set apart as something sacred, a material phenomenon expressing a spiritual reality." This sacramental reading of America affirmed the nation's "divine election"; its calling not just to work out its own salvation but to labor on behalf of the world as the "redeemer nation"; and its role in breaking the cycle of decline and inaugurating a new epoch in human history. Heclo rightly pointed out that Americans had gotten into the habit of saying these kinds of things about their nation long before Reagan. It was only in the more secular late twentieth century that this way of talking started to sound so odd to academics and journalists. Nevertheless, by the end of his largely sympathetic reading of Reagan, Heclo added the caution "that Reagan was unable to recognize that his faith and redemptive vision of America sailed dangerously close to idolatry, if not quite landing there." In particular, he faulted Reagan for neglecting Winthrop's more balanced view of what it meant to be a city on a hill, that such visibility meant only that God and man would judge the city, watching to see if it succeeded or failed. Reagan's "doctrine," Heclo continued, saw "American goodness with only the barest sense of judgment looming in the background."[38]

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[36] *Ibidem*, p. 274–280.

[37] *Ibidem*, p. 283.

[38] H. Heclo, *Ronald Reagan and the American Public Philosophy*..., p. 21–22, 35.

As astute as these critiques of Reagan's civil theology are, they fail to consider one widely neglected but important question: whether Reagan, or any American leader for that matter, should have called the United States the "city on a hill" in the first place. Americans need not choose from among an antireligious secularism that is deaf and blind to theology, a low-voltage, populist civil religion, or even a more traditional sense of national election that keeps a place for divine judgment. They can instead reserve divine election and the "city on a hill" for the Church and the Church alone. Christians in the United States can think of themselves from an Augustinian perspective as first and foremost citizens of the City of God, living in tension with the world, and sojourning as pilgrims for a time within a recent manifestation of the City of Man called America. Keeping their eternal citizenship in mind, they can object when either Democrats or Republicans co-opt any part of the Church's identity for their own use, no matter how good their intentions, as Ronald Reagan's certainly appeared to be.

Ronald Reagan took hold of a metaphor and reworked it to such a degree that a nation of 300 million people has lost the ability to hear that metaphor in any way other than how he heard it. When Americans read Winthrop's discourse, their eyes skim over page after page until they find the familiar "city upon a hill." When historians and political theorists quote from it and anthologize it, they take care to include the famous passage that readers expect to be there, whether earlier generations thought those were the discourse's defining sections or not. Unless Americans expend great effort, they hear Reagan's voice, not Winthrop's, and certainly not Jesus' when they encounter the city on a hill. The transmutation of Jesus' message into Winthrop's message and then into Reagan's message highlights the complex interplay between the sacred and the secular in modern America, the easy blending of the things of Caesar and the things of God, regardless of how high Americans think the largely imaginary "wall of separation" stands between politics and religion.

In a review of Godfrey Hodgson's *The Myth of American Exceptionalism* published in the "New York Times" in April 2009, columnist Roger Cohen noted that from the beginning America has had the "city upon a hill" embedded in its "psyche." Just how far back that identity goes is open to historical scrutiny, but he raised a valid point obvious to anyone who spends much time thinking about the American past. "At the heart of American exceptionalism," he wrote, "lies a messianic streak, the belief in a country with a global calling to uplift." After summarizing Hodgon's complaint that Reagan began a trend toward national "hubris and self-interest" that "corrupted" a once-noble vision, an otherwise sympathetic Cohen faulted Hodgson for suggesting that a more self-aware "sobered United States can and should become simply a nation among nations." The United States' own history makes such an ordinary status impossible. "America was born as an idea," he protested, adding a non sequitur: "and so it has to carry that idea forward." Apparently believing that the world needs ideological nations, Cohen worried that the United States "is in many ways the last ideological country on earth." "An American re-

vival," he continued, "without its universalist embodiment of liberty, democracy, the rule of law and free enterprise seems to me impossible..."[39]

One cannot help but notice how close Cohen, a man of the political Left, came to sounding like Reagan, the crusader for the Right. The words are interchangeable. To be sure, the same words in the mouths of different men can carry very different connotations and meanings. But that reality ought not obscure what the similarity in language might reveal about modern American politics and religion. A debate over American exceptionalism might in fact be a debate between varieties of exceptionalism. It might look and sound like an argument from opposite ends of the ideological spectrum, while in truth being a left-wing exceptionalist arguing with a right-wing exceptionalist. The real, or more meaningful, debate over how to interpret American history and identity might therefore be the one between exceptionalists of all sorts on one side and skeptics on the other, that is, between those who believe that the United States is somehow exempt from human finitude, original sin, the lust for dominion, and the limits of resources and power and those who do not. And because exceptionalism has tangled up within it the problem of civil religion, it may well be that the deepest fault line today is not the obvious one between religious and irreligious people, between believers and secularists, but the largely invisible one between religious orthodoxy and Americanism. In the 1860s, Fyodor Dostoevsky, through the voice of his Underground Man, predicted that in the age of ideology we would sooner or later figure out how to be born only from an idea and not from real fathers. This is the danger propositional nations face. We think that an "idea" helps us see our national identity more clearly when in fact the very simplicity that makes the American Idea so appealing blinds us to the complexity of our past and prevents genuine self-understanding. As president, Ronald Reagan guaranteed, at least for now, that the American nation and the city on a hill would be fused into one indistinguishable symbol in the public consciousness. As long as that confusion persists, it will narrow debate over the American identity to what might be false options, or at least to a needlessly truncated range of options. As long as that confusion persists, it will also render Christians oblivious to the boundaries between the two cities they inhabit.

[39] R. Cohen, *America Unmasked*, "New York Times" 2009, April 26, www.nytimes.com/2009/books/review/Cohen-t.html (accessed May 20, 2009).

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THINKIN' ABOUT LINCOLN

I have chosen my title not merely for its poetic qualities, but because it points us in the right direction on Lincoln: he supplies matter for thinking beyond any other figure of our national life.[1] Something of why this is so is suggested by Woodrow Wilson, who looked back to Lincoln in order to understand what Lincoln's greatness implied for the challenges the U.S. and Wilson himself faced in the early twentieth century. On the 100th anniversary of Lincoln's birth Wilson asked his audience: Have you ever looked at some of those singular statues of the great French sculptor Rodin – those pieces of marble in which only some part of a figure is revealed and the rest is left in the hidden lines of the marble itself; here there emerges the arm and the bust and the eager face, it may be, of a man, but his body is appears in the general bulk of the stone, and the lines fall off vaguely? These sculptures reminded Wilson of Lincoln:

> There was a little disclosed of him, but not all. You feel that he was so far from exhausted by the demands of his life that more remained unrevealed than was disclosed to our view…He is like some great reservoir of living water which you can freely quaff but can never exhaust.[2]

As Wilson so well has it, the more we come to understand about Lincoln, the more there seems yet to understand. He is not, for example, like Thomas Jef-

[1] The attentive reader will notice that I take issue with Harry Jaffa at various points in this essay, but I wish to note at the outset my great debt to his marvelous study of Lincoln, *Crisis of the House Divided*. Even where I disagree with him I am much beholden to him.

[2] W. Wilson, *Abraham Lincoln: A Man of the People*, [in:] *The Papers of Woodrow Wilson*, ed. A. S. Link, Princeton 1975, Vol. 19, p. 36.

ferson, a brilliant man, a versatile man, a good man, mostly. But Jefferson, for all his complications, is graspable – he is not shallow but he can be plumbed. Lincoln lacks Jefferson's breadth; he could never be considered an Enlightenment savant, he was not immersed in all the philosophy, science, and mathematics of his day. He was not the beneficiary of one of the best educations of his day, the possessor of the best private library in North America. Lincoln wins our admiration and amazement for studying Euclid's Geometry while riding circuit as a young Illinois lawyer, but this does not compare to Jefferson's mastery of the intricacies of La Place's celestial mechanics.[3]

To return to Woodrow Wilson's metaphor – Jefferson is like a frieze from the Parthenon – a large capacious story, well-defined, and all visible to the eye if one takes the time to walk around and see the whole. But Lincoln has depth where Jefferson has breadth. One is never sure one has seen to the bottom of him – or rather one is nearly certain one has not seen to the bottom of him. Yet it seems that we are not thinking as much of Lincoln as we once did, or thinking as well of him either. By the first claim I mean not only that we do not think as often, but also not as well; by the second claim I mean not only that we do not think as highly, but that we don't think as wisely or, well, thoughtfully, as Americans once did. In his same essay on Lincoln Woodrow Wilson had said of his subject: It is not necessary that I should rehearse for you the life of Abraham Lincoln. It has been written in every school book. It has been rehearsed in every family. It were to impeach your intelligence to tell you the story of his life.[4]

Today I doubt we can say what Wilson said, that Lincoln's life is "rehearsed in every family." And while he still appears in school books, it is not in so positive a way as in Wilson's day. Of course, Lincoln has not fallen to the level of, say, Millard Fillmore or Warren G. Harding in the estimate of the American people. It is rather that we have a profoundly ambiguous relation toward him. He still receives great honor as, for example, in the periodic ratings of the Presidents in American history by panels of historians. Lincoln usually appears as one of only three "greats" – Washington and F.D.R. being the other two. Often, Lincoln is even considered the greatest of the great. Nevertheless, we must note that these are polls of presidency scholars, and they are not representative of overall scholarly, much less popular opinion. Another poll that appeared a few years back, for example, gave the ratings of the Presidents by the public at large. Lincoln does not do badly in this poll, but he by no means ranked first – that honor belongs to John Kennedy. Certainly this list reflects the notorious present-mindedness and lack of historical knowledge and perspective of the American public, but the decline in Lincoln's standing in the minds of his compatriots rests on a bit more than that, I suspect. Certain reservations – in some cases serious reservations – have spread about Lincoln,

[3] Thomas Jefferson to John Adams, March 21, 1819, [in:] *The Adam-Jefferson Letters*, ed. L. J. Cappon, New York 1971, p. 536.

[4] W. Wilson, *Abraham Lincoln...*, p. 33–34.

as, over the course of the twentieth century, we as a nation have been led to reassess our history and the meaning and value of the great men within it.

In the case of Lincoln there have been two waves of reassessments corresponding, roughly, to the two halves of the twentieth century. The first, sponsored by some of the great historians of the Civil War, came to reconsider Lincoln's statecraft, especially as practiced in the pre-Civil War period. In brief, they faulted Lincoln because he took an overly intransigent position in the pre-war period, and together with the abolitionists and some of his Republican party allies he transformed a conflict that could have been compromised and settled in a peaceful way into a situation with all the earmarks of a Greek tragedy. The Civil War was not inevitable in itself, according to this line of thought,[5] but Lincoln and his friends made it so by their intractability. Lincoln famously had said: "A house divided against itself cannot stand. I believe this government cannot endure, permanently half slave and half free." These historians believe that Lincoln, by pronouncing and acting on the principles of his house divided speech, created the situation, the climate of opinion in which the entire South could do naught but see his election as a declaration of war against them and their institutions, and thus had no choice but to leave the union. At the same time, Lincoln insisted that he did "not expect the Union to be dissolved – [he did not] expect the house to fall – but [he did] expect it will cease to be divided." What Lincoln stated as a mere prediction, however, was for him an imperative of policy, and he was resolved not to allow the dissolution of the union. The now unstoppable force of Lincoln-inspired Southern fear met the immovable object of Lincolnian resolve to maintain the Union. Once the issue was defined that way the result was as inevitable as Oedipus killing his father: civil war. These historians find evidence Lincoln understood and even accepted his role as thus defined. In the "House Divided" speech itself Lincoln predicted that the political agitation roiling American life in the 1850's over slavery "will not cease, until a crisis shall have been reached, and passed." The historians see here not so much prophecy, however, as "self-fulfilling prophecy" – Lincoln as fomenting the very crisis he predicts. This line of argument about the Civil War and Lincoln became powerful during the first half of the 20th century and was associated with a national reassessment of the end result of the Civil War. The segregation system replaced slavery in the South, while Northern opinion lost all zeal for any sort of civil rights agenda, for remaking Southern society, or for attending to sectionally divisive issues that might interfere with the explosive economic expansionism of the late 19th and early 20th centuries. The historians, breathing in the spirit of their own age, redefined the war from the "irrepressible conflict" it had been called at the time to the "avoidable conflict," with Lincoln and the abolitionists the chief characters in snatching

[5] See: H. V. Jaffa, *Crisis of the House Divided*, Seattle 1973, p. 19–27; T. J. Pressly, *Americans Interpret Their Civil War*, New York 1965, p. 289–362; S. B. Oates, *Abraham Lincoln*, New York 1985, p. 17–21. The above cited texts are all surveys of the revisionist position and can point the interested reader to the primary sources.

war from the jaws of peace. Historians varied a good deal in the motivations they attributed to Lincoln. Some thought it was just an instance of poor judgment, for example, that he didn't understand what kind of war his crisis would actually be. At the outbreak of fighting Lincoln called for 75,000 volunteers to serve a three-month enlistment. To put these numbers in some sort of perspective, recall that the Civil War left nearly 620,000 dead on both sides, 400,000 more wounded, before it was over, four years later.[6] Others see the entire episode even less favorably to Lincoln. One very famous essay, "Abraham Lincoln and the Self-Made Myth," attributed all Lincoln's action to nothing so much as his soaring personal ambition – he was willing to risk all, to risk the future of his country, and the lives of his countrymen – so that he might hold high office.[7] Yet others see Lincoln's aims more impersonally, but equally critically. One historian, in my presence, branded Lincoln a "moral fanatic" in direct line of descent from John Calvin, a line which ran through the American Puritans (you remember the Scarlet Letter), through Lincoln, to Lenin, Stalin, and Hitler. This judgment, I believe, is particularly unbalanced, but the charge of moral fanaticism or plain immoralism is much more widespread. A much more recent variant on these views is the psychoanalytic approach to Lincoln. The psycho-historians note that Lincoln engaged in the regular practice of calling those who founded the American regime "our fathers." Once one is thinking in a Freudian vein it is impossible to avoid the conclusion that Lincoln was driven by classical Oedipal motives – to kill the fathers (through undoing their handiwork, the American political system), and replacing them himself.[8]

Ironically, the charges raised against Lincoln in the second half of the twentieth century are more or less opposite to those raised earlier. Critics no longer complain about Lincoln's intransigence, immoralism, or desire to radically question the authority of the fathers, but about his half-heartedness, the narrowness of his motives, actions and views, the deep conservatism of all he did and thought. This line of thought about Lincoln emerged in the wake of the Civil Rights movement, and instead of sympathizing with Stephen A. Douglas (consciously or otherwise) as the earlier critics had done, these sympathized with the abolitionists. Lincoln, they insist, may have signed the document that freed the slaves, but he did not much like black people, did not want to free slaves, favored the interests of whites only, and did not see America as a place for whites and blacks to live in together. In the final analysis these charges amount to the accusations of racism, conservatism (he

[6] J. R. Hummel, *Emancipating Slaves, Enslaving Free Men*, Chicago 1996, p. 2.

[7] R. Hofstadter, *The American Political Tradition*, New York 1948, p. 93–137. The theme of Lincoln's ambition plays a large role in the most recent full-scale biography, D. H. Donald, *Lincoln*, New York 1996. See also: D. E. Fehrenbacher, *Prelude to Greatness*, Stanford 1962, p. 21–22; J. P. Diggins, *The Lost Soul of American Politics*, Chicago 1984, p. 309; J. D. Greenstone, *The Lincoln Persuasion*, Princeton 1993, p. 12–14.

8 G. Forgie, *Patricide in the House Divided: A Psychological Interpretation of Lincoln and His Age*, New York 1979; D. Anderson, *Abraham Lincoln: The Quest for Immortality*, New York 1982. Even as sensible a historian, and as much an admirer of Lincoln as John P. Diggins is much taken with the psychoanalytic approach. *The Lost Soul...*, esp. 389 n. 25. Also see: J. D. Greenstone, *The Lincoln Persuasion...*, p. 14–16.

revered the work of "the fathers"), and pro-capitalism (he spoke of the virtues of free markets very frequently).[9] The two charges together are thus very serious. On the one side Lincoln is held to be drastically deficient in his state-craft, deficient politically. On the other side, he is held to be deficient morally. Together they surely help account for why we are not thinkin' about Lincoln either so often or so highly as Americans once did. My task in this essay is not, however, to speculate on the relative decline in Lincoln's cosmic "approval rating" but to engage, or reengage, with Lincoln. I want to use the factors that are parts of his decline as occasions to reflect a bit, partly to defend, partly merely to ruminate over Lincoln. Let me deal with the first set of charges about Lincoln in terms of the question: was Lincoln right, or was Stephen A. Douglas right, in their great debates? Those debates concerned a very simple question: what should national policy be with respect to the presence (or absence) of slavery in the territories belonging to the United States not yet organized as states of the union?[10] In those debates each stood for one policy – Douglas for the policy of territorial self-determination, or popular sovereignty, or, as it was sometimes called by its detractors, "squatter sovereignty." Lincoln stood for the prohibition of slavery in the territories, at least those territories north of the old Missouri Compromise line.

Douglas' policy of popular sovereignty was a brilliant solution to an intractable problem of politics both high and low.[11] The policy itself was simple. Instead of Congress deciding whether slavery would or would not be allowed to exist in the territories, as had been the approach mainly taken since the Northwest Ordinance of 1787, Douglas proposed that the people of each territory be allowed to settle the question for themselves.[12] The issue was especially important, for if slavery were allowed to be planted in a territory, it would almost inevitably come into the union as a slave state, and vice versa. Given the way representation in the Senate works, and the role of Senatorial representation in the electoral college, the relative number of free and slave states was a matter of central importance to all sections of the nation. In 1858, the year of the Lincoln-Douglas debates, the tally of states stood at fifteen slave and seventeen free. The trend-line was running in favor of free states, however, for a mere decade earlier (and for a long while before that) the tally was equal. Moreover, the future as of 1858 seemed to favor freedom even more. Oregon would soon enter as a free state; Kansas was to reject the fraudulent Lecompton slave Constitution, and would no doubt join the column of free states soon. Prospects for more new states in existing federal territory were great, while those for new slave states were decidedly less so. The relatively clear direction in

[9] For representatives of this critique, see S. B. Oates, *Abraham Lincoln...*, p. 21–30.

[10] D. E. Fehrenbacher, *Prelude...*, p. 104–112.

[11] Admittedly Douglas was not the first to think up this solution to the problem of slavery in the territories. That honor seems to belong to Lewis Cass. See: S. A. Douglas, *The Life and Speeches of Stephen A. Douglas*, New York 1860, Vol. 1, p. 48.

[12] On policy regarding slavery in the territories, see the excellent survey in D. E. Fehrenbacher, *The Slaveholding Republic*, New York 2001, p. 253–294.

which matters were heading after 1850 did not take the edge off the political battles over the status of the territories. If anything, both sides became more insistent and intransigent, the one in an effort to at least keep its cause in the running, so to speak; the other to garner the fruits of the victories that seemed to be coming its way. Therefore the strongest political passions were brought to bear on Congress as it attempted to deal with the territories. As the 19th century wore on, these passions were producing an explosive situation in Washington. All of national politics was caught up in the sectional conflict and the sections' anger centering on the territorial issue. Douglas – and not Douglas alone – "was convinced that the Union would not survive differences of opinion on slavery" if these were fought out in the national legislature.[13] One important scholar of the era has even argued that Douglas' position was thoroughly anti-slavery (or pro-freedom) in its ultimate aims and intended effects. Douglas was committed to the dual policies of popular sovereignty and territorial expansionism. He believed that "the organization of new territory would rapidly result in new free states, [and] would lead to an overwhelming preponderance of freedom over slavery."[14]

Douglas' solution was elegant. The principle of America, he said, is self-government; therefore, let the people of each territory govern themselves, decide for themselves. Why should Washington dictate a solution? Douglas saw his proposal become official policy when the Kansas-Nebraska Act of 1854 embodied the popular sovereignty principle. At a stroke Douglas thought he had found a way to settle what appeared to be a union-threatening conflict. The center of conflict under Douglas' popular sovereignty would no longer be Washington, but would be the local territories themselves. ("Bleeding Kansas" replaced "ranting Washington"). The question of whether to allow slavery in any given territory would no longer catch up the entire political nation, no longer involve the whole Congress and the Presidency. As Douglas said in explaining his policy, his idea was

> not only [to] furnish adequate remedies for existing evils, but, in all times to come, avoid the perils of a similar agitation, by withdrawing the question of slavery from the halls of Congress and the political arena, and committing it to the arbitrament of those who were immediately interested in it, and alone responsible for its consequences.[15]

Popular sovereignty, he thought, was not only the embodiment of the right principle, democratic self-government, but it was the policy with the best results: "my friends," he said in his first debate against Lincoln, "if we will only act conscientiously and rigidly upon this great principle of popular sovereignty, which guarantees to each State and Territory the right to do as it pleases in all things local and domestic instead of Congress interfering, we will continue at peace with one

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[13] H. V. Jaffa, *Crisis...*, p. 44. Also see: J. D. Greenstone, *The Lincoln Persuasion...*, p. 26–28, 140–153.

[14] H. V. Jaffa, *Crisis...*, p. 48.

[15] S. A. Douglas, Special Senate Report, January 4, 1854, quoted in: H. V. Jaffa, *Crisis...*, p. 155.

another."[16] "When that principle is recognized," Douglas said in rebuttal to Lincoln at Ottawa,

> you will have peace and harmony and fraternal feeling between all the States of this Union; until you do recognize that doctrine there will be sectional warfare agitating and distracting the country.[17]

It was a masterful effort to deflect and disarm conflict. Among other virtues of the policy from Douglas' point of view was that it appeared to avoid what was becoming the most intensely felt element of this conflict: for Congress to make a pronouncement on the subject amounted to a national endorsement of the principles and institutions of one or the other section and implicitly a rejection of the other. Since Congress had forbidden slavery in the past, the South felt as though its special institutions and values were disvalued by the nation; the South felt slighted and demanded that its institutions be recognized as equally valuable. After all, the Southern states were just as much parts of the American federal union as were the Northern states. Douglas' popular sovereignty policy gave the South at least part of what it wanted – if not national endorsement of slavery, then at least a cessation of the national condemnation of slavery. The South was offended in the way dissenting religious groups are offended when the state officially recognizes holidays, symbols, or doctrines of other religious groups. They felt like second-class citizens, they felt dishonored. Douglas' solution was really very like the principle adopted to deal with religious disagreement: The state becomes strictly neutral between the competing positions. There is no establishment of religion, and under Douglas' popular sovereignty the federal government is to remain strictly neutral between Northern principles of freedom and Southern principles of slavery, just as it is between Methodists and Presbyterians. As Douglas frequently said when out on the hustings, he didn't care whether slavery was voted up or down, just that it be voted.[18] A neutral stance, a democratic stance. But Douglas was not so personally neutral as these public statements imply. He did not particularly wish to see slavery spread, and thought that his policy would not in fact lead to the spread of slavery. He believed that slavery took root – or not – not because of laws, but because of physical conditions. Some climates (and resulting agricultural systems) are suited to slavery and other climates are not. Nature, not law would decide where slavery would go, and thus the divisive political battles could be avoided in a way that made no difference to the ultimate outcomes.[19]

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[16] S. A. Douglas, Speech at Ottawa, Ill., August 21, 1858, reprinted in: *Lincoln*, ed. D. E. Fehrenbacher, Vol. 1, p. 507.

[17] *Ibidem*, p. 535.

[18] See: S. A. Douglas, Speech at Freeport, Ill., August 27, 1858, *ibidem*, Vol. 1, p. 555, 569; Speech at Galesburg, Ill., October 7, 1858, *ibidem*, Vol. 1, p. 687, 690, 698, 700, and esp. 726. See also: *ibidem*, Vol. 1, p. 415, 456.

[19] See H. V. Jaffa, *Crisis...*, p. 41–62.

Douglas' position was thus a statesmanly position. It aimed to promote political peace and harmony, and to avoid both the Scylla of disunion and the Charybdis of civil war that the nation seemed to face in the 1850's. No wonder historians came to censure Lincoln for intransigently framing the issue in his "House Divided" metaphor in such a way that Douglas' pacific and harmonizing policy could not succeed, framing the issue in a sectional rather than a national way, and thus forcing the nation to face first Scylla and then Charybdis. Thinkin' well about Lincoln, i.e. deeply and honestly, requires facing up to the challenge of Douglas and the historians who, in effect, endorse Douglas' statesmanship over Lincoln's. Lincoln did everything in his power to prevent the country from adopting Douglas' policy of popular sovereignty. He had dropped out of politics in 1850 after one term in Congress. He had made himself unelectable in his district by publicly opposing the Mexican War. Not only was he unpopular personally, but his traditional Whig district went to a Democrat in apparent "repudiation of… Lincoln's views on the Mexican War."[20] He had turned his attention more seriously to his legal practice than ever before and seemed resolved to make his life outside of politics[21]. His plans changed in 1854, when, in the Kansas-Nebraska Act, the Douglas popular sovereignty approach became law of the land and the Missouri compromise was repealed. Lincoln's change of direction was remarkable. He started to research the history of the slavery question in America and turned back to politics – not, as before, oriented around the small-time activities of electioneering, but devoted to the preparation of a series of speeches, long speeches, speeches filled with the results of his research, passionate speeches – none directed to gaining office but all aimed at one object: to show the perniciousness of the Douglas policy and the corresponding "propriety of the restoration of the Missouri Compromise."[22] Lincoln insisted that the question of substantive principle – the question of the inherent right or wrong of slavery – could not be pushed aside in favor of the procedural solution of popular sovereignty. Now this may seem the obviously correct answer, but we cannot rest so easy with it. Conceding that Lincoln is correct about the moral evil of slavery, it is *still* a fact that he was not about to change the minds of the slaveholders or their allies. Moreover, he was far from an abolitionist – he conceded that despite the moral wrong of slavery, the states where it existed were the only political agents with any power or right under the Constitution to do anything about it. And he knew they were not about to abolish slavery any time soon. It is not at all

[20] D. E. Fehrenbacher, *Prelude...*, p. 1.

[21] A. Lincoln, Speech at Chicago, Ill, July 10, 1858; Speech at Springfield, Ill, July 17, 1858, in: *Lincoln...*, Vol. 1, p. 447, 491 (all references to Lincoln's speeches and writings not otherwise identified are to this edition); D. E. Fehrenbacher, *Prelude...*, p. 20. Fehrenbacher does persuasively challenge the older view that Lincoln turned his back completely on politics between 1850 and 1854, however.

[22] This was the announced topic of Lincoln's Speech at Peoria, October 16, 1854, I 307. According to Donald, Lincoln had delivered the gist of this address many times before October 16, especially on October 4 in the hall of the Illinois House of Representatives in Springfield. The address on the Missouri Compromise is especially associated with Peoria, for on this occasion Lincoln prepared and distributed to the press a written version of his text. D. H. Donald, *Lincoln...*, p. 173–178.

clear, then, that any moral good could follow from Lincoln's policy, but it certainly was clear to Douglas that much political evil would follow – an intensified return to all the political conflict preceding 1854. Lincoln's position, in other words, looks quite irresponsible. Among all the other things that make Lincoln so worth thinkin' about was his marvelous self-awareness, his ability to address directly and forcefully the issues raised by his actions. He tells us why he left his now fairly lucrative law practice, why he took it upon himself to speak out against the leading politician in Illinois and one of the leading politicians in the U.S. He gave up the comfortable life into which he had settled, because, he tells us, "I can not but hate … this declared indifference [to] … the spread of slavery."[23] Hatred – a strong sentiment from a man who, at the end of a war that filled everyone with hatred, preached "malice toward none, and charity for all." Lincoln hated the Douglas policy of indifference to slavery expansion and came out of retirement to voice that hatred, and to try to make others feel it, too. I hate it [he said in 1854] because of the monstrous injustice of slavery itself. I hate it because it deprives our republican example of its just influence in the world … and especially [I hate it] because it forces so many good men amongst ourselves into an open war with the very fundamental principle of civil liberty – criticizing the Declaration of Independence, and insisting there is no right principle of action but self-interest.[24] Lincoln hates Douglas' approach for its effects on three different groups: first, on the slaves themselves; second, on those foreigners who are enemies to America and republicanism, and who are heartened by the existence of slavery in the midst of freedom, for this proves to them the hypocrisy of the Americans. As Samuel Johnson said at the time of the American revolution, "How is it that we hear the loudest yelps for liberty among the drivers of negroes?"[25] Finally, Lincoln hates the effect on "many good men amongst ourselves" – it leads them into opposition to the Declaration of Independence and the principles of political right. Perhaps surprisingly, Lincoln identified this last as his most "especial" ground for hating the principle of indifference or neutrality with regard to slavery. Lincoln definitely had a point. In 1848, John C. Calhoun, the leading thinker of the South in the ante-bellum era, stated on the floor of the U.S. Senate that the claim made in the Declaration of Independence "that all men are born free and equal" is a "dangerous error."[26] Senator John Pettit of Indiana, on that same Senate floor, called the Declaration of Independence a "self-evident lie" in 1854 in a speech in favor of Douglas' bill to repeal the Missouri Compromise.[27] Stephen Douglas did not deny the Declaration outright, as these men had done, but

[23] A. Lincoln, Address at Peoria, Vol. 1, p. 315.

[24] *Ibidem*.

[25] Quoted in: P. Finkelman, *Jefferson and Slavery*, [in:] *Jeffersonian Legacies*, ed. P. S. Onuf, Charlottesville 1993, p. 192.

[26] J. C. Calhoun, "Speech on the Oregon Bill," June 27, 1848, reprinted in: *Union and Liberty: The Political Philosophy of John C. Calhoun*, ed. R. M. Lance, Indianapolis 1992, p. 569.

[27] As quoted by A. Lincoln in his Peoria Address, Vol. 1, p. 339, and in the seventh debate with Douglas at Alton, Vol. 1, p. 795.

he was led to engage in some fancy footwork to accommodate his policies to it. The signers of the Declaration of Independence [Douglas said in 1857], referred to the white race alone, and not to the Africans, when they declared all men to have been created equal... They were speaking of British subjects on this continent being equal to British subjects born and residing in Great Britain.[28]

Douglas was forced to transform a statement of natural law and natural rights into a mere reference to positive British law; he takes language which is overtly universalistic – it refers to *all men*, not to Britons, or Europeans, or whites – and turns it into a very particularistic (and racist) statement. Douglas reaffirms the Declaration only at the cost of changing its meaning entirely. According to *his* reading, even the French, when they looked to the American Declaration at the time of their own revolution, were mistaken in thinking that the freedom and equality mentioned there had anything to do with them, since they were not British subjects. In later statements Douglas amended his position, for reasons Lincoln explained in an 1854 address: In his construction of the Declaration last year he said it only meant that Americans in America were equal to Englishmen in England. Then, when I pointed out to him that by that rule he excludes the Germans, the Irish, the Portuguese, and all the other people who have come amongst us since the Revolution, [groups who were among Douglas' electoral supporters], he reconstructs his construction. In his last speech he tells us it meant Europeans. Lincoln did not let him off with that, however. I press him a little further, and ask if it meant to include the Russians in Asia? Or he means to exclude that vast population from the principles of our Declaration of Independence? I expect ere long he will introduce another amendment to his definition. He is not at all particular.[29] Of course, Douglas had to read the Declaration in these unprincipled and shifting ways to make it compatible both with his "don't care" position and with the make-up of free American society in the 1850's. From Lincoln's point of view, perhaps the most discouraging sign of the war slavery provoked against the Declaration of Independence was the decision by the U.S. Supreme Court, the most authoritative interpreter of the Constitution in the land, in the famous Dred Scot case. There, the Chief Justice of the United States, the highest member of the highest court, said that the Declaration could not possibly have been meant to apply to members of "the African race," who, he concluded, "had no rights which the white man was bound to respect."[30]

This is the fulfillment to a tee of what Lincoln had feared three years earlier in 1854 – that good men would reject the very principles of civil liberty and instead insist "there is no right principle of action but self-interest." All three of Lincoln's points end up being variants of his first point: Douglas' policy ignores the monstrous injustice of slavery. It is this injustice which robs American institutions of

[28] As quoted in A. Lincoln, Speech on the Dred Scott Decision, Springfield, IL, June 26, 1857, Vol. 1, p. 399.

[29] A. Lincoln, Speech at Springfield, IL, July 17, 1858, Vol. 1, p. 477.

[30] Dred Scott v. Sanford, 19 Howard 393 (1857).

their power of example in the world, and which threatens to rob America of its own commitment to "right principles of political action." Lincoln's point here is a bit more subtle than it seems, however. It is not slavery itself that does these bad things so much as the Douglas approach to slavery, i.e. the declaration of official indifference to its rightness or wrongness. Lincoln thought slavery a monstrous injustice, but he thought it could be lived with for the time being, so long as the prohibition on the spread of slavery remained in the law to serve two crucial purposes: (1) to affirm the inherent wrong of slavery by not being neutral about it; and (2) to give the public mind reason to believe that slavery was "in course of ultimate extinction."[31]

In that second wave of criticism of Lincoln after the start of the civil rights movement he was blamed for being so tolerant of slavery as this, blamed for opposing intransigently and immediately not the evil itself but the mere out-works of the evil, the peripheral matter of the spread of the evil, all the while affirming his willingness to tolerate it where it existed and even to recapture fugitive slaves for those who engaged in the evil. Lincoln, apparently, hated Douglas' stated indifference about slavery more than he hated the evil of slavery. We can understand his reasons for opposing Douglas' effort at a statesmanly settlement as well as his reasons for not going further in an abolitionist direction only by attending to what he says about the monstrous injustice of slavery itself. His central argument against slavery is a very simple syllogism:

Premise 1: All human beings are equal, or possess equal rights, or possess rights to themselves.

Premise 2: Blacks are human beings.

Conclusion: Therefore, slavery of the blacks (or any human being) is unjust, because it is a denial of rights, a denial of the rights of self-ownership. Lincoln was no relativist, that is clear. He apparently did not believe that it was merely his "value judgment" that slavery was wrong – rather, he insisted, it is wrong, and a decent political society needs to recognize that. But Lincoln also knew that not everyone accepted his syllogism.

In particular, the first premise had become very controversial in his time. Equality of rights is, said Lincoln, "the sheet anchor of American republicanism," and "the relation of masters and slaves … a total violation of this principle;" yet Presidents like James Buchanan, Supreme Court Justices like Roger B. Taney, Senators like Calhoun, Pettit and now Douglas *deny* this principle, the House of Representatives sets up as a rule of its procedure that it will not receive or listen to any petitions protesting slavery. That is, the "sheet anchor" is torn, as Congress, the Supreme Court, and the President defect from it.

What then is Lincoln's argument in favor of his first premise? As should be no surprise, this is a frequent theme in Lincoln's speeches and writings. He made three chief arguments for universal equality of rights and against slavery. His first and probably most common argument was an argument from feeling: he tells his

[31] See e.g. Speech at Ottawa, IL, August 21, 1858, Vol. 1, p. 514.

audience in 1854, "Your sense of justice and human sympathy continually tell you, that the poor negro has some natural right to himself."[32] Later, he says,

> Repeal the Missouri compromise – repeal all compromises – repeal the Declaration of Independence – repeal all past history, you still cannot repeal human nature. It still will be the abundance of man's heart, that slavery extension is wrong.[33]

"It is certain," Lincoln asserts, that "the general mass of mankind … consider slavery a great moral wrong; and their feeling against it, is not evanescent, but eternal. It lies at the very foundation of their sense of justice."[34] Nature, expressed in the universal or near universal promptings of the human heart, teaches that human beings are equal and that slavery is an abomination. But nature is not the only source of this knowledge. "My ancient faith teaches me that 'all men are created equal,' and that there can be no moral right in connection with one man's making a slave of another."[35] By his "ancient faith" Lincoln means, of course, the Declaration of Independence, a statement not universally known and delivered by the human heart in the natural feelings, but a matter of faith, delivered in a specifically American document. It is Lincoln's or *our* faith, not the faith of mankind in general. Where Lincoln's first argument appeals to universal nature, his second appeals to history, to a particular deliverance of *our* history. These two arguments, certainly not directly contradictory to each other, are nevertheless quite different. If universal human nature teaches through immediate feeling the truths about equal natural rights, then how comes it that specific traditions, histories or faiths with that same, or with different, content are either possible or necessary? To these two arguments Lincoln adds yet a third, very different from the others.

Where the others are in one form or another sub-rational arguments (feeling or faith), this is a rational argument: If A can prove, however conclusively, that he may, of right, enslave B – why may not B snatch the same argument, and prove equally that he may enslave A? – You say A is white and B is black. It is *color*, then; the lighter having the right to enslave the darker? Take care. By this rule, you are to be slave to the first man you meet, with a fairer skin than your own. You do not mean *color* exactly? – You mean whites are *intellectually* the superior of the blacks, and, therefore have the right to enslave them? Take care again. By this rule, you are to be slave to the first man you meet, with an intellect superior to your own. But, say you, it is a question of *interest*; and if you can make it your *interest*, you have the right to enslave another. Very well. And if he can make it his interest, he has the right to enslave you.[36]

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[32] A. Lincoln, Speech at Peoria, IL, October 16, 1854, Vol. 1, p. 327.

[33] *Ibidem*, p. 346.

34 *Ibidem*.

[35] *Ibidem*, p. 328.

[36] A. Lincoln, "Fragments on Slavery," Vol. 1, p. 303.

This is in a way a very simple argument, yet it is also a very powerful argument. It is what is known in contemporary moral and political philosophy as an "agent relative argument." It begins with a claim I, each and every I, raise for myself. Whatever argument I might make to justify slavery for another would justify it for me, too. But I feel, I know in my bones, my own claim to freedom, that I am free and want to be free. I cannot help but see this and assert this claim for myself, and Lincoln's reasoning makes me see that I cannot go on to affirm the slavery of another without endangering my own freedom. As Lincoln said in another place, "Although volume upon volume is written to prove slavery a very good thing, we never hear of the man who wishes to take the good of it, by *being a slave himself*.[37] Or, put even more simply, Lincoln said, "as I would not be a slave, so I would not be a master."[38] This argument too contains an important premise rooted in feeling, and in this respect it is like Lincoln's first argument. But there is an important difference: in the first argument, the so-called universal feeling is a direct revulsion against the enslavement of others; in this third argument it is a direct revulsion against slavery for oneself. Lincoln is on much solider ground, and knows that he is, in affirming the universality of that latter feeling than the former.

After all, as he concedes, volumes have been written to justify the slavery of others, but none willingly chooses this state for himself. In a word, Lincoln's third, or rational argument, is much better *as an argument*. As a matter of logic, as a matter of clear thinking, Lincoln proves that one can accept slavery for another only on pain of self-contradiction.

Yet Lincoln knows that the pain of self-contradiction is not the pain human beings normally consider most intolerable. He once sat down to consider the argument of "pro-slavery theology," as put forth by the Rev. Frederick A. Ross of Alabama.[39] The sum of this theology, he concluded, is this: "Slavery is not universally *right*, nor yet universally wrong; it is better for some people to be slaves; and in such cases, it is the will of God that they be such." Now when Lincoln's slaveholding clergyman Dr. Ross comes to ask himself the question whether *his slave* should be a slave, he receives no direct and unambiguous answer from the Bible and certainly never bothers to ask his slaves their opinion.[40] The decision must rest with him. So, at last, it comes to this that Dr. Ross is to decide the question. And while he considers it, he sits in the shade, with gloves on his hands, and subsists on the bread [his slaves are] earning in the burning sun. If he decides that God wills [these slaves] free, he thereby has to walk out of the shade, throw off his gloves, and delve for his own bread. Will Dr. Ross be actuated by that perfect impartiality, which has ever been considered most favorable to correct decisions?[41]

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[37] Idem, "Fragments on Government," Vol. 1, p. 302.

[38] Idem, "On Slavery and Democracy," Vol. 1, p. 484.

[39] F. A. Ross, "Slavery Ordained by God" (1857).

[40] Cf. J. P. Diggins, *The Lost Soul...*, p. 297.

[41] A. Lincoln, "On Pro-Slavery Theology," Vol. 1, p. 685.

The Rev. Ross is more willing to suffer the pain of contradiction than the pain of hard labor in the hot sun. Thus it is that rational argument is not so conclusive in practice as it is in theory. What makes a proposition true and what makes a proposition effective as a maxim of action are in fact quite different. *This* is the single most important truth about politics; this disparity sets *the task* for statesmanship – to make the true and good and right *also* the effective, or to bring those elements as close together as possible. This disjunctive/conjunctive relationship both holds politics and morality together *and* distinguishes them from one another. The task of bringing together the right and the effectual is what separates the moral philosopher (and the scholarly critic) from the political actor of the highest kind. No political actor in American history understood this truth more fully, and acted upon it more thoughtfully and creatively than Lincoln. Herein lie some of the reasons for our perception of depth in the man. Lincoln made three arguments against slavery: an argument from direct feeling, an argument from faith, an argument from reason. The argument from reason was true, but as such ineffective; the argument from feeling was effective so far as it was true, that is, so far as the feeling, the universal revulsion against slavery, was, in fact, felt. Reason ascertains truth; feeling prompts action. But the feeling against slavery for others is fragile. Lincoln knows perfectly well of many who held slaves without revulsion – Rev. Ross, for one. He also points to the change of opinion in recent times – people are coming to feel differently about slavery, less repelled by it; they are coming to feel with Senator Douglas that they "don't care" about it in itself. Reasoning points to the truth of the anti-slavery position, but reasoning is ineffective without the support of feeling, and feeling is unreliable. It is too variable, too uncertain in itself: it needs to be formed, focused, and channeled. In this context, Lincoln's other argument against slavery comes into its own: the argument from "our ancient faith", that is, from the American consensus on the doctrines of the Declaration of Independence. The fragility of both reason and feeling point to the need to cultivate fundamental moral and political truth in the mode of faith. Like the ancient faith of God's people, this is *our* ancient faith, our inheritance from *our* fathers. Lincoln preaches the universal and rational truth of freedom as the particularistic and sub-rational inheritance of this people and its history. Lincoln attempts to attach the reverence reserved for the most sacred and venerable things to the fundamental truths of political life. The task for Lincoln's statesmanship is to transfer the place, although not the meaning, of the Declaration of Independence, to make it the object of a religious attachment, with the feelings, solidity, stability and awesomeness of religion.[42]

The main theme of Lincoln's career is just this translation of the Biblical faith into this new political religion. He took the truths of John Locke and Thomas Jefferson, two men of the enlightenment, who thought that rational argument plus self-interest would suffice to produce a decent and true political order, and infused their truths with the spirit of religion and poetry. Now it should be clear why Lincoln saw

[42] Thus I disagree strongly with the argument in H. V. Jaffa, *Crisis...*, p. 317–329.

that he had to counter the admittedly statesmanly accommodation Stephen Douglas was attempting to sell the nation. Douglas' solution might gain some temporary political peace (although events in Kansas rendered even that proposition questionable), but even if it did, it would endanger the conditions for future political health, for it would further wean the nation away from its ancient faith, from its unreflective belief and feelings in favor of equality of rights and freedom. Worse than the existence of slavery itself, in other words, is the spreading of the view that slavery is a matter of indifference, that the nation can and should be neutral, that the Declaration of Independence has no bearing on the question. In one of his most forceful statements from the period of the Lincoln-Douglas debates, Lincoln made superlatively clear just what his priorities were: Think nothing of me – take no thought for the political fate of any man whomsoever – but come back to the truths that are in the declaration of Independence. You may do anything with me you choose, if you will but heed these sacred principles. You may not only defeat me in the Senate, but you may take me and put me to death. While pretending no indifference to earthly honors, I do claim to be activated in this contest by something higher than anxiety for office. I charge you to drop every paltry and insignificant thought for any man's success. It is nothing; I am nothing; Judge Douglas is nothing. *But do not destroy that immortal emblem of Humanity – the Declaration of Independence*.[43]

So long as the moral evil of slavery is reaffirmed, so long as the ancient faith is kept alive, then, Lincoln believed, one could rest secure in the belief that the evil would be abolished from the land in the course of time. "Where there is a will, there is a way" – even if Lincoln admittedly did not see clearly what that way was. Lincoln knew that his intransigence carried risks, the risks that the historians have spoken of, but he thought the alternative much worse, for, as he emphasized, the moral consensus that condemned slavery was the consensus that supported any form of freedom. The moral indifference that Douglas sought could not sustain a free society. To complete a quotation presented earlier: "As I would not be a *slave*, so I would not be a *master*. This expresses my idea of democracy. Whatever differs from this, to the extent of the difference, is no democracy."[44] The argument of Douglas, Lincoln said in Chicago,

> [I]s the same old serpent that says you work and I eat, you toil and I will enjoy the fruits of it. Turn it whatever way you will – whether it comes from the mouth of a King, an excuse for enslaving the people of his country, or from the mouths of men of one race as a reason for enslaving the men of another race, it is all the same old serpent, and I hold that if that course of argumentation that is made for convincing the public mind that we should not care about this, should be granted, it does not stop with the Negro.[45]

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[43] A. Lincoln, Speech at Lewiston, IL, August 17, 1858, reprinted in: *The Collected Works of Abraham Lincoln*, ed. R. P. Baske, New Brunswick 1953, Vol. 2, p. 547.

[44] A. Lincoln, "On Slavery and Democracy," Vol. 1, p. 404.

[45] Idem, Speech at Chicago, IL, July 10, 1858, Vol. 1, p. 457.

He knew also that the disparity between what is true and what is effective meant that at any moment the one who understands the relation between morality and politics properly must always settle for less than morality demands, but must always keep the moral principle alive so that another statesman, another day, might aim at another, a more far-reaching conjunction between the moral truth and politically efficacious feeling.[46] This task is different in detail for us than it was for him, but in form it is just the same. Herein, I think, lies also the response to the neo-abolitionist criticism of Lincoln characteristic of his late twentieth-century critics. Lincoln, it is said, took a stand on the peripheral question of the extension of slavery, but did nothing about the more fundamental issue of the existence of slavery itself. Indeed, he reiterated his unwillingness to do anything about slavery where it existed at least as often as Douglas told audiences he "didn't care" which way slavery was voted in the territories. There was nothing Lincoln wanted to be known less as than an abolitionist or an integrationist. Lincoln, the newer critics say, was lukewarm on slavery and as much a racist as his political opponents. Lincoln's understanding of the necessities and highest tasks of statesmanship stand as a sufficient response to these concerns. The task, recall, is to bring the right and efficacious as near to each other as possible. The moralist can ignore the efficacious and look only to the right.

The Machiavellian can look only to the efficacious and ignore the right, but the statesman has the luxury of neither the one sort of irresponsible moral purity nor the other sort of irresponsible pragmatic efficaciousness. Although Lincoln opposed slavery, the evil itself, as much as the most intransigent of the abolitionists, he would not, he could not, give up the other half, the need for efficaciousness on behalf of the good, and remain true to his vocation. Given the state of public opinion and the configuration of political forces in the U.S. of the 1850's, no one pressing an abolitionist agenda could gain enough political power to achieve even the modest anti-slavery gains Lincoln and his fellow free-soil Republicans sought. Certainly Lincoln would not be living up to either side of the statesman's task if he accepted the formula of the Garrisonian abolitionists: "no union with slaveholders." To separate from the slave-holding parts of the union would allow a higher degree of moral purity, perhaps, and it would withdraw from the slave system whatever benefit the union supplied (including enforcement of the fugitive slave act), but it would free no slaves, and only tendentious reasoning can believe that slavery would be more vulnerable in a separate Southern Confederacy than in a Lincolnian union.

Moreover, the issue of right is itself complex. Attempting to allay the fears inspired by his accession to the Presidency, Lincoln addressed the South in his First

[46] Cf. the quite contrary view of Lincoln's most recent distinguished biographer: "the controversy over whether the framers of the Declaration of Independence intended to include blacks in announcing that all men are created equal dealt with the interesting, if ultimately unresolvable, historiographical problem, but it was not easy to see just what it had to do with the choice of a senator for Illinois in 1858." D. H. Donald, *Lincoln*..., p. 226.

Inaugural Address: Apprehension seems to exist among the people of the Southern States, that by the accession of a Republican administration, their property, and their peace, and personal security, are to be endangered. There never has been any reasonable cause for such apprehension … I have no purpose, directly or indirectly, to interfere with the institution of slavery in the states where it exists. I believe I have no lawful right to do so.[47]

The issue of political right is, in another sense than heretofore described, different and more complex than the issue of moral right. Although Lincoln never tired of saying that slavery is a moral wrong, he did not believe that that fact alone gave him the moral right to act as a member of the government of the union against it. The principles of moral right contain as a subset principles of political authority. Political authorities are not (in constitutional systems) merely authorized to do whatever to them seems morally right. They are authorized to deploy the coercive power of the state apparatus under authorizing mandates – constitutions or other fundamental laws. Rightful political action requires the conjunction of moral right and political authority. It is the latter that Lincoln knew that he lacked; to act on behalf of the moral right against the mandates of authority would itself be a wrong. This melancholy conclusion is but another manifestation, or reflection of the more fundamental distinction between the right and the effectual. The task is to bring the right and authority as close together as possible. But one can no more ignore the one than the other. Lincoln's stance, of all those visible in that tempestuous era, was the one that remained most true to all the imperatives of political right. I can do no better than to close out my thinkin' about Lincoln by quoting from his magnificent speech against the Supreme Court's shameful decision in the Dred Scot case.

The framers of the Declaration of Independence defined with tolerable distinctness in what respects they did consider all men created equal – equal in certain inalienable rights … this they said and this they meant. They did not mean to assert the obvious untruth, that all men were then enjoying that equality, nor yet, that they were about to confer it immediately upon them. In fact they had no power to confer such a boon. They meant simply to declare the *right*, so that *enforcement* of it might follow as fast as circumstances should permit. They meant to set up a standard maxim for free society, which could be familiar to all, and revered by all; constantly looked up to, constantly labored for, and even though never perfectly attained, constantly approximated, and thereby constantly spreading and deepening its influence, and augmenting the happiness and value of life to *all people of all colors* everywhere.[48]

To put Lincoln's point into the terms of a more recent discussion: there is no end of history. The political good is transcendent, progressive, and unfolding. No statesman or people can achieve it all. The proper standard for judging a statesman is not whether he or she attains the unattainable, but whether he or she does

[47] A. Lincoln, "First Inaugural Address," Vol. 2, p. 215.

[48] Idem, "Speech on Dred Scott Decision,", Vol. 1, p. 398.

the good achievable in the circumstances and leaves open the possibility for doing more in the future. Where Douglas would buy peace, a present good, at the expense of the future, Lincoln risks war for the sake of both present good and future possibility. Lincoln renewed his nation's awareness of "the standard maxim" of political right and therein kept open the door to further achievement of political right. He did his part. He reminds us that it always remains our task to do ours.

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Peter Augustine Lawler

BUILDING BETTER THAN THEY KNEW: JOHN COURTNEY MURRAY'S AMERICAN, CATHOLIC VIEW OF THE TRUE FOUNDATION OF OUR COUNTRY

John Courtney Murray (1904–1967) was a member of the Society of Jesus. He taught at the Jesuit theologiate in Woodstock, Maryland and was editor of the Jesuit journal *Theological* Studies from 1941 until his death. He became a leading American public figure – the subject of a 1960 *Time* cover story. He was known mainly for his work on the relationships between the Catholic Church and America's country's political life, his interpretation of the American view of religious liberty, and his resolutely Catholic view of the true ground of that liberty.[1] His affirmation of the basic continuity between the Catholic and the American views of human nature and human liberty led to tensions with and even his silencing by the Vatican Curia, but something like his view of religious liberty was affirmed by the Second Vatican Council.[2] His most celebrated book, *We Hold These Truths: Catholic Reflections on the American Proposition* (1960), reflects, even in its title, his order of priorities.[3]

[1] The two best introductions to Murray's life and thought are R. W. McElroy, *The Search for American Public Philosophy*, New York 1989, and T. P. Ferguson, *Catholic and American: The Political Theology of John Courtney Murray*, Lanham 1993.

[2] Murray's disappointment with the weak foundation for religious liberty found in the Council document *Dignitatis Humanae* is described by F. Canavan S.J., *Religious Freedom: John Courtney Murray and Vatican II*, [in:] *John Courtney Murray and the American Civil Conversation*, ed. R. P. Hunt and K. L. Grasso, Grand Rapids 1992. One way Murray tried to spin what the document actually says in the direction of his own view is described by R. Hittinger, *The Declaration of Religious Freedom*, [in:] *Dignitatis Humanae*," *Vatican II: Renewal within Tradition*, ed. M. L. Lamb and M. Levering, New York 2008.

[3] J. C. Murray, *We Hold These Truths*, New York 1960. Subsequent references to this book around found in the text (WT). I have borrowed here and there throughout this chapter from two earlier chapters of mine

The American Constitution, for an American Catholic, can only be affirmed as intrinsically good if it recognizes each person's freedom for participation in the moral community or "order of culture" (WT, 35) that corresponds to his or her deepest natural longing.

My purpose here is to illuminate Murray's enduring contribution to American political thought – especially we Americans' proper relationship to our political Fathers and our proper relationship to God. Murray is surely America's best proponent of "natural law" criticism of the intentions of modern thought. He shows that from its beginning that thought was based on a willful and self-destructive atheism, while not denying the benefits of its destruction of unjust orders of privilege, including even the political privileges of an established church.

Murray shows that our Constitution and our Declaration of Independence – by placing the American people "under God" – is not to be understood as, in the most important respect, modern. He acknowledges that our leading founders were, in fact, influenced by the modern theory of Locke more than anything else, but that theory, in truth, is not embodied in the political order they constructed. The American problem is that our political Fathers built better than they knew, or thought they knew, and so we have to know more or better than they knew in order to appreciate properly and sustain what they accomplished. The theory that they affirmed – if ambivalently as somewhat false but very powerful – is capable, unmoderated, of consuming what they built. So the greatest gift an American Catholic citizen can give to his country, Murray claimed, is a theory adequate to its wonderful practice (WT, 10–11).

Murray quotes a key statement of the Third Plenary Council of Baltimore (1884): "We consider the establishment of our country's independence, the shaping of its liberties and laws, as a work of special providence, its framers 'building better than they knew,' the Almighty's hand guiding them." America's Catholic bishops rejected the theory but affirmed the results of our Fathers' work. God's hand guided them, whatever they might have thought. But Murray explains that what was providential was hardly miraculous: "The providential aspect of the matter, and the reason for the better building, can be found in the fact that the American political community was organized in an era when the tradition of natural law and natural rights was still vigorous" (WT, 30).

Our Fathers, partly because the requirement of legislative compromise between Christian and secular currents of thought about nature and partly because

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on *We Hold These Truths* in my *Aliens in America*, Wilmington 2002 and *Homeless and At Home in America*, South Bend 2007. In *Homeless*, I show that many of Murray's views, including those concerning our Fathers' theoretical political atheism, their practice being better than theory, and the providential character of our Constitution, can be found in the great 19th century American Catholic writer Orestes Brownson. For an application of Murray's Brownson's thought to some contemporary issues, see my *Locke, Our Great Founders, and American Political Life*, [in:] *Defending the Republic: Constitutional Morality in a Time of Crisis*," ed. B. Frohnen and K. Grasso, Wilmington 2008. For my lengthy introduction to Brownson's *The American Republic*, see the ISI edition, Wilmington 2003.

they and even Locke himself did not think through all the implications of his theory, were more influenced by thought they thought they rejected than they knew.

This approach to defending my country and its Constitution differs in important ways from the exemplary constitutionalism of the great Harvey Mansfield. I do note, however, that Murray's understanding of Locke is much like that of Leo Strauss, highlighting the ways in which it works to the self-destruction of reason in modern thought and to endanger fundamentally liberty in the modern world. Mansfield, Strauss, and Murray all agree that American practice is better than Lockean theory, and that, in part, is because the accomplishments of our Founders are better than much of their theorizing. Mansfield shows, using Alexis de Tocqueville, ways in which America could be better understood using premodern or largely Aristotelian thought, and he even adds that the depth of Tocqueville's understanding and ennobling of modern and American liberty owed a lot to the Christian Pascal. Strauss, of course, says that understanding our country as a mixture of premodern and modern – including Christian – currents in thought is not enough, because the premodern contributions are eroding in the absence of a thoughtful defense. Our adherence to a universal morality, Strauss believed, is most deeply a matter of faith, one that we only hold to be self-evident, and so, in a way, we are stuck with the defense of self-evidence as a sort of dogmatism. The approach of Murray has the advantage of offering a realistic defense of what our Fathers built to defend and perpetuate liberty, while not resorting to Tocqueville's questionable approach of refusing to celebrate – of, in fact, ignoring – our Declaration of Independence. Our Declaration, it is tempting to say, is more Christian than both Jefferson and Tocqueville knew.[4]

Locke as Our Fathers' Theorist

The theory that seemed most self-evident to our American political Fathers was John Locke's. But we, Murray claims, cannot take Locke "with any philosophical seriousness" today. The "eighteenth-century gospel" he inspired unleashed a "dynamism" of destruction based on "philosophical nonsense." Murray presents two ways – both partly true – of considering of our Founders' or political Fathers' view of that dynamic nonsense. The first is that they were theoretically superficial men who sometimes really thought Locke explained it all. The second is that they sometimes quite self-consciously knew that they were using Locke's theory as a means to level unjust orders, and their liberating efforts presupposed a different and truer view of nature than Locke's. In their eyes to some extent, Locke's "philo-

[4] See: H. Mansfield, *America's Constitutional Soul*, Baltimore 1991, with his (with D. Winthrop) introduction to his translation of Tocqueville's *Democracy in America*, Chicago 2000. For an incisive recent analysis on Strauss and America, see L. Batnitzky, *Leo Strauss and Emmanuel Levinas: Philosophy and the Politics of Revelation*, Cambridge 2008.

sophic weakness vanished before its performance of the political task" that they needed performed. Nobody can deny the Lockean achievement of "destroy[ing] an order of privilege and inaugurat[ing] an era of political equality" (WT, 311–319). Locke's emphasis on political consent, based on his denial that "the people are the great beast of aristocratic theory" (WT, 181), was, in fact, in accord with the Christian, Thomistic, natural law tradition. Locke said something like words are weapons, nothing more. In some measure, our Fathers took him at his word, using his words as weapons, nothing more. For them, Locke's "theoretic dogmas" may well have been "false," but still "powerful." Murray's most nuanced judgment may be that Locke's theory could not "quite veil" from them the natural-law "imperatives of a human reason that has a greater and more universal power than was dreamt of in Locke's philosophy." Our Fathers, finally, were ambivalent Lockeans. Their own deeds were sometimes inspired by a more realistic view of the purpose of words than Locke's, but they pursued historical success with the weapon of Locke's theory in mind (WT, 311–20).

When and if our Fathers really believed that Locke taught the whole truth and nothing but, from Murray's view, they must have accepted two unempirical premises. The first is that we consent to government and every other human institution as radically free individuals. The second is that all human connections or relationships are to be understood as based on one's own self-interested calculation. That means, as Murray explains, "all forms of sociality are purely contractual" or "have no basis in nature" (WT, 306). We are not naturally social beings; we are not hardwired, so to speak, to share a life in common. The idea that all "mutual relations" can be understood in terms of contracts that utterly free individuals enter into and dissolve according to their sovereign willfulness is, we can see, clearly "a false theory of personality."[5] But it is a theory that has the advantage of privileging one's own freedom over all established privileges.

Locke's radically individualistic insight must lead to theoretical nominalism; Our natural capacity for language or naming is not for the joy of shared discovery, which, of course, would point in the direction of shared duties. Words are for maximizing one's own individual power, and they correspond to no "metaphysical reality" (WT, 309). The "naked essence" of Locke's thought, Murray reveals, is that all human capabilities are for the generation of power. The "law of nature," from this view, is nothing but a name given to the self-interested decisions I make as a free individual to perpetuate my own being and enhance my comfort. The law of nature is nothing but a corollary of the liberty each individual has to act in his own self-interest rightly understood. Locke, Murray claims, said more "politely" what Hobbes said more "forthrightly." Man's natural condition is war, and every capability he has is a weapon of war (WT, 304).

Locke's most basic theoretical incoherence seems to be his effort to sustain both nominalist premises and at least the semblance of the realist epistemology

[5] J. C. Murray S.J., *Bridging the Sacred and the Secular*, ed. J. L. Hooper, Washington 1994, p. 111.

suggested by the idea of the "law of nature" – the suggestion of continuity with the realist, Thomistic tradition of "natural law." Locke says that all free individuals can know that all free individuals are basically in the same situation. That seems to mean there are some real truths about nature and liberty we can share in common. But it is also true that the truths each individual holds to be self-evident radically separate his thoughts and concerns from those of others, and the words he uses to communicate with others are not presented with the truth in mind. What nature has given each of us, Locke explains, is pretty worthless, and that includes our natural inability to understand much of anything at all without freely imposing our will on it. What we can know is what we have imposed on nature; even truth is the individual's powerful creation. Murray's best student, Francis Canavan, shows with admirable precision that Locke, "famous as an apostle of human rights," also taught an "epistemology and metaphysics" that "did not furnish an adequate foundation for a political philosophy founded upon a common human nature." Locke wrote that "universality belongs not to things themselves, which are all of them particular in their existence." There, Canavan contends, "Locke makes a basic move; only individual things exist, *therefore* only individual things are real." All "general ideas," Locke adds, are "inventions and creations of the [individual's] understanding, made by it for its own use." So words really are just weapons – as the nominalist says – for the basically hedonistic goals of separated individuals; there's nothing real that corresponds to the artificial or abstract common life that is the invention of individuals allied in pursuit of their separate interests.[6] And even Locke's epistemology seems deduced from the free individual who has been invented or abstracted from the real existence of particular human beings. Epistemology and metaphysics themselves are weapons wielded by the invented individual.

Murray suggests the paradox that Locke's realism is not very realistic, and even that Locke knows that. His attempt to feign continuity with the philosophical tradition has to be understood, for the most part, as one means among many he used to maximize his power (WT, 309). His "state of nature" does not seem to be a real place. It is a name he has given to a myth – a "fictitious" "abstraction" – he has invented to maximize our power and freedom. It certainly does not correspond to what we know about our natures (WT, 305). Locke's views of nature and liberty are less descriptions than transformational weapons meant to become more true over time. They, like all other words, are tools for individual liberation. Locke's denial of realism in the name of freedom has worked to some extent, but, from one view, the fantasy of the modern world is that it could work completely. It has, most powerfully, worked, contrary to Locke's intention, to undermine what we freedom we really have. Our Fathers and even Locke himself were genuine liberals – or for limited, constitutional government – "only because they did not draw out all

[6] F. Canavan, *Rights in a Federalist System*, [in:] *Defending the Republic*, ed. B. Frohnen and K. Grasso, Wilmington 2008, p. 161–162. The quotes from Locke are from *The Essay Concerning Human Understanding*, book 3, chapter 3, subsection 11.

the implications from his theory" (WT, 308). The Jacobin French revolutionaries, Murray explains, actually understood all the implications of Locke's theory better than Locke himself. If all human questions are to be resolved through power, then the individual has, in truth, no perspective, either theoretical or practical, by which he can resist the power of the sate. The naturally contentless individual is defenseless against superior power. The French project was the "monism" or politically imposed unity of their revolution, and the omnipotent and so omnicompetent "totalitarian democracy" that was the prelude for the much harder totalitarianism of the 20th century. The French, inspired by Rousseau, attempt to reduce particular human beings to citizens and nothing more, and religion to "civil religion" – or yet another instrument of political power – and nothing more (WT, 308–309). Locke's nominalism led them to conclude that there are no real limits to the state's power to shape human beings according to its political requirements. Locke's intention was to free the individual from political, natural, and divine determination. But because the freedom he promoted was merely negative or destructive, it did not really empower the individual to constitute himself against the powerful forces surrounding him. "The logical outcome of Locke's individualistic law of nature," Murray contends, "was the juridical monism of the…French Republics." Every communal or social or purposeful reality – "the pluralism of social institutions" – between the "individual" and the "state" was abolished (WT, 308). Lockean theory, in the eyes of the French revolutionaries, asserted "the absolute autonomy of individual human reason. " That means that "[e]ach man is a law unto himself," and everything "is a matter of individual choice." No obligations are imposed on particular human beings by God or nature, and there is no foundation for any political authority but the will of the individual. Reason makes us all equal, but reason gives no content to our freedom. So what there really is "by nature" is "an absolutely egalitarian mass of absolutely autonomous individuals." Society can only be constituted by "the people," and that public power is as unlimited as that of the individual human being, who lacks what it takes to resist or even differentiate himself from the homogeneous whole. Because "the state, like individual reason, knows no God," it knows of no authority above its own popular will.[7] Government becomes "the political projection of the autonomy of reason," and so it becomes "the Supreme Judge" of even "religious truth."[8] Locke's wholly indeterminate freedom has no middle place between anarchism and slavery had no place for genuinely limited government based on particularly human purposes.[9] Locke's effort absolutely to free human beings from natural and divine determination subordinates them completely to the will of man as expressed in a wholly conventional or simply willful Rousseauean social contract. The view that there is nothing higher than the will of

[7] J. C. Murray S.J., *The Church and Totalitarian Democracy*, "Theological Studies" 1952, Vol. 14, December, p. 525–563.

[8] Idem, *Religious Liberty: Catholic Struggles with Pluralism*, ed. J. L. Hooper, Westminster 1993, p. 70.

[9] *The Church and Totalitarian Democracy* is Murray's most extended defense of this claim.

man is, for Murray, eradicates every barrier to the particular individual's totalitarian determination by the will of other men.

Lockean destructiveness, it is easy for us to see, went beyond the establishment of a kind of limited, consensual equality toward a comprehensive egalitarianism that took aim at the root of human liberty itself. We now know that the modern experiment, Murray observes, will never "erect an order of social justice or inaugurate an order of freedom" (WT, 319). So Murray viewed his task as defending our real, natural freedom and openness to order and justice against promiscuous, willful leveling, to show that America is dedicated to more than groundless equality or impersonal public opinion. We certainly have more evidence than even Murray did that our Framers – and maybe Locke himself – were naïve in believing that the full destructive or isolating impact of Locke's radical individualism and nominalism could be contained over time. Our lives, in fact, continue to be progressively more informed by a theory we know to be abstract or incomplete or, in some very important respects, just not true. The theory, as Murray explains, was not meant to be true, but to become true, to become the basis of a redescription of all of human life. Our pragmatist Richard Rorty, in a way, just echoes Locke in his confidence that human life could be improved slowly but, eventually, quite dramatically, in terms of freedom, prosperity, and the reduction of cruelty through the right use of those tools or weapons called words. Although it appears not to be enough to show Locke is wrong, Murray thought it might do some good, at least, to highlight the ways he has been discredited on the level of theory.

Darwin, Freud, and Marx as Devastating Critics of Locke

Locke's theory, Murray says, need not be refuted by us. It was demolished by his theoretical successors. "[T]he Lockean idea of man," he observes, has been "destroyed completely" by "the genuine and true insights" of "Darwin, Marx, and Freud" (WT, 309). That does not mean, obviously, that Darwin, Marx, and Freud teach anything like the whole truth. Each, Murray is clear, in his "monistic" way, denies what we really know about human liberty. Their denials of liberty flow naturally, so to speak, from Locke's abstract, nominalist separation of liberty from nature. Marx's radical view that we are nothing more that what we've produced in the economic history of the division of labor – that we are wholly historical and wholly economic beings – depends on Locke's anti-natural view that free individuals reveal themselves to themselves through their work to transform nature. Darwin's view, that we are, by nature, qualitatively no different from the other species depends on Locke's seemingly unscientific or unempirical detachment of human freedom and purpose from all natural guidance.

The Darwinian says that everything that exists is natural, and the Lockean claims that our freedom is not natural.

And so the Darwinian reasonably concludes that what Locke calls freedom could not really exist.

Marx's criticism of the anxious and miserable individuals invented by Locke is not so different from that of a Darwinian sociobiologist. They are distorted by experiences characteristic of beings unnaturally alienated from their true home. Marx was not wrong to notice that Locke's capitalist ideology had to some extent worked to detach individuals from their natural, social ties, and Marx exposed the real "loss of freedom" that came with the success of that "empty nominalism" (WT, 311). Marx, of course, exaggerates the effects of that detachment. The lives of individuals have not been reduced to nothing but whimsical playthings of the market; women have not become nothing but wage slaves, just like men, and of course the great mass of people have not become no more than cogs in a machine. But all those exaggerations contain some truth, and contemporary life is full of the anxiety that comes with the experience of being emptied out of properly human content. Those exaggerations correspond to what the modern individual would become if Locke's theory could become wholly true, and the fact that they seem more plausible than ever suggests that a false theory continues to display transformational power.

Marx, everyone now knows, offered no real remedy for the human misery he described. "Communism," Murray writes, "is political modernity carried to its logical conclusion" (WT, 211). From the most obvious view, totalitarianism is the logical, wholly political antidote of the emptiness of the Lockean individual. But when Marx himself describes life under communism, of course, it is the very opposite of totalitarianism. It is even, in a way, the very opposite of communism; the particular human being is free from alienating social or communal duties. The state, the family, and the church will have all withered away. People will, quite unobsessively, be able to do whatever they want whenever they want. Everything we do would become undistorted by any real experiences of God, truth, love, or death. Without such alienation, man would no longer be "a stranger to his own will."[10]

From Murray's view, Marx's theoretical communism would merely radicalize – or make more modern – the loneliness and boredom and the alienation of one human being from another that existed under Locke-inspired capitalism. And under communism, of course, people would be deprived of the "opiate" of religious or revolutionary hope. For Murray, theoretical communism cannot become real, because it cannot eradicate who we are by nature. That is the deeper reason why the pursuit of theoretical communism produced its opposite – political or totalitarian communism. The logical conclusion of modernity is a political war against who we really are, against what we cannot help but know. Murray unreservedly endorsed America's political struggle against modernity's logical culmination, but with the suggestion that the real or spiritual foundation of our struggle could not be wholly modern or Lockean. What is most true, for Murray, in Marx is expressed more deeply or psychologically by Freud. The modern conquest of nature depends on

[10] J. C. Murray S.J., *The Problem of God: Yesterday and Today*, New Haven 1964, p. 110.

expanding the realm of the "techniques of conscious reason" and "renounce[ing] the forces of instinct." The result is that our natural sources of happiness and satisfaction are increasingly repressed, and so our most basic needs are denied gratification. The success of the Lockean project does not bring "self-fulfillment and happiness, but psychic misery and loss of personal identity." Freud rightly replaces the economic misery of the Marxian proletariat with his own "Freudian proletariat, chained in neurotic misery amidst material abundance," and without, of course, the solace of religious or revolutionary hope.[11] Freud has, of course, an unrealistically monistic or reductionistic or merely sexual view of human eros and happiness. But he is right that we are miserably anxious or disoriented when we deny or repress the truth about who we are by nature, and he is right to dismiss the merely economic or historical accounts of whom we are by Marx that make the revolutionary overcoming of our alienation from nature seem inevitable or even possible. Freud "shattered forever the 'angel-mindedness' of Cartesian man" – the idea that we are essentially other than natural or embodied beings, and so "the brittle rationalistic optimism" based on the idea that our bodies are machines to be manipulated at will by free beings (WT, 310–311).

The Marxian and Freudian view that the Lockean war against nature or instinct is an error that makes us more unhappy than anything else is shared by Darwin, and Murray's realistic affirmation of what is true in Darwin strikingly anticipated the sociobiological criticism of social constructionism in the wake of both the fall of communism and the naïve social experimentation of the Sixties. Darwin's "principle of continuity in nature" shows that we are like the other animals in many ways and share some purposes with them. Evolutionary theory expresses a partial but very real truth about our being: "man is solidary, by all that is material in him, with all of life." "Purified of its monistic connotations," Murray writes, the Darwinian principle of natural continuity "is compatible with a central thesis of Christian anthropology," which is "the law of solidarity of both flesh and spirit." Our social natures connect us as both material and spiritual beings, and so it is not realistic to disparage our bodies on behalf of our spiritual freedom. "Evolutionary theory," Murray adds, "is not compatible with Lockean individualism," which views all expressions of solidarity with and dependence on others or nature as worthless illusions that can and should be overcome. Evolutionary theory, in truth, dealt a "mortal blow" to that atomistic individualism (WT, 310). Darwin is right both that we are social animals and that what we are given by nature is both good and, in the most important respects, inescapable, despite our best efforts. Darwin's alleged naturalism or empiricism achieves its allegedly comprehensive explanations by abstracting from everything that essentially distinguishes particular human beings from the rest of nature. The Darwinian abstraction is, in a way, a mirror image of the Lockean abstraction: Darwin exaggerates – while Locke denies – the continuity between members of our species and members of all the others. The Thomist ob-

[11] Idem, *Bridging the Sacred and the Secular...*, p. 158.

serves our self-consciousness – as well as our singular, erotic openness to the truth about ourselves, other persons, and all that exists – transforms even the natural ends we share with the other animals. But he never denies that our longings or ends have a natural foundation. So he incorporates what is true and rejects what false in both Darwin and Locke, while adding more. Darwin shares Locke's unrealistic nominalism: Words do not give us access to self-evident truths; they are tools we've been given by nature to aid in the survival and flourishing of a species. The truth is not genuinely self-evident to us, contrary to the claim of our Declaration of Independence, because we are not hardwired to have selves or souls – or personal freedom – at all. Locke is surely wrong to think words alone could possibly sustain us against the impersonal forces of nature or public opinion or the arbitrary will of tyrants.

The Modern Will to Atheism

Darwin, Freud, and Marx are astute critics of the empty unreality of the Lockean individual, but Locke remains right about the reality of human liberty. Locke cannot defend individual or personal freedom from monistic destruction because he has detached that person from his real natural ends, from the truth about who he is. Murray's criticism of Locke, finally, is a criticism of the modern decision for atheism, and all the monistic tendencies of modern thought are efforts to eradicate the personal, social longing for God as a natural explanation for who we are. All modern thought attempts to understand us as less than we really are by nature, and so all modern thought is self-consciously scientistic or willfully reductionistic. For Murray, the "original act of freedom" that produced modern thought was "the will to atheism." The absence of God from modern theory is based on the prior "intention that he be absent." Murray's "own proposition, derivative from the Bible is that atheism is never the conclusion of any theory, philosophical or scientific." It is, instead, "a decision, a free act of choice that antedates all theories."[12] That means, in Murray's eyes, "ignorance of God is not a want of knowledge or even a denial, it is a free choice of a mode of living."[13] God has given man the freedom to choose to live without him, but that does not mean that man can realistically – or unwillfully – say that he does not know of God. Leo Strauss, for what its worth, agrees that modern philosophical atheism – as opposed to more genuinely philosophical skepticism – rests on "an unevident, arbitrary, or blind decision."[14]

The original modern intention was to "explain God away," to show that "God can have nothing to do with the order of intelligence." He is "to be relegated to the order of fantasy," to become an imaginary projection for which there is no evidence. That is why the key modern dogma is that religion is merely a "private

[12] Idem, *The Problem of God...*, p. 85, 95.

[13] *Ibidem*, p. 77.

[14] L. Strauss, *Natural Right and History*, Chicago 1953, p. 75.

matter" that exists nowhere but in "the individual conscience" and has no juridical or "public status." Public life or the reality human beings share in common is godless. The church or any religious community has no official or legal presence.[15] The modern will to atheism *is* the will to complete autonomy – or freedom from God and nature. Murray explains that "man fell in love with himself," that is, "with his own creative powers." He fell in love, in fact, "with the dazzling brilliance of his own creations." The will to atheistic freedom is based on the thought that nothing creatures have been given is either good or lovable, and so only an "anthropocentric" or self-created universe could do justice to who we really are. The modern, technological will has, in fact, "altered the face of the earth, "and nature has been "made to feel in her very being that man is the master." That will, at its beginning, was, in fact, "rational and purposeful," to create a world worthy of genuinely autonomous beings – beings who have no need of God.[16]

The original modern will Murray calls "aristocratic atheism," which was for the philosophical elite to understand all there is – including who we are – without God. Its lack of definitive success caused it to be succeeded by "bourgeois atheism" – the effort to show that people can prosper or be happy and comfortable without God. Because bourgeois life, as Marx and particularly Freud explained, turned out to be in some ways more restless and miserable than ever, it was succeeded by increasingly insistent "political atheism" – various attempts, inspired by Rousseau, to reduce human beings to secular citizens and nothing more. The movement of modern atheism from aristocratic to political is from theory to practice, from understanding to imposition, from scientistic abstraction to relentlessly forcible destruction.[17] Despite the logic of that movement, aristocratic, bourgeois, and politicized atheism, of course, all operate simultaneously in the modern world. The collapse of political atheism with the fall of communism, Murray would not be surprised to see, led to an intensification of bourgeois atheism – shown in the efforts of our libertarians and our "bourgeois bohemians" – and of aristocratic atheism in the popularized, basically Darwinian science of our so-called "new atheists."[18]

For Murray, the whole modern experience is evidence that the Christian discovery of the truth about our freedom cannot be expunged from any genuinely empirical account of "natural law" – about who we are according to nature. The misery Marx, Darwin, and Freud described is our misery in the willed absence of God. We now know that misery has no historical/political or economic or technological cure. We also know there is no returning to, for example, the Aristotelian or classical account of nature and human nature. For Aristotle, "man in the end was

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[15] J. C. Murray S.J., *The Problem of God...*, p. 90–99.

[16] Idem, *St. Ignatius and the End of Modernity*, [in:] *The Ignatian Year at Georgetown*, Washington 1956.

[17] Idem, *The Problem of God...*, p. 86–87.

[18] D. Brooks, *Bobos in Paradise: The New Upper Class and How They Got There*, New York 2000; E. Fesler, *The Last Superstition: A Refutation of the New Athens*, South Bend 2008.

only citizen, whose final destiny was to be achieved within the city" (WT, 155). Aristotle, in truth, did not know of each human being's freedom from political life – discovered by the Christians and displayed in an unrealistically extreme and reductionistically distorted way by Locke. It is unclear, to tell the truth, whether Murray regarded Aristotle as primarily ignorant of God or choosing against him, but his choice, in any case, was clearly less willful than the characteristically modern one.

Murray explains that "Christianity freed man from nature by teaching him he has an immortal soul," which apparently he would not have known by natural means alone. That teaching revealed to man that he longs to be more than a biological, species-oriented being, that he has singular purposes not given to the other animals. So Christianity "taught him his own uniqueness, his own individual worth, the dignity of his own person, the equality of all men, and the unity of the human race" (WT, 192). Christianity freed human beings from what seemed to Aristotle to be the limits of their natures. That revelation about the real truth about who we are has survived every modern effort to distort or suppress it. We continue to know, despite the best efforts of the secular civil theologians and other ideologists, that "every fatherland" is, to some extent, "a foreign land" (WT, 15). *The* political truth that the Christians discovered is that "the whole of political life is not absorbed in the polis" (WT, 333), and that human dignity is not primarily "civil dignity" (WT, 52).

That is why the integrity of the political order cannot be restored in post-Christian times except by "totalitarian" means. The modern secularist must make inauthentic denials that the pagan secularist – such as Aristotle – did not have to make. It' is inevitable, Murray observes, that any post-Christian "unification of social life" is both more "forcible" and takes place on "a lower level" than Aristotle's (WT, 133). The attempt to restore the monistic polis in the modern world is never really a political restoration, because the Christian criticism of civil theology, being true even if the personal God does not exist, cannot be eradicated from the world. The revolutionary totalitarian democrats might have thought of themselves as guided by a republican "myth of antiquity," but they were really about the reactionary negation of the true discoveries of "Christian civilization," the true sources of egalitarian political and spiritual freedom.[19] Every willful attempt to exaggerate the autonomy of reason ends up denying the reality of the genuine transcendence – or orientation in the direction of God and transpolitical moral responsibility – of human freedom. In thinking about the "imperatives" of his own nature, Murray says he knows that "my situation is that of a creature before God" (WT, 32). And he called the modern denial of the human situation "a basic betrayal of the existential structure of reality itself" (WT, 215). What Murray himself knows, he claims, the "common man" also knows, "instinctively and by natural inclination" (WT, 204).

The decision for natural teleology and against willful atheism depends on the affirmation that the highest purpose of human beings is to seek, know, and love

[19] J. C. Murray, *The Church and Totalitarian Democracy...*, p. 545.

God. And on the basis of that decision, our self-understanding becomes more in accord with who, by nature, we are. The choice for God is at the foundation of "natural law" and can be validated on genuinely empirical grounds. The choice for God is a choice for a being who is not, essentially, "a solitary, separated individual," but a social, loving being essentially embedded in a community while retaining his own, personal identity.[20] The authentically postmodern choice is not for revelation against reason, but against wholly "autonomous reason" and for reasoning about who we are as whole natural beings. There is no such thing, Murray observes, as "abstract reason, but only reason as it exists in men," and it's willful fantasy of abstracted or utterly autonomous reason that unrealistically abolishes the distinctions between true and false and right and wrong.[21]

Our Nation Under God

Our political Fathers' will, Murray claims, was not fundamentally atheistic. He follows Lincoln, most of all, by showing that our Fathers, despite their Lockean theory, built "a nation under God." He does so, first of all, in opposition to the strict separationist jurisprudence that emerged in the 1940s. According to this view of constitutional interpretation, derived from the theory of Jefferson and Madison, government and religion are to have nothing to do with each other, and religion is to become a purely private, individual affair.

In the absence of some recognition of the social and socializing function of churches or institutional religion, Murray feared, too much emphasis will be placed on the public schools as the country's only unifying factor, as the only way of overcoming the natural fact of individualistic divisiveness. The same "powerful and articulate philosophy of 'American education'" that would deny all juridical or public status to religious schools, he warned, is about the business of developing "a concept of the 'historic unity' of the American people and a rather mystical concept of democracy."[22] The idea of democracy becomes a sort of fuzzy or almost pantheistic substitute for civil religion, and the American alternatives could either become part of the democratic community or withdraw into "protest schools" that perniciously prevent children from being incorporated into the civic brotherhood. The result would be an impairment of the parent's right to encourage the genuinely free exercise of the religious dimension of his children's beings, and religious concerns would be viewed as necessarily conflicting with those of citizenship. The thought that a believing Christian who orients much of his life around his church – we can see better than Murray – has to sacrifice or compromise his belief when

[20] Idem, *Bridging the Sacred and the Secular...*, p. 113.

[21] Idem, *How Liberal is Liberalism?*, "America" 1946, Vol. 75, No. 6.

[22] Idem, *Laws or Prepossessions? Essays on Constitutional Law*, ed. R. G. McCloskey, New York 1957, p. 332. What follows on the Constitution and religion is based on this chapter.

he acts as a citizen alienates from our country those who have, in fact, been the best of our citizens in recent decades. Today, we also have more evidence than ever that the Court's primary intention has been to promulgate and expand the reach a kind of autonomous public reason that is, in its effect, Lockean. "For Murray as for John Locke, his master," Murray explains, "religion is of its nature a personal, private, interior matter of the individual conscience, having no relevance to the public concerns of the state."[23] Religion is completely separated from the public world constructed through the institution of government, and the state takes no interest in – or even has no awareness of – the relationship between the individual man and his private God. So the state has no jurisdiction over churches because churches have no juridical status at all. The freedom of religion is, from this view, for "religion without a church," for a phenomenon which is socially irrelevant or totally excluded from civic affairs or any public educational mission. The result is the same juridical monism that was characteristic of the omnicompetent politicization of the revolutionary French. The deep Lockean thought here is, of course, that individuals do not have social natures and words are just weapons, and so there is nothing natural about pointing human beings in the direction of God. The result for him is not civil religion but real secularism or a more perfect political atheism. Government, in the interest of individual liberty, has to get by without God, and there's no denying that the unamended Constitution of 1787 is silent on God. Because Locke, in Murray's view, did not think through all the implications of his radical individualism, he views it as a violation of liberty for government to impose or even rely upon a civil religion. But that is at the cost of reducing conscience to nothing but a private fantasy. Locke, in the French revolutionary view, made civic unity too much of a merely self-interested construction that leaves too much intact of the solitary emptiness of the natural individual. A Constitution based on Madisonian/Lockean theory is genuinely liberal but unsustainable, because it is based on an unrealistic psychology. The Supreme Court, Murray shows, avoided this conclusion only by taking its constitutional bearings from Madison's personal opinions without embracing his theory. That's because, in Murray's view, the theory had been totally discredited. He imagines "legal howling" that would have been the result of the Court taking its bearings from "natural rights" derived from a "pre-social" state of nature. In the world of 20th century theory and practice and in the midst of a welfare state sanctioned by the Court, Madison could confidently say that "the radically individualistic concept of religion…is today quite passé."[24] Mere jurists might, in fact, be entitled to detach the law's original intention from any claim for its theoretical truth, and so they can contribute powerfully to Locke's transformational intention without reflecting on the realism of what he actually says about who we are. So Murray dissented on our political Fathers' original intent – on the Constitution's history – in order to suggest a better or more realistic theory.

[23] *Ibidem*, p. 325.

[24] *Ibidem*, p. 328.

Our Fathers as statesmen, the evidence shows, did not intend the First Amendment to aim at strict separation of church and state, but only to prevent the national establishment of any particular religion. Madison, the statesman pursuing legislative compromise with the more Christian members of Congress, was far less ambitious in practice than he was in theory. Nonestablishment is subordinated to religion's free exercise, and there is no mention of the rights of some isolated conscience or even any concern for the option of atheism. Religion is viewed as a positive, institutional good, and it is the religion clauses of the First Amendment that are the key evidence that our Constitution presupposes the existence of a transpolitical God. Murray shows that the establishment of religion was understood uniformly in the Congressional debates in "its proper, technical sense" of no favoritism or preference to any particular organized religion – such as the Church of England. So the Constitution establishes the "political equality" of all churches and other religious institutions. Freedom of religion ended up meaning, contrary to Madisonian or Lockean theory, freedom of churches. And so religious equality is "the equality of differences," and those differences are much more than a whimsical variety of private fantasies.[25] The anti-ecclesiastical tendency of the eighteenth century – which reduced religious liberty to the sanctity of the privatized conscience – did not make it into the actual constitution. Our Constitution presupposes that we are social, religious beings open to the transpolitical truth about God, and that capacity of our natures that leads inevitability to organized religion is meant to be an effective limit on the omnipotence and omnicompetence of the state. Our Constitution, through the compromises that produced the religion clauses of the First Amendment, ended up being more Thomistic than our political Fathers knew. The legislature of Virginia, Murray observes, seeing the somewhat un-Lockean nature of the political compromise, regarded the protection afforded to the consciences of individuals as inadequate, but, in the spirit of compromise, they eventually – after almost two year – ratified it. Our Constitution, Murray concludes, "was a great providential blessing" for Catholic American citizens. Because it points in the direction of the community called the church, Catholics as Catholics can be good American citizens. The liberty it protects is religious liberty in the sense of freedom for religion, the freedom to orient one's will with others toward the truth about one's situation as a creature. The American Constitution, because it is about the free exercise of religion, does not require civic theological affirmations from its citizens – affirmations no Christian can make with "conscience and conviction" (WT, 43). Murray was and still is criticized by conservative Catholics for his "Americanism" – for identifying American political solutions with ultimate or religious truth.[26] But Murray's inclination was, in fact, in exactly the opposite direction.

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[25] *Ibidem*, p. 332.

[26] This sort of anti-Americanist criticism is found throughout D. J. D'Elia and S. Krason, editors, *We Hold This Truths and More*, Steubenville 1994.

The key providential fact about our Constitution, for Murray, is that "the distinction between church and state, one of the central assertions of the [Christian, natural law] law tradition," found its way into our Constitution. Our Fathers understood that separation as "the distinction between state and society," which they, following the tradition, thought of society as composed "of a whole area of human concerns which were remote from the competence of government." For our Fathers, it was emphatically not true that there was "nothing above the state" (WT, 58), because they presupposed that we are, by nature, more than isolated, contentless individuals. Among those natural societies to which government, properly speaking, is both ministerial and incompetent are the churches.

As others, such as Tocqueville, have noted, the American Revolution was limited; it did not aim to reconstruct the religion or the family or even local government. So our Fathers held that government cannot "presume to define the Church or in any way supervise her authority in pursuit of her own distinct ends." Religious freedom is accorded not only to the individual, but to "the Church as an organized society with its own law and jurisdiction." The social areas from which our Fathers excluded government "coincides with the divine mission of the Church" as the Church itself understands it (WT, 69-70), and so "there's an evident coincidence of the principles which inspired the American republic and those which are structural to the Western Christian political tradition" (WT, 30). The providential compatibility of America's political mission and the Church's divine mission was actually a coincidence based on a compromise. None of those involved in the compromise were thinking in terms of the Catholic Church's self-understanding, but that's no reason why the Church cannot affirm the result as providential, as what our political Fathers really gave us. *The Declaration of Independence*

Following Lincoln, Murray finds the source of our fundamental law's principles in the Declaration of Independence. The religion clauses of the First Amendment were meant, in a way, to constitutionalize that "landmark in political theory" the Declaration of Independence. The key assertion of the Declaration is that there is "a truth that lies beyond politics: it imputes to politics a fundamental human meaning. I mean the sovereignty of God over nations as well as over individual men" (WT, 28). The Declaration too was a legislative compromise, the most instructive of the founding compromises. Let me turn to a Catholic author writing at roughly the same to as Murray to explain why that's so.

R. L. Bruckberger, a French priest who wrote a classic reflection – *Images of* America – on his visit to America in the 1950s, compares in some detail Jefferson's fairly purely Lockean "rough draft" of the Declaration and "the final text" as adopted by Congress. For the interpreter, Burckberger claims, "nothing speaks as eloquently as corrections on a text." There is no doubt, he contends, "that Congress and Jefferson had different concepts of God," and they imply "two profoundly different philosophies." Jefferson's "Nature's God," which was retained from the first draft, was essentially no different from "Voltaire's Great Watchmaker" or

Robespierre's "Supreme Being." He is no real constraint on human will, and he is compatible with real political atheism. There was, in fact, nothing in "the reigning philosophy of the day" or Jefferson's "own attitude" that pointed in the direction of recognizing God as a Creator, Providence, or Judge, as a personal being who guides and restrains human will.[27]

But the final draft of the Declaration ended up giving the God of Nature all those personal attributes. That is because most of the member of Congress admired Jefferson's literary skill "but did not accept his philosophy." For them, "Moses and Jesus" were more important than the latest theoretical currents (AV, 92). Men who read and believed in the Bible not only had a decisive influence of the Declaration's character and content, but, despite themselves in a way, even its philosophy. Congress remained to some extent within the Puritan tradition, and that first American founding had a decisive influence on the second.

"The greatest luck of all," Bruckberger writes, "for the Declaration was precisely the divergence and compromise between the Puritan tradition and what Jefferson wrote." A Declaration "in the strictly Puritan tradition would probably not have managed to avoid an aftertaste of theocracy and religious fanaticism." And neither theocracy nor fanaticism are, in truth, central to the political tradition of the West. "Had it been written from the standpoint of the lax philosophy of the day," Bruckberger adds, "it would have been a-religious, if not actually offensive to Christians." The compromise between the Puritans and the Lockean is, in fact, superior to either of its components, especially as philosophy. That Congress, combined with Jefferson, built better than either of them knew was "luck…strangely fused with genius" (IA, 92–93). "The men who signed the Constitution," Bruckberger claims, "were better than the philosophy of their day," and "the Declaration itself is superior to the men who signed it" (IA, 99). The Declaration was, as Murray says, providential, it depends upon what the American people were given from a variety sources. The combination of Judeo-Christian revelation with the philosophy both of the eighteenth century and of the Greeks and Romans produced a "philosophy that most manifests the equality of all men in their natural and supernatural dignity" (IA, 98–99). It is the source of the genius of a nation that, at its core, offends neither philosophers nor Christians and does not even place the God of the philosophers and the God of the Bible at odds. That the God of Nature *is* the God of the Bible is the philosophic thought, as Murray says, at the heart of the Thomistic tradition. So Catholics can both affirm and account for the truth of the compromise of the Declaration far better than the Puritans or Calvinists and Lockeans or political atheists who did the compromising.

Michael Zuckert, the most able defender of a purely Lockean view of the Declaration, admits that the passages added by Congress about God as Supreme Judge and his providence "appear much closer to the biblical religions than to the

[27] R. L. Bruckberger, *Images of America*, trans. C. G. Paulding and V. Peters, New Brunswick 2008, originally published 1959. Subsequent references to this book are found in the text (IA).

natural theology dominant elsewhere." These references seem, in fact, to "echo more sectarian religious sensibilities." But this acting God, Zuckert adds, acts to enforce nothing different from the laws of the God of Nature. The Declaration never "strays from the conviction that the principles of the political sphere are contained within the sphere of reason and natural theology and do not depend upon 'special revelation'." And so the Declaration points to a society of people with "diverse religious commitments," united only by "the natural universal principles that govern the political sphere."[28] But according to Murray, the additions make all the difference. They point to the conclusion that our natural faculties point each of us in the direction of our personal God, and that some common knowledge of that God is a limit to our diversity. The final, corrected version of the Declaration points us away from the political atheism of the impersonal Deism (of Locke or Voltaire) characteristic of the eighteenth century. There is a personal will higher than that of particular human individuals, and so human sovereignty is not unlimited or unguided. It is true that the Declaration has, as Bruckberger notices, no reference "to revelation of any kind, no reference to the Bible or to that Christianity with which America is so deeply imbued." But it's still a "religious" – without being an ecclesiastical or anti-ecclesiastical – document. It's self-evident that the Creator – without whom a universal political morality is seemingly impossible – is the source of equality and the inalienability of our rights (AV, 83).

Bruckberger, in effect, echoes Murray when he says that the American revolutionary repudiation of "divine right" on behalf of a free people was "infinitely more radical" than the one by the French. The revolutionary French transferred "all sovereignty" from "the person of the king to the nation," and so they recognized no divine claims other than that of politicized or civil theology. The nation was, in principle, as totalitarian as was the absolute monarchy – the unlimited will of the people in general replaced that of the particular person.

The French recognized no limit to political sovereignty, because their radical individualism produced no alternatives to natural anarchy and political despotism. That is why "Congress was right and Jefferson was wrong" to believe that abolishing divine right only requires transferring full sovereignty to the people (IA, 102–103). The divine will cannot be given to human beings in a limited government devoted to liberty, and so a free people have to be not only less but more – as social beings – than political beings.

It is only the Declaration's philosophy – a providential combination of compromise, luck, and genius – that secures what's true about the Lockean insight to the reality of personal liberty. The particular human being is neither created by nor is essentially a creature of government.

[28] M. Zuckert, *Launching Liberalism*, Lawrence 2002, p. 215.

America as Part of Christian History

Jefferson's and Madison's theoretical will was moderated by the necessity they faced as a statesman operating in a somewhat Christian environment. One result was the Declaration's virtually Thomistic or "natural law" theory, a result that cannot be found in or reduced to the will of any particular Father or founder. The compromise between Locke and Calvin produced something like the synthesis of Thomas. America, as Murray says, was "very superficially Christian" (WT, 317) in the eighteenth century, but it was Christian enough not to embrace the politicized will to atheism. From the beginning of "the authentic American tradition," Murray claims, parties and statesmen who "erect atheism into a political principle" are rejected. Jefferson and Madison might have privately been atheists, but their atheism has no public status. The Americans privatize atheism and have political institutions that point beyond themselves in the direction of God. In America, it is atheism that's the private fantasy that cannot be openly affirmed by those in political life. Murray even quotes the Supreme Court as having said "We are a religious people whose institutions presuppose a free being." It is because of that presupposition that there's no need for the Constitution to mention God. From the beginning, the Americans – and especially their political leaders – acknowledged their dependence on God without resorting to official civil theology (WT, 29–30).

Because our founding compromises accommodated Christian concerns, they can be seen as "recognizably part of the Christian tradition." In that respect, Murray affirms the conservative view that "Christian history" prevailed in our Constitution over "rationalist theory." And so the man whose rights are protected by the Constitution "is, whether he knows it or not, Christian man." That is, he is a man who "has certain original responsibilities precisely as man, antecedent to his status as citizen" a man whose understanding of his "personal dignity" has an irreducibly Christian foundation (WT, 30, 36–37, 39). That conservative victory of Christian history over Lockean theory has, of course, been eroded historically by the transformational power of Lockean principle. So it cannot be defended today as providential, but only as corresponding to true or rational theory, to what, as the Declaration says, is genuinely self-evident, as corresponding to the way we really are. The true foundation of religious freedom, Murray explained, is natural status or "dignity of the human person." That moral dignity is "rooted in the given reality of man as man." Each of us is given "the basic imperative to "act in accordance with his nature." And that imperative given to the true "moral subject" is the source of freedom from political determination each dignified person has when it comes "to the search for the truth, artistic creation, scientific discovery, and the development of a man's political views, moral convictions, and religious beliefs." We are free by our natural gifts for all these aspects of "the human spirit."[29]

[29] J. C. Murray S.J., *The Declaration on Religious Freedom: A Moment in Legislative History*, [in:] *Religious Liberty: An End and a Beginning*, ed. J. C. Murray, New York 1966, p. 40–41.

The key truth we hold in common – what Murray calls "the essential idea upon which a democratic culture must be erected" – turns out to be "the dignity of human nature," which includes "man's spiritual nature."[30] It is because of that nature – probably cultivated or habituated – that we can conceive of the possibility of real freedom, which is the freedom of a virtuous people "inwardly governed by the recognized imperatives of a universal moral law" (WT, 36). That is why Leo Kass, for one, has written that an effective defense of life and liberty now depends on an explicit defense of human dignity. The defense of the pursuit of happiness with no consideration of what's worthy of who we are is too empty or indefinite guide for the challenges we now face.[31]

The Catholic Contribution to America

American Catholic citizens as citizens, Murray claimed, are especially well equipped to give their country what it most needs – a theory that adequately accounts for the success of its experiment in liberty. Our lack of such a theory has produced what the authors of our Declaration might call a crisis of self-evidence. That crisis has moved from Locke through Darwin in one way and the Jacobin/totalitarian version of Rousseau in another to the pragmatic, relativistic conclusion that there is no reality we can know that corresponds to our experiences of self or soul or freedom. If that is the case, then our Fathers' dedication to the protection of our equality in human liberty really makes no sense.

Locke, Darwin, and the totalitarian secular civil theologians all share the nominalist view that words are nothing more than weapons. For Locke, words exist to secure the individual's power or survival; for Darwin they exist to secure the species' survival; for the totalitarian civil theologians they exist to impose civic unity on naturally anarchistic individuals. They all deny that we are naturally equipped to hold the self-evident truth in common.

We need a science or theory of natural law that does not exaggerate either our freedom from nature or our continuity with the rest of nature. We need a theory that does not make us so homeless that our freedom is displayed in nothing but absurd, anxious misery, but one that does not attempt to make us so at home that our real experiences of freedom and dignity are unrealistically denied. We need a theory that grounds our personal dignity in our natural openness to God. The God who is *logos* and *eros* made us in his image, and so there must be a ground for human freedom rooted in our natural capabilities for knowing and loving. The best present expression of that view of who we are is found in the thought of our philosopher-pope.[32] That view of who we are makes the best sense of our Fathers'

[30] Idem, *Bridging the Sacred and the Secular...*, p. 108.

[31] L. Kass, *Life, Liberty and the Defense of Dignity*, San Francisco 2002.

[32] See, on the thought of Ratzinger/Benedict, the essays collected in B. Cowan, editor, *Gained Horizons: Regensburg and the Enlargement of Reason*, South Bend 2008.

choice of our natural openness over a consistently Lockean individualism that would reduce religion – and finally all our experiences of freedom and dignity – to private fantasies with no common or public weight. That theory, as Murray summarizes, has to "be asserted within a religious framework" (or a choice for God), be "realist (not nominalist)" – or based on the truth that words are not merely weapons but give us access to the way things and persons really are, be "societal (not individualist)" – because we are given the ability to hold personal truth in common, and "integrally human (not rationalist)" – because the truth is that the whole human being or person – the being open to truth, God, and the good – cannot be reduced to either mind or body (WT, 320). What our country most needs from its Catholic citizens, in Murray's view, is genuinely conservative in two senses. It conserves the whole truth about who we are against unrealistic abstractions and empty nominalism. It also reinvigorates the American rational tradition through conserving a tradition both older and more rational – or at least more realistic – than our own. I do not think, of course, that American politics today is likely to be animated by a Thomistic philosophical tradition that is no longer even persuasive to most American Catholics. But maybe it's true that things have not changed that much since the time of the Founding.

The implicitly Thomistic or genuinely realistic philosophy of the Declaration and the Constitution Murray affirms was the result not of our Fathers' theoretical reasoning but of legislative compromise between Lockean and basically Calvinist factions. Today, we have a resurgent religious faction in politics composed primarily of evangelical Christians, and we also have a more aggressive, elitist promotion of secular autonomy. Perhaps our best hope for reasonable policy is compromise between those two factions, compromises that might often be better than either party to the agreement knows. That potential for judicious, salutary, theoretically defensible statesmanship is undermined most of all today by an aggressive Supreme Court pursing what amounts to an agenda to Lockeanize more and more of American life. As the Court explained in *Lawrence v. Texas*, its job has become deducing all the individualistic consequences of the single word "liberty" in the Due Process Clause of the Fourteenth Amendment. "As the Constitution endures," Justice Kennedy explained, "persons in every generation can invoke its principles in their own search for greater freedom."

The word of the Constitution, in other words, is nothing more than a tool of Lockean transformation, and the Court, of course, thinks of itself as under no obligation to consider the real truth of what it presents as the true intention of its Framers. As Canavan writes, Locke's "nominalist epistemology…is now accepted as dogma" by many of our legal scholars, and the influence of that uncritical thinking on our Supreme Court has turned "the due process of law into an instrument for an enactment of a liberal political agenda."[33]

[33] F. Canavan, *Rights in a Federalist System...*, p. 171.

Murray's reminder that the Constitution (or fundamental law) and the Declaration (or the source of our fundamental principles) both have the character of compromise should be used to curb our judges', bureaucrats, and professors' principled urgency on behalf of liberty understood as autonomy – or freedom from nature and God. Their theory does not correspond either to the practice of our political Fathers or to a realistic view of who we are. It is with authentic piety to our Fathers' intention that we take our bearings from what is realistically self-evident to us, and we turn to "better than they knew" studies.

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LEO STRAUSS: FASCIST, AUTHORITARIAN, IMPERIALIST?

In a letter he wrote to Karl Loewith on May 19, 1933 (just after the Nazis had come to power in Germany), Leo Strauss insisted in strong terms that he could not return to Germany so long as the Nazis were in power:

> I see no acceptable possibility of living under the swastika, i.e., under a symbol that says nothing more to me than: you and your ilk, you are physei [by nature] subhumans and therefore justly pariahs. There is in this case just one solution. We ... "men of science" – as our predecessors in the Arab Middle Ages called themselves – non habemus locum manentem, sed quaerimus [have no place to rest, but must seek].

But, Strauss continued:

> The fact that the new right-wing Germany does not tolerate us [Jews] says nothing against the principles of the right. To the contrary: only from the principles of the right, that is from fascist, authoritarian and *imperial* principles, is it possible with seemliness, that is, without resort to the ludicrous and despicable appeal to the droits imprescriptibles de l'homme to protest against the shabby abomination. I am reading Caesar's Commentaries with deep understanding, and I think of Virgil's Tu regere imperio… parcere subjectis et debellare superbos [You rule the world, sparing the vanquished and crushing the proud]. There is no reason to crawl to the cross, neither to the cross of liberalism, as long as somewhere in the world there is a glimmer of the spark of the *Roman* thought. And even then: rather than any cross, I'll take the ghetto.[1]

The publication of this letter in 2001 thus caused something of a furor. In an article published in an electronic journal in Spring 2004, Nicholas Xenos conclu-

[1] L. Strauss, *Hobbes' Politische Wissenschaft und zugehörige Schriften – Briefe*, Stuttgart 2001, p. 625.

ded that the letter showed that "in the 1930s Strauss was not an anti-liberal in the sense in which we commonly mean 'anti-liberal' today, but an *anti-democrat* in a fundamental sense, a true reactionary. Strauss was somebody who wanted to go back to a previous, pre-liberal, pre-bourgeois era of blood and guts, of imperial domination, of authoritarian rule, of pure fascism."[2] Then, on Sunday, July 16, 2006, Scott Horton, a professor of law at Columbia University, posted a blog, including a translation of the letter, which provoked 47 pages of commentary. Like Eugene Sheppard, Horton concluded (more moderately than Xenos) that Strauss had been attracted to authoritarian, fascist ideas in the 1930s, but that he had later changed his mind.[3] One of the scholars Horton thanked at the end of his blog, Alan Gilbert, organized a roundtable on the letter at the annual meeting of the American Political Science Association held in Chicago in late summer 2007 (which was videotaped by and thus is presumably available from the University of Chicago).[4] Responding to the review of Sheppard's book by Harvey C. Mansfield published in the *Claremont Review of Books,* December 10, 2007, in January 2008, Horton published another article in *Harper's* in which he stated that he was not persuaded either by the Sheppard critique of Strauss or by the defense of Strauss by his students. Horton first quoted Mansfield's interpretation of the letter:

> The letter certainly confirms Strauss's disgust with the liberalism of Weimar Germany, a pitiful and cowardly liberalism unable to defend itself against the Nazis because it had abandoned its own fixed truths and absorbed much of the relativism of Germany's nihilism... Obviously this was not the case with all liberalism in 1933, for Strauss fled the Nazi enemy to France, then England, and finally, the United States – all liberal democracies and the last two, it turned out, not incurably infected with appeasement. In effect, Strauss's letter warns Löwith against putting his trust in the liberals (and Christians) of Germany who had given false assurance of security to German Jews.[5]

But he then added his own gloss:

> Mansfield does an amazing job of projecting back to the first years of Strauss's emigration attitudes that he developed over a career of writing after he came to the United States. Essentially he's presenting Strauss as a dynamic new kind of liberal, who is prepared to act robustly (and militarily) to defend democratic institutions. This argument presents a strange contortion of liberalism, just as the main themes of neoconservatism present a departure from the traditional conservatism of the Anglo-American world. But it seriously distorts Strauss's attitude towards fascism at the time of emigration.[6]

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[2] N. Xenos, *Leo Strauss and the Rhetoric of the War on Terror*, "Logos" 2004, Vol. 3.2 (Spring), p. 3. Xenos has since expanded his argument, identifying Strauss with the critique of liberalism given by Carl Schmitt, whose book on *The Concept of the Political*, Strauss had reviewed both positively and critically in 1932 in (New York 2007).

[3] S. Horton, *The Letter*, www.balkin.blogspot.com; E. R. Sheppard, *Leo Strauss and the Politics of Exile: the Making of a Political Philosopher*, Lebanon 2006, p. 54–67.

[4] These remarks were originally prepared for that roundtable.

[5] S. Horton, *Will the Real Leo Strauss Please Stand Up?*, www.harpers.org/archive/2008, p. 2, quoting H. C. Mansfield, *Timeless Mind*, www.claremont.org/publications, p. 2.

[6] S. Horton, *Will the Real...*, p. 2.

Like Xenos, Horton was interested, finally, in maintaining the link between Strauss and the "neoconservative" foreign policy of the Bush administration. He thus concluded his article by reiterating his earlier judgment that Strauss had "clearly changed his attitudes as he came to see that the American project was not the unsustainable horror he first made it out to be. But," Horton insisted, "much of Strauss's tinkering and his thoughts about 'bolstering' American democracy go back to the Caesarism that was common coinage in the days of his university schooling. It clearly has been extremely influential. And not necessarily in a good way."[7]

In 2006 my husband Michael and I wrote a book entitled *The Truth about Leo Strauss* in which we argued that Strauss was not the "mastermind" behind the war in Iraq; both the individuals most closely associated with Strauss, Paul Wolfowitz and William Kristol, testified to this fact. Not only had Strauss been dead for 30 years, but, we also argued, a fair reading of his works would show that he did not support the Wilsonian idea of "making the world safe for democracy" or the Machiavellian politics attributed to him by members of the mass media.[8] We did not address this letter specifically. It was written not only before Strauss emigrated to the United States and observed the results of World War II, but also before he had discovered "persecution and the art of writing" (although in his article Xenos obscured that inconvenient fact).

The letter nevertheless raises the question: What did Strauss understand as "the right"? Did he endorse fascist, authoritarian, or imperialist political principles – in 1933 or later? The question about his understanding of "the right" proves to be quite far-reaching, for, in a letter to Gershom Scholem written on June 22, 1952, Strauss explained:

> I have moved, so to speak, contrary to G[uttman]'s moderate rationalism, on the path via a Jewish Thomism to radical "rationalism," [and I] am now therefore on the right wing (for the right is truth, the left is *sinister,* as no one knows better than you), whereas I stood on the left wing in *Philosophie und Gesetz:* Guttmann ever in the middle. (I am *now* attempting to reach a moderate "rationalism," but one that, I am afraid, would be even less acceptable to G. than my two earlier positions.)[9]

What did Strauss understand as "right," "left," and "middle" – or "moderate"? In his letter to Scholem, Strauss was clearly making a joke based on the well-known association of "left" with "sinister" in Latin and Italian to a friend he knew was a "man of the left," a friend of Walter Benjamin and Hannah Arendt. And he was applying those usually political terms to the question of the relation between reason and revelation or, as Strauss preferred to say, philosophy and law, to Judaism.

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[7] *Ibidem*, p. 4.

[8] C. H. Zuckert, M. P. Zuckert, *The Truth about Leo Strauss*, Chicago 2006.

[9] L. Strauss, *Hobbes' Politische...*, p. 728. On the development of Strauss's thought, especially in the course of the 1930s, see C. Zuckert, *Strauss's Way Back to Plato*, [in:] *Postmodern Platos*, Chicago 1996, p. 104–128; H. Meier, *How Strauss Became Strauss*, [in:] *Enlightening Revolutions*, ed. S. Minkov, Lanham MD 2006, p. 363–382; D. Tanguay, *Leo Strauss: An Intellectual Biography,* trans. Ch. Nadon, New Haven 2007.

But – and this is the point – Strauss also identified "the right" with truth – what is correct – and expected Scholem to agree. Following the Athenian Stranger in Plato's *Laws* (803c-e)*,* Strauss often emphasized the playful character of philosophy. But, if the "principles of the right" are the truth, to ask what Strauss understood to be the "principles of the right" is, in effect, to ask what he thought was true not merely about politics, but about everything.

Let me confine myself, therefore, to the question of Strauss's understanding of politics – practical politics – in the period between the two world wars in Germany and after the war in the United States. What should we make of his now infamous letter to Löwith? Should we take it to disclose Strauss's real, hidden, or not-so-hidden attachment to "fascism, authoritarianism, and imperialism"? I think not, for at least two reasons.

The first reason I do not think that this letter should be taken as the "key" to the real or secret meaning of Strauss's later writings and thought is that the letter was written before Strauss made and worked out the discoveries that led him to believe that the traditional or received views of the Islamic and Judaic medieval philosophers, Farabi and Maimonides, were wrong; they were not Aristotelians, but Platonists. And his new understanding of medieval political philosophy led him to a new understanding of ancient Greek thinkers like Hesiod, Herodotus, Xenophon, and, most important, Plato.[10] It is difficult to believe that Strauss's new understanding of the *political* character of philosophy would not have had some effect on his understanding of politics, especially as it related to his own position as a "man of science" or student of philosophy. And that is the explicit question addressed in the letter to Löwith.

Some critics of Strauss have suggested, on the contrary, that the fact that he had not yet discovered the "art of writing" or "secret teaching" is a reason to take the letter to Löwith as a statement of what Strauss truly believed: the letter reveals his true thoughts precisely because it was not an open or public document. Later he learned to hide his true thoughts – or opportunistically praised, somewhat, the country that granted him asylum.

That suggestion brings me to my second reason for not taking the letter as a statement of Strauss's true political principles. The letter concerns a question of political practice, i.e., what should be done by certain individuals or kinds of human beings in a specific set of circumstances. It is not a statement, much less an explanation of his political principles.

In his later writings, beginning as early as 1941 in a lecture entitled "What Can We Learn from Political Theory?" but re-stated emphatically in "An Epilogue" to the *Essays on the Scientific Study of Politics* and his introduction to *The City and Man,* Strauss insisted on the difference between theory and practice.[11] According to

[10] See especially the letters written to Jacob Klein included in: L. Strauss, *Gesammelte Schriften*, ed. H. Meier, Stuttgart 2001, Bd. 3, p. 455–605.

[11] *What Can We Learn from Political Theory?*, "The Review of Politics" 2007, Vol. 69, No. 4, p. 515––529. Nathan Tarcov gives an account of this lecture as well as that on "The Re-education of Axis Countries

Aristotle, whom Strauss takes as his authority on this subject, prudence is political or practical science; it is distinct from theoretical science, because it concerns particulars and things which could be other than they are. Prudence – or political science – is not, in other words, a demonstrative science like geometry. It concerns only the human things and not the whole. "Yet," Strauss observes, "prudence is always endangered by false doctrines about the whole of which man is a part, by false theoretical opinions; prudence is therefore always in need of defense against such opinions, and that defense is necessarily theoretical. The theory defending prudence is, however, misunderstood if it is taken to be the basis of prudence."[12] Like Aristotle, in most of his writings, Strauss appears to be a defender of prudence rather than a demonstrably prudent man, like Pericles (Aristotle's example, *NE* 1140b7-10) or Churchill (Strauss's example).[13] In order to defend the realm of prudence, Strauss criticized not merely contemporary social science, but modern political philosophy more generally. On the basis of that critique, he recommended a return to "classical political philosophy." But in his introduction to *The City and Man,* Strauss warned:

> The return to classical political philosophy is both necessary and tentative or experimental ... We cannot reasonably expect that a fresh understanding of classical political philosophy will supply us with recipes for today's use. For the relative success of modern political philosophy has brought into being a kind of society wholly unknown to the classics, a kind of society to which the classical principles as stated and elaborated by the classics are not immediately applicable. Only we living today can possibly find a solution to the problems of today. But an adequate understanding of the principles as elaborated by the classics may be the indispensable starting point.[14]

The mature Strauss's most succinct statement of classical principles and their application to modern circumstances can be found in his "Restatement" in *On Tyranny:* "Liberal or constitutional democracy comes closer to what the classics demanded than any alternative that is viable in our age. In the last analysis, however, the classical argument derives its strength from the assumption that the wise do not desire to rule."[15]

In 1933, when Strauss wrote the infamous letter to Löwith, he had not yet worked out his mature understanding of the principles elaborated by the classics, much less their application to contemporary politics. He was immediately – one

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Concerning the Jews," [in:] *Will the Real Leo Strauss Please Stand Up?*, "The American Interest" 2006, Vol. 2, No. 1, p. 121–123.

[12] *An Epilogue*, *Liberalism: Ancient and Modern*, New York 1968, p. 206.

[13] Strauss did not always judge what the circumstances would allow correctly. In his hitherto unpublished lecture on "The Re-education of Axis Countries Concerning the Jews," delivered at the public sessions on that topic at the annual meeting of the Conference on Jewish Relations, Sunday, November 7, 1943; "The Review of Politics" 2007, Vol. 69, No. 4, p. 530–538, Strauss explicitly departed from widely held beliefs or hopes in America by stating that in his view it would not be possible to establish a liberal democracy in post-World War II Germany. As I point out below, his estimation of conditions in post-World War II Germany fortunately proved to be wrong, but his own analysis and the principles upon which it was based did not change.

[14] *The City and Man*, Chicago 1964, p. 11.

[15] *On Tyranny,* ed. V. Gourevitch, M. S. Roth, New York 1991, p. 194.

might even say, urgently – concerned about what members of the "German-Jewish intellectual proletariat," including himself and Löwith, should do after the Nazis' rise to power in Germany. These Jews could no longer honorably live, much less earn their bread in the land where they had been born. To understand the significance of the letter, it is necessary to take account of the shared characteristics of the author and his addressee as well as the particular circumstances.[16]

As several other commentators on the letter have already pointed out, the full magnitude of the horror that was National Socialism was not evident in 1933. Strauss had, nevertheless, already concluded that there was "no acceptable possibility of living under the swastika, i.e., under a symbol that says nothing more to me than: you and your ilk, you are by nature subhumans and therefore justly pariahs." Strauss was not, in other words, **ever** a supporter, even tolerant of Nazism. He thought, on the contrary, that "there is in this case just one solution." He and Löwith and other German Jewish students of philosophy would have to become wanderers and exiles, living under the dominion of others as Maimonides had lived (and been forced to move from place to place) within the Islamic empire. "We ... 'men of science,' – as our predecessors in the Arab Middle Ages called themselves – *non habemus locum manentem, sed quaerimus* [we do not have a place to rest, but seek]." In the context set by the example of Maimonides, i.e., the need to emigrate from a land where they would be persecuted, but the possibility of working under a transnational empire, which might nevertheless force them to move about, it is not difficult to understand why Strauss would read with some pleasure about Caesar's victories over the barbarians in what became Germany or recall with particular appreciation the line from Virgil urging Roman conquerors "to spare the humbled and wear down the proud."

The line in the letter that has provoked the most outrage is Strauss's admonition to Löwith, following his recognition that they will all necessarily become exiles:

> The fact that the new right-wing Germany does not tolerate us says nothing against the principles of the right. On the contrary: only from the principles of the right, that is, from fascist, authoritarian and *imperial* principles, is it possible with seemliness, that is, without resort to the ludicrous and despicable appeal to the *droits imprescriptibles de l'homme,* to protest against the shabby abomination.

The question, I would point out, is how to protest against the shabby abomination. Strauss clearly does not endorse Hitler or his party. Quite the contrary.

[16] Critics who accuse Strauss or his students of ignoring the historical context in which texts were written misunderstand his argument concerning the "art of writing." To know whether an author has shaped his presentation to avoid persecution, much less to give a socially responsible teaching or to provoke readers to think for themselves, it is necessary to know something about the audience he was addressing, and that, in turn, requires knowledge of the historical context. What Strauss emphatically denied was that knowledge of the historical context was sufficient to understand the ideas of the author or the content of the text. See: L. Strauss, *Persecution and the Art of Writing*, "Social Research" 1941, Vol. 8, No. 4, p. 488–504, reprinted in: *Persecution and the Art of Writing*, Glencoe 1952, and *Political Philosophy and History*, "Journal of the History of Ideas" 1949, Vol. 10, No. 1, p. 30–50, reprinted in: *What Is Political Philosophy? And Other Studies*, Glencoe 1959.

Strauss does, however, characterize an appeal to the "inalienable rights of men" as "ludicrous and despicable." That characterization cannot fail to pain readers who are themselves attached to the promulgation and preservation of such rights – like most liberal Americans. Strauss was not living in liberal America, however. He had been living and was talking about an appropriate protest in the context of postwar, that is, post-World War I, Germany.

Having moved to liberal America, Strauss explained his understanding of the context, that is, the intellectual and political climate in postwar Germany, in a lecture he gave on "German Nihilism" on February 26, 1941, at the New School for Social Research.[17] Although that lecture was published in the Spring 1999 issue of *Interpretation,* I have not seen references to it in the internet exchanges about the Löwith letter (with the notable exception of the Mansfield review).

In this lecture Strauss argued that National Socialism was the best known species of a broader phenomenon he and others called German nihilism. He tried to explain not only what it was but also how it arose and why it was preeminently a German phenomenon. According to Strauss, German nihilism consisted, at bottom, in a desire to destroy modern civilization. This desire arose out of German militarism and fed on a desire to see Germany rule the world, but the desire was neither simply destructive nor simply imperialistic in origin. It arose primarily out of a moral revulsion against the debased character of modern life.

Why had nihilism emerged particularly in Germany? *Civilization* had come relatively late to Germany, Strauss observed, but (*pace* Ralf Dahrendorf) Strauss did not think this fact was sufficient to explain the rise of German militarism, much less German nihilism.[18] *Civilization* had come equally late to the Slavonic nations, and they did not appear to be as militaristic as the Germans. Strauss thought it was necessary to look at the history of German civilization itself. "Germany reached the heyday of her letters and her thought during the period from 1760 to 1830, i.e., *after* the elaboration of the ideal of *modern* civilization had been finished almost completely, and while a *revision* of that ideal, or a *reaction* to that ideal, took place." The problem was not merely that the ideal of "*modern* civilization" was of foreign, i.e., English and French origin, however. The problem was with the character or content of that ideal. Strauss recognized that "the meaning of that ideal is a highly controversial question." He nevertheless thought that one could

> define the tendency of the intellectual development which as it were exploded in the French Revolution, in the following terms: to lower the moral ... claims, which previously had been made by all responsible teachers, but to take better care than those earlier teachers had done, for the putting into ... political and legal practice, the rules of human conduct. The way in which this was most

[17] According to S. Shell, *To Spare the Vanquished and Crush the Arrogant*, [in:] *Cambridge Companion to Leo Strauss*, ed. S. B. Smith, Cambridge 2009. "Strauss's audience consisted of fellow members of the General Seminar, a group of distinguished scholars, most of them refugees, whose common topic that year was 'Experiences of the Second World War.'" (p. 173).

[18] R. Dahrendorf, *Gesellschaft und Demokratie in Deutschland*, München 1968.

effectually achieved was the identification of morality with an attitude of claiming one's *rights,* or with enlightened self-interest.[19]

We now see why Strauss thought an appeal to the "rights of man" would be despicable; such an appeal involved an identification of morality with a mere calculation of self-interest.

Strauss did not think that the reaction of German thinkers to this lowering of moral and philosophical standards was successful, however, either in its first 19th century "idealist" or in its second 20th century "nihilist" form. In "opposing the identification of the morally good with the object of enlightened self-interest," he observed, "German philosophers ... insisted on self-*sacrifice* and self-*denial.* They insisted on it so much, that they were apt to forget the natural aim of man, which is happiness." Because "the difference between the noble and the useful ... is *most* visible in the case of one virtue, courage, ... German philosophers ... [like] Fichte, Hegel, and Nietzsche ... succumbed to the temptation to overstress the dignity of military virtue."[20]

Nineteenth-century German philosophy "conceived of itself as a *synthesis* of the pre-modern ideal and the ideal of the modern period." But, Strauss pointed out, the synthesis did not work.

> In the 2nd half of the 19th century, it was overrun by Western positivism, the natural child of the Enlightenment. Germany had been educated by her philosophers in contempt of Western philosophy; she now observed that the synthesis effected by her philosophers, of the pre-modern ideal and the modern ideal, did not work; she saw no way out except to purify German thought completely from the influence of the ideas of modern civilization, and to return to the pre-modern. National Socialism is the most famous, because the most vulgar, example of such a return to a pre-modern ideal. On its highest level, it was a return to what may be called the pre-literary stage of philosophy, pre-Socratic philosophy [i.e., Heidegger].[21]

Strauss indicates his own disagreement with and departure from this German philosophical tradition when he concludes, "On *all* levels, the pre-modern ideal was not a *real* pre-modern ideal, but a pre-modern ideal *as interpreted by* the German idealists, i.e. interpreted with a polemic intention against the philosophy of the 17th and 18th century, and therefore distorted.

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[19] L. Strauss, *German Nihilism*, "Interpretation" 1999, Vol. 26, No. 3, p. 371 (Wiebke Meier's corrections to the version initially printed were published in "Interpretation" 2000, Vol. 28, No. 2, p. 33–34).

[20] *Ibidem*.

[21] *Ibidem*, p. 372. Strauss pointed to the same connection – and distinction – between lower and higher forms of German "nihilism" when he later wrote that "it was contempt for these permanencies which permitted the most radical historicist in 1933 to submit to, or rather to welcome, as a dispensation of fate, the verdict of the least wise and least moderate part of his nation while it was in its least wise and least moderate mood, and at the same time to speak of wisdom and moderation. The biggest event of 1933 would rather seem to have proved, if such proof was necessary, that man cannot abandon the question of the good society, and that he cannot free himself from the responsibility for answering it by deferring to History or to any other power different from his own reason" (*WIPP*, p. 27).

As in his later essay entitled *What Is Political Philosophy?* so in his lecture on German nihilism, Strauss emphasized the influence of Nietzsche on post-war Germany.[22] "Nietzsche asserted that the atheist assumption is not only reconcilable with, but indispensable for, a radical anti-democratic, anti-socialist, and anti-pacifist policy: according to him, even the communist creed is only a secularized form of theism."[23]

Having been taught by their greatest thinkers that there is no virtue higher than courage, in the early twentieth century German youths saw their nation defeated in war and forced to adopt a form of government that proved patently ineffective. Strauss summarized his understanding of the character of post-World War I Germany and thus the context in which he wrote the letter to Löwith as follows:

> No one could be satisfied with the post-war world. German liberal democracy of all descriptions seemed to many people to be absolutely unable to cope with the difficulties with which Germany was confronted. This created a profound prejudice, or confirmed a profound prejudice already in existence, against liberal democracy as such.[24]

We see now why Strauss did not think it would be appropriate or effective to protest the rise of the Nazis in 1933 by appealing to liberal principles or the rights of man.

In post-World War I Germany, Strauss reported, there were "two articulate alternatives to liberal democracy... One was simply reaction," i.e., an attempt to turn back the wheel of history. "The other alternative was more interesting." Its proponents "asserted that the conflicts inherent in the present situation would necessarily lead to a revolution, accompanying or following another World War – a rising of the proletariat and of the proletarianized strata of society which would usher in the withering away of the State, the classless society, the abolition of all exploitation and injustice, the era of final peace."[25]

Critics who characterize Strauss as a conservative should take note of his critique of the first alternative. Objecting to Hermann Rauschning's characterization of National Socialism as "nihilistic," because it led to the "destruction of all traditional spiritual standards,"[26] Strauss commented:

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[22] *WIPP*, p. 54–55. Both in this lecture and in his restatement of the point in *WIPP*, Strauss insists that Nietzsche was not directly responsible for, nor would he have welcomed the "vulgar" form of German nihilism. Nevertheless, Strauss also insisted that Nietzsche's influence was an important factor contributing to its emergence.

[23] L. Strauss, *German Nihilism*..., p. 361–362.

[24] *Ibidem*, p. 359.

[25] *Ibidem*, p. 359–360.

[26] H. Rauschning, *The Revolution of Nihilism: Warning to the West*, New York 1939. According to Shell, "To Spare," 173, "Rauschning was a former Nazi who criticized the movement from the standpoint of a disillusioned conservative nationalist." His text had recently been translated into English and was the assigned text for the seminar.

> It is evident that not all traditional spiritual standards are, by their nature, beyond criticism and even rejection: we seek what is good, and not what we have inherited, to quote Aristotle ... I believe it is dangerous, if the opponents of National Socialism withdraw to a mere conservatism which defines its ultimate goal by a specific *tradition.* The temptation to fall back from an unimpressive present on an impressive past – and every past is as such impressive – is very great indeed. We ought not, however, cede to that temptation, if for no other reason, [because] *the* Western tradition is not so homogeneous as it may appear ... To mention one example out of many: the great tradition of which Voltaire is a representative, is hard to reconcile with the tradition of which Bellarmine is a representative, even if both traditions should be equally hostile to National Socialism.[27]

Strauss also objected to Rauschning's reference to a "spiritual" tradition. He believed that "materialism is an error, but [he had] only to recall the names of Democritus and Hobbes in order to realize that materialism is *not* essentially nihilistic."[28]

It would not have been effective to protest the "shabby abomination" that was Nazism with an appeal to the left any more than with an appeal to the liberal "rights of man," Strauss suggested, because German nihilism arose in reaction to the "more interesting" communist alternative. "The prospect of a pacified planet, without rulers and ruled, of a planetary society devoted to production and consumption only ... was positively horrifying to quite a few very intelligent and very decent, if very young, Germans ... What to the communists appeared to be the fulfillment of *the* dream of mankind appeared to those young Germans as the greatest debasement of humanity" (360). We now see – or should see – why Strauss thought that the only effective or suitable ground of protest against the Nazis would have to come from the right. The young decent Germans who were repelled by the debasing of human aspiration in the modern project needed to be shown another alternative. They were not.

Strauss thought that it was easy to locate "the fallacy committed by the young men in question. They simply took over the communist thesis that the proletarian revolution and proletarian dictatorship is necessary, if civilization is not to perish." But these young men took the "if" to signify a choice; they could bring about the destruction of civilization rather than accept the historical "inevitability" of pacification with what they called "irrational decision." These

> adolescents were in need of teachers who could explain to them in articulate language the positive, and not merely destructive meaning of their aspirations. They believed [they had] found such teachers in the group of professors and writers who knowingly or ignorantly paved the way for Hitler (Spengler, Moeller van den Bruck, Carl Schmitt, Ernst Juenger, Heidegger).[29]

These authors all urged the supreme nobility of courage and berated the emptiness, if not vulgarity of liberal, bourgeois existence. Strauss thought that "only

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[27] L. Strauss, *German Nihilism*..., p. 367.

[28] *Ibidem*.

[29] *Ibidem*, p. 362.

one answer [to the nihilist thesis] was given which was adequate and which would have impressed the young nihilists if they had heard it. It was not however given by a German and it was given in the year 1940 only." Strauss thought that "those young men ... would have been impressed as much as we were, by what Winston Churchill said after the defeat in Flanders about Britain's finest hour."[30]

It is possible to seize victory out of seeming defeat. Strauss never accepted the thesis of historical inevitability, common to both the left and the right reaction against it, in post-World War I Germany. He thought that individual leaders could and should make a difference. Reporting on his own experience in postwar Germany in the preface he wrote in 1965 to the English translation of *Spinoza's Critique of Religion,* Strauss observed that "the weakness of the Weimar Republic made certain its speedy destruction," but that weakness "did not make certain the victory of National Socialism. The victory of National Socialism became necessary in Germany for the same reason the victory of Communism had become necessary in Russia: the man who had by far the strongest will or single-mindedness, the greatest ruthlessness, daring, and power over his following, and the best judgment about the strength of the various forces in the immediately relevant political field was the leader of the revolution."[31] If a man like Churchill had arisen in Germany, instead of Hitler, history might have been different.

In a lecture he gave two years later on "The Re-education of Axis Countries Concerning the Jews" Strauss conceded that the philosophical education of the most promising young people in Germany for the last century made the emergence of such an individual highly unlikely. Before I move to that lecture, however, I want to emphasize two conclusions Strauss drew in his talk on *German Nihilism*, because they show what kind of imperial rule he did and did not endorse. First, he stated:

> I believe that Nietzsche is substantially correct in asserting that *the* German tradition is very critical of the ideals of modern civilization, and those ideals are of *English* origin. He forgets however to add that the English almost always had the very un-German prudence and moderation ... to conceive of the modern ideals as a reasonable adaptation of the old and eternal ideal of decency, of rule of law, and of that liberty which is not license, to changed circumstances. This taking things easy, this muddling through, this crossing the bridge when one comes to it, may have done some harm to the radicalism of English thought, but it proved to be a blessing to English life ... Whatever may be wrong with the peculiarly modern ideal: the very Englishmen who originated it, were at the same time versed in the classical tradition, and the English always kept in store a substantial amount of the necessary counterpoison.[32]

Strauss therefore concluded: "In defending modern civilization against German nihilism, the English are defending the eternal principles of civilization. No

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[30] *Ibidem*, p. 363. The editors of the lecture, David Janssens and Daniel Tanguay, suggest that the next sentence, "For one of their greatest teachers had taught them to see in Cannae the greatest moment in the life of that glory which was ancient Rome" refers to "Schmitt" added by hand above the line. (*Ibidem*, p. 375, No. 11).

[31] *Spinoza's Critique of Religion*, Chicago 1997, p. 1.

[32] L. Strauss, *German Nihilism*..., p. 372.

one can tell what will be the outcome of this war," he admitted, again expressing his opposition to any notion of historical inevitability.

> But this much is clear beyond any doubt: by choosing Hitler for their leader in the crucial moment in which the question of who is to exercise planetary rule became the order of the day, the Germans ceased to have any *rightful* claim to be more than a provincial nation; it is the English, and not the Germans, who *deserve* to be and to *remain,* an *imperial* nation: for only the English, and not the Germans, have understood that in order to *deserve* to exercise imperial rule, *regere imperio populos,* one must have learned for a very long time to spare the vanquished and to crush the arrogant.[33]

You will recognize the phrase from the infamous 1933 letter and now understand its significance. It distinguishes rightful from cruel and violent rule.

The fact that Strauss rejected any thesis about historical inevitability did not mean that he thought the facts were irrelevant or without power.[34] When he was asked to speak on the prospects for "The Re-education of Axis Countries Concerning the Jews" at the annual meeting of the Conference on Jewish Relations, Sunday, November 7, 1943, Strauss once again expressed his pessimism about the possibility of establishing a liberal democracy in post-World War II Germany. He remembered "the argument of German students in the early 1920s: a country whose policies are *not* fettered by moral considerations is, other things being equal, twice as strong as a country whose policies are fettered by moral considerations." But he pointed out that "it is evident that this doctrine is subject to the test of sense-experience and hence that the Nazi doctrine is a force only as long as Nazi strategy is successful. The victory of the Anglo-Saxon-Russian combination, if followed by a just and stern and stable peace, will be *the* refutation of the Nazi doctrine, and thus will uproot Nazi education. No proof is as convincing, as *educating,* as the demonstration *ad oculos:* once the greatest German blockheads, impervious to any rational argument and to any feeling of mercy, will have seen *with their own eyes* that no brutality however cunning, no cruelty however shameless can dispense them from the necessity of relying on their victims' *pity* – once they have seen *this,* the decisive part of the re-educational process will have come to a successful conclusion."[35]

Strauss recognized that his auditors might well respond,

> it is one thing for the Germans to realize that the Nazi doctrine was erroneous ...; [but] it is another thing for the Germans to discover the true doctrine and the right type of education. ... We are then confronted with the question 'what is the true doctrine?

With regard to the questions raised concerning Strauss's understanding of "right," his "political principles," and his stance toward "liberal democracy," I urge

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[33] *Ibidem*, p. 373.

[34] L. Strauss's book on *Natural Right and History*, Chicago 1954, constitutes his extended response to this thesis.

[35] *Re-education*..., p. 532.

you to pay particular attention to Strauss's response: **"We shall not hesitate to answer: liberal democracy."** But Strauss then asked, "will liberal democracy have any appeal to, any attraction for, the Germans?

A German form of collectivism – perhaps an authoritarian regime of the bureaucracy based on a resuscitated authoritarian interpretation of Christianity perhaps – but not liberalism."[36] Strauss was, fortunately, proved wrong in his estimation of the receptivity of Germans to liberal democracy by events, but he was certainly consistent in stating his own view of their resistance to it.[37] With regard to his supposed sponsorship of the American war in Iraq, it is also important to emphasize the cautionary statement he gave of what Americans or others could do in Germany. He stated without equivocation: "A form of government which is merely imposed by a victorious enemy will not last."[38]

In his post-war published writings Strauss consistently maintained that liberal democracy was the best possible, practical political option under the present circumstances and criticized both the left and right alternatives to it. Strauss's description of *The Three Waves of Modernity* gives a succinct account of his understanding of the "crisis of modernity," its philosophical roots, and its practical, political implications.[39]

Although history as a whole did not have a necessary or inevitable direction, Strauss argues, there is a logical and in this sense necessary progression to modern thought. The natural rights philosophy originated by Thomas Hobbes and John Locke could not withstand the critique leveled at it by Jean Jacques Rousseau and his German followers.

Moreover, Rousseau's critique gave rise to the romantic reaction against modern rationalism, in both its liberal and historical forms, that culminated in Nietzsche. But Strauss drew the following "political conclusion" from his analysis of the "progress" of modern political philosophy.

> The theory of liberal democracy, as well as of communism, originated in the first and second waves of modernity; the political implication of the third wave proved to be fascism. Yet this

[36] *Ibidem*, p. 532–533. The reasons Strauss gives for his pessimistic judgment concerning the possibility of establishing a liberal democracy in post-World War II Germany in his lecture on "Re-education" echo his description of political conditions in post-World War I Germany in "German Nihilism": "Where are the roots, in German soil, of liberal democracy? Of course, there is a tradition of German liberal democracy – but we have to add, a tradition of political *inefficiency* of German liberal democracy. It came to power only once: after Germany's defeat in the last war. Seven years later, long before the economic world crisis, it was already doomed: the election of Hindenburg to the presidency of the Reich in 1925, and, more visibly, the demonstrations in the streets of the German cities after the election, showed to everyone who did not deliberately blind himself, where Germany was going. Nothing really *known* permits us to indulge the hope that the politically efficient part of the German people has changed their minds as regards liberal democracy."

[37] Strauss may have recognized and sought to correct this error when he later observed in "What Is Political Philosophy?" that Nietzsche "prepared a regime which, as long as it lasted, made discredited democracy look again like the golden age" (p. 55).

[38] *Re-education*..., p. 533.

[39] *An Introduction to Political Philosophy: Ten Essays by Leo Strauss,* ed. H. Gildin, Detroit 1989, p. 81–98.

undeniable fact does not permit us to return to the earlier forms of modern thought: the critique of modern rationalism or of the modern belief in reason by Nietzsche cannot be dismissed or forgotten. This is the deepest reason for the crisis of liberal democracy.[40]

Strauss brought out the problems in the philosophy upon which modern liberal democracies had been founded not only as a matter of intellectual probity but also, and most importantly, because he thought these problems could not be addressed, much less remedied, unless they were recognized. He did so, however, explicitly as a friend of liberal democracy. In an oft-quoted statement, he explained:

> We are not permitted to be flatterers of democracy, precisely because we are friends and allies of democracy. While we are not permitted to remain silent on the dangers to which democracy exposes itself as well as human excellence, we cannot forget the obvious fact that by giving freedom to all, democracy also gives freedom to those who care for human excellence.[41]

As in his earlier talk on *German Nihilism*, so in his later talk on "The Three Waves of Modernity," Strauss emphasized the difference between the defective theoretical foundation of modern liberal democracies and their practical political advantages when he concluded *The Three Waves of Modernity* by insisting:

> The theoretical crisis does not necessarily lead to a practical crisis, for the superiority of liberal democracy to communism, Stalinist or post-Stalinist, is obvious enough. And above all, liberal democracy, in contradistinction to communism and fascism derives powerful support from a way of thinking which cannot be called modern at all: the pre-modern thought of our western tradition.[42]

Strauss clearly tried not only to revive that pre-modern thought but also to show how it supported a liberal democratic, i.e., a mixed and hence limited, form of government under law. Although Strauss thought that a liberal democracy was the best regime that could be established and maintained in the twentieth century, he did not think that it could or should be instituted in all places under all conditions. There was, in his mind, no general "law" or "solution" that could substitute for the prudence and leadership of an eminent individual statesman like Churchill in determining what should be done in any particular set of circumstances. There was, however, the even broader understanding of political affairs characteristic of "classical political philosophy." And it was in describing that understanding that Strauss applied the phrase he took from Virgil about sparing the vanquished and crushing the arrogant for a third and last time. In *What Is Political Philosophy?* Strauss wrote:

> Classical political philosophy is ... comprehensive; it is both political theory and political skill; it is as open-minded to the legal and institutional aspects of political life as it is to that which

[40] *Ibidem*, p. 98.

[41] *LAM*, p. 24.

[42] *Three Waves*..., p. 98.

transcends the legal and institutional; it is equally free from the narrowness of the lawyer, the brutality of the technical, the vagaries of the visionary, and the baseness of the opportunist. It reproduces, and raises to perfection, the magnanimous flexibility of the true statesman, who crushes the insolent and spares the vanquished. It is free from all fanaticism because it knows that evil cannot be eradicated and therefore that one's expectations from politics must be moderate.[43]

As Strauss suggested in his 1952 letter to Scholem, he understood the "principles of the right" to consist in a true knowledge of politics or – as he often put it – of natural right.

[43] *What Is Political Philosophy?...*, p. 27–28.

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HEGEL AND PROGRESSIVISM

We often assert that the United States' constitutional principles began to change near the beginning of the twentieth century. This change is associated with "progressivism." It was trumpeted by publicists and authors such as Herbert Croly and John Dewey, and implemented by political leaders such as Woodrow Wilson and the two Roosevelts. Progressivism involves moving away from limited government toward the beginnings of the welfare state, increasing the regulation of business, expanding the dominance of the President over Congress, justifying direct appeals from the President to the people (leadership as opposed to statesmanship), and attacking the teaching of individual natural rights in favor of group interests, mass appeals, and some forms of (weak) collectivism.

While searching for a serious intellectual ground for this movement, scholars have alighted upon Hegel.

> The influence of German political philosophy is evident […] from the historical pedigree of the most influential progressive thinkers. Almost all of them were either educated in Germany or had as teachers those who were […] Johns Hopkins University, founded in 1876, was established for the express reason of bringing the German educational model to the United States, and produced several prominent progressives, including Wilson, Dewey, and Frederick Jackson Turner. Among other things, American progressives took from the Germans – and especially from the German philosopher G. W. F. Hegel and his disciples – their critique of individual rights and social compact theory and their organic or "living" notion of the national state.[1]

[1] R. J. Pestritto and W. J. Atto in the introduction to their *American Progressivism: A Reader*, Lexington Books 2008, p. 5–6.

My purpose is to add to the understanding of American constitutionalism by discussing the connection between Hegel and progressivism. Of course, to employ Hegel merely to discuss progressive changes in the American regime is akin to using Brahms to explain the structure and power of film scores. One might argue that Brahms and Hegel are more interesting – and from the self-levitating point of view of political philosophy more important – than what they are being used to explain. So, while I will point out elements of Hegel's intersection with progressivism, I also want to say something about his thought itself.[2] Hegel's thinking and its subjects are too large to be captured fully by progressivism, and progressivism is too narrow to capture fully even the politics of its time, let alone ours.

The Problem of Influence: I

Some of what I say about Hegel and modern government, therefore, will cover matters that are not exclusively or especially progressive. I will also not try to trace specific influences of the variety from Morris's lectures, to Dewey's notebooks, to Roosevelt's speeches.[3] How to assess the power of such influences is a difficult matter, not least because of the just mentioned disproportions between thought and politics, and between politics generally and any particular political movement. Thought and politics cannot be reduced to each other. Satisfying our interests, expressing our virtues, and following our opinions about what is right and wrong politically have their own motive powers that are not equivalent, in the flesh, to seeking the truth. A philosophic life is never fully at home politically. Political life is irreducibly contingent, ephemeral, and imperfect.

In the case of progressivism, for example, several factors were effective other than, or in addition to, lessons learned from Hegel. Politically, we may list the wishes to respond to growing urbanization, to massive business and financial combinations, to citizens' exposure to business cycles, and to political ineffectiveness in dealing with them. Yet, on reflection, neither these problems nor the wishes and ways to respond to them are self-announcing or self-defining. By what standards, and within what conceptions, do such problems proclaim themselves as problems, and from what standpoint are solutions generated and considered to be plausible? Poverty that yesterday was acceptable, or even spiritually glorified, becomes unacceptable today. Last month's trusted public benefactors become this week's private monopolists, whose trusts need busting. Temporary victims of economics' natural

[2] I will limit my analysis to the *Philosophy of Right*. All references to the *Philosophy of Right* will be by paragraph number (e.g. #238), and the associated additions (e.g. #239A). Translations will be from Allen Wood's edition. G. W. F. Hegel, *Grundlinien der Philosophie des Rechts*, Hamburg 1955. The work was first published in 1821. Idem, *Elements of the Philosophy of Right*, ed. by A. W. Wood, translated by H. B. Nisbet, Cambridge University Press 1991.

[3] Dewey studied at Johns Hopkins with George Sylvester Morris. Morris studied in Germany in the 1860s, and wrote *Hegel's Philosophy of the State and History* in 1887.

laws become causes of public concern with whom we deal by better grasping those laws' limits and opportunities. Salutary political circumspection in the face of private action becomes inappropriate or even despicable political lethargy.

To say that the problems and solutions are not self-announcing, however, is not to say that they are based on fantasy, or on conceptions that must be altogether new. Within a notion of freedom, equality, and constitutionalism similar to Madison's and Hamilton's, for example, someone at the close of the nineteenth century could well have worried legitimately about huge disparities in wealth, monopolistic restrictions to freedom and competition, and the assimilation of immigrants. Indeed, it is sometimes hard to distinguish differences among liberal-republican responses to these facts, more immediate responses based on interest, and responses grounded on new "progressive" thoughts.

To the degree that new constitutional thoughts are important, moreover, we could hardly attribute them solely to Hegel, and to British and American Hegelians. We would need at least to consider the influence of Darwin and Marx (not to speak of lesser thinkers), remembering as well the tie between Marx and Hegel. We would also need to consider how a new or partially new frame for understanding politics is influenced by thinkers not only immediately but also indirectly, through the way they are taught or grasped socially, artistically, and economically. Social Darwinism and the aesthetic Nietzscheanism of, say, the Stefan George circle have political-intellectual effects different from the effects that Darwin and Nietzsche hoped to have had. Moreover, policy or institutional changes that we might associate with Hegel, or with a constitutionalist response to the facts progressives thought they faced may, in fact, have less to do with either of these than with the effects of the condition of American equality that Tocqueville discussed. Perhaps it is generally true, as Plato suggests in his *Republic*, that regimes and principles of justice have their own momentum and direction. Of course, these very changes can provide sympathetic access to certain thinkers, or slow the reception of others.

The Problem of Influence: II

These tangled connections might seem to be impenetrable. Many thinkers and much choice and action mingle in a disordered forest. Yet, a step back shows that the influence of thinkers on political life is, indeed, often significant and direct. The founding period of the United States is the obvious and remarkable example, and we can discern in it the importance and even dominance of Locke and Montesquieu, whatever the other factors.

The influence of such thinkers, moreover, comes not only from the power of their immediate rhetoric and practice, but also from their highlighting or summarizing truths or partial truths. This, indeed, is the major source of the effect of their arguments. Locke uncovers natural rights, and the associated human character and

political institutions, in a manner that attracts those who follow him, and he shows how these truths can form or organize economic concerns, opinions about justice, and intellectual discoveries, even though these always remain somewhat independent of political control. Such visible uncovering of natural truths, moreover, can increase their causal power by connecting them directly to human freedom and education, and by insinuating them attractively, and more or less coherently, into human actions and intentions, even the actions of those who are no longer directly influenced by thought. This coherence can also enable those of us who look back to see what was, and is, happening. Rousseau, for example, uncovers and inspires us to the romantic, and makes coherent, visible, and more easily choosable many practical and intellectual phenomena that we can organize under romanticism's banner. But he does not invent these phenomena or, even, the phenomenon of the romantic. Nor, surely, is his thought the only cause of love, or the only significant thinking about it. The central philosophers uncover the grounds, alternatives, and coherence that make sense of the phenomena of everyday life. They are therefore able to enhance the immediate power of these grounds and this coherence, the standards and guidelines that we wittingly or unwittingly experience and seek in our actions and thoughts. By bringing things out and bringing them together in their brilliant and impressive way, they sometimes seem to have invented altogether new passions, forms of character, purposes, and institutions.

It is especially in this way that we may understand Hegel's link to the progressives. Hegel influenced several German, British, and American thinkers directly, and they, in turn, influenced their students, both scholars and political officials. This is plain in Great Britain, where the famous or famously overeducated British civil servants of the late 19th through at least the mid-20th century were products of the education put in place by British Hegelians such as T.H. Green. But, as we said, many factors other than Hegel's thought are also at work in establishing progressivism or recommending that we act progressively, and some "progressive" policies are prudent responses to changed circumstances, from a founding, constitutionalist, standpoint. The basic connection between Hegel and progressivism is that his thought shows what is coherent and, arguably, true in these factors, in our being subject to, noticing, experiencing, and responding to them freely. In addition to, and connected with, his more direct influences, Hegel therefore enables many subsequent "progressive" actions to be chosen or developed, or to attain added strength, because he brings them, or the truths and links that underlie them, to the fore. Obviously, he is not responsible for each action that results from his having argued as he did, or for every distortion of his thought.

The best way to discover the newly apparent elements and coherence of elements that link Hegel to the progressives is to trace his novel thought about right or justice, in the *Philosophy of Right*. Hegel thinks of this work as "natural right and political science in outline," i.e. he gives a traditional alternative title to his radical

book.[4] A notion of natural right, in turn, is the heart of the American regime that the progressives sought to change. As we will see, much of what makes sense in the progressives can be anchored in Hegel's new understanding of right. Not all of progressivism can be, however, and we will also point out important differences.

Individual Right

The first way that Hegel revolutionizes thinking about natural right (and in a manner linked to the progressives), is to argue that individual right is inherently substantive, not abstract. The starting point of his political and moral thinking is each of us in his infinite personality. This means that each one can see himself apart from any engagement, and then go on to see himself as having tied himself to his engagements freely. This might suggest, contrary to what I just said, that our rights are in fact completely devoid of content. Both I and any particular outside activity, however, prove to be both unstable and unstatable if either of the separate halves is fully pressed or absolutized. They are in truth two halves of a whole.

> Whatever the will has decided to choose [...] it can likewise relinquish [...]. But with this possibility of proceeding in turn beyond any other content which it may substitute for the previous one, and so on *ad infinitum*, it does not escape from finitude, because every such content is different from the form...and therefore finite; and the opposite of determinacy – namely indeterminacy, indecision, or abstraction – is only the other, equally one-sided moment. (#16)

Neither my abstract personality and its rights nor my arbitrary interests but, rather, my concrete singularity or individuality is the first subject of justice.

Every apparent whole (such as the union of abstract will and arbitrary content) proves to be unstable, unfixable if chosen and impermanent when it is considered. It is part of another whole, which is, in turn, part of still another whole and so on and on until we reach *the* whole. The movement from part to whole to part to whole is Hegel's famous dialectic, which is how the reason or logic in things manifests itself to us when we seek to understand, and how the reason in things forms our will and freedom, that is, how it manifests itself in, and defines, the imperfections and gathering points that spur us on when freely recognized.

Property

The partialness of the person, of subjectivity, means that the realm that makes up the rights that belong to us as persons, the realm of what Hegel calls abstract right, cannot, in fact, stand on its own. Therefore, a politics whose justice and institutions

[4] Consider the title pages in Hoffmeister's edition.

are based simply on abstract right cannot stand on its own. The liberal natural rights understanding is insufficient, both practically and theoretically, because liberal natural rights are not independent truths. Liberal politics is a vital core of right, but it is destined to be overcome or subsumed.

I will now elaborate Hegel's argument in order to set the stage for comparing it to progressivism, so that we can see how it provides coherence to progressivism and, also, shows some of progressivism's limits. Property is the first stage of abstract or natural right, as it is in Locke. Property, as Hegel understands it, is the free human forming of material, such that ownership is not actually attached to the material. From the point of view that melds property with the body, such detachment is remarkable. When we consider it, indeed, we see that it is precisely this detachment that constitutes the forming of material things by my own immateriality. Property, however, is only a first stage in this forming, because right also implies, is defined by, and tends toward the recognition of free human forming itself. It is not only that we can make material things freely our own, but also that we can treat and deal with ourselves in this freedom. This happens when we contract with each other, because a contract fixes and establishes not so much something that I own as my free ownership itself, and my possibility of disposing of what is mine. While we can own what is not human, we can contract only with other men.

When we make contracts, however, we are still recognizing our freedom as serving our interests. We have not yet achieved the free establishing of our own will, our recognition of the objective course of our will, our freedom in all things. At the level of property and contract, our actual recognition of free humanity, as such, apart from specific interests, occurs when we punish criminals who violate us in our property. For when we punish them we are acknowledging them in their freedom simply, acknowledging them in a possibility of infinite action, but one carried out negatively. We punish criminals in their possibility of choice, not as animals enslaved to need.

Morality

This discussion of criminals or "wrong" completes Hegel's analysis of the logic and movement of rights that occurs once we begin to step along the path of seeing ourselves in terms of our infinite freedom. If there were no more to say than this, however, it would be difficult to justify his notion that rights have stability and completion only substantively, and not when limited to questions of property, contract and crime. As Hegel sees it, to punish criminals is, in fact, not to complete moral and political reason, because to punish criminals out of implicit respect for their freedom is to see that freedom negatively. In punishing, we negate their own negativity, but we do not thereby establish our own free action in all its actual power. In owning, contracting, and punishing, freedom has not been chosen for its

own sake, for the sake of its own power. Our fuller freedom, the truer expression of the idea of freedom, is the positive actualizing of what is reasoning or universal in us. It is forming things, or, at least, the possibility of forming things, by our free choice because we are free. For freedom or will truly to unfold and be itself, therefore, it cannot simply be negative and a matter of punishing, but must also actualize itself positively. It can do this by willing what is positively good.

Such will and freedom are the substance of what we think of as morality. Morality seeks to shape my choices through my recognizing what is universal, and therefore, free and reasoning in me. I no longer act as a willing and rational being merely because this is what I am, but, now, because I understand that this is what I am. In this way morality makes me "good" and makes my choices good. Thus, for our abstract rights to be fully free, for them to be components of our positively actualized and recognized freedom, they must be universalized and chosen morally. Indeed, they must be universalized morally if they are to endure at all, because merely negative rights cannot satisfy and complete the practical reason and will that are their motive force. (Hegel offers powerful examples throughout the *Philosophy of Right* of the dissatisfaction, contradiction, and irresolution that occur at each stage that pretends to be, but is not in fact, the full actualizing or conceptualizing of right.)[5] We must come to choose our rights as good and, indeed, see ourselves as choosing these goods simply because they are good, and because we are able to choose what is good simply because it is good. We must choose our rights because we recognize ourselves as able to choose what is good, and not only because they serve our interests. If we fail to do this we fail to choose our own freedom and reason, fail to recognize and actualize ourselves as free. Morality is, therefore, not an add-on to abstract right. Rather, right belongs to morality; it is part of moral choice. There is no stable abstract right without morality; abstract right points to morality as completing, stabilizing, and actualizing the freedom in which abstract right is grounded, but which it only imperfectly encapsulates. Morality is thus a truer or more complete component of freedom than are the abstract, or as we might call them from Hobbes onward, natural rights.

Morality's Limits

The attempt to be moral, our self-consciousness about our ability freely to choose what is good because it is good and because we are free to choose it, does not yet complete Hegel's discussion. Moral self-knowledge cannot itself tell us what is good substantively, and until we know this, disjunctions necessarily exist between the will to do good and what is actually good. These disjunctions motivate us toward a freedom and right that is still more whole and complete than what moral

[5] Consider, for example, his discussion of hypocrisy and his remarkably prescient analysis of our current form of intellectual irony, i.e. non-Socratic irony, in #140, and the addition to it.

impulse alone can offer. Merely filling our interests according to rules of property, contract, and criminality, and then recognizing our ability freely to choose what is good because it is good, still leaves too much tension, or even contradiction, between our interests and our moral capacity, between our particularity and our universality. For these tensions to be overcome, and for us to will what actually is good because it is good, we must come subjectively to choose and recognize ourselves and our interests as part of an objective, universal form that permeates these interests, and does not merely float above or alongside them. Otherwise, free choice and particular interests fly apart, and I am not able fully to choose myself as rational and free.

Moral freedom as the will simply to be good tends to abstract itself from any connection to particular actions and institutions, all of which seem imperfect to it. Morality tends to an abstract righteousness. Indeed, the resultant passivity or isolation is but a short step from its twin, the destruction of all difference in the name of universal purity. So, if moral universality and individual abstract rights do not effectively interpenetrate, then what is rational and universal will not actually place itself in things and organize them. Moral reason is not the final stage of human freedom, because it is empty universality; when the abstract moral impulse is treated as the last word it can become nihilistic precisely because it seems to be necessarily at odds with the world of actual interests. If our freedom knows no step beyond the moral universal, even in so remarkable a form as Kant's, let alone in some doctrines of the French Revolution, we will not actually and freely be choosing and being ourselves throughout a range of articulated determinations. But, it is precisely this articulating that is the substance of our letting reason go to work in things, letting it form things, seeing our own freedom, will, and reason objectively outside ourselves, and yet choosing them subjectively as ourselves. For this articulation to occur, not only the abstract right of property, but also the structures and processes by which I hold property, must be elevated to matters of moral choice. My moral freedom, choosing my actions as and because I recognize that I am a free, universal, rational, being must be able to satisfy my interests and welfare.

Love and Civil Society

Fortunately – or inevitably – the fact of interpenetration, the actualizing of the concept, to use Hegel's terms, occurs in the ethical world, the concrete institutions of family, civil society and the state, and our duties within them. What this means for the question of progressivism's attempted reform or overcoming of America's founding principles is that abstract right, individual natural right, can exist and can express freedom only together with, only within, a defined set of institutions. A use of our rights that actually is free and universal must shape, see, and satisfy itself within concrete practices and institutions, and not in any old thing under the sun. Unlike mere morality, ethical life is "intensely actual."

Love in the family is a good example of the interpenetration of individual and general that Hegel has in mind, and it also is a good example of the pressing dialectical movement that arises from, or even defines, the incompleteness of anything that merely appears to be whole. Love makes intelligible what it means to say that one finds oneself only in the eyes and life of another, and, therefore, only together with another, although one is never simply that other. Love also makes clear what it means to say that a new whole, here the child, issues who both is and is not us, in whom we both do and do not see ourselves, and whose own adult freedom demonstrates both the goal and dissolution of the family. Hegel's criticism of Kant's insistence that marriage is only a contract for sex, an opinion that ignores the substantive freedom and essential dignity of married life, makes evident his concern about the limits of a teaching about morality and rights that somehow overlooks the free individuality that issues from their genuine link.

An adult child leaves the family and enters civil society, which serves his particular economic needs. Yet each of us serves his needs and acts economically only as part of a universal rational system of law, police, division of labor, and money, and only within substantive professions and communities that provide the general education and general attention to welfare that allow each of us to be and see ourselves as the individuals we are. We are individuals only as concrete instances of what is general and universal, and what is universal is only insofar as it is freely and concretely chosen by individuals (or implied by their choice), and recognized by them. This means that individual rights have substance and existence only within concrete kinds of general or universal institutions (as my family, profession, and country are both general in relation to me and particular in relation to other families, professions, and countries) which, therefore, must be protected and supported as institutions. The various professions and communities, the many "corporations," are, for Hegel, as vital an element of civil society as the economic market. The restless creative destruction that is the characteristic movement of robust capitalism is not part of Hegelian rationalism. Moreover, because the expansion of desire in civil society is infinite, "deprivation and want are likewise boundless, and this confused situation can be restored to harmony only through the forcible intervention of the state." (#185A) Once we leave the family, we become "*son[s] of civil society*" (#238), which therefore becomes responsible not just for the security of our person and property but also for securing our livelihood and welfare, our training in overcoming vice if our poverty gives rise to this, and our education "in so far as this has a bearing on [our] capacity to become members of society," especially if our parents do not see to this. "Society has a right" "to compel parents to send their children to school." (#239A)

Civil society, through the public authority of the police power, is also responsible for providing public utilities, i.e. "means and arrangements which may be of use to the community," that deal with "aspects of common interest in which the business *of one* is at the same time carried out on behalf of *all*." (#235) Society

should, in addition, regulate markets where the "differing interests of consumers and producers" may fail "automatically" to re-establish a correct relationship between them. Inspecting commodities, ensuring that the public is not cheated, and regulating the value of common necessities, are all justified by the fact that some commodities are so universally used that they are offered not to individuals as such but to individuals "in a universal sense," i.e. to the public. (#236)

Although morality and philanthropy are useful in dealing with several of these issues, moral and philanthropic provision is inevitably contingent and, therefore, cannot replace either the duty or the effectiveness of public action. It is not through public action directly, however, but rather through the family and professional and other communities, that Hegel expects the requisite education, and the means to secure our own welfare, normally to be provided. Economic regulation and public provision, moreover, are intended to regulate markets and to counter the possibility of immiseration due to specialization and dependence, but they are not meant to take the place of, or unduly restrict, the expansion of industry, the growing satisfaction of needs, and the increasing "*accumulation of wealth*" that is the characteristic unrestricted activity of civil society. (#243) The state or country is a greater whole than civil society, but it is not meant to replace it in its own sphere, and the police functions in civil society are not meant to replace healthy families and corporations. Hegel finds institutions such as the *Republic's* abolition of the family and its forced assignment of jobs to be faulty precisely because they do not liberate and respect subjective freedom and choice. In general, Hegelian civil society is much more a private than a public world, but not the private world of naked individuals.

Politics and the State

Civil society as a whole, however, is still not a place where we concretely choose what is universally good because it is universally good. From where, after all, do free and just laws arise? Choosing what is universally good because it is universally good, and because we recognize ourselves as choosing it for this reason, occurs in the state, by which Hegel means something of what we mean by a country or a country's way of life: it is the mind or spirit of the nation, especially as we consider it to be politically formed and politically active. The state is structured and organized by the constitution, and the constitution has three elements: the sovereign, the executive, and the legislative. The law is universal, execution is particular, and sovereign (e.g. monarchical) decision in foreign affairs, and in activating laws and their execution, actualizes the state's composite individuality.

These three constitutional elements deal with civil society and the family when they require universal laws in order to be themselves. In this sense, the state shapes or rationalizes their activities and, in turn, receives strength from individuals who recognize that they reach their own ends only within the country. We are truly

and completely ourselves, truly a union of interest and moral good, of universal and particular, in patriotic devotion, and when we perform our civic duties and obey the laws. The constitutional elements or forms do not delay and check, moreover, as if the main thing we need from government is that it leave us alone. Rather, the three powers work together concretely, while generating the energy caused by their separation. New laws and practices, indeed, will do more than deal with new circumstances. They will also change the active meaning of the constitution (and its elements), which is always living, because it is part of a living state.

Insofar as each citizen is politically active beyond merely obeying the law or serving patriotically, he properly enjoys this political activity not as an isolated individual, but through his family, community, and corporation, as these are politically organized into various "estates" divided between two chambers: one for large landholders, the other for the professions and occupations of civil society. We all express ourselves in a public opinion that is sometimes intelligently, and often unintelligently, formed by a press that is largely free, and by the ample publicity we receive about legislative deliberations. Our representatives are not bound by our opinion or by the opinion of those of us who vote, however, because their job is to represent what we ultimately know is good for us, not our passing whims and interests. In any event, the true source of political activity is not the legislature, but the sovereign or, indeed, the ministers and civil servants who, in fact, devise the laws and see to their execution. Nonetheless, we are, in the ways just discussed, all involved in choosing the laws and, of course, in obeying them. Each of us, therefore, recognizes the law as universally good and as our own. Each is thus conscious of his activities and interests as belonging to and actualizing what is substantively good, and comprehensively ethical. Abstract rights are validated within the concrete forms of legal action that are the rational frameworks that shape the activities that serve my education and satisfaction, and that of my family and profession. The state is not my servant, nor am I the servant of monarchs or aristocrats. The state is the organic whole of which my activity and satisfaction comprise a vital part.

Civil Service and Foreign Affairs

The group whose profession it is to do nothing but consider what is universal and implement it is the civil service. The civil service is the middle or mediating class that brings the parts together into a whole. It is the country's most obviously rational political element. Members of the civil service may, of course, need help from the people to ascertain circumstances, and guidance from the higher ranks to act properly and acceptably. As such, however, the civil service acts rationally. In accord with its universal and rational station, membership in it is to be open to all and its members are paid. Its particular origins, its sustenance, and its ends, therefore, all become universal. Nonetheless, it does not stand for the country as a country, the

state as a state in its active singularity. As we said, Hegel finds this unity in the sovereign's activity, most visibly in foreign affairs. The state's singularity, however, as is true of all other particularity, is imperfect. The state is ultimately moved by the very insufficiency of its own individuality, impelled by the reason that it cannot be itself by being insular, by being itself simply. Its insufficiency means, for example, that if the courage shown by soldiers in war is for the sake of something too selfish and particular it will not be fully satisfactory. The universality that we find in foreign affairs, however, the international law that governs war and commerce, is itself insufficient because it is too formal or abstract; it fails to interweave properly the state's interests and its devotion to something beyond itself. This difficulty exists even, or especially, because sovereign states are and ought to be free to reject the obligations that international law places before them.

The state is the active whole within which we are organic parts, but of what is it, as an individual, itself truly a part? Neither the pursuit of interest nor of international morality weds the singularity of the state concretely to a principle that shapes its substance, and in which it is embedded. The true marriage of particular and general in foreign affairs comes through political world history, one of the ways (in addition to, and linked with, art, religion, and philosophy) that reason or spirit exists in its own element, and is fully actualized. A dominant state expresses or carries outside itself not only selfish interest or abstract rules, but a set of principles or institutions that shape the world, yet shape it only imperfectly, restlessly, insufficiently, or partially. Hence, there is the movement, in ordered sequence or stages, of Oriental despotism, the Greek and Roman principles of ethical beauty and abstract universality and, finally, the Germanic world, which carries and completes the political institutions and principles that we have just been discussing. Political history and foreign affairs are not incidental to justice and understanding, but a necessary and crucial part of them. Fame goes to the Caesars who express the deeds of the nation that for one and only one moment has an "*epoch-making role,*" enjoying an "absolute right" with regard to other nations because it is the "bearer of the present stage of the world spirit's development." (#347) Ultimately, indeed, when this development is completed, even the humblest citizen is able to stand in the ranks of the world spirit no less proudly, although less self-consciously, than Hegel himself.

Hegel and Progressivism

I will now briefly collect the elements of this account that also belong to the differences between the progressives' understanding of American constitutionalism and that of the founders. I will leave the question of history and foreign affairs to the end, but will otherwise work backwards, because in the Hegelian circle or whole one ought to be able to start from anywhere, and reach the same place.

First is the civil service, understood to be wiser than the people and more purely just than they are. Civil servants are the ones who seek to be beyond interest, and to do only what is rational. As we said, higher-ups in or above the civil service need the people to tell them the details of what their subordinates are doing, and civil servants need help in gathering facts. Nonetheless, it is only the civil servants who in their tasks and responsibilities seek to be beyond any interest, and to do only what is rational. Such a civil service is quite literally the ideal toward which progressive reforms marched, and to some degree marched successfully. The Hegelian civil service is more radical than our own, however, because the public service is not only ministerial to the business affairs of civil society, but a truer and more comprehensive expression of the universal dignity and purpose of the state. Although the intended dispassion of our own civil service points in this direction, its bureaucratic fairness is meant, on the whole, to be subordinate to the real action, which is economic action.

A second important connection between Hegel's account and the ideals and modes of analysis of progressivism is the notion of a living constitution, more British in design than American, where the different branches are not checks but connected parts of a whole, where the constitution is less a frame of forms in which deliberation is tied to delay and more a mechanism for collective will, judgment, and implementation, and where the distinctions of government by the one, few, or many are not especially relevant. Government is meant to be neither monolithic nor arbitrary, and for this freedom to be achieved, legislative representation and executive implementation, and not merely sovereign action and decision, are necessary. But, above all, the constitution is intended to advance the country's singular and united action in a manner that is both objectively valid and ultimately acceptable to subjective individual choice. Such a conception sounds, and is, more Wilsonian than Madisonian.

A third link is the notion that representation involves deputies from substantive wholes, and that universal law and activity treat individual interests only within such wholes. There is a localism in Hegel, and elements of communitarianism that, while hardly in tune with all of progressivism, fit elements of certain thinkers, such as Dewey. It is not merely that social life, welfare, and much education are tied to the family and civil society. It is that political representation itself is based on structures that formally (and not merely informally, as do, say, interest groups) reflect the organization of civil society. Neither individuals, political parties or pressure groups but, rather, "corporations" are the ground of legislative representation.

A fourth connection is the argument that the intelligibility and existence of rights cannot finally be stated or seen apart from moral freedom and duty, or apart from concrete life within the family, business, the professions, and trades. Ultimately, indeed, rights cannot exist without state action. Our abstract rights are but a first step; they are rooted in a substantive individuality to whose full unfolding they contribute but for whose concrete expression they cannot substitute. The state

is responsible not only for economic regulation but also for securing the qualities and characteristics that are necessary for active life in civil society – education and relief from poverty, for example – when the family and other institutions fail. Some of this emphasis on social groups is more communitarian than progressive, but it is also progressive, for many progressives believed that groups such as labor unions had significant functions and meaning. And, in general, progressives understood equal opportunity not just as something to be advanced by securing equal rights, but as something to be formed and secured by substantive economic and social interventions.

A fifth link is the sense that, ultimately, there need be no conflict between the moral and political good and science or knowledge. The state in Hegel is consonant with art, religion, and philosophy, ultimately completed by them, not, at the end of the day, challenged by them, properly understood. The emblematic civil servant is the professor, perhaps even the professor of philosophy. For progressives generally, administrative or bureaucratic rationality can and should supplant political friction and partisanship in the service of the common good.

A sixth important connection is in the conduct and purpose of international affairs, and the link to the progress that is the nominal heart of progressivism. Hegel is chief among the thinkers from whom the notion arises that the meaning and purpose of human activity is historically cumulative, and that world progress is aided, or even brought about, by war and international politics. Hegel's discussion of foreign affairs in the *Philosophy of Right* – namely manly activity for the sake of universal principles – nicely combines Theodore Roosevelt and Woodrow Wilson.

Hegel is also the primary figure among thinkers who argue that there are such significant, coherent, and linked orders of constraint and impulsion throughout the process of human action that we can speak of historical stages, worlds, or realms. It would take us outside our task to develop his argument about historical necessity and contingency beyond the points that we have already mentioned.[6] (Such a discussion would, among other matters, involve an analysis of his view of the influence of thinkers, an analysis that is connected, but surely not identical, to the argument with which I began.) For our discussion here, the point is that a notion is general among progressives that our current stage is different from the founders' stage, and that we have in many ways outgrown the institutions that may have been sensible for them. This notion is more immediately Darwinian and Marxist than Hegelian, but it is at root Hegelian. Hegel is the hard core of all later and intellectually softer thinking about politics and morality in terms of stages that progress on the way to an actualized ideal.

[6] Consider, for example, H e g el's remarks about the "progressive development" of constitutions in the addition to #298.

Hegel Against Progressivism

I will conclude by reminding us of elements in Hegel's unfolding of political science and natural right that do not rest easy with progressivism, or with other elements of our contemporary political opinions.

Hegel is less democratic than the progressives were, or than we are today. Initiatives and referenda would horrify him. Basing politics on individuals as voters who are separated from concrete ties would frighten him; so too would political interests that see no justice in rising above immediate favors and concerns to a truly public point of view. Political – or intellectual – pandering to ignorant public opinion and pretending to lead it, or actually "leading" it, would sicken him. The weakening of the family as women take their place in the universal worlds of civil society, business, the professions, and civil service would strike him as regressive, substituting pale abstraction for concrete excellence. Excessive reliance on the judiciary, a relatively minor entity in the civil service, would worry him. Relativism, intellectual irony, rootlessness, and narrow-minded tribalism would all disturb him. None of these things would surprise him, however, because he had already, in various writings, analyzed them with a precision and cogency that it would be difficult to match and, perhaps, impossible to surpass. In general, Hegel is too tough-minded to have wanted to father progressivism or any other ism, and he would see our departures from Hegelian rationality as the unfortunate products of our shallow contingency.

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PERSONAL HONOR, NATIONAL HONOR AND INTERNATIONAL JUSTICE

Harvey Mansfield's most recent book is about "manliness." I want to talk about honor. Honor is, at least in some of its aspects, related to manliness, perhaps even a child of manliness, as Professor Mansfield indicates in his book. But honor operates more on the surface of political life. It is more insistent on being seen or recognized in public and it varies, according to the different "publics" of different eras or different political regimes.

It is characteristic of Mansfield to pursue his inquiry to the root. Given my own interests and limitations, I must stay closer to the surface – where the light is better. My thesis in brief is this: while the modern world is ambivalent about honor, it remains important – and perhaps most important – as it is most salient, in international politics, because international politics cannot be entirely removed from domestic political understandings.

Much of what I will offer here has already been indicated in Mansfield's own writings, though I sometimes proceed by a different path. Everything I will argue here is, I hope, at least in the spirit of Mansfield. I learned much from him as a graduate student, many years ago. Since then, I have tried to sort out many things on my own and often found that I was simply following trail pointers first planted by Harvey Mansfield.

Most of my illustrations will come from American experience (or from conflicts in which the United States participated). That is not because I think the history of other countries is less instructive, but because American history is the history

I know best. I trust that readers outside the United States can find points of interest in this history, both where it parallels and where it does not run parallel with the histories they know better.

Is Honor Outdated?

In a characteristically confident assertion, Mansfield claims that "we all know what honor is" – though he concedes that we "honor different thing in different societies." Honor, he says, is "characteristic of manliness" in the way it "joins together private circumstances and public belief," allowing claimants of honor to "feel entitled to act as they do." The connection seems important: "Through the assertion of honor they surpass mindless aggression not devoted to a cause."[1]

But for many people in the modern world, honor seems more questionable. Of course, you may need to defend yourself. But if you *need* to defend yourself, then the issue seems to be necessity rather than honor. If there is dispute about what things *need* to be defended, why not focus on determining which rights or interests are most important rather than worrying over the degree of honor involved?

One might answer that not everyone has equal resolve to defend the right, nor equal clarity about what is right. But then the potential for honor seems to be unequally distributed. Doesn't the modern world insist upon equality as a fundamental political principle?

We should start by acknowledging the challenge. Aristotle depicts honor as recognition of virtue. Honor is what is due to the most outstanding men. The great-souled man does not so much seek honor as he seeks to display his virtue by undertaking those deeds that are worthy of honor. He does not acknowledge that his virtue is dependent on the recognition bestowed by others. Certainly he is not much moved by the honor conferred by inferiors.[2]

The modern world finds so much to doubt in all this. If Aristotle equivocates it is not on the core point – that the best men act from something within themselves. So what is recognized by honoring – the inner character of the one who is honored – is more important than the honoring itself. Modern doubts about this view are hardly recent.

We might start with the most famous dramatization of these doubts in the English language – Shakespeare's *Henry V*. According to Tocqueville, it was a play that could be found in remote log cabins on the American frontier when he visited America in the 1830s.

Amidst other memorable lines, the play includes Henry's concession that it might be "a sin to covet honor." Perhaps that is because the desire for honor violates Christian precepts of humility. Perhaps "coveting" of any kind is un-Christian.

[1] *Manliness*, Yale University Press 2006, p. 65.

[2] *Nicomachean Ethics*, 1125b.

Or is it wrong because it betrays a kind of neediness at odds with heroic virtue? At any rate, Henry still affirms that if coveting honor is a sin, "I am the most offending soul alive." (IV, 3, 31–32)

But this is what he says to his soldiers on the eve of a desperate battle; it is what he says in public and in character as a warrior king. When in disguise, he speaks rather differently to two soldiers he chances upon in the dark of night: "I think the king is but a man ... his ceremonies laid by, in his nakedness he appears but a man." So, when the king "sees reason of fears, as we do, his fears, out of doubt, be of the same relish as ours are." Yet the disguised Henry then admonishes his fellow soldiers not to impart "any appearance of fear" to the king, "lest he, by showing it, should dishearten his army." (IV, 1, 105–115)

So the fearless resolution of the warrior king may, after all, be something of a pose, which all must claim to trust, lest it begin to dissolve on too close scrutiny. When he is entirely by himself, Henry questions whether public honor provides enough personal reward to compensate the personal cost:

> What infinite heart's-ease Must kings neglect, that private men enjoy! And what have kings, that privates have not too, Save ceremony, save general ceremony! And what art thou, thou idol ceremony? What kind of god art thou, that suffer'st more of mortal griefs than do thy worshippers?
>
> What are thy rents? what are thy comings in? O ceremony, show me but they worth!...
>
> What watch the king keeps to maintain the peace, Whose hours the peasant best advantages. (IV, 1, 244–252, 292–293)

The whole soliloquy presumes that outward recognition – the honor confirmed by "ceremony" – is the main motive for accepting the responsibilities of kingship. For all his personal doubts, however, Henry still recognizes that appeals to honor and heroic exertion are motivating to others. So on the day of battle, Henry speaks in his kingly role to his soldiers and makes honor – and the honor of associating with the king – seem to compensate all risks:

> From this day to the ending of the world, But we in it shall be remembered; We few, we happy few, we band of brothers; For he that sheds his blood with me Shall be my brother; be he ne'er so vile, This day shall gentle his condition... (IV, 3, 60–66)

It is a stirring speech – but even in the confines of the play, Henry does not actually deliver on it. When the French seem to rally against his small force, he orders French prisoners to be executed – contrary to the chivalric code. (IV, 6, 35–39; IV, 7, 1–11) And when his own army finally triumphs against the far larger French host, as if by miracle, Henry withdraws credit from his "band of brothers": he forbids his soldiers, on penalty of death, from boasting of the victory, lest they take "that praise from God which is [H]is only." (IV, 8, 119–121) And then, as the chorus reports, when Henry and his army returned to London, the king was celebrated by citizens as a "conquering Caesar" in the style of "antique Rome" (V, 1, 27): Henry himself received the honor, not he and his lowborn "band of brothers."

Precisely because it can be a powerful motivating force, the honor of recognition seems caught up in all the conflicting pressures of political management.

So even a play that seems to celebrate honor leaves much doubt about its true nature and its "comings in." The last lines of the play remind us that under Henry's son and heir, Henry VI, "so many had the managing of the state" that they "lost France and made England bleed." (V, Epilogue, 11–12) Was this the consequence of Henry's disdain for "ceremony" and the honor of status and rank? Or did it follow from the incitement he bequeathed to so many of his followers, to seek personal honor of their own?

Tocqueville referred to this play as a "feudal drama."[3] Yet even defenders of Europe's feudal inheritance could express doubts about feudal notions of honor. Harvey Mansfield's first book was on the thought of Edmund Burke. Burke is certainly a telling example. As Mansfield shows, Burke's defense of nobility is by no means starry-eyed about the actual virtues of actual nobles in 18th-century England. His defense of nobility – in the sense of a hereditary class of nobles – is more about holding property than displaying virtue. Burke's famous panegyric on chivalry in *Reflections on the Revolution in France* celebrates its softening of manners – its inducement to monarchs and their courtiers to adopt a courtly conviviality – rather than its inspiration to hard virtues of courage and discipline.[4]

As to celebrating the point of honor and taking a stand on principle, Burke's defense of parliamentary parties in *Considerations on the Causes of Present Discontents* is notably dismissive of those who try to stand alone in politics: Only a man

> inflamed by vain-glory ... can flatter himself that his single, unsupported, desultory, unsystematic endeavours are of power to defeat subtle designs and united Cabals.

Men of this kind "will fall, one by one, an unpitied sacrifice in a contemptible struggle."[5] There is not, in this account, much honor in losing, especially if one should have expected to lose.

We should not leave this brief survey of modern doubts about honor without consulting Tocqueville, whose great treatise was translated into English by Harvey Mansfield (with his wife, the late Delba Winthrop). *Democracy in America* offers an entire chapter on "honor."[6] It begins by distinguishing, in a brief footnote, two different senses of the term. There is, first, "the esteem, the glory, the consideration" gained, it seems by some notable action or achievement – honor as a thing "to win." There is, on the other hand, honor in the sense of a restraining set of standards, whose violation prompts people to say "he has forfeited honor."

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[3] *Democracy in America*, ed. H. Mansfield, D. Winthrop, Vol. 2, part 1, ch. 13 University of Chicago Press 2000, p. 445.

[4] *Statesmanship and Party Government*, University of Chicago Press 1965, p. 94–96.

[5] *Select Works of Edmund Burke*, Liberty Fund 1999, Vol. 2, p. 146.

[6] *Ibidem*, Vol. 2, part 3, ch. 18, p. 589–599 (in H. Mansfield and D. Winthrop edition).

Tocqueville does not emphasize the fact but it is apparent that these two sides of honor are somewhat at odds. One might be tempted to "win honor" by using means that would otherwise be thought to "forfeit honor." Alternately, one might follow all the rules and be defeated, thus failing to "win honor."

Perhaps it matters, therefore, who judges. Tocqueville, in fact, depicts this as the key to honor. Whereas "simple virtue lives on itself and is satisfied with its own witness," honor "only acts in public view."[7] Honor needs an audience. It seems to follow, for this reason, that honor may reflect "very particular notions that belong only to one country and one period" whereas "simple notions of the just and unjust are widespread over the earth."[8]

Tocqueville follows out the implications. Honor was strong in feudal Europe, when nobles formed a very well defined rank and could enforce their notions of honorable conduct on each other. In a democratic age, where "ranks are confused and where the entire society forms a single mass," honor is

> necessarily less powerful. ... Public opinion, the natural and sovereign interpreter of the law of honor, does not see distinctly in which direction it is fitting to make blame or praise incline and pronounces its decision only with hesitation.

What remains are only the differing notions of different nations. Rather than claims of rank, honor reflect "the particular needs of the nation itself, ... its individuality among peoples." So if

> all the peoples of the world should come to the point of having the same interests and the same needs ... the general needs of humanity that conscience reveals to each man would be the common measure" [and] one would no longer encounter in this world any but simple and general notions of good and evil...[9]

But Tocqueville leaves this observation as a deduction from the logic of his analysis. He does not quite predict that the world will actually reach this condition.

Honor in the Law of Nations

If there is no room for gradations of honor "where the entire society forms a single mass," we might look to see honor preserved in smaller communities, where individual qualities remain more visible to all the participants. We might think of international society as a kind of political community – the "community of nations," as it is sometimes called. It is certainly a small community. Even today, it has less than two hundred members. If we think the personal honor of the warrior knight has no

[7] *Ibidem*, p. 598.

[8] *Ibidem*, p. 589.

[9] *Ibidem*, p. 599.

place in the settled conditions of modern societies, we might look for some residue of honor in the entities that still wield force – independent states.

Or is this too simple? Mansfield himself remarked, in an essay on Machiavelli's *Art of War*, that Machiavelli's forthright recognition of skill at conquest had something in common with ancient ideas about virtue, at least when compared with modern doctrines. The modern doctrine of right, founded in equality, denies that claims to rule can be founded on superior merit, so "a determinate test of who is sovereign replaces a contestable judgment of who is best ruler."

Mansfield acknowledges that "one could suppose" the modern view, pioneered, as he says, by "international jurists Hugo Grotius and Samuel Pufendorf," provides "an important advance," since "the art of war, when used in defense of sovereignty is both justified and limited." But he offers this warning:

> Nations that do not know that they themselves can be tempted by aggression will always be surprised by the aggression of others and will have difficulty in identifying and resisting it.[10]

Mansfield speaks here of doctrines of "natural right." I want to look a bit more closely at what these writers and their successors say about "honor." As it turns out, they do make room for honor. They acknowledge that "right" (and even self-interest within right) does not quite exhaust the subject of what deserves to be recognized in relations between nations.

We should start with Grotius, whose treatise, *De Jure Belli ac Pacis* ("The Law of War and Peace") (1625) is sometimes credited with launching the phrase "community of nations." As the title indicates, it is largely concerned with relations between sovereigns – with international affairs – and treats this subject, for the most part, quite legalistically.

But to emphasize the law governing the relations between sovereigns is, in a way, to give special dignity to the status of sovereigns. And Grotius is quite explicit on this point: a sovereign state, even when it acts unjustly, has a status which confers a certain dignity, compared with the claims of a mere wielder of force, like a pirate band. For "pirates and brigands are banded together for wrong-doing," while "members of a state, even if at times they are not free from crime, nevertheless have been united for the enjoyment of rights."[11]

Though most of his treatise focuses on the rights of sovereigns, Grotius does not reduce all standards to self-defense. He offers a long list of recognized offenses against the accepted standards of the community of nations (and Grotius was the first important writer to speak of a society of states including non-Christian peoples). People who engage in extreme depravity, such as cannibalism or incest, deserve to be punished by natural law. So, according to Grotius, any sovereign state

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[10] *An Introduction to Machiavelli's*, *Art of War*, [in:] *Machiavelli's Virtue*, University of Chicago 1996, p. 201.

[11] Book 3, ch. 3, Subch. 2 in translation by F. Kelsey, Clarendon Press 1925, p. 631.

may make war on such peoples to punish their crimes and correct their waywardness. And it is "more honorable" to "avenge" such wrongs against "the interests of human society" than it is to make war to rectify "wrong" to "one's own."[12]

But Grotius goes on to qualify this argument. There is a right to make war in such cases but there is no duty to do so. In fact, he says, it is wrong to launch such wars unless they are likely to succeed.[13] So the claim to speak for the community of nations seems restricted to the strong or those with a capacity for strategy and discretion. The wrong-doers have violated universally binding standards, but their pursuers claim distinctive privileges when they deliver the punishment that wrongdoers deserve.

When it comes to the conduct of war, on the other hand, Grotius acknowledges that the most brutal tactics have been endorsed by the practice of nations. He relies much on Roman histories for his examples, acknowledging that practices sanctioned by Roman jurists cannot be considered contrary to natural law. But Grotius emphasizes, in the last chapters of his treatise, that Christian nations have adopted many humanitarian restraints in war which have a claim to be honored.

So, for example, the "better nations" punish soldiers who rape female captives.[14] It is "praiseworthy" to avoid the sacking of a town after its capture.[15] To be generous with defeated enemies is "noble."[16] And while it is permissible to deceive enemies, it is "more noble" as well as more "Christian" to refrain from false claims, even with enemies.[17] Whatever the rights of a nation by law, it is more praiseworthy to show regard for preserving the potential for wider peace in the future.

Two generations later, the treatise of Samuel Pufendorf, *De Jure Naturae et Gentium* ("The Law of Nature and of Nations") (1676) follows Grotius on most points. But Pufendorf focuses much more on the individual interests – or the particular security needs – of sovereign states than the moral claims of the general community of nations. So Pufendorf, without explanation, simply omits the entire Grotian discussion of natural crimes and the natural right to punish them. A nation which does not follow customary constraints on the conduct of war is guilty, he says, of nothing more than "ungentlemanliness," for which it cannot be seriously faulted.[18] What remains, for the most part, is the obligation to honor treaty commitments, as a necessary obligation for all.

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[12] Book 2, ch. 20, Subch. 40, p. 504–505.

[13] Book 2, ch. 24, Subch. 8, p. 574–575.

[14] Book 3, ch. 4, Subch. 19, p. 657.

[15] Book 3, ch. 12, Subch. 2, p. 748.

[16] Book 3, ch. 15 Subch. 12, p. 777.

[17] Book 3, ch. 1, Subch. 20, p. 620.

[18] Book 2, ch. 3, §23 in translation by C. H. Oldfather and W. A. Oldfather, Clarendon Press 1934, p. 227–228. Lest the reader give too much moral authority to "gentlemanliness," Pufendorf explains the point by reference to "those by whom war is considered one of the liberal arts," so one who fails to follow its rules might be compared to a "gladiator" who might be "accused of lack of skill ... [for] wounding another contrary to the rules of the art."

Yet even here, Pufendorf recognizes the claims of necessity and self-interest far more emphatically than Grotius. No state is obligated to honor its treaty commitments if that would threaten the safety of its own citizens, "for no state is obligated to any one more than to its own citizens." It follows, as Pufendorf says quite openly, that only "a fool puts any trust in a treaty when its observance is of no importance to the other party." The obligation to assist an ally is conditional on the prospect of success:

> if any ally of mine sees that he is not the equal of an enemy, even with my aid, and yet persists in courting certain ruin when he could close with him on tolerable terms, it would be insane of me to join myself to his folly.[19]

What seems to follow, then, is that only a strong state can expect to assert its rights in full. Weaker or less self-confident states must accept such terms as they can secure for themselves. Though the rights of states are supposed to be equal, not all have the equal capacity to assert or defend their rights.

Pufendorf regularly cites the authority of Grotius for various conclusions, but wrestles more intently with the arguments of Hobbes, which had gained so much notoriety in the intervening decades. Attentive readers might doubt that Pufendorf was always compelling in his efforts to refute or deflect the logic of Hobbesian inferences from the right of self-defense.

One might expect, then, a continual descent toward such harsh conclusions in subsequent writers. That is not quite what happened, however, as we can see from the last classic treatise on the law of nations – that of Emmerich de Vattel. Vattel's *Le Droit des Gens* ("Law of Nations") (1758) was the first great treatise in this field to appear from the outset in a modern language (French), rather than the Latin of its predecessors. And it seems to have been far more influential with diplomats and statesmen than its predecessors. Certainly Vattel's work was far more often cited and for a far longer period than the works of his predecessors. Yet compared with them, Vattel gives much more explicit and sustained attention to the claims of honor.

Vattel begins by stipulating that as "men are by nature equal," so "nations ... which may be regarded as so many free persons living together in a state of nature, are by nature equal." As a "dwarf is as much a man as a giant is, a small republic is no less a sovereign state than the most powerful kingdom."[20] But Vattel also acknowledges, some chapters later, that the "renown of a nation is intimately connected with its power" and this "noble possession wins the esteem of other nations" and makes even its "enemies dare not manifest their ill-will."[21]

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[19] Book 8, ch. 6, §14, p. 1306.

[20] *Introduction*, §18, in translation by Ch. G. Fenwick, Carnegie Institution 1916, p. 7.

[21] Book 1, ch. 15, §186, p. 78.

While sovereignty or independence in itself is "deserving of honor and respect," it is "reasonable" that smaller or newer states should show at least diplomatic gestures of "deference" to the more powerful or older states in public settings. All nations should acknowledge titles of honor (such as "Majesty") accorded by treaty or tradition to particular sovereigns. But these are courtesies or "ceremonies" – though they may have "influence upon men's minds."[22]

Conduct, according to Vattel, counts for more than titles. Thus, "nothing is more honorable in a prince and his Nation than the reputation of inviolable fidelity to a promise." So, too, "zeal in assisting allies ... is the source of an immortal glory; it creates the confidence of Nations and thus becomes the certain cause of power and honor."[23] Conversely, all nations have "the right to unite together to check a Nation which shows contempt" for treaties since such a nation is "a public enemy which attacks the foundations of the common peace and security of nations."[24]

What about pursuing advantage from dishonorable means? Even Vattel acknowledges that to despise all forms of deception in war is to show "greater generosity than wisdom" and to make courage the sole arbiter, as in "the insane practice of dueling."[25] But he acknowledges that traditional prohibitions on the use of poison weapons should be honored, except in extreme cases.[26]

A telling comparison appears in the treatment of a particular tactic – inducing enemy commanders to betray their sovereign. Grotius, while acknowledging that this is unsavory, holds that it is "winked at" by the law of nations, much as prostitution is often indulged in cities.[27] Pufendorf insists there can be no objection to such practices, since such tactics can bring a speedier victory.[28]

Vattel engages in quite a bit of handwringing on this question. He acknowledges that such practices are "made use of in all wars" but they are not "honorable." They can "only be excused in the most just war, when it would be a question of saving one's country from the destruction threatening it at the hands of an unjust conqueror."[29] This equivocation takes for granted a central premise in Vattel's treatise – there are different kinds of wars and different kinds of enemies – and different claims of honor corresponding to these different circumstances. The issues between nations are not always so clear as the difference between war and peace.

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[22] Book 2, ch. 3, §40 –§41, p. 127.

[23] Book 2, ch. 12, §163, p. 163.

[24] Book 2, ch. 15, §222, p. 188.

[25] Book 3, ch. 10, §178, p. 299.

[26] Book 3, ch. 8, §156, p. 289, concluding that "all nations are warranted in repressing and punishing the first attempt" to use poisoned weapons – implying that their use in reprisal might be allowable.

[27] Book 3, ch. 5, Subch. 4, p. 662.

[28] Book 8, ch. 6, §18, p. 1308 ("why then I may not attain that end [of "inflicting loss" on the enemy] by corrupting the minds of his citizens with hopes of rewards, I cannot see") but he does acknowledge the possibility that such tactics by a commander may "set an example which may work to his own injury" and therefore concedes that "he who refrains from such conduct ... deserves the praise accorded to unusual generosity."

[29] Book 3, ch. 10, §180, p. 300.

Honor as a Theme in Early American Statecraft

These writers might be dismissed as historical curiosities. After all, contemporary commentators on international law do not often defer to them. But their works were studied by a group of men whose legacy has been far more lasting and influential – the American Founders. And the American Founders extend the claims of honor in ways that emphasize its internal or domestic ramifications.

Start with the Declaration of Independence itself. It proclaims as "self-evident" that "all men are created equal" and "governments deriv[e] their just powers from the consent of the governed." But the Declaration also acknowledges the "dictate" of "prudence" that "governments long established should not be changed for light and transient causes." Revolution does not become a just cause when government crosses some predetermined legal standard but when "a long train of abuses *evinces a design*" to impose a "despotism" – and the evidence for such "design" may well be disputed. In effect, the Declaration argues for the justice of a preemptive strike on abusive authority, when resistance may have better chances of success.

Harvey Mansfield pointed to the tension in this reasoning more than thirty years ago, on the occasion of the Declaration's bicentennial. If it is right to launch revolution before it is necessary or before its necessity is evident to all, then resorting to revolution may sometimes reflect reckless impulses or low intrigues. So revolution cannot simply be justified by appeal to necessity, let alone by precise legal standards, drawn in advance. As Mansfield noted, the Declaration itself offers an implicit answer to this difficulty: it concludes, not with an abstract doctrine, but with a personal claim by the named representatives who signed it, pledging "our lives, our fortunes and our sacred honor."[30] The Declaration is famous for its doctrine of equality but its last word – quite literally – is "honor." And it is the personal honor of named representatives, who must vouch for the arguments in the Declaration.

The Declaration of Independence was, in the circumstances, a declaration of war. It was not everyone's choice at the time and it was certainly not put to a referendum. A lot was riding on the decision, made official by those who signed the Declaration, but dragging half a continent along. The text of the Declaration tries to persuade a "candid world" that Americans have made a choice that deserves to be honored – again in a literal sense, by having other nations acknowledge the United States as another independent nation, eligible to claim its rights as an equal member of international society. The Declaration was a bid for international recognition of Americans, not as mere rebels but as a people capable of sustaining a sovereign government and a government capable, in turn, of sustaining its obligations among the community of nations.

The Declaration itself did not establish a sovereign government, however. The states of America struggled along under Articles of Confederation until a con-

[30] *The Right of Revolution*, [in:] *The Spirit of Liberalism*, Harvard University Press 1978, p. 79–81.

ference in Philadelphia in 1787 proposed a constitutional framework for a full national government. But the delegates to that convention had been charged only with proposing "reforms" to the Articles. So leaders again had to appeal for trust in a disputable, dangerous and extra-legal undertaking. In the ensuing debate, appeals to honor again played a considerable role. Advocates for the new Constitution were more explicit about the connections between the distinctive honor of nations, the collective honor of their citizen-bodies and the personal honor of their leaders.

In defending the decision of the Philadelphia Convention to draw up an entirely new scheme of government, *The Federalist* invoked the principles of the revolution, quoting the Declaration of Independence on "the right of the people to alter or abolish their governments..." But while stressing the claim to safety, Publius also acknowledged a different consideration: to wait for agreement among all thirteen states even to propose a change would rekindle the "indignation of every citizen who has felt for the wounded honor and prosperity of his country."[31] Honor seems to have demanded a bolder course in order to avoid national disgrace.

Honor, in the arguments of *The Federalist,* tends to be associated with efficacy, with potency, with the ability to demand or enforce respect. The most frequent appeal is to the need for strength – and the qualities of resolution and constancy that support strength – in foreign affairs. So long, for example as the United States retains a system where thirteen state legislatures must cooperate in implementing treaties, *The Federalist* warns, the "faith, the reputation, the peace of the whole nation" will be "at the mercy of the prejudices, the passions and the interests" of each state: how much longer, then, "can the people of America ... consent to trust their honor, their happiness, their safety, on so precarious a foundation?"[32] Honor here seems only the first in an ascending scale of concerns, but still a concern that is entangled with "happiness" as much as "safety."

When it comes to foreign nations, strength and honor are particularly close. Suppose that the United States inadvertently violates some treaty commitment or some established standard in the law of nations: "it is well known that acknowledgements, explanations, and compensations are often accepted as satisfactory from a strong nation, which would be rejected as unsatisfactory if offered by a State or confederacy of little consideration or power."[33] The point seems to be not simply that foreign nations will be more prone to accommodate strong states, but more ready to trust explanations from a state that can make convincing commitments to avoid impulsive missteps in the future.

In fact, it is not just strength that matters, as *The Federalist* explains, but constancy, standing one's ground, having fixed positions: If one nation's "affairs betray a want of wisdom and stability," others take "undue advantage" – so America is now "held in no respect by her friends" and is "prey to every nation which has an

[31] No. 40, p. 247.

[32] No. 22, p. 147.

[33] No. 3, p. 39.

interest in speculating on her fluctuating councils and embarrassed affairs."[34] On the other hand, "every government" may find it "desirable" that its actions "should appear to other nations as the offspring of a wise and honorable policy."[35]

That is part of the argument for giving a special role in foreign affairs to the Senate, "an assembly so durably invested with public trust that the pride and consequence of its members may be sensibly incorporated with the reputation and prosperity of the community."[36] National honor will be bound up with the personal honor of the senators, since there is no honor in providing public "advice and consent" to low stratagems or disastrous initiatives.

As it proceeds, the argument tends to reduce honor to "respectability." That might seem more appropriate to the ordinary citizen of a republic, while still separating "character" from "unsteadiness and folly."[37] Yet "respectability" also links status to the opinion of others, who can "respect" even what they do not entirely honor. In fact, "respectability" seems more attuned to the moral claims of international relations.

A few years later, when defending President Washington's Declaration of Neutrality in the wars between revolutionary France and its neighbors, Hamilton laid down this general assessment: when one nation provides benefits to another, "the predominant motive ... is the interest or advantage of the Nation which performs them." But Hamilton immediately disavows the inference that the United States should follow "a policy absolutely selfish": he calls for Americans to embrace "a policy regulated by their own interest, *as far as justice and good faith permit...*" [emphasis added][38] Even when urging a hard-headed policy, Hamilton could not ignore the claims of respectability – for a policy "regulated" by self-interest is not simply "driven."

President Washington's Farewell Address (in words supplied by Hamilton) puts the point this way:

> the nation which indulges towards another [nation] an habitual hatred or an habitual fondness is ... a slave to its animosity or to its affection, either of which is sufficient to lead it astray from its duty and its interest.

A self-respecting nation must disdain slavish impulses, whether of loyalty or enmity: a self-respecting nation respects its capacity to make considered – though part of what it needs to consider is the proper balance between its immediate "interest" with its sense of "duty" toward others.

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[34] No. 62, p. 379.

[35] No. 63, p. 380.

[36] No. 62, p. 381.

[37] No. 62, p. 378–379.

[38] *Pacificus*, No. IV, [in:] *Pacificus-Helvidius Debates of 1793–94*, edited by M. Frisch, Liberty Fund 2007, p. 33.

To rise above mere impulse or habit might not seem a particularly high standard. But Hamilton insisted on the importance of displaying a respectable level of resoluteness and capacity. Maintaining respectable conduct affects not only the opinion of foreigners but what Americans think of themselves – their self-respect. As Hamilton put it at the Philadelphia Convention,

> No Government could give us tranquility and happiness at home which did not possess sufficient stability and strength to make us respectable abroad.[39]

How much strength was required was disputed between the rival parties that arose in the 1790s. But even James Madison, who affiliated with the "republican opposition" at that time (urging a more modest federal role), sounded similar themes as president. In justifying America's resort to war against Britain in 1812, he observed that this ultimate recourse had been "delayed" as long as possible – until no further delay could be accepted

> without breaking down the spirit of the nation, destroying all confidence in itself and in its political institutions and either perpetuating a state of disgraceful suffering or regaining by more costly sacrifices and more severe struggle our lost rank and respect among independent nations.[40]

"Suffering" is disgraceful when it can be resisted, while successful resistance makes a nation "respectable" – to its own citizens as much as to foreign nations. Or perhaps, "successful resistance" makes their own government respectable to the citizens by forcing foreign nations to respect their claims.

Some fifty years later, when the United States faced an even more direct challenge to its physical integrity and political authority, President Lincoln addressed Congress in very similar terms. At the outset of the Civil War, he acknowledged the "great honor due to those [military] officers who remain true" rather than deserting to the side of the southern rebels. But Lincoln went on to affirm that "the greatest honor and the most important fact of all is the unanimous firmness of the common soldiers and common sailors."

The people of America had shown that popular government – which "has often been called an experiment" – could be successfully established and administered. "It is now for them *to* demonstrate to the world," Lincoln concluded,

> that those who can fairly carry an election can also suppress a rebellion – that ballots are the rightful and peaceful successors of bullets and that when ballots have fairly and constitutionally decided, there be no successful appeal, back to bullets.

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[39] M. Farrand, *Records of the Federal Convention*, Yale University Press 1911, 1966, Vol. 1, p. 466.

[40] Second Inaugural Address, Mar. 4, 1813, [in:] *James Madison, Writings*, Library of America 1999, p. 693.

The honor of "popular government" had to be "demonstrated to the world."[41] But that demonstration would depend on the "firmness of the common soldiers and sailors." When he celebrated the "honored dead" at Gettysburg two years later, Lincoln struck the same theme: "The world ... can never forget what *they* did here" – "they" meaning "the brave men, living and dead, who struggled here" at the famous battle and "so nobly advanced" that "cause." The honor of the country depended, at that moment, on the honor of its soldiers.

Was it paradoxical to threaten force – and then unleash it on such a scale – to uphold the authority of peaceful balloting? Only if one emphasized the claims of peace above constitutional authority. A half century later, Theodore Roosevelt, by then a former president, derided "resolutions demanding universal arbitration for everything and the disarmament of the free civilized powers and their abandonment of their armed forces...." The advocates for such nostrums "go wrong at the outset, for they lay all the emphasis on peace and none at all on righteousness." For Americans to talk in this way seemed to Roosevelt "peculiarly scandalous," since by their logic

> it would have been better that Americans should never have achieved their independence, and better that, in 1861, they should have peacefully submitted to seeing their country split into half a dozen jangling confederacies and slavery made perpetual.[42]

Among other illusions, Roosevelt insisted, such "amiable but fatuous persons" underestimated the American people's sense of honor:

> But I know my countrymen. Down at bottom their temper is such that they will not permanently tolerate injustice done to them. In the long run they will no more permit affronts to their National honor than injuries to their national interest.

So proposals to "agree to arbitrate all matters, including those affecting our national interests and honor," misjudged foreigners as well as Americans: "the sober, self-respecting judgment of the American people" was equally averse to "gushing promises to do everything for foreigners" and self-indulgent rhetoric that "offensively and improperly reviles them."[43] Americans would insist that the United States decide for itself.

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[41] Special Message to Congress, July 4, 1861, [in:] *Abraham Lincoln, Speeches and Writings, 1859–1865*, Library of America 1989, p. 260.

[42] T. Roosevelt, *An Autobiography*, chapter 15: *The Peace of Righteousness*, [in:] *Theodore Roosevelt, Rough Riders, An Autobiography*, Library of America 2004, p. 787.

[43] *Ibidem*, p. 789–790.

Honor in the Era of Modern Wars

Talk about the national honor and the judgments of "self-respecting" people might seem to have been dispelled by the miseries and horrors of the world wars. That opinion has been expressed not only by voices on the left but even by sober, thoughtful observers of the center or the center right. Here, for example, is the French scholar Pierre Manent – as it happens, a friend to Harvey Mansfield for many decades, though often an ocean away – commenting on the outlook of Charles de Gaulle. De Gaulle, he says, responded to the crisis of 1940 with unique clarity. What set him apart was that he was "wholly dedicated to military, national and personal honor" in a way which was already quite unusual by 1940:

> Honor, particularly military honor, has no recognized place in modern moral life … Indeed, as a self-sufficient motive, honor has long ceased to exist. A course of action is praised, or at least authorized, when it can claim as its motives the protection of life and limb, the relief of man's estate, the bettering of the human condition, the realization of social justice, the self-government or even self-aggrandizement of a human association, or the accomplishment of some ideological goal.[44]

This may be a rather Franco-centric or Euro-centric perspective. De Gaulle himself took the trouble to remind readers of his post-war memoirs that he had received no support from any prominent public men in France, when he sought to rally continuing French resistance in 1940. But across the Channel, Churchill spoke often and insistently about honor. And unlike de Gaulle, Churchill found his outlook embraced by political men in his own country – when it most mattered. It was a leader of the Labour Party who demanded war in 1939, not only for the sake of security but to protect, as he said, "the foundations of our national honour."

A year earlier, Churchill addressed an American audience by radio, sighing that there could still be peace if "the German people" were not "lacking in the proper spirit of civic independence." Alexander the Great, he recalled,

> remarked that the people of Asia were slaves because they had not learned to pronounce the word 'No.' Let that not be the epitaph of the English-speaking peoples or of Parliamentary democracy or of France.[45]

By the end of the war, it was common wisdom. General Eisenhower refused to extend military courtesies to surrendering German generals. And it was not only military officers who were subjected to ceremonial dishonoring. A week after the British army overran the camp at Belsen, mayors of surrounding German towns were summoned to stand before its still uncovered burial pits.

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[44] *De Gaulle as Hero*, [in:] *Modern Liberty and Its Discontents*, translated by D. Mahoney and P. Seaton, Rowman & Littlefield 1998 [originally published in 1992], quoted passage at p. 179.

[45] *The Defence of Freedom and Peace*, "Radio Address to the People of the United States of America", October 16, 1938, [in:] *Blood, Sweat and Tears*, G. P. Putnam's Sons 1941, p. 73.

A British colonel addressed them – in a scene recorded by British newsreel cameras and very probably arranged for the benefit of those cameras:

> German youth … bear a small part of the direct responsibility for this crime. Only a small part, yet too heavy a burden for the human soul to bear. But who bears the final responsibility? You who have allowed your Führer to carry out his terrible whims. You who have proved incapable of doing anything to check his perverted triumphs. You who had heard about these camps, or had at least a slight conception of what happened in them. You who did not rise up spontaneously to cleanse the name of Germany, not fearing the personal consequences. You stand here judged through what you will see in the camp.[46](74–75)

It was a convenient sentiment to express at a moment when Allied governments were preparing to place Germany under the total control of their own armies for an indefinite period. Perhaps it was an overly confident speech, coming from an officer who had always lived under the protection of British law and never experienced a terrifyingly efficient police state. Perhaps it was even a bit unfair, since nothing was known at the time about what these petty municipal officials actually had or had not done, themselves, in the preceding years.

But a world that was skeptical of honor was still able to grasp the force of shame and disgrace. The mayors might not be criminals but they were not random individuals, either. They were people entrusted with public honor and expected – or in a normal country, at least, would have been expected – to assume some responsibility for maintaining public or national honor. Germans of rank or status failed in this responsibility and the country still lives in the shadow of their disgrace.

Within months of the German surrender, the victorious Allies organized trials of the leading officers and officials who could be charged with actual crimes. At the same time, they tried to organize institutions to prevent future wars. So at the very time that one part of the United States government was assisting in trials of German (and later, Japanese) war criminals, others were raising questions about how far the United States would go in submitting its own conduct to international controls.

In the U.S. Senate, both parties heeded the admonitions sounded by Theodore Roosevelt decades earlier. The Senate ended up placing significant restrictions on U.S. participation in the new International Court of Justice: the United States would agree to arbitration of bilateral disputes, but not to be judged on any question touching its own internal affairs, nor any question about American obligations under a multilateral convention (which might imply that it was simply a fractious province under a world government). Decades later, similar sentiment made it impossible for the United States to submit its soldiers to the judgment of an International Criminal Court.

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[46] B. Shephard, *After Daybreak*, Schocken 2005, p. 74–75. Shepherd identifies the speaker as "Col. Spottiswoode," connected with military government. That his first name has not been preserved suggests that he was not on the site for very long.

European states and many others ratified the ICC treaty after its completion in 1998 but Americans were disgusted by the thought that American soldiers could be placed on a par with the war criminals of the 1940s.

National honor could still be seen, however, not merely as a claim to independence, but the grounding of onerous obligations. For all his talk about honor in his war memoirs, as President of France, Charles de Gaulle bowed to what he saw as necessities or at least highly advantageous choices. In the early 1960s, he repudiated the French claim that Algeria was a part of France and then abandoned this nearby territory to murderous ethnic cleansing and decades of brutal tyranny. American leaders did not think they could so readily abandon their commitments to South Vietnam, on the other side of the world.

President Nixon insisted it was not sufficient to withdraw from Vietnam until the United States had secured "peace with honor." His national security adviser, Henry Kissinger, though often seen as the most hard-boiled realist, also thought (by his own account) that it was vital to protect "the principles of America's honor and America's responsibility." He felt a special

> responsibility to end the war in a way compatible with American self-respect and the stake that all men and women of goodwill had in America's strength and purpose. It seemed to me important for America not to be humiliated ... but to leave Vietnam in a manner that even the [anti-war] protesters might later see as reflecting an American choice made with dignity and self-respect ... it was precisely the issue of our self-confidence and faith in our future that I considered at stake in the outcome in Vietnam.[47]

Thirty years later, President George W. Bush presided over another war against insurgents that was becoming increasingly unpopular. Most of his generals urged withdrawal but Bush decided to send more troops to Iraq in 2006. Almost certainly he was influenced, in some part, by memories of what followed the refusal of American assistance to South Vietnam after the false peace agreements of 1973. Certainly, the memories of that era influenced others. When the leader of the opposition party in the Senate declared "the war in Iraq is lost," a retired Marine colonel protested that such statements "disgraced America." He cited the statement of General Odierno, "I say to our soldiers, 'You're finishing it so it wasn't in vain for those who came before.'"[48]

A sense of honor, according to the military historian John Keegan, is what motivates soldiers to refrain from unnecessary violence, particularly against civilians: "there is no substitute for honour as a medium of enforcing decency on the battlefield..."[49] In the debate about American interrogation tactics during the Bush administration, some of the most insistent critics of "torture" were American military lawyers, who insisted that practices like "water-boarding" were simply "not

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[47] *White House Years*, Little Brown 1979, p. 228–229.

[48] B. West, *The Strongest Tribe, War, Politics and the Endgame in Iraq*, Random House 2008, p. 373.

[49] *Honour and the Decencies of Battle*, "Times Literary Supplement," 11 Nov. 1995.

American" and would disgrace the American military.[50] A journalist travelling with the army in Iraq recorded this speech by a captain of the 82nd Airborne:

> I need guys who can hit targets. I need guys who will do anything to protect their buddies. I need guys who are ready to kill. ... And I want you to remember something. You are Americans. Americans don't shoot women and children. They don't kill soldiers who have surrendered. That's what the assholes we're up against do. That's what we're fighting. We're gonna do things differently.

But he also offered this assurance of seriousness: "But if your life is in danger, you shoot. And you shoot to kill."[51]

Perhaps this speech was just meant to keep up morale. But that's the point. Honor is about pride. Soldiers are told not to "disgrace the uniform" and reminded of heroes who have "died in that uniform" before them. Honor remains a world used without irony or embarrassment among soldiers in Iraq. A chain of coffee shops on American military bases there carries the prominent slogan: "Honor first, coffee second" – which is intended to acknowledge the high status of caffeine by ranking it only second to the first claim on soldiers.

The logic seems to be this: If you want to be associated with heroes, you must maintain the standards that give honor to the uniform you share with them. The honor of the unit and the service are the special concern to those who claim it, those who participate in it, those who understand it from firsthand involvement. But part of the pride is in serving something larger – a country that can, in some way, support and recognize the honor of its military.

There are surely counterparts to the military sense of honor in other institutions – among police, among judges and legislators, among lawyers and doctors. They have codes of conduct holding members to a higher standard than the minimal expectations set for ordinary citizens by the criminal law. In these specialized services or institutions, there are often informal uniforms to mark the members (as with the white coats worn by doctors) or even official uniforms (as with police and judges) to mark off the members from ordinary citizens, holding them out for special notice and special respect which go along with special obligations. The misconduct of individual members is thought to injure the others, because the personal reputation of each member is tied up with the collective reputation of the institution or profession.

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[50] M. Osiel, *The End of Reciprocity, Terror, Torture and the Law of War*, Cambridge University Press 2009, p. 334–335 and elsewhere: this very thoughtful book demonstrates that the legal case against interrogation practices was by no means so clear as often claimed and the objections of military lawyers had less to do with law than a sense of honor. See, particularly, ch. 12 (*Martial Honor in Modern Democracy*). I can add, from my own conversations with military officers, that their expressions of disgust at the abuses which took place at the Abu Ghraib prison (photographing naked prisoners with leashes around their necks and so on) had less to do with legal standards than with an offended sense of military honor.

[51] K. Zinsmeister, *Boots on the Ground, A Month with the 82nd Airborne in the Battle for Iraq*, St. Martin's 2003, p. 126.

There are, of course, scoundrels in every profession and every institution – in every country and every era. But there are places or times when corruption is particularly rampant, perhaps because most participants have come to see that right conduct will not be recognized or rewarded. That is part of the point about honor – that it is rooted in the pride of distinction and tends to dissolve when distinction can no longer be recognized.

Yet there are few professions where misconduct can have such immediately terrible consequences as in the military. Careless or timorous soldiers are, in the first place, a danger to comrades and then to their home countries. So it is not surprising that talk of "honor" remains most prominent in the military, where, for example, every discharge from service (at least in the American military) is explicitly certified as either "honorable" or "dishonorable." It may be that countries that still support fighting militaries retain a more vivid sense of what it means to maintain national honor and the honor of national institutions.

Alternate Worlds

How much does any of this matter? How important is it that soldiers still speak about "honor"? How important is it that national leaders and their citizens still have some residual concern with national honor? Perhaps a thought experiment can help clarify what is at stake.

Suppose a world in which all nations are agreed that resort to force – and even the threat to resort to force – can only be authorized by the UN Security Council. Suppose a world in which officials who defy this standard of international conduct will be prosecuted by the International Criminal Court for the crime of "aggression."

In such a world, all nations might seem to be truly equal. They would not only be equal in the formal sense that they retain an equal claim to self-government. They will also be equal in their capacity to defend themselves, since none would have the capacity to act independently. There would thus be a fuller approach to equality between large and small nations, between rich and poor nations – and between nations which organize themselves to be productive and innovative, on one side, and nations which are resigned to sloth and corruption, on the other.

If such a scheme were fully implemented, nations which devoted effort and resources to maintain their military capacity (presumably for participation in internationally approved efforts) would have no more authority in international councils than nations which squandered all their resources on current consumption and retained no capacity for military action. In such a world, national independence would mean very much less than it did in earlier times.

Nations which could not imagine that they would make any real contribution to defending themselves against outside threats would be more prepared to defer to

international or regional authorities. They might delegate more and more national authority to international councils – or if not enough others agreed, delegate to some appropriate regional entity. They might not worry very much if they found that their national governments were relegated, in most areas of public policy, simply to implementing decisions of the regional entity. They might not worry very much whether the regional entity actually had a reliable constitutional form – since it would not be quite theirs anyway. Lots of political concerns might drift away when the pride or the honor of national self-determination had dribbled away.

In such a world, it might seem natural that people would also rely on regional or international organizations for protection of their basic rights. It would certainly seem natural and proper that everyone should have the same rights, since such a very long list of personal rights could be conceived as "universal" and "human," including economic and social rights to provision of government benefits.

If some people still did not sufficiently appreciate these rights and resorted to acts of violence to dramatize their disaffection, it would still be permissible to deploy the criminal justice systems of various nations to restrain them. But even people who were called "terrorists" would retain their human rights – how otherwise could rights be called "universal"? And if rights were not universal, might not some people begin to question whether it had been a mistake to delegate so much authority to outside entities? Even people who participated in armed para-military forces would retain their human rights.

They would have the same rights to due process in criminal trials. If they were not prosecuted in the ordinary criminal justice system, they would have to receive the same protections as uniformed soldiers of national armies under the Geneva Conventions.

It was once generally accepted that captured soldiers of national armies qualified for special protections under the "law of war." But that, of course, gave a special honor to recognized governments. If everyone has equal human rights, then it should not matter who or what one fights for, nor how one fights: all should receive the same protections. It should not matter whether one fights for a group that respects humanitarian restraints or not, since insisting on reciprocity would be distinguishing different categories of fighters and would put "the law of armed conflict" (or as it now often called, "international humanitarian law") at odds with the universality of human rights.

The reward of this thought experiment is that one can see it verified in today's world. It corresponds to the outlook of the International Red Cross and human rights groups like Amnesty International.[52] It corresponds, more or less, to the

[52] See, e.g., L. Doswald-Beck, *The Right to Life in Armed Conflict*, "International Review of the Red Cross", Dec. 2006, p. 881 who affirms that "human rights law ... does not concern itself as to whether there is an armed conflict or not." (at 889). It follows that armies engaged in fighting terror forces may never compromise the human rights of anyone. The logic of this doctrine was blurted out by Jean Pictet, senior commentator on international humanitarian law of the International Red Cross: "If we cannot outlaw war, we will make it too complex for the commander to fight." Cited in: W. Hays Parks, *Air War and the Law of War*, "Air Force Law Review" 1990, Vol. 32, p. 75. The atmosphere of unreality in such legal reasoning has been documented in relentless detail in M. Osiel, *The End of Reciprocity*, Cambridge University Press 2009, esp. ch. 3.

professed views of European governments – at least on some days of the week, some weeks of the year.

It has a certain internal logic, if one takes ideas about equality seriously enough – and blinds oneself to other considerations. Perhaps the consideration that one most needs to ignore is whether you can live with the consequences. But perhaps that in turn depends on who "you" are. Perhaps, for example, it doesn't matter so much if adhering to these norms brings disastrous consequences for your own military forces, if you think there is no moral claim to prefer your own troops to others or even your own civilians to others.

If that is how you do feel, you might wonder how it can ever be just to engage in military action – since some people are likely to be hurt in the ensuing violence and you may have no clear grounds to prefer the safety of your own people to the safety or well-being of others. To under-value the safety and well-being of others would imply that belonging to a particular nation gave greater claims to your concern.

It has often been observed that the spirit of contemporary international law – and contemporary humanitarian advocacy in particular – derives from Kant or at least (as Jürgen Habermas put it, in a famous denunciation of the Anglo-American war against Saddam Hussein in 2003) that it is "Kantian in spirit if not necessarily in details." Among other things, Kant endorsed capital punishment for murder, whereas contemporary humanitarians are convinced that capital punishment is always wrong, even for perpetrators of mass murder.

But Kant did argue that true morality must conform to universal rules and the proof that one is adhering to a universal rule is that one disregards consequences to oneself or to those for whom one has special concern: special concern is a departure from universality, hence from true morality. Kant famously denounced politicians who pleaded that governments could not always adhere to general rules. It all looks more reasonable if no great harm will follow from adhering to the general rules. So Kant urged that nations must submit to a universal peace federation which could ensure perpetual peace for all nations.

In the world that Kant envisioned, nations would not have to worry about their honor, because there would be no need to distinguish the exceptional action by the generally honorable nation from the willful defiance of all norms by the barbarous or fanatic nation. In the world which Kant envisioned, government officials or would-be leaders would have no more need for judgment than withdrawn private citizens, because all would be bound by universal norms and have no need to worry about consequences.

So those in other nations – whether in or out of office – would have no need to notice whether a particular nation was led by honorable individuals. And officials, leaders, peoples would have no need to judge by analogy with national heroes of the past. A world governed entirely by universal rules would have no need to remember the exceptional men who prevailed in extreme circumstances – nor

remember the cautionary lessons of the exceptionally wicked or the exceptionally craven or the exceptionally credulous who led their nations to disaster and disgrace.

It is easy to see why this vision appeals to many Europeans, who have so much they would as soon not remember. It certainly makes the project of European integration seem much more promising. It is equally easy to see why this vision does not appeal to countries that still can and still do take pride in their own history and their own heroes. If this vision could be realized, it would make honor unnecessary.

In the meantime, efforts to implement this vision cannot have universal appeal. Some countries might not survive if they could not show enemies that they were prepared to defend themselves -- and such countries could not, in fact, defend themselves if they could not summon the sense that they were worth defending. An embattled nation must ask citizens to risk their lives in its defense. It can only mobilize such efforts if it can honor those citizens who answer its call. Israel is an obvious example in today's world. Surely this is part of the reason its efforts to defend itself provoke such indignant criticism from advocates for universal human rights. It is a nuisance to the project of international understanding when particular small nations insist on making a fuss about terror threats to their own citizens.

What is the underlying difference between countries now engaged in efforts to defend themselves and other nations that sit smugly on the side-lines and talk about human rights? Perhaps it is a matter of honor. Or perhaps it is simply a matter of time. A world where international authorities are not, in fact, equipped to deter or to punish is a world that must expect more violence.

Dutch peace keepers allowed ten thousand civilians to be slaughtered in the Balkans in 1993. Dutch soldiers were committed to peace and human rights but not to maintaining their own honor, even as military defenders and peace-keepers. At the time, the Dutch government claimed to be highly dismayed. In the following decade, the Dutch responded to threats from Islamist extremists by expelling from the country a distinguished member of Parliament and subjecting another to criminal prosecution for violating new speech norms demanded by outside powers. But the Dutch are proud hosts to the International Criminal Court and the International Court of Justice. Apparently, that is honor enough. Whether it is security enough might depend on how well these institutions do in protecting the Dutch from worse threats.

It would certainly be grotesque to argue that the world should preserve the potential for conflict in order to preserve the potential for honor. To sever any connection between strength and justice, to reduce honor entirely to power or the will to power is a succinct definition of fascism. But for Europeans to think they have "overcome" the appeal of fascism by embracing weakness is rather unconvincing. It is merely to deny the reality of evil – and render themselves morally as well as physically defenseless against it. Fascist powers overwhelmed Europe at the opening of the Second World War because so many Europeans had already embraced passivity and weakness and forgotten how to say no.

Of course, conflict can have terrible consequences. So can refusal to resist or refusal to judge or refusal to act. To dispense with honor because it encourages conflict is to dispense with the reward for acting or resisting or judging. It is to dispense with a constraint on human impulses in the name of escaping from any need to control or direct human impulses – leaving all concerns about security to the World Peace Federation or (even more absurdly) to the UN Security Council, leaving all concerns about honor to the International Criminal Court, leaving concerns about freedom to the anonymous technical specialists on international human rights law, who labor for humanity without need of any particular community to honor them.

That was always the promise of Kantian formulas – to found morality on indisputable premises, to escape the uncertainties and ambiguities of human nature. Under Kantian inspiration, there is much talk in international human rights forums of "human dignity" – something which is supposed to inhere in all human beings merely because they are human beings. It is not founded on any definite religious teaching (lest it be subject to the constraints of religious admonition). Still less does it appeal to examples set by the best human beings nor any induction from history, experience or observation. It rests on a metaphysical postulate so obscure in its grounding that contemporary appeals to "human dignity" are not readily restricted to human beings.

The contemporary view of "dignity" is so undemanding that it has inspired talk about the "dignity" of other species. Not long ago the Swiss Parliament voted a resolution acknowledging the "dignity" of plant species – the dignity, that is, of fruits and vegetables. It is as if the last stage of Swiss neutrality would have Wilhelm Tell hesitate between shooting the apple or shooting his son, lest he slight the dignity of one or the other.

Honoring Honor

In ancient Greece, honor could be claimed by men who transcended political limits. Honor was so personal that it could be almost entirely personal. Plutarch describes "noble lives" of men like Themistocles and Alcibiades who offered their services to enemies of their own city. Such betrayal may have made them less trusted but was not, it seems, regarded as dishonoring in the way an act of cowardice or gross incompetence would have been.

Tocqueville notes that medieval lords were thought to be dishonored by violating their personal oath to their overlords, but scarcely at all for assisting the latter in attacks on their own homelands.

The "love of native country" was "only a weak and obscure instinct" in an era when noble rank transcended nationality, asserting its own claims to honor and dishonor in very tangible ways.[53]

[53] *Democracy in America*, Vol. 2, part 3, ch. 18, p. 592.

Modern democratic ideas have reined in such exaggerated notions of personal honor. Those who try to impose their will on the world, without the consent or support of a particular nation, seem maniacal, like the Marxist revolutionaries of the past or terrorist master-minds today. They may hope to be celebrated for their achievements in the distant future but they seem more concerned to provoke fear among contemporaries than respect (or what would normally be considered honor).

Ordinary citizens may be self-absorbed in a different way. Hundreds of pages before his chapter on the decline of aristocratic honor in modern nations, Tocqueville comments on the national pride he observed among ordinary Americans. Americans, he finds, are quite touchy about criticism from foreigners. The ordinary citizen,

> taking part in all that is done in this country, believes himself interested in defending all that is criticized there; for not only is his country then attacked, he himself is: thus one sees his national pride have recourse to all the artifices and descend to all the puerilities of individual vanity.[54]

Tocqueville seems to have regarded this sort of national vanity as too childish to be honorable. When everything becomes a matter of national honor, honor seems to dissolve into self-adulation. It hardly needs saying today that extreme forms of nationalism can be as blinding and stultifying as personal narcissism in individuals – and more destructive to bystanders.

Nations have gone to war over disputes that seemed in retrospect almost childish. Burke looked back on Britain's resort to war against Spain in 1739 over a supposed attack on a British sea captain – in the so-called "War of Jenkin's Ear" – as "extreme injustice."[55] Nations have been led to ruinous encounters, even in relatively recent times, by demagogic appeals to national honor. The effort of Argentina's military junta to wrest control of the Falkland Islands from Britain in 1982 is a relatively recent example.

Still, nations have reputations to guard as well as tangible interests. It was not pointless for Britain to use military force to retake the Falkland Islands, even if the control of these very remote islands – offering sheep meadows on the edge of Antarctica – contributed almost nothing to Britain's material resources or immediate security. Over the next decade, the United States sent troops to Grenada and Panama and conducted air strikes against Libya, in each case claiming that the action was a response to prior injuries or attacks against American citizens.

All these military actions were controversial. But there were grounds in each case to think that American decisiveness sent a signal about American readiness to act on behalf of more vital interests.

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[54] Vol. 1, part 2, ch. 6, p. 227.

[55] *Letters on Peace with the Regicide Directory of France*, Letter 1, [in:] *Select Works of Edmund Burke*, Liberty Fund 1999, Vol. 3, p. 109.

Conversely, serious observers concluded that American passivity in the face of smaller terror attacks in the 1990s emboldened the plotters of the 9/11 attacks in 2001.

The reputation of a nation – which we might still call, on important matters, its honor – remains important, in the first place, because the opinion of other nations often matters. And the opinions that matter often turn on questions of intention or commitment or self-restraint, not merely on more quantifiable questions of economic or military capacity. Something similar is true in private life: business firms, for example, sometimes concede more than the law requires in order to maintain a reputation for fair-dealing or reliable performance. When interests are hard to calculate – for those making the decision and those who stand to be affected by it – people often fall back on more abstract considerations of how a particular course of action will look to outsiders. Maintaining honor or reputation can help to reduce uncertainty and nations, like private entities, often need to reassure or warn others in the midst of uncertainty.

Naturally, rich and powerful nations, like wealthy or secure individuals (or institutions) in private life, often find it easier to be generous or accommodating or patient than those facing more pressing circumstances. The rich and powerful also find it easier to be obstinate and insistent, when they think they should. But it does not follow that honor is simply a reflection of power.

Even powerful nations sometimes need to cultivate trust, either to enlist cooperation or to diminish threats of resistance from other nations. In a world where each sovereign state is, at least in formal or legal terms, free to make its own decisions, such equality does not make honor less important, but more so. One must demand respect or win it or maintain it, when obedience cannot simply be commanded. According to the old saying, no man is a hero to his valet: with a servant who is already obliged to do as he is told, no one needs to look heroic.

The importance of reputation does not, on the other hand, imply that every nation should find it worthwhile to please as many others as possible. Honor is not the same as popularity or appreciation. A business firm that tried to please everyone by giving its products away might be popular for a while – and then find itself out of business, which would not be very pleasing to its employees or creditors or investors. A government which is not a ruthless dictatorship must first satisfy its own people. Citizens have reason to care about the reputation of their country in the wider world, for reasons of interest as well as pride.

Among other things, national honor might be a guarantor of the country's right to make its own decisions where different countries have different interests or different priorities. Ordinary citizens may take pride in the capacity of their country to make its own decisions, apart from finding it advantageous. But then it follows that, even in a democracy, citizens have some stake in supporting leaders and institutions who can maintain the respect of other nations – even if that means acting in ways that are not immediately popular at home.

Perhaps the ordinary citizen thus has a stake in supporting individuals and sustaining institutions with a special sense of honor, with a special degree of firmness and a higher sense of obligation than the ordinary citizen requires in private life. Perhaps it also follows, then, that citizens have a stake in honoring their past heroes, so they can maintain the self-confidence to make hard choices – or support those called on to make hard choices for the nation – in the future.

Honor remains important in the world, precisely to the degree that the world is not completely organized. A world government would not have to worry about maintaining its honor, if it couldn't be resisted. Institutions like the European Union and the United Nations already seem to behave as if they do not need to win trust or prove their capacity, because they are presented as indispensable and without rivals. It is hard to disgrace the honor of such abstract entities as it would be hard to work up concern for the honor of the northern hemisphere.

It might be that global policy-makers would strive to serve the interests of everyone, or at least the large majority of the world's people. It might be that they would heed those who propound global moral norms – regardless of consequences to some or other hapless victims. Between them, the global policy experts and the universal moralists would seem to crowd out any room for honor. Would they not also squeeze from the world any meaningful claim to freedom? In such a world, the claims of distinct individuals and distinct peoples to decide for themselves might seem merely whimsical.

In an essay on constitutional government, published in the 1980s, Harvey Mansfield offered this caution about reducing all political claims to claims about interest: if

> freedom [is] necessary to one's interest … then one's interest entails a willingness to *sacrifice* [original emphasis] one's interest when freedom requires self-defense either as an individual *or for the sake of one's country* [emphasis added]. In this view, interest is defined not against pride but in company with it.

Not everyone is so proud, nor so ready to sacrifice. But those who are not might still depend on the service of those who are. Mansfield concludes that "free government needs to allow for the ambiguity of pride and interest in the ambitious as well as in ordinary citizens."[56] The ordinary citizen may share in some way, not only in the benefits gained but in the honor achieved by the more ambitious. But that requires the ordinary citizen at least to respect the honor of his country.

We should hesitate before lightly assuming that a world without national honor would be a more peaceful world. It might turn out to be simply more shameless. More likely, it would be a world where honor re-emerges in new and perverted ways, as in the heroic posturings of terror chieftains and their suicidal followers. Would no one raise a battle flag just because global authorities had outlawed con-

[56] *Pride versus Interest in American Conservatism*, [in:] *America's Constitutional Soul*, Johns Hopkins University Press 1991, quotation at p. 83.

flict? Perhaps more people would follow the outlaws, when only outlaws displayed a sense of honor. As Churchill remarked in the 1930s, "human nature is more intractable than ant nature."[57]

[57] *Mass Effects in Modern Life*, [in:] *Thoughts and Adventures*, first published 1932, reprinted by Thornton Butterworth 1990, at p. 185.

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RELIGIOUS MOTIVATIONS FOR WORK ETHICS. THE AMERICAN CASE

Initial Remarks

At first glance, everything is obvious. Work after all belongs to the specific forms of human activity towards which no contemporary religion remains indifferent. Yet the question begins to become complicated once the questions being asked are fine-tuned: for example, 1) whether all religions have the same attitude to work, and, if not, 2) whether their different understanding of work implies onto the mundane plane an uneven development of a human civilisation, both in its material sense and that of the realm of symbolic culture, and also 3) remains in direct connection with the eschatological visions proper for the given religion (concerning e.g. the dependence of the posthumous fate of the human on his or her behaviour in the earthly life). Providing convincing answers to these seemingly simple questions is not easy, especially in societies that in the successive phases of their historical development have changed not only their ethnic and racial but also their denominational mix, moving from stable, homogenous states to dynamic heterogeneous structures. Undoubtedly, one such society is the totality of citizens of the United States of America. Here is the simplest of all possible proofs.

From the establishment of Jamestown (on the power of the privileges awarded in April 1606 to the Virginia Company of London by King James I in 1607 by 105 colonists who arrived (on board the *Susan Constant, Godspeed* and *Discovery*) at Chesapeake Bay and the subsequent disembarking of the 102 passengers of the

Mayflower at Plymouth Colony in 1620, up to the beginning of the revolutionary years (1760), the inhabitants of the first 13 colonies were white Britons following the various shades of Protestantism, with the exception of Maryland, where nearly every other first settler was Catholic. It is not to be forgotten, however, that not everyone embarked on the long and dangerous road solely in search of religious freedom. That might have been the case with the group who defined themselves as "Saints" or "Separatists", and did not received the moniker of Pilgrim Fathers until the 19th century, who – having escaped from England and spent ten not-too-successful years in Holland – were seeking shelter in America from the tyranny of Anglican priests. The remaining passengers on the ship were known as "The Strangers". They included farmers, servants of feudal lords, and soldiers, most of whom were Anglicans. In the wasteland – which is how they perceived the new continent – they were simply seeking an opportunity for a new life. The rich merchants from the Second Virginia Company supporting them in turn expected profits from fisheries and fur trade.

Similarly, the first political system that the Puritans developed had nothing to do with democracy in any form. Among those who settled in the new colony in the 1640s, they were five times fewer than those who did not subscribe to their religious views. Even though the approximate number of settlers was 15,000, and there were only 3000 puritans, through the theocratic system of power, they were capable of depriving all who did not identify both with their eschatological views and their soteriology of the vote in public matters. In this way, not for the first time in history, from being persecuted, they themselves became the persecutors.

According to estimates, in 1775, nine out of every ten colonists were, at least nominally, Protestants. 230 years later, halfway through the first decade of the 21st century, only 52% of adult US citizens considered themselves Protestants, 24.3% Catholics, and 1.7% Jews. A total of 7.4% subscribe to other religions, from animism, via Islam, Hinduism, Confucianism to Buddhism, and 13.7% do not declare an affiliation to any confession.

Even though there are no precise sources, it is estimated that the approximate population of the English colonies in Northern America five decades after their establishment was 100,000, and early in the 18th century the figure was 250,000. In the last years before the revolution, it exceeded 2 million, which accounts for 500,000 slaves, from which point it began to increase ever more rapidly. According to the first general census conducted (in line with Article 1, Section 2 of the Constitution, where it is called "Enumeration") in 1790, the USA was already inhabited by 3,929,214 people. 215 years later, in 2006, the population of the United States had increased 75 times, exceeding 300 million. At this time it is not solely a white population. According to the general census of 2000, 75.1% of Americans believed that they had only "white" forefathers, 12.3% were Afro-Americans, 0.9% Indians or indigenous residents of Alaska, 13% Latinos (mostly Mexicans, Puerto Ricans, and persons hailing from the countries of Central and Southern America), 3.6%

Asians (Chinese, Filipinos, and Asian Indians), and 0.1% were descended from the original inhabitants of Hawaii and other Pacific islands. It is to be added here that 2.4 percent of US citizens recognised that their forefathers belonged to more than one race. Finally, as proved by the data quoted above, it is no longer a population of predominantly English pedigree.

As the authors of *The Story of America*[1] would write years later,

> well into the 19th century, whole villages along the Hudson spoke Dutch and no English; Swedes and Finns, the sturdy survivors of short-lived New Sweden, dwelt along the Delaware in America's first true long cabins, and French traders and trappers lent a strong Gallic flavor to Ohio Valley outposts.

As would also be written years later, each new wave of immigrants brought their own elements – ethnic, religious, personality traits, some unknown to the others. Only one thing was common to the immigrants from all the periods of settlement, namely the certainty that individual success – their personal success, as that was what they were most interested in – was possible. And it was for that sake, from that mosaic, and not for the sake of uniformity, that the new unique character of the United States of America was born and continues to be born anew.

Another difficulty of interpretation is connected to the various – as they depend on the assumed theoretical tradition – scope of semantic fields of such notions as ethics, work, and religion. To avoid potential misunderstandings, one needs to choose definitions for them.

Ethics, Work, Religion

Without entering into detailed ruminations, ethics will be treated in this analysis in the tradition of Max Weber (*The Protestant Ethic and the Spirit of Capitalism,* 1904–1905) and Richard Henry Tawney (*Religion and the Rise of Capitalism,* 1926), the tradition initiated in research on the relations between the various religious denominations and economy. Looking from this perspective, ethics consists of a certain sum total of philosophical and normative assumptions that allow an understanding of what good and evil are, and moral duty, as well as the individual's conscience and responsibility for our own deeds. In more general categories, ethics generates the answer to the question of the sense of human existence and types of relations between human actions (good or evil) and human nature. The religious version of ethics, unlike the lay one, assumes that the maker and at the same time the safeguard of the moral order is God, even though His relationship with the human can be interpreted in various ways. According to certain denominations, e.g. Catholicism, the human is furnished by God with free will, for which reason he

[1] *The Story of America*, ed. C. C. Calkins, Pleasantville 1975, p. 318.

himself decides about the valency of his deeds, for which he is responsible before God. Under special conditions, the human may even – through the balance of all things good and evil – influence the final assessment of his life by the supernatural being. According to others, for example Calvinism, the fate of the human is finally decided through the act of predestination. The human may only try to guess, mostly through the assessment of the results of his deeds, what fate was determined for him. He is not, however, capable of changing his destiny through these deeds. For he is not equal to God, and therefore may not influence His will.

Work, on the other hand, is of a different nature. Its essence as well as functions in the lives of individuals and societies are decided simultaneously by at least three factors: psycho-physiological, economic, and moral. Thus the action of work is determined not only by the subjective will of the working but at the same time by the existential necessity, from the perspective both of the individual and of the society to which the given individual belongs. At the same time it is through work that the human builds and at the same time gathers a specific human and social capital, which is then passed from generation to generation, and which includes social and economic systems that regulate the relations of governance and exchange. For this reason, work – even though the object(s) being processed, manners, tools, heterotelic goals of work, and skills of the worker undergo continuous changes – belongs to the essence of the *homo sapiens* species, and plays a significant role in the process of anthropogenesis.[2]

From the perspective of certain theories, work is not connected to any concept of God. In the understanding of others, on the contrary, it is an alienable feature of the process of creation and dependence of humans from God. The first includes among others the point of view that in the 19th century was proper for Karl Marx, and in the 20th, for example, for Michel Foucault. According to Marx, work (understood both as an act and as social relation and process) is an attribute of mankind, externalising the potential of the human, creating the human being, and leading to his self-fulfilment. This process is of intrinsic character. Even if in certain phases of the historical process, work – including the relations that people enter among themselves while working and sharing effects of work – is accompanied by religious motivations, it happens so wholly and solely because the man who develops these motivations seeks in them justifications for these manifestations of social life and relations of power, which he does not control. According to Foucault, work is an intrinsic factor that distinguishes and at the same time places that human in a network of connections with other people on the grounds of the state of knowledge (science and philosophy) binding in the given phase of its development.

In the latter understanding, everything that is made of the will of God (that is not only human as such, but also his individual attributes) depends on Him. However, the degree of this dependency is described and explained differently by various philosophical schools and religious denominations. Marie-Dominique Chenu

[2] L. H. Morgan, *Ancient Society,* New York 1877.

claims, for example, that work is "a continuation of the divine work of creation".[3] The two encyclicals of the Roman Catholic Church, namely Leo XIII's *Rerum novarum* (1891) and John Paul II's *Laborem exercens* (1981) refer to human work in a different manner again. According to this tradition, the human

> created [...] in the image and similarity of God Himself among the visible universe, appointed to subdue the earth, is [...] through the same called to work from the beginning. Work differentiates him from the rest of the creation [...]. Only the human is capable of that and only the human performs it [...]. Thus work carries a special mark of the human and humanity, the mark of a person operating in the community of people (*Laborem exercens*: 4).

In these encyclicals, the Catholic Church joins the theological vision of work with the selection of values and social policy. The essence of this *iunctim* is best explained in the following sentence:

> [...] one needs first to recall the principle, which the Church has continued to teach. This is the principle of the priority of 'work' before capital (*Laborem exercens*: 41).

John Paul II exposes also the

> [...] very ethical essence of work. For it goes without saying that a human through the ethical value of work, which remains directly and straightforwardly connected to the fact that the one who fulfils it is a person, is a conscious and free subject, i.e. one that is deciding about himself (*Laborem exercens*: 21).

John Calvin developed and spread the understanding of ethics of work that was his own and proper only for him. In the realm of his future disciples, it yielded among others to the influence of the needs of Calvinist communities living in a dynamically changing world, and underwent certain modifications. For the complete explanation of religious motivations of ethics of work and the changes to be possible, additional detailed explanations are necessary. They include the fine-tuning of the semantic fields of such notions as religion, religious denomination, sect, cult, and civil religion.

This statement is especially important in reference to the United States, where even on the eve of the 200th anniversary of the country's establishment, 223 religious denominations (including various churches and sects; with 52 largest denominations having at least 100,000 members each; see consecutive issues of *The Yearbook of American and Canadian Churches*) operated parallel to thousands of religious cults,[4] and religious communities that did not disclose the numbers of their members (for example the First Church of Christ and Scientists).

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[3] *Mały słownik terminów i pojęć filozoficznych,* Warszawa 1983, p. 287.

[4] According to research by Robert Marquand and Daniel B. Wood, there were approximately 5000 of those; see the article *Rise in Cults as Millennium Approaches,* "Christian Science Monitor", 28th March 1997, p. 1 and 18.

The mosaic described above has been complemented in recent decades by the movements described with the common name *New Age "spiritual seekers"* or *New Age spiritualists*.

In spite of appearances, we do not have a universal understanding of religion, but numerous definitions and quasi-definitions hailing from various realms of culture and scientific disciplines, especially religious studies, psychology and sociology, and also from different philosophical schools. Thus for example Sigmund Freud was ready to believe religion to be "a universal, obsessive neurosis", which will disappear as soon as humanity has conquered its infantile biases and weaknesses (*The Future of an Illusion,* 1923). In Émile Durkheim we find a more developed understanding of religions. He believes that

> [...] any religion is a solitary system of beliefs and practices related to the sacred things [...], beliefs, and practices, which unite into a single moral community, known as church, all those who belong to it (*Les formes élémentarires de la vie religieuse,* 1912).

Joachim Wach was moving in a similar direction when he wrote that religion is an experience of the sacred, whose theoretical and practical elements are so closely connected that primacy can be awarded to neither. "There may be no act of cult without any representation of any deities, nor any religion without certain, at least cult, forms of expression" (*Socjologia religii,* Polish edition of 1961). With time, attempts were made to refer all the known definitions of religion to one of the two basic categories: minimalistic and complex definitions. Due to their construction, the first were akin to the classical model. A good example of the first category might be the definition proposed by Taylor: the essence of religion is "belief in spirituals beings".[5] Here, "belief" plays the role of *genus proximus,* and "spiritual beings" that of *differentia specifica.* The latter, on the other hand, gathers the definitions of the descriptive type, thus, for example that of Clifford Geertz. According to Geertz,

> religion is: 1) a system of symbols which acts to 2) establish powerful, pervasive, and long-lasting moods and motivations in men by 3) formulating a conception of general order of existence and 4) clothing these conceptions with such an aura of factuality that 5) the moods and motivations seem uniquely realistic.[6]

It is not difficult to notice that neither the first nor the second definition allows us to solve the dilemma as to why the believers – even within a single monotheist religion, not to mention all the three, even though such an attempt was made in the United States already in the mid 20th century – are not capable of breaking denominational differences and on these grounds piece together a joint religion course book that could be introduced in public schools. It is so possibly because the

[5] J. Goody, *Religion and Ritual: The Definition Problem,* "British Journal of Sociology" 1961, No. 12, p. 143–164.

[6] C. Geertz, *Religion as a Cultural System*, [in:] *Anthropological Approaches to the Study of Religion,* ed. M. Banton, London 1968, p. 4.

general definitions are possible only at the level of ideal types (in the understanding of Max Weber), yet they are not sufficient at the level of the *hic et nunc* reality. What exist there are not "religions per se", but those that received further adjectival clarification, and it is in their name that their followers are capable of instigating even religious wars. A simple yet very important corollary can be brought from here: still in the 19th century, America played a similar role towards Protestants as Geneva did in Calvin's time – yet to a much greater scale with consequences going further. In the case of Maryland (established in 1634), the English Catholics also benefited from that, as they were allowed by Cecilius Calvert to settle in his territory (his, as it was his father, Lord George Calvert, who received it from King Charles I).

In the American understanding, *church* is perceived, according to Ernst Troeltsch[7], as a type of religious organisation focused around holy things, yet at the same time accepting the basic lay dimensions of reality. God is perceived by the members of the church in intellectual categories (among others as the source of good), and the moral standards are taught by the clergy in such a way that they are compatible with the potential of everyday life and leading to no – wherever possible – excessively far-going controversies. Moreover, in American conditions, no church may aspire to the role of the state church.

Denomination is a denominational organisation that is independent of the state, operating in the conditions of religious pluralism, and in line with constitutional standards, and also in a way similar to church. This is why the distinction between churches and denominations in most cases it is not a sharp one. In certain situations, "denomination" refers neither to an organisation nor to a religious community, but encompasses primarily the contents of the faith, for which reason it becomes a part of complex names of the type: Christian denominations, Protestant denominations, non-Christian denominations, etc.

Sect is differentiated from other denomination wholes, primarily by its separation from the global society, as a sect is not distinguished from the remaining members of the society only with one strictly defined aspect, but is in most cases an alternative – more or less complete – to it.

Names like *cult*, *New Age*, *civil religion*, and even "*good ol' time religion*", have little to do with the religion in its understanding so far, and become rather quasi-religions.

The specific characteristic of the cult is based on the fact that – mostly under the influence of a charismatic leader – the group that forms it becomes isolated from the majority cultural tradition, or even remains in a harsh conflict with these traditions. In this case, the charismatic leader and sudden civilisation changes also play a vast role. Moreover, many later adjectival religions began a process of formation as cult movements.

[7] E. Troeltsch, *The Social Teaching of the Christian Churches,* New York 1931.

New age is the search for spirituality outside traditional organisations and denominational institutions that has intensified in recent decades. This is "spirituality without formal religion", or in other words one that has grown from the conviction about the existence of a higher force and a reality that is alternative towards "the physical world", and also about a universal connection between everything that results from the will of a higher force. People – if they become more "spiritually aware" – may experience the spiritual dimension that exists beyond the earthly world. To become like that and experience transcendence, one needs to learn to do yoga, conduct meditations, and also develop meditative concentration in oneself.

Civil religion is a complex name introduced by Robert Bellah.[8] It defines the types of communities with quasi-religious solidarity that develop in societies that are to a high level secularised. Interpreting this phenomenon, John J. Macionis writes "in other words, even in a largely secular society such as the United States, citizenship has taken on religious qualities".[9] The external semblances of civil religion are, for example, the behaviour of fans during international sports championships, including the singing of anthems and mass demonstrations of national flags.

Finally, the phenomenon defined as "good ol' time religion" is a form of a contemporary religious revival. This is primarily a reaction to the fall in the number of the congregations and the position of mainstream liberal churches. At the same time, while churches similar to the Episcopal Church (as the Anglican Church, e.g. the Church of England, was called after it was transferred together with its structures and settlers to American colonies; George Washington and two thirds of all the signatories of the Declaration of Independence belonged to this church) and Presbyterians (whose name comes from the elder = *prebsbyteros*, as the lay people participating in the management of church were referred to in the Scottish current of Calvinism) lose their influence and membership (in 1960–2000, they lost nearly 50% of their earlier possessions), "conservative religious organisations (including the Mormons, The Seventh-Day Adventists and especially Christian sects) has risen just as fast".[10] It is significant that these conservative religious organisations that strengthen under the influence of the religious revival include primarily those whose roots are solely American. Besides those mentioned by Macionis, these include the Disciples of Christ (established in Pennsylvania by Thomas Campbell and his son Alexander early in the 19th century), The First Church of Christ, Scientists (founded by Mary Baker Eddy in 1789) and Jehovah's Witnesses (established in Pittsburgh by Charles Taze Russell in 1872).

[8] R. Bellah, *The Broken Convenant,* New York 1975.

[9] J. J. Macionis, *Sociology,* tenth edition, Upper Saddle River NJ 2005, p. 508.

[10] *Ibidem, p.* 510.

The Calvinist Syndrome

The ideological grounds for the American work ethic were laid down not only by believers following the path paved by John Calvin, but also by other Protestant communities. Nevertheless, Calvinism was of fundamental significance here. Before this manner of understanding of the human and his relationship with God reached Massachusetts Bay Colony, it travelled a long way from Geneva to London, from where it reached Antwerp and Amsterdam. Influenced by these migrations, it contained not only the ethos of work of Geneva burghers, but also the experience generated by religious conflicts and wars in France (the case of approximately 400,000 Huguenots, who not only formulated their *Confessio gallicana*, but also called into life an autonomous church structure and established a political party), in England (visible especially in the teaching of the Presbyterian cleric Thomas Cartwright and in Puritanism) and Holland (a group of dissidents from the Anglican Church gathered around William Brester, known as Separatists or Pilgrims, had by then emigrated illegally, seeking a more tolerant atmosphere in Amsterdam).

John Calvin (1509–1564; original name Jean Chauvin or Caulvin), a Frenchman by birth, later connected to the French community in Geneva discriminated against by King Francis I and later considered the most European of all the Protestant reformers, included the essence of his religious reform in the work entitled *Institutes of the Christian Religion*, whose last edition (1559) was composed of 80 chapters, while the first one, of 1536, consisted of only six. An important complement to the work was the *Ordonnances ecclésiastiques* treaty of 1541, reforming the Church. In neither was Calvin afraid of changes. He opposed Rome and the office of the Pope, assuming four principles as the grounds for his searchers: *sola fide* (only faith), *sola gratia* (only grace), *sola Scriptura* (only Scripture), and *solus Chrystus* (only Christ). He did not believe science and religion to be antithetic to each other.

The specific interpretation of the predestination doctrine became the foundation of Calvinism. The phenomenon defined under this name had already been known in other religions, for example in the old-Iranian Zurvanism, where it meant unlimited time or, to put it differently: eternity, reigning over life and death, and also "space, heavens, fate, and destination".[11] In ancient Greece, as *kairos,* it meant "the present moment" that could not be foreseen. It is through predestination that destiny manifests itself in a specific experience, and it is predestination that decides on the situation of the human in a unit of time, physical space, and social environment. The notion of predestination is encountered also in Catholic theology. Its synonym is then "destiny" [in the New Testament – the calling or summons – HK], that is "God's eternal decision directing the human towards salvation".[12]

[11] K. Banek, *Historia religii. Religie niechrześcijańskie,* Kraków 2007, p. 145.

[12] *Mały słownik terminów i pojęć filozoficznych...*, p. 306.

It pertains to the whole of humanity, yet its acceptance or its lack depends on specific individuals, as by God's will they are empowered with "free will".

According to Calvin, God decides *ex ante* on which individuals will be saved as well as which are sentenced to damnation. Thus, there are two dimensions to their destination, and the human has no capacity of influencing God's will and the destination that he has been assigned. He may only, knowing about the lack of alternatives, yield to his destination, and – through the results of work and asceticism – only guess what fate awaits him. Later theologians would gradually reduce the severity of the original dichotomy contained in the Calvinist understanding of predestination, and – on certain conditions – would give the sinners an opportunity for salvation. Yet no unambiguous decisions in this question had been made until the document of concordance between the denominations derived from Calvinism and Lutherans signed in Leuenberg in 1973. In the document, we find a claim that "the testimony of the Scriptures on Christ forbids us to assume that God issued a decree condemning specific persons or a people for ever".[13] Before it came to that, implications resulting from the orthodox version of the doctrine of predestination were in force, and encompassed not only the participation in religious services on holidays and times of prayer, but also the day-and-night rhythm of life and all its dimensions, and among them – especially work. Sanctifying life, Calvinism made work its buttress.

The obligation of hard work rested on everyone, as it proved their yielding to the will of God. Moreover, those working should – of their own will and not under the pressure of supervision – perform the jobs entrusted to them (as well as those done from their own choice), as thoroughly as they only could. At the same time workers must refrain, as this resulted directly from the dictate/commandment of asceticism, from ostentatious consumption. The goods they develop should be on the one hand reinvested, and on the other earmarked for those in the care of the deacons: the ailing, the poor (especially not of their own will), biological orphans, and those fleeing religious persecution.

In the Calvinist understanding, asceticism had both a spiritual dimension and one which fulfilled itself in – as Émile Durkheim defined early in the 20th century – the realm of the profane, that is that of everyday life. The following were turning into virtues: the severity of tradition and the abstemious lifestyle subordinate to it (without prodigality and demonstrative consumption), work (also manual) treated as a calling and sanctified in this way, professional reliability (for it was not only the act of work itself, but also professions that resulted from the calling), frugality, and the gathering of goods for their appropriate use (investments and among others philanthropic activities).

Reforming the Church, Calvin (much like Ulrich Zwingli (1484–1531) in his 34th thesis from among the 67 declared in Zurich) started from the assumption that the teaching of Christ gives no grounds for the Church authority to bathe in

[13] *Enchiridion Oecumenicum,* Edizioni Dehonine, Bologna 1988, p. 342–343.

splendour and luxury. For this reason, bishops in his version of Christianity were redundant. Moreover, he understood clergy in a different manner, considering – much like Luther – that they are simply the effect of the division of duties within the communities of the faithful. It would be sufficient for every community of the faithful to have four offices collaborating with one another yet at the same time independent from each other – pastor, doctor, elders, and deacons. None of them was a sacrament, and the persons playing these roles did not need any ordaining. The obligations of the first included preaching the gospel and exercising the sacraments. Of the second – teaching and supervision over the correctness of interpretation of the Holy Scripture, of the third – maintaining obedience to the rules binding in the community. Finally, the fourth group – performing the activities that are today known under the name of social care. The place relinquished by the bishops and the hierarchically ordered clergy, the power in the church was now to be taken over by the *consistory* (the highest spiritual, yet also administrative and judicial, power). The path to this new institution led through elections, and both the active and passive right of election were the prerogative both of the persons holding the four officers mentioned above in a reformed Church, and the general body of the faithful. Besides that, the election regulations were complemented with an entirely new principle of rotation on all the posts manned through elections. Calvinism gathered its first experiences with this system of power in Geneva.

Doing away with the clergy, Calvin reinforced the role of the lay within the denominations he created. From the proverbial sheep, led by the priests ordained for that role, they were turning into active subjects of a religious community deciding about themselves and participating in its management. Using today's terminology, one could say that this was not only a right but also an obligation of participation, which practically anticipated one of the important constitutive elements of contemporary democracy.

Devoting so much attention to the religious community, John Calvin exposed at the same time the role of the individual as an active subject that was simultaneously responsible for his actions – in the final reckoning – before God. Hence individualism was one of the principles of his philosophical anthropology.

Calvin required from the faithful that they read the Bible, as it contains the word of God meant for them, and that they live in accordance with its imperatives. Reading in turn also imposed the duty of common learning, thus establishing schools for boys and girls (which two centuries later, yet at the same time decidedly earlier than in other denominations, translated into the open attitude of reformed churches to the question of emancipation of women) and also higher schools, including those preparing to the interpretation of the Bible. These for example were the beginnings of the Geneva Academy, and later the first higher schools in American colonies, which *nota bene* belong today to the top of the American Ivy League.

Doing away with the clergy solved another problem, which for example the Catholic Church struggles with to this day, namely the problem of celibacy (in the

Western Church, the practice of celibacy of the clergy having taken holy orders had been generally obeyed since the 7th century). Under the influence of Calvin, Geneva, which had already earlier become the centre of the contemporary version of civil movements (among others, in the result of Zwingli's actions aimed at moral autonomy and liberation of the Swiss Confederation from the Habsburg rule) became the capital of Protestantism, an alternative to Lutheranism. Established here in 1559 was the Academy, whose intellectual influence embraced the milieus of reformed Catholicism in France, Italy, England, Scotland, Hungary, southern Germany, the Netherlands, and also Poland. It was here that the dissidents banished from the countries for dissent from the earlier binding Catholic or Lutheran standards of Christianity found refuge. The rules of the church included primarily spiritual and also social care. What belonged to the state included external defence and guarantees of the internal order (it is worth reminding here that Calvin was a lawyer by education), protection of safety of economic activity, especially trade, and support of the development of education. Thus conceived, the division between the state and the church provided also for normative grounds of the freedom of choice of religion and gathering in denominational alliances, breaking the *cuius regio, eius religio* principle of the Augsburg Religious Peace (1555), which, though in fact not appearing in the German text of the compact, appears in its first printed interpretation.

What still remains to be explained is the genesis of the name Calvinism. The reformer from Geneva did not use it, nor did he approve of it. It made an appearance in the mid-16th century in the writings of the Lutheran theologian Joachim Westphal, and had a decidedly negative connotation in the language of his contemporary religious disputes. It was only later that it became an axiologically neutral term, yet the continuators of the spirit of reforms initiated by Calvin continued not to use it, and named both their churches and denominations differently. The case with the name Protestantism was similar. This term too was not born as the proper name at once, even though it originated from the word "we protest" (Latin: *protestado),* used in Spira in 1529 by the new churches against the law and power (both church and lay) that could force people to proclaim faith contrary to their conscience, at the same time, violating their autonomy in the face of God, The denominations divided from Rome through the successive phases of the Reformation – even though on account of many basic truths of the faith, the anthropological concept of the human and his attitude to the realm of the sacred, the individual and community styles of life are similar – exist through the plurality of churches / denominations, and enjoy identities proper only for themselves. Moreover, under the influence of dynamic civilisation processes, they live to their own rhythms, changing, connecting, and dividing. In the American circumstances, this process is frequently accompanied by the belief that "No such thing exists on the face of the Earth as Christianity in the abstract [...] No one is a Christian in general".[14]

[14] Opinion delivered by a Presbyterian, Charles Hodge; quoted after *The Story of America...,* p. 96.

Calvin's Doctrine on American Soil

Calvin's version of Protestantism was brought to American soil by the Pilgrims who arrived on board the Mayflower in Plymouth Colony in 1620. It was reinforced by Puritans, who were organised by the Massachusetts Bay Company to travel across the ocean in 1629. The motivation of the two groups (and also of those who joined them later) to leave Europe was of an ideological nature. In both cases, these were dissidents from the Anglican Church in pursuit of the right to confess their own religion in the "new Jerusalem" they were to build. Following such ambitions, they were also beginning to break from under the control of the British Crown. It was they, using the Geneva models, who began the long march to democracy on the shores of Northern America. The formula of power they developed was originally of a decidedly theocratic character, with voting rights enjoyed only by male members of a certain wealth of the puritan religious community, the political leadership being entrusted mostly to clerics and ardent believers, and their church – known as Congregationalist, from congregation meaning "parish" and treated as the only form of authority in the church, even before their emigration from England – being recognised in 1648 as state church in the whole of New England. Yet it was here that models and customs of local self-government in communities and the system of schools were developed. It was also here that in 1636 the Massachusetts General Court decided (after a vote) to earmark £400 to establishing the first American "schoale or colledge" educating spiritual elites in Newetowne (today's Cambridge). The first (and initially the only!) lecturer was the local pastor, John Harvard. As a legacy from him, the school received a library of 400 volumes and £779 (actually, the trustees of his testament surrendered only half of the sum), and the General Court – as a token of its gratitude – gave the school his name.

The first decades were not free from other dissensions and from internal religious tensions. Three examples follow. In 1635, a young, Puritan "godly minister", Roger Williams, was banished from the colony for preaching "dangerous opinions". Together with his 13 supporters, he established Providence, which soon provided the foundation for Rhode Island. Under the influence of Williams this new colony, which entitled every household to participate in voting, separated lay authority from spiritual, and guaranteed religious tolerance – became another attempt at future democracy. The story of Anne Hutchinson did not go that well. In 1638, for organising discussion meetings in her own house after Sunday sermons, for frequent criticism of the religious leader of the colony, and – as it was called – for preaching heresy, she was excommunicated. After a brief stay in Rhode Island, she moved to the Dutch New Amsterdam. A year later, together with six children, she was killed by Indians. The third, and at the same time most tragic case were the events that took place in Salem, where in 1692 a special court was summoned to examine "the likelihood of an epidemie of witchcraft". Of 150 persons incarcerated, 15 women and four men were hanged, and one was "slowly pressed to death

by weights". Even though four years later the court expressed regret for the evil it did, it was not until 1714 that all the executed were officially acquitted. The image of this lack of tolerance, cruel in its aftermath, was reinforced in the collective memory by Arthur Miller in his play *The Crucible* (1953).

Besides Massachusetts (which devoted itself to a single faith and provoked the development of many, with Boston being treated e.g. by Samuel Eliot Morison as "provincial Geneva") and Rhode Island (for many the symbol of religious freedom and intellectual daring), the remainder of the original 13 colonies do not have such dramatic events in their history. Nevertheless, they also have their important share in the formation of the American denominational/religious system, together with its implications for the American ethics of work. The merits of all four colonies of New England certainly include the development of education. To teach the children to read the Bible, a system of free schools was established in nearly every settlement. Yet schools not only helped in mastering the skills of reading and writing, but also shaped the personality of their students: including the cultural ideals of personality, systems of values, models of social roles, and, lastly, attitudes towards work). To provide teachers for these schools and ministers for the denominations, first the Harvard College was opened, and, when some considered it too liberal, Yale was chartered by the Colony of Connecticut (1701). For similar reasons, even though inspired by the Episcopal Church, the College of William and Mary was opened in Virginia in 1693, King's College in New York in 1754 (transformed in 1784 into Columbia University), Princeton in New Jersey (established in 1747 as the College of New Jersey), Philadelphia Academy and Charitable School (1751, which in 1779 became the nation's first university).

Pennsylvania performed a role analogous to that of Rhode Island, and its founder – a wealthy Quaker by the name of William Penn – established thanks to good governance, religious freedom, good soil, and the advantageous situation of the colony, an asylum for Quakers (English and Irish) and German dissenters (known later as the "Pennsylvania Dutch"). As the largest city, not only in the state but in all colonies, Philadelphia became the city of Benjamin Franklin. Virginia, the oldest of all the colonies that long remained under the direct influence of London and the Church of England (which, though under a changed name – as the Episcopal Church, in fact played the role of the governing church also in Maryland, both Carolinas, Georgia, and in much of New York) played an exceptional role in transferring the British political institutions and legal traditions (including criminal law), and also standards of policing services and forces to American soil. To quote Samuel Eliot Morison, Virginia also had – through the standards of "amenity, statesmanship, and military strategy" – an influence over the formation of the American character, comparable to New England with its public spirit and private gain, independence and inhabitation, reverence and self-righteousness.[15]

[15] S. E. Morison, *An Hour of American History*, Boston 1959, p. 3.

Georgia and North and South Carolina faced different problems. Slavery in fact developed here two ethics of work: one for the whites, and the other for – as they were then called – the *Negros*.

With the passage of time, the intellectual climate of former British colonies evolved. Of increasing significance were now not only the imperatives of Calvinism and the pressure of the Church of England but, especially in Virginia, the ideas of enlightenment: the cult of rational thinking, education, belief in progress, and natural (i.e. inalienable) human rights. Information about the direction of the evolution of the attitude to religion can be found in the following opinion expressed by Thomas Jefferson: "It does me no injury for my neighbors to say there are twenty gods or one God. It neither picks my pocket nor breaks my leg".[16] In this context, it becomes clear why, among the 55 members of the Constitutional Convention in 1776, there was no member of the clergy from any of the churches/denominations operating at the time, while the constitution mentions the word "God" in no context, and the words "religion" and "religious practices" appear only in the First Amendment (the Bill of Rights, ratified in l791) stating that the "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof". We should recall here that the standards of the Bill of Rights referred only to the Federal Government, and not directly to the individual states. Before revolution, there were only four colonies that legally warranted religious freedom. During the struggle for independence, five more states joined them. Virginia ceased to consider Anglicanism the ruling religion supported by the colonial powers from taxation only in 1786.

Congregationalism in the role of the ruling religion survived longest in New England (in Massachusetts until 1833). Explaining the Founding Fathers' intentions of religious liberalism to the Jews of Newport, Rhode Island, George Washington (already in the capacity of US President) wrote in 1790 in a letter addressed to them that the United States did not accept bigotry, did not support persecution, and expected from everyone who resorted to their protection that they would behave as good citizens. The constitutional norms did not operate automatically, and violent religious conflicts did not die down immediately in the United States. Sometimes they would break out between the new denominations and the followers of churches and sects that the public opinion had previously considered American. Sometimes religious turmoil resulted as an expression of protest against the new immigrants who brought these churches to US soil. The first case is most fully illustrated by the history of Mormons from 1830 (the date of the uprising in Fayett, NY) to 1896 (the date of the inclusion of Utah in the US with the rights of a state). The other is the Protestant-Catholic conflict.

Mormons (the official name of the community: The Church of Jesus Christ of Latter-day Saints), one of the best-known American religious groups, was repeatedly attacked by the crowds, and once even by a detachment of the National

[16] Quoted in: *The Story of America...,* p. 94.

Guard. Under the onslaught of these attacks, they moved the headquarters of the church successively to Kirkland, Ohio (1831), Independence, Missouri, and Nauvoo, Illinois, where they planned to build "the new Zion". Yet history followed a different path. After five years of prosperity in Nauvoo, on 24th June 1844 the founder of Mormonism, Joseph Smith, and his brother Hyrum, were arrested under the charge of treason, and three days later lynched by a mob, while the settlement built by the community was burned down in 1846. These events enforced their further roaming in search of their place on earth. There began the Mormon Trail that led to the shores of the Great Salt Lake, a "wagon train" of 148 people ridding on 72 wagons pulled by 93 horses and 66 oxen.

The conflict between Protestants and Catholics was played out in repeated episodes. In the collective memory of the first colonies, and later also of successive generations of Americans, its reasons were connected to the successive phases of European Reformation. Catholics were also competitors of the English to the territory of North America: the French were coming from the north along the valley of the Mississippi and through the Louisiana Territory down to New Orleans, and Spaniards were going from the South – from Florida via Texas to the Pacific Coast. Not counting the first Catholics settled in Maryland (approximately 100 colonists in 1634), and the French living on the ground purchased from Napoleon in 1803 (as a part of Louisiana purchase), the Catholic Church in the United States was actually developed by the Irish immigrants, and beginning with the 1840s also Germans (migrating from Europe after the Spring of Nations), and the increasingly numerous Italians and Poles coming to the states from the Civil War to the outbreak of the first world war. The millions of newcomers being at the same time "infidels", were treated by many Protestant churches and denominations as a real threat to their religious beliefs and established lifestyles, including work ethics.

Using a broad range of means on a large-scale, fighting against Roman Catholicism began with the attack on the nuns and pupils of the Ursuline Convent in Charlestown, Massachusetts and burning down its buildings in 1834. The next acts of violence followed soon after. In 1844, a mob inspired by Native Americans (established in New York in 1835 promoting – also in the papers – a "fight against the evils of Popery") attacked several Catholic churches in Philadelphia, burning down two of them – St Nicholas and St Augustine. Attacks were launched also against the Irish ghetto, houses were burned and inhabitants killed. In this case, the attack was channelled primarily against the Irish. While the houses and churches defended by the Irish militia were burning, the nearby churches of German Catholics – even though not guarded – found themselves in the peaceful eye of the storm. The tension was so powerful that, in order to halt it, Bishop Kenrick decided to call off all masses throughout Philadelphia on Sunday, 12th May. Seven years later, in 1851, clashes inspired by the Know Nothings began in Providence, Rhode Island. Here, a convent was attacked by night and its building devastated. Even though the organisers of the riot announced their continuation, city authorities refused police pro-

tection of the indicated buildings (including the bishop's house). Bishop O'Reilly organised self-defence groups, thus preventing further violence.

Major riots took place in 1853 in Boston, Baltimore, Wheeling, St Louis, and Cincinnati. The direct reason for the disturbances was a visit by the Papal Nuncio, Archbishop Bendini. They culminated in Cincinnati, where an armed crowd approximately 600-strong marched towards the cathedral planning to hang the nuncio and burn the church down. The police brought the situation under control, yet not without opening fire and wounding several mobsters.

Moreover, a wave of turmoil passed through Manchester, NH, Sidney and Massillon in Ohio, Lawrence and Chelsea in Mass., Norwalk in Conn., and Brooklyn and Saugerties, NY. In the same year, the riot in Louisville, KY expanded to such a scale that the day when it occurred passed into the history of American Catholicism as "Bloody Monday".[17] The paradox of these events was that after the Civil War, it was clear that Catholicism – despite the rebirth of Protestant opposition – became a fact in the United States. The share of Catholics in the United States grew from 1% in the late 17th century to nearly 10% of all residents of the states in 1816, and was still rising rapidly in the subsequent decades under the influence of intensifying immigration from southern, central, and eastern Europe. Thus the United States were entering the developed form of capitalism – at least in the blue collar stratum – with new Americans whose religious-cultural makeup had nothing in common with the Calvinist syndrome of work ethics. From the latter half of the 20th century to the early 21st century, the share of Catholics in the American system grew again, this time by the addition of Catholics of a different culture and ethnicity, namely Latinos.

Two almost parallel processes could be recorded at the same time. The first of them was the gradual liberation of the syndrome of Calvinist norms conditioning the ethics of work from denominational connotations. Initially, it spread into numerous Protestant churches and denominations of origin other than Calvinist, and was subsequently supported, among others, by the representations from Manifest Destiny and convictions inspired by the American Dream; it became a part of the American cultural archetype as an important symptom of the birth of American civil religion. The latter process was manifested through the relatively quick assimilation of the Irish and also by the Americanisation of Catholicism. Part of the Catholic clergy, unwilling to lose out to Protestant denominations, at the same time desiring to prove that Catholicism was not anti-American by its nature, began to promote ways of participation of the lay people – as tested earlier by Protestants – in the life of religious communities, and the learning of forms of operation favourable for Catholics and the Church in the conditions of the American political and economic system. In that, there were no fears of increased subjectivity of the individual nor of emphasising work as the earthly fulfilment of the human vocation.

[17] R. A. Billington, *The Protestant Crusade,* Macmillan 1938; J. Higham, *Strangers in the Land. Patterns of American Nativism 1860–1925,* New York 1975.

These priests knew already that no religion could become part of the American democracy unless it assimilated. The watchword of this new orientation was activism, and its face was Isaac Thomas Hecker (1818–1888, originally a Methodist, later Catholic Redemptorist, and finally the founder of the Missionary Society of St Paul the Apostle). In the Vatican, this mainstream was known as Americanism. In fact there had been no objections against it until it crossed the borders of the United States. Americanism was decidedly opposed in the 1890s, when it began to spread into other countries, including especially France. During the Congress of Catholic Intellectuals in Freiburg held in 1897, the Rector of the American College in Rome, Cardinal O'Connell, negatively addressed the influences of liberal doctrines (individualism!) visible in Americanism and the dissent from the Catholic understanding of the essence of work. Pope Leo III expressed this in 1899 in the letter *Testem benevolentiae* addressed to Cardinal James Gibbons, with the refusal of his consent to spreading the standards of Americanism.

Time has come to ask the question why the syndrome of Protestant ethics lost its original religious grounds on American soil and passed into the realm of civil religion. The answer to this question is at the same time a voice in the discussion of whether – as Max Weber believed a hundred years ago – there was actually a split in the USA between the Protestant ethics and development of capitalism, deemed not only as economic activity of the new (compared to feudalism) type, but also as a rational system of thinking, equality, and political freedom.

It goes without saying – a view which I also subscribe to – that such a relationship actually came to pass in certain phases of American history, especially in the earliest ones – from the establishment of the 13 colonies to the Civil War. At the same time, everything supports the argument that the Protestant ethics of work was not the only reason in this process, least to say the decisive one. Presented below are the arguments supporting such a conclusion.

Protestant Ethics and American Civilisation

Besides exceptional situations (in most cases connected to wars, violent economic crises, and natural disasters), no individual factor is by itself decisive in a longer time perspective (even though its significance may change depending on various circumstances) for the history of the human (individual and collective). The actual reasons that determine the historical processes (both continuity and its severance in the case of violent changes) are as a rule connected: through cause and result, or functionally or structurally. This is so in each of the overlapping dimensions of the human existence: at the level of the individual – somatic and psychological (or somatic–psychological) and collective – of social, political, and economic systems and culture.[18]

[18] A. L. Kroemer, *Istota kultury*, Warszawa 1989, p. 281 and ff.

The specific American nature cannot be explained just so, simply by reference to the European norms of ideology. As Daniel J. Boorstin wrote 40 years ago, the forming American society

> [...] flourished not in discovery but in search. It prospered not from the perfection of its ways but from their fluidity. It lived with the constant belief that something else or something better might turn up. A by-product of looking for ways of living together was a new civilisation, whose strength was less an idealism than a willingness to be satisfied with the less than ideal. Americans were glad enough to keep things growing and moving.[19]

The first settlers, especially the bearers of the Calvinist work ethics, came from the best-organised and prosperous European cities, and found themselves on a virgin land, between the ocean and unchartered forests. So as not only to survive and remain faithful to their own religious beliefs, but also to become rich (as it was also an important motivation for the journey into the unknown) one needed to start from the beginning. As it seems, everyone was ready to rule (among others through collective gatherings), but nobody wanted to be ruled. They were fleeing a law that they did not accept, yet in the new continent, they found themselves "without law, without order, and without restraint; in a state of nature, amid the confused, revolving, fragments of elementary society! Some were sad, while others were merry; and while the brave doubted, the timid trembled".[20]

One must agree with Max Lerner that the syndrome of American civilisation has its own style inscribed within it. It was to a great extent developed as a simultaneous result of both elemental processes, and the religious motivation of human goals in a specific geographical and social space, within the (material and spiritual, but also intellectual) culture produced and transferred (for over 300 years!). According to the values constituting the nation, patterns of behaviours, and beliefs, Americans are the nation selected by Providence, and therefore they have a special mission to fulfil *(Manifest Destiny,* which *nota bene* is in its essence – at the level of social communities – a negation of Calvin's concept of predestination). The specific nature of the style of their civilisation is expressed in 1) the historical experience cumulated while conquering the continent etched in the collective memory, 2) a pluralism (ethnic, religious, and linguistic) found nowhere else, 3) the democratic political system they developed, 4) the extremely liberal version of capitalism, and also in 5) the exceptional mobility – spatial and intergenerational.[21] According to Charles A. and Mary R. Beard, this civilisation – much like any other – creates a whole, and must be examined as a whole. It developed in a continuous manner as a result of the simultaneous impact of nine factors: the entrepreneurship of the original settlers and later (ever new) immigrants, the rational combination of federal and state powers with local self-government (safeguarding individual resourcefulness

[19] D. J. Boorstin, *The American. The National Experience*, New York 1965, p. 2.

[20] L. W. Hasting, quoted in D. J. Boorstin, *op. cit.*, p. I.

[21] M. Lerner, *America as a Civilization,* Vol. 1, New York 1967.

in the alien and at the same time changing environment), the process of building and implementing the principles of capitalist economy, free from feudal limitations and growing from the heritage of the enlightenment in the understanding of the political system and the rights of the human and citizen, open continent (plenty of land, possibility of becoming its owner), dynamic social structure, and realistic opportunities, mobility connected to advancement, religious freedom, and, finally, development of school education and trust in science. The essence of this type of civilisation is not learnable, be it by comparative studies, or even more so through a simple projection of experience of other countries. It can be understood only from the inside, by one's own experience stemming from participant observation.[22]

A complementary and at the same time exceptionally important element is introduced to the analysis presented above by Frederick Jackson Turner on the concept of the frontier. In a paper delivered in Chicago in 1893, at a session of the American Historical Association, Turner proved that it was the frontier and the belief in the inexhaustible resources of the land and the natural riches that accompanied it that provided for the safety valve viz. the tensions developing in the different phases of formation of the American society. If the social and political, and also economic, conditions did not give to those who settled first and the new immigrants the opportunity of meeting the American Dream, there were always prospects somewhere in the depth of the continent. "The path of freedom led to the frontier." It was also there, on the frontier, that the "gate to freedom" was situated. Anybody who did not accept poor pay and their own social position could go West. There, free land – the promised land – awaited. Thus it was not the religiously motivated ethical code, but the journey into the unknown that enforced activity. One had to trust and count on oneself. The continuous necessity to leave the enforced situations taught perseverance, reinforced the subjective sense of dignity, and led to the integration of small communities that were originating against and over the original divides of an ethnic and religious nature. Independent of ethnic origin and religious convictions, one needed to work to survive. There was no place for learned helplessness. One had to work not to die, in accordance with the generally recognised principle "sink or swim". Moreover, in most cases work brought about measurable rewards. Not in life after life, but here and now. The everyday effort, whose sense could be directly proved through its results, gave birth to another feature of Americans, namely pragmatism. Pragmatism resulting not from books read, but from the ethos of their everyday life. According to other interpreters, for example Alvin W. Gouldner, Richard A. Peterson, and David C. McClelland, in the latter period of its development (sometimes reaching also to European philosophical traditions and even Greek cultural archetypes), the American civilisation developed the educational models that had a major impact on successive generations of Americans. One of them Gouldner and Peterson, call "the Apollonian model". Even though it generalises the American experience, in the philosophical layers it

[22] C. Beard, *Rozwój cywilizacji amerykańskiej,* Vol. 1, Warszawa 1961.

also matches, the authors believe, with Friedrich Nietzsche's *The Birth of Tragedy and On the Genealogy of Morals* (the latter published in German in 1871). It consists of a total of nine imperatives: 1) "freedom from all extravagant urges, no excess, 'nothing too much', 2) rejection of all licence, 3) stress on the 'cognitive models of experience', reason, knowledge and science, 4) a hopeful, melioristic view of the World, 5) activism, 6) the 'principium individuations', 7) emphasis on visual arts, 8) maintaining a compensatory belief in gods that lived, 9) 'It was not unbecoming for even the greatest hero to yearn for an after-life'"[23] McClelland calls the model that he reconstructed (after a very carefully conducted quantitative analysis) "the Spirit of Hermes". A basic feature of the Hermes syndrome is self-reliance and activism. Protestant ethics is only one of the examples in this model. Its other fulfilments do not require religious motivation and may be activated by some other powerful stimuli. In educational practice, the Hermes model is used by parents towards their children, among other ways by the stimulation of early undertaking of work and earning for their own needs, and not relying solely on the resources of the family.[24]

A distinguishing feature of the American society, also today, is the interference of religious and social, as well as territorial divisions. According to the 2004 edition of *Who's Who in America*, a book that portrays mostly American high achievers, 33% of the people who disclosed their religious affiliation belonged to the Episcopal, Presbyterian, and United Church of Christ churches, while the total number of followers of these types of Protestantism account for only 10% of the entire American society. Similarly overrepresented in *Who's Who* are Americans of Jewish origin: 12% in the year quoted above, compared to only 2% in the society as a whole. Congregationalists, Methodists and Catholics find themselves in the middle of the scale, while Baptists, Lutherans, and persons mentioned in *Who's Who* as members of minor denominations, including those counted among the sects – are at the very bottom.[25] According to the data of The Glenmary Research Center from 2002, the map of concentration of the most numerous churches and denominations within US territory looks – to simplify greatly – as follows: 1) the south-eastern states are dominated by Baptists (journalists frequently call this area the "red belt" as it is inhabited mostly by Christian conservatives who are the stable electorate of the Republicans), 2) states from Maryland to Maine, the entire south-west, and – to some extent – states bordering on the Great Lakes are overwhelmingly Catholic (although they used to vote primarily Democrat, today, under the influence of the social advancement of some traditionally Catholic ethnic groups, they partially vote Republican), 3) the states of the Northern Plains inhabited predominantly by Lutherans, 4) the belt from Pennsylvania to Kansas populated by Methodists, and 5) the region in and around Utah dominated by the members of the Latter Day Saints (Mormons). The same data prove that the level of religiousness measured by the

[23] A. W. Gouldner, R. A. Peterson, *Notes on Technology and the Moral Order,* New York 1962.

[24] D. C. McClelland, *The Achieving Society,* Toronto 1961, p. 36–62.

[25] J. J. Macionis, *op. cit.*, p. 504.

indicator of participation in basic religious practices (e.g. by the number of *dominicantes* and *communicantes* in the Catholic Church) is much higher in the central territory of the United States than on the Atlantic and Pacific coasts. Moreover, the central part of the country is far more conservative than the East and West Coasts.

I believe that the interpretation that emphasises the Protestant ethics as the reason for the higher or lower position of large segments of the American society in its layer structure is true only to a certain degree. There have been plenty of mutually determining factors that have been decisive for the current relations between the social position and belonging to denominational groups, including the time when given groups began their American odyssey, and their accumulated (frequently for hundreds of years) resources: material, social, and cultural, and not religious affiliation itself. The fact that, today, the denominations that grew from the tradition of reformed churches exist also in countries that could hardly be counted among the most developed seems to lead to a similar conclusion. Moreover, some of them have more followers than the American Presbyterians and United Church of Christ counted together. At the beginning of the 21st century, the number of American Presbyterians was estimated at 2.5 million, and that of the United Church of Christ at 1.3 million, therefore their total approximate number was 3.8 million, while the Church of Southern India (3.8 million) and the Church of Northern India (1.3 million) declared together 5.1 million followers, and the Church of Jesus Christ in Madagascar 2.5 million.

Conclusions

Over a hundred years have passed since the time when Max Weber published his book *The Protestant Ethic and the Spirit of Capitalism*, which continues to be discussed to this day, as it seeks the ties between the ethics of work that grew from Calvinism and the spirit of capitalism, perceived primarily as rational entrepreneurship supported on the tenets of asceticism allowing the maintenance of equilibrium between the *homo religiosus* and *homo oeconomicus*. His later critics and interpreters, including R. H. Tawney and Reinhard Bendix, and in Poland Konstanty Grzybowski, Stanisław Kozyr-Kowalski, Zdzisław Krasnodębski, and Jadwiga Mizińska, frequently turned their attention to the fact that a Calvinist ethic of work not only generated the development of capitalism but also in itself was a derivative of the processes from which the rich bourgeoisie of the 16th-century Geneva, London, Antwerp, and Amsterdam stemmed.

Weber himself realised the fact that his concept did not explain everything but is, to use the Weberian language – a certain ideal type. To learn this, it suffices to look at the final paragraphs of *Asceticism and the Spirit of Capitalism*, being the third part of the book quoted here.

This is what Weber writes there: only after tracing the process of development of the aesthetic rationalism could one

> [...] determine the size of the cultural significance of ascetic Protestantism as compared to other elements shaping the modern culture. Here [in this book – HK] we only tried to explain the fact of its influence, and the type of influence, considering a single even though significant moment: the motive of ascetic Protestantism. Further, one should, nevertheless, discover in what manner the total of social, cultural, and especially economic conditions will influence the development of the particular features of Protestant asceticism. Emphasising that the modern man cannot in most cases imagine, despite his best will, such a significance that the religious content of consciousness actually had for the way of life, culture, and character of peoples, we are obviously not intending to replace a one-sided 'materialist' interpretation of case culture and history with an equally one-sided 'spiritualist' interpretation. Both are equally allowable, yet also both – should they pretend to be not the preparation but the crowning of research – bring equally little benefit for the historical truth.[26]

In his later research of the economic ethics of the religions of the world – Taoism and Confucianism, ancient Judaism, Hinduism, and Buddhism – Weber goes further, as he comes to the conclusion that "the actions of people are directly governed by interests (material and ideal), and not ideas. Yet the 'images of the world' produced with the help of the 'ideas' very often define the tracks – like the switchman – along which the dynamism of interests moves the actions."[27]

Weber knew that, just as there is no single universal religion in the real world but only adjectival religions, "capitalism as such" is in the same way only an abstract that can be used – as an ideal type – in the research of the various fulfilments of this abstraction registered in history. Among these fulfilments he listed "economic, trade, colonial, merchant, predatory (including bourgeois, monopolist, modern, political, and industrial) and two types of rational – Western and politically-oriented – capitalisms". He knew what he was doing, as he was originally an economist who only later turned sociologist. Considering that Weber died in 1920, the question how he would define today's forms of capitalism, and how we would describe the work ethics connected to them – as they are generated by these forms or only motivate them – becomes intriguing.

Since Weber's times, American society has gone through a number of important developmental phases. From a "developed industrial society" it moved to "new industrial society", and further, to "post-industrial", contemporarily defined also as "information society" supported by a "knowledge-based economy".[28] This became to a great degree "otherwise religious". The traditional folk religion, based on inherited beliefs and ritualised practices, is yielding its place to the religion of choice, individual, where the personal experience of good or evil is more impor-

[26] M. Weber, *Szkice z socjologii religii,* Warszawa 1984, p. 110.

[27] *Ibidem*, p. 126.

[28] See e.g.: J. K. Galbraith, *The New Industrial State*; Z. Brzeziński, *Between Two Ages. America's Role in the Technetronic Era*; D. Bell, *Kulturowe sprzeczności kapitalizmu;* P. C. Whybrow, *American Mania;* A. Toffler, *Zmiana władzy;* U. Beck, *Władza i przeciwwładza w epoce globalnej;* S. P. Huntington, *Who are We? The Challenges to America's National Identity.*

tant than the distinct definitions of supernatural entities and visualisations of the life after life. There is ever less space for institutions, clergy, and denominational congregations consolidated on the power of a formal connection. Religion now moves from the public realm to the realm of emotions and individual needs. Work becomes decentralised. The bygone space of religion is being replaced by iuridised human rights turned into law, and in the European Union additionally by the Charter of Fundamental Rights of the European Union.

Knowledge and the skill of its continuous renewal become a value – both per se and instrumental towards other values, therefore also towards work ethics. It is knowledge, as a component of the human capital, that now decides on the sense of our dignity, position in the labour market, and social capital. It is also knowledge – or at least this is what we believe – that keeps us from being degraded into the "unemployable" and "underclass" categories, or, to use the language of EU documents, "the excluded". In his inaugural speech, President Barack Obama told Americans: "we have no shared religion. We are not of the same race or culture. What connects us? The love for freedom." And further: "that all are equal, all are free, and all deserve a chance to pursue their full measure of happiness". In racially, ethnically, culturally, and religiously pluralised societies, this is the basic form of the *depositum fidei*, and this is what builds both the foundations of the new civic religion, and also – even more broadly – civic culture based on the inalienable rights and duties of the citizen.

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ON THE CHARACTER OF THE AMERICAN POLITICAL ORDER

It is an interesting, if rather peculiar, fact about writings on the American political tradition that they are mainly what I would call Manichaean. Manichaeanism was a heresy of the early Christian centuries which held that the world was divided between a good god and a bad god and that the history of the world was the history of their conflict. It was a dualistic vision of reality and human history. Such a dualistic vision seems to be dominant in most interpretations of the American political tradition. Indeed, almost from the beginning, we have perceived the American tradition in terms of aristocrats versus republicans, the people versus the oligarchy, republicanism versus democracy, progressives versus the "special interests." From reading these dualistic interpretations of American history and American politics one would think our history has been particularly bloody, tumultuous, and ambiguous. That is not the case.

Our history has been, by most reasonable, let us say historical, standards not particularly tumultuous; and the American people seem never to have been torn by conflicting interpretations of the American political tradition, though scholars may be. Even our very bloody Civil War had surprisingly little affect on the course of American history. If one were to write an American history textbook with the chapter on the Civil War dropped out, to be replaced by a single sentence to the effect that slavery was abolished by constitutional amendment in 1865, very little in subsequent chapters, as now written, would need revision. The Civil War had even less effect on the American political tradition, since there never really was a dis-

tinctively southern political tradition, nor did the war give rise to one. A textbook on American intellectual history could safely ignore the Civil War, were it not for the fact that one feels it to be almost sacrilegious that so much suffering should be so barren of consequence. The Civil War was and is a most memorable event—but not any kind of turning point in American history.

My thesis, in a nutshell, is that the American people have always understood the American political tradition in an instinctive way, whereas scholarly interpretations inevitably tend to emphasize one aspect of this tradition at the expense of all others. When I say that I think the American people have an instinctive understanding of the American political tradition, I mean that it is, as it were, "in their bones." I mean that almost literally. If we transported two or three thousand Americans to Mars to establish an American colony there and then left them alone, what would they do? They would do exactly what the original settlers of the West and the South did. They would behave like Americans. The first thing they would do is build a school. The second thing they would do is build a church. The third thing they would do is go out and make money. And the fourth thing they would do is have elections and form political parties—and fight like hell. They would just clone the American political process out there on Mars. In fact, if you look at the history of the settling of the West, you find a group of people—not all of them, by the way, native-born Americans, but it did not seem to matter—who all behaved in pretty much the same way, who established more or less identical villages which then became more or less identical cities.

So the question I wish to address is: what is the American political tradition as it is in practice, apart from all theoretical arguments about it? Of course these arguments are very valuable. I really do not want to sound philistine; it is very important to study those arguments. But what I want to do is look at the American political tradition as it exists within American attitudes, within the American mind, within American habits of behavior, within, to put it in a cliché, "the American way of life." This is a cliché that has a lot of meaning, one which sums up all of the very different elements that go into making the American political tradition, as this tradition is apprehended by the American people. It is an extraordinarily mixed tradition. That is why it is possible for analysts to seize one aspect of it, for instance, the fact that it is capitalist, or that it is democratic, or that it is republican, and decide that is the basic aspect. Whereas the truth is that the American political tradition is simultaneously democratic, republican, capitalist, federal, and other things as well. It is, moreover, a political tradition whose roots are to be found in a Protestantized version of the Judeo-Christian tradition. I would like to take those elements of this mixture one by one, and see what they are.

'Democratic' is relatively simple. Ours is a political system and a political tradition that says that ultimately the will of the people will prevail. Ultimately, not instantly, because the will that is to prevail is presumed to incorporate the considered judgment of the people.

Hence the separation of powers, the decentralization of authority, and the slow, cumbersome legislative process.

Moreover, because it is a democratic system, it is a system that prizes equality. But what does equality mean in the American political tradition? It means, to begin with, equality before the law. There is no question about that. It also means social equality; that is to say, a classless society, which we have. Many of us have studied sociology and have heard that we do not have a classless society. Sociology professors explain that we are really divided into four classes, seven classes, twenty-two classes, depending on what mode of analysis they use. But surely if we need a sociologist to tell us whether or not we live in a class society, then it is certain we do not live in a class society. People who live in class societies know how many classes there are, and know exactly where they are within any particular class. There is no secret about it; it is the most obvious and important thing in anyone's life. The simple fact is that American society today is, in any reasonable sense of the term, a society of social equality. This does not mean economic equality. Social equality, not economic equality, is what our version of democracy is about.

Here, again, we can be misled by some learned men. My favorite learned misleader is Thorstein Veblen. He was an enormously gifted man who probably wrote more nonsense about America than any other gifted man in our history. Veblen's best known nonsense, about "conspicuous consumption," is studied soberly in sociology courses. By now the term has passed into the language. But if there is any fact that is obvious about the United States, it is how little conspicuous consumption there really is. I can prove this. Observe any stranger, and guess his income, or how wealthy his family is, or what his social "class is. The fact is, you cannot. Almost all students are wearing blue jeans. You cannot tell what their incomes or backgrounds are. As for adults, go out to the parking lot. Can you really tell how much money a person has from his automobile? Professors drive foreign automobiles, businessmen drive American automobiles, and that's about all there is to say. If you see a Cadillac driving down the street, a car ninety feet long, can you tell what kind of person is driving it? Is it a doctor? Is it a pimp? It could be anybody. The truth is that in our kind of democracy there are no social classes by any reasonable definition of that term.

Ours, however, is not simply a democratic political tradition, it is also a republican political tradition. The late Martin Diamond wrote an excellent textbook called *The Democratic Republic.* It is one of the few textbooks I know which takes seriously both of those terms in relation to the American political tradition. What does the word "republic" mean when you say we are a democratic republic? It means that although we are democratic, we have no faith in democracy. Democracy, in the American political tradicion, is not, or at least ought not to be, a matter of faith. There are lots of books written called something like "The Democratic Faith." That is the wrong phrase. There is no reason to have faith in democracy, which is simply one form of political government.

Faith should be reserved for higher things than any political system. One should not have faith in *any* political system.

One cannot assume that where the will of the people is supreme, the people will do the right things! The republican aspect of our political tradition is the way in which we refine the will of the people through the principle of representation. For instance, it was always assumed, and even is assumed today, that our representatives, though common men, in a sense are also more than common men. Walter Bagehot said of Sir Robert Peel that he was not a common man but a common man could have been cut out of him. That is the way we feel, or should feel, about our representatives. They ought to represent us, be in tune with us, understand us. But they ought to be a little better than we are. They ought to be a little more elevated than we are—because then they elevate us.

We are republicans in that we have a Constitution which curbs the will of the people, forces the "people to rethink, forces the people's" representatives to debate and consider, and forces the people to be reasonable. In other words, in a democratic republic the republican element is to be perceived when the people put constraints upon themselves because the people do not have any kind of democratic faith. People understand that they are capable of doing foolish things, and people therefore want institutional checks upon their own will, upon their own ultimate newer.

Now to consider the federal element of the American political tradition. This is a very important element in the tradition, though often overlooked and, these days, underemphasized. The federal system is important because it institutionalizes the diffusion of power. I do not think anyone who has not experienced centralized power in other nations can understand how diffused power actually is in the United States. I well recall way back in 1970, during the Cambodian business, when some of my students at New York University announced to me that they were going down to Washington to seize power. I said, "How are you going to seize power?" They said, "We're going to take the Pentagon, that's what we're going to do." "Well, let's say the government leaves you the Pentagon," I said, "what are you going to do there?" "Well, we're going to give orders," they said. And I said, "Who's going to listen?"

It had not occurred to them that you cannot seize power in this country, you cannot even locate it. Perhaps in France it is possible to seize power by taking Paris. Suppose we had a revolution in New York City, and on the NBC nightly news broadcast from New York, the rebels proudly announced that a new regime had been established in City Hall. What would happen? The ratings would fall. People would say, "Oh, New York, you know what sort of things go on in New York," and it would not make the faintest bit of difference. It is very important, therefore, to preserve our federal system, so as to make unlikely any undue concentration and usurpation of power.

But there is a much more important aspect to the federal systems namely, the educational aspect. Local government and participation in local institutions is the

way in which people learn the most important of all political truths, which is that the world is full of other people. It is a very sad political truth, a very disillusioning political truth. But people who do not understand it are engaged in a kind of utopian politics that is ultimately doomed. That the world is full of other people means that you may have a good idea, but it will often turn out that other people, somehow or other, for reasons which are inexplicable, do not see how good your idea is. It happens, not only does it happen, it is inevitable that it happens. Teaching us to live with other people is the function of the federal structure of our democracy. This kind of self-education can only occur through participation in local institutions, and it does not really matter how small they are. You really do not learn politics until you have the misfortune to be elected to your local school board. *Then* you understand what politics is about. In my own experience—I'm a New Yorker, we don't have local school boards, and if we did I couldn't get elected—I had the misfortune some years ago to be elected to the board of my cooperative apartment house. It was really very interesting to attend the annual meeting of this co-op. The residents were upper-income people, some very prominent socialists among them, some very prominent lawyers, some very wealthy stock brokers. At the annual house meeting the board knew that for the first hour the tenants would get up and denounce the landlord. At the end of the hour it would occur to them that *they* were the landlord and then we would get down to business. It took them about three years before they stopped denouncing us, their elected and unpaid trustees, as the landlord. It was an educational process. Anyone who gets involved in local self-government discovers that the world is full of other people, that there is no point in being dogmatic about what you think is right, that you must come to terms with this world, a world which is what it is and is never going to differ radically from what it is.

One other major virtue of the federal system, which we are only now beginning to appreciate, is that it diffuses some absolutely insoluble problems, so that they fester on a local rather than on a national level. In this sense, I think the decision of the Supreme Court legalizing abortion was a political disaster, never mind the morality of it. It was a disaster because it made abortion a national issue. Until that time abortion had been a state issue and if the states wished, they could always devolve the responsibility for that issue upon local communities (as was and is done with an issue like prohibition). Now, abortion is not an issue you can compromise about. It is one of those issues that is ultimately divisive. Therefore, you are better off diffusing the issue, making it a local issue, rather than importing it as a factor into national politics. As a result of the Supreme Court decision, we have imported a most divisive element into our national politics, one which cannot be compromised, and which we shall just have to live with.

It is deplorable that pornography also has now become nationalized as an issue, as a result of the courts' lack of wisdom. In my day, all the books that were banned in Boston were sold in New York. It was not such a bad system, people in both Boston and New York got what they really wanted and it didn't really matter

all that much. Now the issue of pornography has become a matter of national significance, one on which national politicians are forced to make pronouncements, and this raises the question of national censorship. The best way to cope with the problems of pornography and censorship is to let local people solve it any way they want. Some will be permissive, some will not; some will have strict censorship, some will have lax censorship. That is all right. Indeed, that is just the way it is supposed to be. The whole point about federalism and decentralization is to see to it that such controversial issues do not distract national politics from its truly important concerns.

"Capitalist" is perhaps the most controversial of all the terms I have applied to our system. I do not see why it should be, since if anything is obvious, it is that we have been, certainly at least since the enactment of the Constitution, and in fact for many decades prior to that, a capitalist nation. A nation that believes that individual liberty is indissolubly linked to private property—that is what it means to be capitalist. We are a nation that believes that private property, and therefore a market economy (the two go together), are necessary, though not sufficient conditions for a political regime of liberty. Necessary but not sufficient. You can have private property and you can have a market economy in an authoritarian regime. Never in history, however, has there been what we would regard as a free society, or a liberal society, or a regime of liberty that did not have private property and a largely market economy.

Capitalism is important not only because of the support it gives to liberty—it is *the* absolute precondition of liberty—but also because it promises and promotes economic growth. The ancient democracies of classical Greece were full of class strife; the *demos* versus the *aristoi*, the masses versus the oligarchy. If you do not have economic growth, all democracies fall into such class strife. It is economic growth that permits a democracy to avoid class struggles over the distribution of a pie of preestablished size. It does that by always creating a larger pie so that everyone benefits, however unequally, and you do not have to benefit at someone else's expense. You can acquire property without expropriating property.

The Founding Fathers understood this very well. They understood that economic growth is a precondition for a modern democracy, Without economic growth, we shall relapse into the kinds of civil strife that characterized the ancient Greek city-states or the city-states of northern Italy in the fifteenth and sixteenth centuries. And with respect to stimulating economic growth—there is no question that American capitalism has delivered on its promise. We are, today, a very rich country by historical standards, which are the only standards that one can sensibly apply. To say that we still have poor people in this country does not say that we are not a very rich country. One hundred years ago there were a much larger percentage of poor people than there are today, and four hundred years ago most people everywhere were miserably poor.

We have even achieved something that can reasonably be called "affluence"; which in fact is even greater than most of us realize because we do not know how to look at economic statistics correctly.

Let me give you one striking instance of how affluent this country is. According to the Internal Revenue Service, in 1976 there were close to eight hundred thousand millionaires in this country. Given inflation and economic growth, today there are certainly at least one million millionaires. And since millionaires have families, it works out that roughly one out of every sixty households in the United States is a millionaire household. This does not even count "hidden" assets— Social Security, for example. I refer only to assets taxable upon death by the Internal Revenue Service. So, one out of every sixty families in this country is a millionaire family. If we take families worth half a million, which is still a lot of money, it is reasonable to think that one out of every fifteen families has net assets of about half a million dollars. This does not mean there are no poor people in this country. It *does* mean that this is an incredibly rich country. It is also true that a million dollars today is not what it used to be. But, nevertheless, you are not poor if you have a million dollars.

Capitalism has delivered on the promise of affluence. Nevertheless, there are some who feel that it has not done right by us so far as economic equality is concerned. I think they are wrong. If you look at the distribution of income in capitalist nations over the last two hundred years you discover that all capitalist nations have a more equal distribution of income than noncapitalist nations or precapitalist nations. Jean Fourastie in France has done a wonderful series of studies going back, as best he could on the statistics, to the year 1200 and comparing the purchasing power of a high civil servant and of an ordinary laborer. He found the gap between them just narrows and narrows. It begins to narrow dramatically in the eighteenth century and has continued to narrow ever since.

Moreover, it stands to reason that there should be more economic equality under a system of democratic capitalism than under any other system. As Adam Smith pointed out, the talents required to be successful in the marketplace and in commerce are very widespread, unlike most other talents which are not widespread at all. To be a first-class musician, a first-class football player, a first-class mathematician, or a first-class almost anything, are talents few of us have. But it is possible to have extraordinary success in business and not be very talented. That is a virtue of our system, as Adam Smith emphasized— the kinds of talent necessary to succeed in commerce are very widespread and are very often more related to such traits of character as ambition, diligence, and self-reliance than to intelligence or to some specialized kind of ability. All sorts of odd people get rich in our society, people who would never be rich in any other kind of society. Of course they do not have the kinds of special talents that other societies have prized, or that ours prizes as well. Very often they do not have any discernible talent at all. But the beauty of the system is that it permits precisely such people to do very well.

At this point economists or sociologists of a certain persuasion will argue with me about increasing social stratification, the decline in economic mobility, the foreseeable end of economic opportunity. In fact, economic mobility is still very rapid in our society. One of the problems is the way in which social scientists study the matter. As a matter of statistical rectitude, they begin from zero and try then to chart increases and decreases in economic mobility. Zero represents a perfectly mobile society—one, namely, where the children of all the top fifth of the population end up as the bottom fifth, and the children of the bottom fifth of the population end up as the top fifth. The closer to zero a society is, the more it represents ideal mobility. This, of course, is an insane conception. If you knew your children were going to end up at the bottom fifth once you got to the top fifth, you would not want to get to the top fifth—unless you were an unloving parent. In fact, the statistical evidence shows clearly that if you divide our society in fifths as is commonly done, no family remains in any single fifth for more than two or three generations. There are a few exceptions, like the DuPonts and the Rockefellers, but one can count them on a few hands. There is a tremendous amount of economic mobility in this society.

Our system is democratic, republican, federal, and capitalist. And it is also a system that has a religious basis. Let me explain what I mean. A democratic system where the will of the people rules supreme, and a capitalist system which regards the pursuit of self-interest in the marketplace as legitimate, needs religion to supply certain crucial, missing elements.

Traditional religion is to liberal democratic capitalism as the Old Testament is to the New. Let me explain this puzzling remark. There was a big fight within the Christian church during the first three centuries of its history as to whether or not the Old Testament should be included in Holy Scripture. There were some major movements (subsequently defined as heresies; the Marcionite heresy most notably) that said: "No, let's not bring the Old Testament into Holy Scripture. We have a New Testament, why do we need the Old?" The church fathers, who were very wise men, said: "The New Testament, it's true, completes the Old; but there are things in the Old which are not in the New, and which a church needs." The New Testament, after all, was not written with the establishment of the Christian church in mind—there is nothing about an established, authoritative Christian church in the New Testament. Therefore, the church fathers found they needed certain things in the Old Testament that are not in the New such as: the injunction to be fruitful and multiply, the pronouncement that God created the earth and saw it was good. In other words, the fathers needed certain theological premises to create an orthodoxy, to be able to tell its members that they can sanctify God in their daily lives, that they need not be hermits in the desert, they need not all become ascetic or aim at Christian perfection. These have all since been established as crucial affirmations of Christianity but, as it happens, are all to be found in the Old Testament, not in the New, since the people who wrote the New Testament took the Old Testament for granted.

It is not too much to say that the Judeo-Christian tradition, in its Protestantized form, is the Old Testament for liberal capitalism. It supplies things that liberal capitalism, liberal democratic capitalism, cannot itself supply; mainly what we call "values"—a moral code above all—and which the founders of capitalism simply took for granted. Precisely because a capitalist economy is one which does emphasize self-interest, it especially needs a very strong religious element in its culture in order to modify, complement and curb that self-interest.

Adam Smith wrote two books**,** *The Wealth of Nations* and a lesser known book, *The Theory of Moral Sentiments. The Wealth of Nations* was about how people act in the marketplace. They act in the marketplace out of self-interest, and Adam Smith's great contribution was to show that these actions out of self-interest, nevertheless, in the longer term, served everyone's interest by promoting economic growth. In *The Theory of Moral Sentiments,* however, (a book which, incidentally, he never repudiated—he revised it after publishing *The Wealth of Nations***,** but did not change it much) he said, "Fine, what happens when you have created wealth? What will wealthy people do?" He said that in the end, what wealthy people will do is try to earn the good opinion of their fellow citizens by acts of philanthropy, which is just what they are doing. Such acts of philanthropy, in this culture, come out of the Protestantized version of the Judeo-Christian moral tradition with which Adam Smith was familiar.

I say the Protestantized version of the Judeo-Christian tradition not because I mean to be polemical but because it is a fact that the Catholic church, historically, has always been ambivalent about capitalism. Indeed, it has been, more often than not, unfriendly towards capitalism. Up until fifteen or twenty years ago the Catholic church was unfriendly from a right-wing point of view; now it is unfriendly from a left-wing point of view for the most part. On the whole, the Catholic church has never liked the idea of a commercial civilization because it does not like that much self-interest to be at work in a society, and also because, for historical reasons, the Catholic church has always preferred agricultural, rural civilizations—static civilizations, not dynamic ones. This point of view, of course, was not peculiarly Catholic. The Emperor Diocletian, in an edict establishing wage and price controls, declared that, "Unregulated economic activity is the religion of the godless." Essentially, that is what the church has always believed.

It was not until the Protestant Reformation that different versions of Christianity emerged, ones which tried to reconcile a commercial society with a moral ethos derived from Christianity. On the whole. Protestantism has done so with reasonable success at least up until recently. Perhaps the Catholic church is right to be suspicious of capitalism, but the emergence of religious points of view compatible with a democratic capitalist society is indispensable to the functioning of that society, because it permits us to legitimate self-interest in the marketplace. A society of people interested only in their self-interest in the marketplace is a society that is too base to be tolerated. Such a society, interested only in the material goods of this

world, tends to become a hedonistic society, one which is impossible to respect. The religious tradition functions to correct this natural propensity of a commercial civilization to debase itself.

It also provides something else that is critically necessary, namely, some absolute foundation for our moral values. I know that there are some people who think that such values can be rationally created, perhaps by study, by philosophical analysis, or by computer. But, of course, values are not created; values are inherited. There is no such thing as a rationalist religion which gives you an authoritative moral code. If there were, you would have heard of it. There are no rationalist ten commandments. Morality is derived from certain fundamental dogmatic truths, and I emphasize that word dogmatic. It is the function of a religion, in a society such as ours, to provide the dogmatic basis for those truths.

As this pertains to the American political tradition, we enter into some controversy, which will be better understood if I compare my views to those of Harry Jaffa, who criticizes me in this volume. Mr. Jaffa, quite correctly, feels that in discussing the issue of human rights, one must raise the question of what human rights are based upon. One cannot just be arbitrary and say, "I prefer this conception of human rights to yours and that's all there is to it." You have got to have a fundamental, unshakable basis for your conviction in a given set of human rights, and Harry Jaffa's view is that the rights expressed in the Declaration of Independence, in the end. rely on the natural law and natural rights tradition which goes back through St. Thomas Aquinas to Aristotle.

I think he is wrong. As I see it, our dogma in regard to such matters as human rights comes from this Protestantized version of the Judeo-Christian tradition. On what do we base our valuation of human rights? Why do we cherish human rights? Because of something called "the dignity of man," a key phrase. That is something that emerges out of Jewish doctrine, out of Christian doctrine, and in its modern form, out of Protestantism, which insists on the dignity of the individual soul and the relation of this individual soul to the Deity.

I want to reassert that without this religious culture, the capitalist economic system becomes rather disgusting. Making money is fun; but, on the other hand, no one ever said it is an ennobling activity, no one ever said it is a heroic activity. It is, at best, a prosaic activity. In a society where most people are involved in commercial activities, you especially need a culture suffused with religious traditions that tell you what you are making money for, that tell you how to conduct yourself when you are making money, and that, above all, answer certain absolutely crucial and inevitable questions about the meaning of life and the meaning of death. It is this religious element that is the final and necessary constituent of the American political tradition.

Common to all the elements that constitute this tradition is a basic idea, namely, the idea of deferred gratification. Or, to put it another way, common to all is a kind of anti-utopianism, even while common to all is also a spirit of optimism. It

is possible to be cheerful and optimistic about one's place on earth and one's destiny on earth without becoming utopian. The basic idea is running into all sorts of problems today, problems arising in large measure from its own success. Affluence corrupts, as everyone has always known it would. John Wesley makes the point nicely:

> I fear wherever riches have increased, the essence of religion has decreased in the same proportion, therefore, I do not see how it is possible, in the nature of things, for any revival of true religion to continue long. For religion must necessarily produce both industry and frugality and these cannot but produce riches. But as riches increase, so will pride, anger, and love of the world in all its branches. So, although the form of religion remains, the spirit swiftly vanishes away.

Again, affluence corrupts. One of the things that happens with affluence is that it produces a generation, not a whole generation but a substantial portion of a generation, that is not interested in making money. The sad truth is that our society does not know what to do with young people who are not interested in making money. You cannot make teachers out of all of them. We tried that. It is very expensive and most of them are not very good at it anyhow, and it turns out they are really not happy doing that for very long. What are you going to do with them? They want some adventure, they want some challenge. In a nuclear age you can not really give them war, which is the kind of activity you once gave to discontented young people. It is a very difficult problem and one for which I have no solution, except that perhaps we will so bungle matters that we will cease being an affluent society—at which point everyone will be interested in making money once again. That solution is not out of the question. Today, among our students there is a revival of the appetite for making money, which they would have sneered at not long ago when it seemed so easy.

In any case, it is true that affluence secularizes the society, makes the society more hedonistic in its inclinations, and bores a lot of people who, coming from fairly affluent circumstances, have the sense they will never do as well as their parents. That is a problem. But it is a problem caused by success, which may be, I suppose, the worst kind of problem.

In any case, any solution of this problem has to be within the context of the American political tradition. There is no point, in my view, in departing radically from that tradition—to socialism, for instance. The most important political fact of the twentieth century has been the death of socialism as an alternative model of society, as an alternative political tradition. There are still socialists to be found, but not in socialist countries. There are no socialists in Eastern Europe, no socialists in the Soviet Union, but there are socialists in American universities, French universities, German universities. The fact is, socialism as a serious political possibility is dead. There are about sixty official socialist countries in the world and not one of them is a place where you and I would want to live. Not one of them is a place where even their own people particularly want to live. They would all immigrate to the United States if given the opportunity. So the socialist ideal is dead. It lives

as an academic idea, but as a reality it has been tried, and it does not work. It does not work because it is based upon a utopian vision of human nature, of what human beings are capable of. Because it is utopia it ends up trying to create utopia through coercion, since it cannot be created in any other way. But you cannot create utopia through coercion either; all you do is create a bureaucratic terrorist state.

So there is no alternative but to work within the American tradition. That is the test for the next generation—somehow to renew this tradition, perhaps revitalize it, perhaps amend it, perhaps revise it. But the tradition as I have described it—democratic, capitalist, federal, republican, religious—that is the tradition within which we shall have to work.

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